# IOWA ADMINISTRATIVE BULLETIN

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March 10, 2010 Pages 2109 to 2222


## CONTENTS IN THIS ISSUE

Pages 2119 to 2222 include **ARC 8554B** to **ARC 8557B, ARC 8559B** to **ARC 8571B, ARC 8573B** to **ARC 8584B** and **ARC 8586B** to **ARC 8614B**


**ALL AGENCIES**
Agency identification numbers . . . . . 2117
Citation of administrative rules. . . . . 2112
Schedule for rule making. . . . . 2113

**CIVIL RIGHTS COMMISSION[161]**
Notice, Rules of practice, 1.1(1), 1.2, 1.5 **ARC 8578B** . . . . . 2119
Notice, Definition of "administratively closed," 2.1(10)"a" **ARC 8575B**. . . . . 2120
Notice, Definitions relating to types of mail, 2.1(14) to 2.1(16) **ARC 8577B** . . . . . 2121
Notice, Definitions relating to electronic filing, 2.1(17) to 2.1(19) **ARC 8576B** . . . . . 2121
Notice, Filing of a complaint; update of bases for prohibition of discrimination, 3.3(1), 6.2(1), 9.5(2), 10.2 **ARC 8573B**. . . . . 2122
Notice, Complaint process, 3.5, 3.6 **ARC 8571B** . . . . . 2123
Notice, Conditions precedent to right to sue, 3.10(2) **ARC 8570B** . . . . . 2126
Notice, Mediation, 3.11 **ARC 8569B**. . . . . 2127
Notice, Mediation procedures, 3.12(1)"a" and "b" **ARC 8568B** . . . . . 2128
Notice, Preliminary screening process, 3.12(1)"e" **ARC 8566B** . . . . . 2129
Notice, Investigation and cause determination; role of administrative law judge, 3.13 **ARC 8567B** . . . . . 2130
Notice, Complaint process—textual revisions, 3.14, 3.16 **ARC 8574B**. . . . . 2131
Notice, Arbitration, rescind 3.17 **ARC 8565B** . . . 2132
Notice, Contested cases—clarification of wording, 4.28(1), 4.31 **ARC 8564B** . . . . . 2133
Notice, Discrimination in employment—applicability, ch 8 preamble, 8.46 **ARC 8562B** . . . . . 2134
Notice, Discrimination in employment—elimination of outdated rules, rescind 8.1 to 8.7 **ARC 8561B** . . . . . 2134
Notice, Discrimination in employment—clarification of provisions, 8.47(1) **ARC 8563B** . . . . . 2135
Notice, Update of commission address, 11.3(1), 15.3 **ARC 8560B** . . . . . 2136

**DENTAL BOARD[650]**
**PUBLIC HEALTH DEPARTMENT[641]"umbrella"**
Filed, Deep sedation/general anesthesia, conscious sedation and nitrous oxide inhalation analgesia, amendments to ch 29 **ARC 8614B** . . . . . 2186

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**
Filed Emergency, Approval for disaster loan, 78.4(2) **ARC 8600B** . . . . . 2182

**EDUCATIONAL EXAMINERS BOARD[282]**
**EDUCATION DEPARTMENT[281]"umbrella"**
Filed, Portfolio review and evaluation fees, 12.8 **ARC 8606B**. . . . . 2190
Filed, Portfolio review and evaluation for applicants from nontraditional teacher preparation programs, 13.3 **ARC 8610B** . . . . . 2190
Filed, Exchange licenses for applicants from recognized non-Iowa institutions, 13.17 **ARC 8604B** . . . . . 2192

**EDUCATIONAL EXAMINERS BOARD[282]** (Cont'd)

Filed, Elementary classroom teacher—core content areas, 13.26(5) **ARC 8607B** . . . . . 2193
Filed, Qualifications for behind-the-wheel driving instructor authorization, 23.1(1) **ARC 8608B** . . . . . 2193
Filed, Renewal requirements for professional service license, 27.4, 27.5 **ARC 8609B** . . . . . 2194

**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**
Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"
Filed, Fees and charges, 2.1 **ARC 8584B** . . . . . 2195

**ENVIRONMENTAL PROTECTION COMMISSION[567]**
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Notice, Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 16 **ARC 8597B** . . . . . 2137
Notice, Water quality standards—surface water classification, 61.3(5) **ARC 8599B** . . . . . 2139
Filed, Clean water state revolving fund, amendments to chs 90 to 93 **ARC 8596B** . . . . . 2196

**HUMAN SERVICES DEPARTMENT[441]**
Notice, Recovery of overpayment—definition of "client error," 86.19(1) **ARC 8581B** . . . . . 2155
Notice, Supervised apartment placement services, 108.10(3)"c" **ARC 8582B** . . . . . 2156
Notice Terminated, Subsidized guardianship program, amendments to ch 204 **ARC 8613B** . . . . . 2157
Filed Emergency After Notice, Verification of dependent care expenses, 65.22(1), 65.33, 75.57(2)"b"(7) **ARC 8556B** . . 2183
Filed Emergency After Notice, HAWK-I—eligibility, 86.1, 86.3(7)"b," 86.9(2) **ARC 8580B** . . . . . 2184
Filed, PROMISE JOBS—decrease in mileage reimbursement rate, 93.11(3)"b"(2) **ARC 8557B** . . . . . 2198
Filed, State payment program waiting list, 153.53, 153.54, 153.58(1) **ARC 8611B** . . . . 2199
Filed, Reduction of state payment program expense, 153.53(3), 153.54(3), 153.55(2), 153.56(2)"a," 153.57 **ARC 8612B** . . . . . 2201

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**
Filed, Contribution rates, tax treatment of distributions, amendments to chs 4, 7, 11, 12, 14, 16 **ARC 8601B** . . . . . 2203

**LABOR SERVICES DIVISION[875]**
WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"
Filed, Consultative services, ch 8 **ARC 8591B** . . . 2204
Filed, Update of references to ASME codes, 91.1(1), 91.1(4) **ARC 8590B** . . . . . 2205

**MEDICINE BOARD[653]**
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Notice, Standards of practice—interventional chronic pain management, 13.9 **ARC 8579B** . . . . . 2157
Filed, Permanent physician licensure, 9.1, 9.3(1), 9.4 to 9.18 **ARC 8554B** . . . . . 2205

**NATURAL RESOURCE COMMISSION[571]**
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Notice, State parks and recreation areas—camping, definition of "immediate family," 61.2, 61.4(5) **ARC 8593B** . . . . . 2158
Notice, State forest camping, 62.2, 62.6 **ARC 8592B** . . . . . 2160
Filed, Aquatic plants in public waters; ginseng harvesting, amendments to ch 54 **ARC 8594B** . . . . . 2206

**NATURAL RESOURCES DEPARTMENT[561]**
Notice, Special nonresident deer and turkey licenses, 12.2, 12.3, 12.5 to 12.8 **ARC 8595B** . . . . . 2161
Notice, Revocation, suspension, and nonrenewal of license for failure to pay state liabilities, ch 15 **ARC 8598B** . . . . . 2163

**PROFESSIONAL LICENSURE DIVISION[645]**
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Filed, Social work, rescind chs 279, 284; rescind 280.8, 280.12, 280.13, 281.4 to 281.7, 283.5 **ARC 8587B** . . . . . 2210
Filed, Supervised professional practice for LISW, 280.6(1)"e" and "f" **ARC 8586B** . . . . 2211
Filed, Consistency with statute—"felony" changed to "crime," 329.2(11) **ARC 8588B** . . . . 2211

**PUBLIC HEARINGS**
Summarized list . . . . . 2114

**REVENUE DEPARTMENT[701]**
Filed, Electronic filing of Iowa income tax returns, 8.5, 39.13 **ARC 8603B** . . . . . 2212

**REVENUE DEPARTMENT[701]** (Cont'd)

Filed, Individual and corporation tax, amendments to chs 38, 40, 43, 46, 50, 52 **ARC 8605B** . . . . . 2212
Filed, Individual income, corporation income and franchise taxes, amendments to chs 39 to 41, 46, 48, 52, 53, 58, 59 **ARC 8589B** . . . . . 2214
Filed, Responsibilities of assessors, 71.1(1) **ARC 8559B** . . . . . 2216
Filed, Data centers—business exemptions and sales and use tax refunds, 230.12, 230.13 **ARC 8602B** . . . . . 2217

**TRANSPORTATION DEPARTMENT[761]**
Notice, Federal motor carrier safety and hazardous materials regulations, 520.1(1) **ARC 8555B** . . . . . 2166

**USURY**
Notice . . . . . 2168

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**
Notice, Unemployment insurance; employer records, reports, contributions and charges; claims and benefits, amendments to chs 21 to 24 **ARC 8583B** . . . . . 2169

# PREFACE

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

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

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

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


| | | |
|---|---|---|
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**CITATION of Administrative Rules**

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

| | |
|---|---|
| 441 IAC 79 | (Chapter) |
| 441 IAC 79.1 | (Rule) |
| 441 IAC 79.1(1) | (Subrule) |
| 441 IAC 79.1(1)"a" | (Paragraph) |
| 441 IAC 79.1(1)"a"(1) | (Subparagraph) |

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

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

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

# Schedule for Rule Making
# 2010

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

## PRINTING SCHEDULE FOR IAB

| ISSUE NUMBER | SUBMISSION DEADLINE | ISSUE DATE |
|---|---|---|
| **21** | **Friday, March 19, 2010** | **April 7, 2010** |
| **22** | **Friday, April 2, 2010** | **April 21, 2010** |
| **23** | **Friday, April 16, 2010** | **May 5, 2010** |

**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***

**CIVIL RIGHTS COMMISSION[161]**

| | | |
|---|---|---|
| Rules of practice, 1.1(1), 1.2, 1.5 IAB 3/10/10 **ARC 8578B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Definition of "administratively closed," 2.1(10)"a" IAB 3/10/10 **ARC 8575B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Definitions relating to types of mail, 2.1(14) to 2.1(16) IAB 3/10/10 **ARC 8577B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Definitions relating to electronic filing, 2.1(17) to 2.1(19) IAB 3/10/10 **ARC 8576B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Filing a complaint; update of bases for prohibition of discrimination, 3.3(1), 6.2(1), 9.5(2), 10.2 IAB 3/10/10 **ARC 8573B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Complaint process, 3.5, 3.6 IAB 3/10/10 **ARC 8571B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Conditions precedent to right to sue, 3.10(2) IAB 3/10/10 **ARC 8570B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Mediation, 3.11 IAB 3/10/10 **ARC 8569B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Mediation procedures, 3.12(1)"a," "b" IAB 3/10/10 **ARC 8568B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Preliminary screening process, 3.12(1)"e" IAB 3/10/10 **ARC 8566B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Investigation and cause determination; role of administrative law judge, 3.13 IAB 3/10/10 **ARC 8567B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Complaint process—textual revisions, 3.14, 3.16 IAB 3/10/10 **ARC 8574B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Arbitration, 3.17 IAB 3/10/10 **ARC 8565B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Contested cases—clarification of wording, 4.28(1), 4.31 IAB 3/10/10 **ARC 8564B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Discrimination in employment—applicability, ch 8 preamble, 8.46 IAB 3/10/10 **ARC 8562B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |
| Discrimination in employment—elimination of outdated rules, rescind 8.1 to 8.7 IAB 3/10/10 **ARC 8561B** | Commission Office, First Floor South Grimes State Office Bldg. Des Moines, Iowa | April 6, 2010 2 to 4 p.m. |

**CIVIL RIGHTS COMMISSION[161]** (Cont'd)

| | | |
|---|---|---|
| Discrimination in employment—clarification of provisions, 8.47(1)<br>IAB 3/10/10 **ARC 8563B** | Commission Office, First Floor South<br>Grimes State Office Bldg.<br>Des Moines, Iowa | April 6, 2010<br>2 to 4 p.m. |
| Update of commission address, 11.3(1), 15.3<br>IAB 3/10/10 **ARC 8560B** | Commission Office, First Floor South<br>Grimes State Office Bldg.<br>Des Moines, Iowa | April 6, 2010<br>2 to 4 p.m. |

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

| | | |
|---|---|---|
| Water quality standards—lake criteria, 61.3(4)<br>IAB 2/24/10 **ARC 8544B**<br>(See **ARC 8397B**, IAB 12/16/09) | Falcon Civic Center<br>1305 5th Ave. NE<br>Independence, Iowa | March 18, 2010<br>10 a.m. |
| | Public Library<br>115 W. Washington St.<br>Washington, Iowa | March 18, 2010<br>4 p.m. |
| Water quality standards—surface water classification, 61.3(5)<br>IAB 3/10/10 **ARC 8599B** | Municipal Utilities Conference Room<br>15 W. 3rd St.<br>Atlantic, Iowa | April 1, 2010<br>10 a.m. |
| | Public Library<br>21 E. 3rd St.<br>Spencer, Iowa | April 1, 2010<br>6 p.m. |
| | Falcon Civic Center<br>1305 5th Ave. NE<br>Independence, Iowa | April 5, 2010<br>10 a.m. |
| | Public Library<br>115 W. Washington St.<br>Washington, Iowa | April 5, 2010<br>6 p.m. |
| | Community Meeting Room<br>15 N. 6th St.<br>Clear Lake, Iowa | April 7, 2010<br>1 p.m. |
| | Fifth Floor Conference Rooms<br>Wallace State Office Bldg.<br>Des Moines, Iowa | April 9, 2010<br>1 p.m. |

**MEDICINE BOARD[653]**

| | | |
|---|---|---|
| Standards of practice—interventional chronic pain management, 13.9<br>IAB 3/10/10 **ARC 8579B** | Board Office, Suite C<br>400 SW 8th St.<br>Des Moines, Iowa | March 30, 2010<br>11 a.m. |

**NATURAL RESOURCE COMMISSION[571]**

| | | |
|---|---|---|
| State parks and recreation areas—camping, definition of "immediate family," 61.2, 61.4(5)<br>IAB 3/10/10 **ARC 8593B** | Fourth Floor East Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | March 30, 2010<br>2 p.m. |
| State forest camping, 62.2, 62.6<br>IAB 3/10/10 **ARC 8592B** | Fourth Floor East Conference Room<br>Wallace State Office Bldg.<br>Des Moines, Iowa | March 30, 2010<br>2 p.m. |

**TRANSPORTATION DEPARTMENT[761]**

| | | |
|---|---|---|
| Federal motor carrier safety and hazardous materials regulations, 520.1(1)<br>IAB 3/10/10 **ARC 8555B** | Motor Vehicle Division Offices<br>6310 SE Convenience Blvd.<br>Ankeny, Iowa | April 1, 2010<br>10 a.m.<br>(If requested) |

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

| | | |
|---|---|---|
| Unemployment insurance; employer records, reports, contributions and charges; claims and benefits, amendments to chs 21 to 24<br>IAB 3/10/10 **ARC 8583B** | Iowa Workforce Development<br>1000 E. Grand Ave.<br>Des Moines, Iowa | March 30, 2010<br>9:30 a.m. |

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.

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
  Agricultural Development Authority[25]
  Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS' AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
  Alcoholic Beverages Division[185]
  Banking Division[187]
  Credit Union Division[189]
  Insurance Division[191]
  Professional Licensing and Regulation Bureau[193]
    Accountancy Examining Board[193A]
    Architectural Examining Board[193B]
    Engineering and Land Surveying Examining Board[193C]
    Landscape Architectural Examining Board[193D]
    Real Estate Commission[193E]
    Real Estate Appraiser Examining Board[193F]
    Interior Design Examining Board[193G]
  Savings and Loan Division[197]
  Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
  Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
  Arts Division[222]
  Historical Division[223]
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
  City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
  Educational Examiners Board[282]
  College Student Aid Commission[283]
  Higher Education Loan Authority[284]
  Iowa Advance Funding Authority[285]
  Libraries and Information Services Division[286]
  Public Broadcasting Division[288]
  School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
  Community Action Agencies Division[427]
  Criminal and Juvenile Justice Planning Division[428]
  Deaf Services Division[429]
  Persons With Disabilities Division[431]
  Latino Affairs Division[433]

Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

**ARC 8578B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 1, "Rules of Practice," Iowa Administrative Code.

These amendments update the address of the Commission and modify sentence structure and grammar to improve the clarity of the administrative rules and to conform to current practice and procedure.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5.

The following amendments are proposed.

ITEM 1. Amend paragraph **1.1(1)"b"** as follows:

*b. Location.* The Iowa civil rights commission, hereinafter referred to as "commission," is located on the First Floor, Grimes State Office Building, 400 ~~East~~ E. 14th Street, Des Moines, Iowa 50319-1004; telephone (515)281-4121; toll-free in Iowa only 1-800-457-4416; facsimile transmission (fax) (515)242-5840. Office hours are 8 a.m. to 4:30 p.m. Monday through Friday, or the business hours set by the office of the governor or otherwise established by the legislature.

ITEM 2. Amend paragraph **1.2(9)"c"** as follows:

*c. Time of issuance.* After a proper request, the commission shall issue a concise statement of reasons by the ~~later of the~~ time the rule is adopted or 35 days after receipt of the request, whichever is later.

ITEM 3. Amend paragraph **1.2(12)"b"** as follows:

*b. Special notice.* When the commission makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)*"b"*(3), the commission shall employ all reasonable efforts to make its contents known to the persons who may be affected by that rule prior to the rule's indexing and publication. The term~~,~~ "all reasonable efforts" requires the commission to employ the most effective and prompt means of notice rationally calculated to inform potentially affected parties of the following: the effectiveness of the rule ~~that is justified and practical~~ under the circumstances, ~~considering~~ the various alternatives available for this purpose, the comparative costs to the commission of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following means: radio, newspaper, television, signs, mail, telephone, ~~or~~ personal notice, or electronic means.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2)*"b"*(3), shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of 1.2(12)*"b."*

ITEM 4. Amend rule 161—1.5(216), introductory paragraph, as follows:

**161—1.5(216) Forms.** ~~Forms are available at the commission office without charge. Commission staff is available to assist the public in all matters relative to the forms.~~ Forms commonly used by the commission are generally available through the commission's Web site or by telephoning the commission staff.

**ARC 8575B**

## CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 2, "General Definitions," Iowa Administrative Code.

This amendment will facilitate public access to the administrative rules by reducing legalese and unnecessarily complex sentence structures through modifications to style and grammar.

Any interested persons may make written comments on the proposed amendment on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendment is subject to the Commission's general waiver provisions found at 161—Chapter 15.

This amendment is intended to implement Iowa Code section 216.5.

The following amendment is proposed.

Amend paragraph **2.1(10)"a"** as follows:

*a.* The term "administratively closed" shall mean that~~, in the opinion of the investigating official, no useful purpose would be served by further action by the commission respecting a complaint, such as where the commission staff has not been successful in locating a complainant after diligent efforts, where the respondent has gone out of business, where a right to sue letter has been issued, or where, after a probable cause decision has been made, it is determined that the record does not justify proceeding to public hearing.~~ the commission will cease action on a complaint because, in the opinion of the investigating official, no useful purpose would be served by further efforts. Administratively closing a case is appropriate in circumstances such as the following: The commission staff has not been successful in locating a complainant after diligent efforts; the respondent has gone out of business; a right-to-sue letter has been issued; or after a probable cause decision has been made, it is determined that the record does not justify proceeding to public hearing.

## ARC 8577B

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 2, "General Definitions," Iowa Administrative Code.

These amendments define and distinguish different types of mail.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code Supplement sections 216.15(3) and 216.15(4).

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 2.1(14):

**2.1(14)** The term "certified mail" shall mean delivery by United States Postal Service mail designated as certified mail.

ITEM 2. Adopt the following **new** subrule 2.1(15):

**2.1(15)** The term "local mail" shall mean Iowa state government local (interoffice) delivery. Local mail is sent and delivered between state government offices in an envelope designated "Local," without the need for postage.

ITEM 3. Adopt the following **new** subrule 2.1(16):

**2.1(16)** The term "mail or regular mail" shall mean delivery by United States Postal Service mail delivered at regular speed or delivery by courier service.

## ARC 8576B

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 2, "General Definitions," Iowa Administrative Code.

CIVIL RIGHTS COMMISSION[161](cont'd)

These amendments define terms relating to a new form of filing documents with the Commission.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code Supplement sections 216.15(3) and 216.15(4).

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 2.1(17):

**2.1(17)** The term "electronic filing" shall mean submission of documents via the online case management system established and utilized by the commission or via another online system. The commission may require proof to ensure the accuracy and validity of online filings, including additional written verification of the veracity and accuracy of documents filed online. Senders shall include in the subject line of the E-mail the case number, if one exists, and a brief description of the submission. Filings by E-mail must be delivered to a valid E-mail address of current commission staff.

ITEM 2. Adopt the following **new** subrule 2.1(18):

**2.1(18)** The term "electronic signature" shall mean that a person attests to the validity of the electronic documents. Electronic signatures accompany various forms of electronic submissions including, but not limited to, E-mails and submissions made online through the case management system. The commission may permit and accept electronic signatures in E-mails, depending on the type of document. An electronic signature in the case management system consists of a person's name typed and submitted into the designated field.

ITEM 3. Adopt the following **new** subrule 2.1(19):

**2.1(19)** The terms "written" and "in writing" shall mean the creation of words, phrases, or sentences by any means including, but not limited to, pen and paper, typewriter text, computer discs, computer text, electronic text and any other medium.

**ARC 8573B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Chapter 6, "Discrimination in Credit," Chapter 9, "Discrimination in Housing," and Chapter 10, "Discrimination in Public Accommodation," Iowa Administrative Code.

These amendments modify the rules to conform to 2008 legislative changes by implementing changes in policy governing the deadline for filing a complaint with the Civil Rights Commission. The

amendments also modify rules to conform to 2007 legislative changes by including sexual orientation and gender identity in existing rules on covered bases.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement 2009 Iowa Code Supplement section 216.15.

The following amendments are proposed.

ITEM 1. Amend subrule 3.3(1) as follows:

**3.3(1)** *Limitation.* The complaint shall be filed within the ~~180~~ 300 days after the occurrence of an alleged unlawful practice or act.

ITEM 2. Amend subrule 6.2(1) as follows:

**6.2(1)** The criteria used to evaluate applicants for credit and the standards necessary to be met by the successful applicants shall be the same regardless of the age, color, creed, national origin, race, religion, marital status, sexual orientation, gender identity, sex or physical disability of the applicant.

ITEM 3. Amend subrule 9.5(2) as follows:

**9.5(2)** *Time limit for administrative complaint.* A complaint which alleges a discriminatory housing or real estate practice is governed by the ~~180~~ 300-day time limit provided in 2009 Iowa Code Supplement section 216.15(~~12~~ 13).

ITEM 4. Amend rule **161—10.2(216)**, introductory paragraph, as follows:

**161—10.2(216) Discrimination prohibited.** No person shall be discriminated against on the basis of race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability by any public accommodation by:

## ARC 8571B

# CIVIL RIGHTS COMMISSION[161]

### 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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

These proposed amendments to rules 161—3.5(216) and 161—3.6(216):

- Distinguish different types of mail and clarify forms of filing by mail;
- Establish procedures for the E-filing of documents;
- Clarify an existing procedure relating to the costs for copying documents;
- Establish procedures for the filing of documents online via the case management system; and
- Bring the rules into conformance with 2009 statutory changes.

CIVIL RIGHTS COMMISSION[161](cont'd)

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5 and Iowa Code Supplement section 216.15.

The following amendments are proposed.

ITEM 1. Amend rule 161—3.5(216) as follows:

**161—3.5(216) Filing of documents with the Iowa civil rights commission.**

**3.5(1)** *Methods of filing.* Any document, including a complaint of discrimination, may be "filed" with the commission by any one of the following methods:

~~**3.5(1)**~~ *a.* *In person.* By delivery in person to the offices of the commission at the location set forth in 161—paragraph 1.1(1)*"b"* during the office hours set forth in said paragraph *"b."*

~~**3.5(2)**~~ *b.* *By mail or regular mail.* By depositing the document in the United States mail, or sending it by courier service, postage prepaid, in an envelope addressed to the Iowa civil rights commission at the address set forth in 161—paragraph 1.1(1)*"b."* In the case of state agencies or other persons served by the Iowa state government local (interoffice) mail, it is sufficient to deposit the document in Iowa state government local (interoffice) mail in an envelope designated "Local" and addressed to the "Iowa Civil Rights Commission."

~~**3.5(3)**~~ *c.* *By facsimile transmission (fax).* By transmitting via facsimile transmission a copy of the document to the fax number set forth in 161—paragraph 1.1(1)*"b."*

A document filed by fax is presumed to be an accurate reproduction of the original. If a document filed by fax is illegible, a legible copy shall be substituted and the date of filing shall be the date the illegible copy was received.

~~**3.5(4)**~~ *d.* *By courier service.* By delivering the document to an established courier service for immediate delivery to the Iowa civil rights commission at the address set forth in 161—paragraph 1.1(1)*"b."*

*e.* *By certified mail.* By sending the document in the United States mail designated as certified mail.

*f.* *By local mail.* By depositing the document in Iowa state government local (interoffice) mail in an envelope designated "Local" and addressed to the "Iowa Civil Rights Commission."

*g.* *By case management system.* By submitting a document online via the case management system. The documents which may be filed online via the case management system are set at the discretion of the commission. Complainants and respondents filing paper documents may, when authorized by the commission, use electronic filing for those documents the commission permits to be submitted online through the case management system.

*h.* *By E-mail.* By attaching a document to or sending a document within the body of an E-mail. The commission shall have discretion over which documents may be filed by E-mail. Official signature requirements may vary from one type of document to another and shall be determined at the discretion of the commission. The commission may establish procedures to ensure the accuracy and validity of online filings and to notify parties of the receipt of electronic filings. Filings by E-mail must be delivered to a valid E-mail address of current commission staff designated to accept filed documents. The commission may require additional written verification of the veracity and accuracy of documents

filed online. Senders shall include in the subject line of the E-mail the case number, if one exists, and a brief description of the submission.

~~**3.5(5)**~~ **3.5(2)** *Suggested procedures for facsimile transmissions (fax).* In order to avoid an incomplete or illegible fax, it is suggested that those desiring to "file" a document via that method follow these procedures:

*a.* to *d.* No change.

~~**3.5(6)**~~ **3.5(3)** *Charge for facsimile transmissions in excess of five pages.* For facsimile transmissions in excess of five pages, the commission ~~will~~ may bill the sender a reasonable fee for each page in excess of five pages.

~~**3.5(7)**~~ **3.5(4)** *Date a document is deemed to be "filed" with the commission.* The date on which any document is deemed to be "filed" with the commission is determined according to the following:

*a.* *Filing in person.* If the document, including a complaint of discrimination, is filed in person as set forth in ~~subrule 3.5(1),~~ paragraph 3.5(1)*"a,"* then the date of the filing is the date that the document is delivered to the commission offices and date-stamped received.

*b.* *Filing by mail or regular mail.* If the document, except for a complaint of discrimination, is filed by mail or regular mail as set forth in ~~subrule 3.5(2),~~ paragraph 3.5(1)*"b,"* then the date of the filing is the date of mailing.

*c.* *Filing by facsimile transmission.* If the document, including a complaint of discrimination, is filed by facsimile transmission as set forth in ~~subrule 3.5(3),~~ paragraph 3.5(1)*"c,"* the date of the filing is the date the document is received by the commission as shown on the face of the facsimile. However, if a transmission is received after the office hours set forth in 161—paragraph 1.1(1)*"b,"* the date of filing is the next day the commission offices are open for business. Transmissions received prior to office hours on a regular business day are deemed filed on that day.

*d.* *Filing by courier service.* If the document, except for a complaint of discrimination, is filed by courier service as set forth in ~~subrule 3.5(4),~~ paragraph 3.5(1)*"d,"* then the date of the filing is the date the document is delivered to the established courier service for immediate delivery to the Iowa civil rights commission at the address set forth in 161—paragraph 1.1(1)*"b."*

*e.* *Filing online via case management system.* If a document, including a complaint of discrimination, is filed online via the case management system as set forth in paragraph 3.5(1)*"g,"* the date of the filing is the date that document is received by the commission as recorded in the case management system. However, if the submission is received after the office hours set forth in 161—paragraph 1.1(1)*"b,"* the date of filing is the next day the commission offices are open for business. A submission received prior to office hours on a regular business day is deemed filed on that day.

*f.* *Filing online through E-mail.* If a document, including a complaint of discrimination, is filed online via E-mail, as set forth in paragraph 3.5(1)*"h,"* the date of the filing is the date that document is received by the commission as recorded in the E-mail inbox of the commission staff person. However, if the submission is received after the office hours set forth in 161—paragraph 1.1(1)*"b,"* the date of filing is the next day the commission offices are open for business. A submission received prior to office hours on a regular business day is deemed filed on that day.

~~*e.*~~ *g.* *Presence of commission receipt stamp.* Except where the date of the receipt stamp is demonstrated to be in error, the date of filing of a document, including a complaint of discrimination, shall in no event be deemed to be later than the date shown by the dated commission receipt stamp on the document. Complaints filed online via the case management system shall receive an online record of the date and time filed, and the online record shall be considered the dated commission receipt stamp.

~~**3.5(8)**~~ **3.5(5)** *Proof of mailing.* Adequate proof of the date of mailing includes the following:

*a.* to *f.* No change.

~~**3.5(9)**~~ **3.5(6)** *Conflict among proofs of mailing.* The date of mailing is the date shown by the postmark. In the absence of a legible postmark, the date of mailing is the date shown by the postage meter mark, and only in the absence of both a legible postmark and a legible postage meter mark, the date of mailing is the date shown by the affidavit, certificate, or certification of mailing.

CIVIL RIGHTS COMMISSION[161](cont'd)

~~**3.5(10)**~~ **3.5(7)** *Filing of complaint.*

*a.* A complaint of discrimination is filed by any of the methods listed in this rule.

*b.* The date a complaint of discrimination is filed with the commission is the date the complaint is received by the commission. However, if the complaint is filed by fax or online via the case management system or E-mail and is received after the office hours set forth in 161—paragraph 1.1(1)*"b,"* the date of filing is the next day the commission offices are open for business. Transmissions or submissions or other online filings received prior to office hours on a regular business day of the commission are deemed filed on that day.

*c.* Except where the date of the receipt stamp is demonstrated to be in error, the date of filing of a complaint of discrimination shall in no event be deemed to be later than the date shown by the dated commission receipt stamp on the complaint. Complaints filed online via the case management system shall receive an online record of the date and time filed, which shall be considered the dated commission receipt stamp.

ITEM 2. Amend rule 161—3.6(216) as follows:

**161—3.6(216) Notice of the complaint.** After jurisdictional review and within 20 days of receipt of the complaint, ~~the executive director or designee shall serve the first named respondent with a copy of the complaint by certified mail.~~ the commission will serve a complaint on a respondent by regular or electronic mail. If the first named respondent does not respond to the service by regular or electronic mail after 90 days, the commission shall serve the complaint on the first named respondent by certified mail within 20 days after the expiration of the 90-day response period. ~~If the first named respondent on a complaint is not a governmental entity, service of a true copy on the first named respondent shall be by certified mail.~~ A letter of acknowledgment shall advise the complainant of the right to withdraw the complaint and sue in the appropriate district court according to Iowa Code section 216.16.

## ARC 8570B

# CIVIL RIGHTS COMMISSION[161]

### 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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

This amendment clarifies the administrative rules by establishing a procedure for e-filing of documents.

Any interested persons may make written comments on the proposed amendment on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendment is subject to the Commission's general waiver provisions found at 161—Chapter 15.

This amendment is intended to implement Iowa Code section 216.15.

The following amendment is proposed.

Amend subrule 3.10(2) as follows:

**3.10(2)** *Conditions precedent to right to sue.* Upon a request under subrule 3.10(1), the commission shall mail to the complainant a right-to-sue letter where the following conditions have been met.

*a.* The complaint was filed with the commission as provided in rule 161—3.5(216);

*b.* The complaint has been on file with the commission for at least 60 days~~.~~;

*c.* The right-to-sue request has been submitted in writing with the signature of the complainant or the complainant's representative, unless otherwise prohibited by state or federal rules or contractual agreements. Electronic signatures are permissible for right-to-sue requests;

*d.* The date of request is listed as well as the corresponding state and federal case numbers.

## ARC 8569B

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

This amendment clarifies mediation procedures and may result in additional and expedited settlements.

Any interested persons may make written comments on the proposed amendment on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendment is subject to the Commission's general waiver provisions found at 161—Chapter 15.

This amendment is intended to implement Iowa Code section 216.5.

The following amendment is proposed.

Amend rule 161—3.11(216) as follows:

**161—3.11(216) Mediation.** ~~The executive director or designee may conduct an impartial mediation of the complaint by offering the complainant and the respondent an opportunity to negotiate a no-fault predetermination settlement for the purpose of amicably resolving the complaint prior to full investigation.~~

**3.11(1)** Mediation shall be available once a complaint has been filed, when a party to the complaint requests mediation, when the case has been preliminarily screened in for investigation pursuant to the procedures set forth in rule 161—3.12(216), or at any time while the complaint is still open and the parties agree to participate. Mediation is a neutral, non-fact-finding process, at which parties attempt to negotiate a no-fault predetermination settlement for the purpose of amicably resolving the complaint. Mediation shall be available to all parties irrespective of representation by counsel. Mediation may encompass all issues in the case which could have been investigated by the commission including any

claims for unlawful retaliation that may exist through the date of the mediation notice. If the parties agree to seek and obtain a global settlement not limited to a resolution of the civil rights issues, the mediation may be expanded to include these collateral claims.

**3.11(2)** Mediation notification shall be sent via regular or electronic mail to all parties and their respective counsels, if applicable. Notification may include detailed information on the mediation process.

# ARC 8568B

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

These amendments clarify mediation procedures and may result in additional and expedited settlements.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5.

The following amendments are proposed.

ITEM 1. Amend paragraph **3.12(1)"a"** as follows:

*a. Questionnaire.* As soon as practicable after receipt of a complaint, the commission may draft and mail to the parties written questionnaires. Respondent and complainant may respond via regular, certified or local mail, electronic mail, or online via the commission's case management system. Complainant and respondent will receive different sets of questions as ~~they~~ the complainant and respondent typically have different items of information and different interpretations of the facts. The questionnaire will be as specific as practicable to the particular complaint.

ITEM 2. Amend subparagraph **3.12(1)"b"(1)** as follows:

(1) Respondent and complainant are required to respond in writing to their respective questionnaires. The answers ordinarily should be responsive to the questions asked, though elaboration is encouraged. If a question does not apply, the responder can so indicate. In lieu of answers responsive to the particular questions, the commission will accept written position statements, provided the statements respond to the allegations. The position statements should cover the same general subject areas covered by the questionnaire. Accompanying supportive evidence is required, including application materials, job descriptions, organizational charts, selection procedures, policies, procedures, employee handbooks, job descriptions, signed statements from witnesses, performance evaluations, discipline records, E-mails, photographs, internal investigation records, and other documents that are

relevant. The documents should encompass how the complainant was treated and how persons similarly situated to the complainant were treated.

ITEM 3. Amend subparagraph **3.12(1)"b"(2)** as follows:

(2) Responses are due 30 days from the mailing of the questionnaire. Extensions will be granted on an informal basis. Requests for extensions may be oral and may be granted or denied orally. No notice of the request for an extension or of the disposition of that request need be given to the nonrequesting party. A requesting party may assume the extension is approved unless otherwise notified. Requests for extensions may be granted for 30 days or less. Extensions greater than 30 days may be subject to review by the executive director or designee. The legislature encourages preliminary screening to be completed within 120 days of the filing of the complaint; therefore, requests for extensions are strongly discouraged. A request for an extension by a party shall constitute a waiver by that party of any objection to the commission taking longer than the 120-day period to screen the complaint.

## ARC 8566B

# CIVIL RIGHTS COMMISSION[161]

### 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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

This amendment more accurately reflects agency procedure relating to the screening process.

Any interested persons may make written comments on the proposed amendment on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendment is subject to the Commission's general waiver provisions found at 161—Chapter 15.

This amendment is intended to implement Iowa Code section 216.5.

The following amendment is proposed.

Amend paragraph **3.12(1)"e"** as follows:

*e. Preliminary screening ~~committee~~ process.* As soon as practicable after the receipt of all materials responsive to the questionnaires, ~~a committee of commission staff members may meet and~~ the executive director or designee shall review the submitted answers and materials. ~~This preliminary screening committee will~~ The executive director or designee shall then determine whether the case will be "screened in" ~~for~~ as warranting further processing or "screened out" as not warranting further investigation.

**ARC 8567B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

These amendments are proposed to clarify investigation and cause determination procedures and the role of the administrative law judge. The amendments will assist in maintaining case processing deadlines without hiring additional staff. The amendments are also proposed to facilitate prompt processing and resolution of complaints.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.15.

The following amendments are proposed.

ITEM 1. Amend rule 161—3.13(216), introductory paragraph, as follows:

**161—3.13(216) Investigation.** The executive director or designee shall make a prompt investigation of the complaint ~~and make a recommendation~~. The administrative law judge may participate in the investigation and may direct the investigation. The investigator shall make a recommendation to the administrative law judge. ~~An~~ The administrative law judge shall review the recommendation and issue a determination of probable cause or no probable cause for the commission.

ITEM 2. Amend subrule 3.13(1) as follows:

**3.13(1)** *Cause determinations.* After a complaint has been filed, the executive director or a designated staff member shall assign a member of the investigatory staff to make a prompt investigation of the complaint. The investigator may confer with, be assisted by, or be directed by the administrative law judge during the investigation. The administrative law judge may participate in the investigation and engage in ex parte communications with the parties or their counsel. The investigator shall review all of the evidence and make a recommendation of probable cause or no probable cause or other appropriate action to the administrative law judge designated to issue findings. The administrative law judge shall review the case file and issue ~~an independent~~ a determination of probable cause or no probable cause~~,~~ or other appropriate action on behalf of the commission.

**ARC 8574B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

These amendments will facilitate public understanding of the administrative rules by revision of complex sentence structure and through modifications to style and grammar.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5.

The following amendments are proposed.

ITEM 1. Amend subrule 3.14(2) as follows:

**3.14(2)** *Prior to notice of hearing.* The executive director, or designee, may issue subpoenas prior to the issuance of a notice of hearing. Neither the complainant, ~~other than~~ except when the commission is acting as the complainant, nor the respondent shall have the right to demand that a subpoena be issued.

ITEM 2. Amend paragraph **3.14(8)"a"** as follows:

*a.* Any person ~~served with~~ who intends not to comply with all or part of a subpoena issued by the commission ~~who intends not to comply with all or part of it~~ shall promptly~~, after the date of service of the subpoena upon that person,~~ petition the executive director to revoke or modify the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition. The executive director or designee may as soon as practicable make a final determination upon the petition. The commission shall then mail the determination of the petition by regular mail to the petitioner.

ITEM 3. Amend paragraph **3.16(3)"e,"** introductory paragraph, as follows:

*e.* Unless the application for reopening is disposed of by summary denial, all parties shall be notified whenever an application for reopening is made. A copy of the request for reopening along with the grounds asserted in the request ~~for reopening~~ shall be provided to all respondents. The parties shall be afforded no less than 14 and no more than 30 days to submit their positions, in writing, on the motion for reopening.

ITEM 4. Amend subparagraph **3.16(5)"a"(1)** as follows:

(1) Application. A party to a settlement agreement may, within 90 days of the date respondent's performance under the agreement was to be completed, apply for reopening of a case which has been closed as satisfactorily adjusted on the grounds that the other party has materially breached the

agreement. The commission shall not consider such an application for reopening if the commission is a party to the agreement alleged to have been breached. Also, the commission shall not consider such an application for reopening unless, as a part thereof, the party seeking the reopening agrees in writing that if the reopening is granted the agreements allegedly breached shall be null and void, and that such party waives and releases any rights to seek specific performance or damages for the alleged breach in court. If the commission finds that the agreement has been materially breached and that the respondent did not negotiate the agreement in good faith, the case shall be reopened.

ITEM 5. Amend subparagraph **3.16(5)"b"(4)** as follows:

(4) Ratification. ~~Where a party has voluntarily accepted all the benefits of an agreement, that party is barred from applying for reopening of the case on the ground that the agreement was not voluntary.~~ A party is barred from applying for reopening of a case on the ground that the agreement was involuntary, if the party has voluntarily accepted all benefits of an agreement.

ITEM 6. Amend subparagraph **3.16(5)"c"(3)** as follows:

(3) Ratification. ~~Where~~ If the withdrawal is filed pursuant to a conciliation, mediation or other settlement agreement and the complainant has ratified that agreement, the complainant is barred from applying for reopening of the case on the ground that the agreement was not voluntary.

ITEM 7. Amend paragraph **3.16(9)"b"** as follows:

*b.* ~~Where~~ If the right-to-sue letter was issued to a complainant who had not requested it and the commission notifies the parties of this error within 90 days of the erroneous issuance, then the closure after the erroneous issuance of the right-to-sue letter will be deemed void and the case reopened.

## ARC 8565B

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 3, "Complaint Process," Iowa Administrative Code.

The amendment proposes to rescind rule 161—3.17(216). Arbitration has not been used by the agency in the recent past (for at least six years), and removal of this rule more accurately reflects agency procedure.

Any interested persons may make written comments on the proposed amendment on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendment is subject to the Commission's general waiver provisions found at 161—Chapter 15.

This amendment is intended to implement Iowa Code section 216.5.

The following amendment is proposed.

Rescind and reserve rule **161—3.17(216)**.

**ARC 8564B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 4, "Contested Cases," Iowa Administrative Code.

These amendments are proposed to facilitate public understanding of the administrative rules by simplifying sentence structure.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5.

The following amendments are proposed.

ITEM 1. Amend subrule 4.28(1) as follows:

**4.28(1)** *Retention of jurisdiction.* In any final decision in which it is determined that the complainant is entitled to an award of attorney's fees, but the actual amount has not yet been determined, there is, by operation of this rule, an express retention of jurisdiction of the case by the commission in order to determine the actual amount of attorney's fees to which the party is entitled and to enter a subsequent order awarding those fees~~,~~. The commission shall take this action regardless of whether or not such retention of jurisdiction is expressed in the final decision. In such case, the decision is final in all other respects except the determination of the amount of the attorney's fees.

ITEM 2. Amend rule 161—4.31(17A) as follows:

**161—4.31(17A) Hearing—other reasons.** At any other time, the commission, executive director, or designee may, ~~in~~ at its discretion, convene a hearing: whenever a problem of discrimination arises; in order to expedite the disposition of preliminary matters in any action before it; or when in the judgment of the commission, executive director, or designee, the circumstances warrant.

**ARC 8562B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 8, "Discrimination in Employment," Iowa Administrative Code.

These amendments are proposed to facilitate public understanding of the administrative rules by more accurately representing agency procedure and statute coverage. Specifically, rule 161—8.46(216) is rescinded, and its content is adopted in a new preamble that is applicable to the entire chapter.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code sections 216.5 and 216.6.

The following amendments are proposed.

ITEM 1. Amend 161—Chapter 8 by adopting the following **new** preamble:

PREAMBLE

GENERAL PRINCIPLES

References to "employer" and "employers" in these rules state principles that are applicable not only to employers but also to labor organizations and to employment agencies insofar as their action or inaction may adversely affect employment opportunities as defined in the Act (Iowa Code section 216.6).

ITEM 2. Rescind and reserve rule **161—8.46(216)**.

**ARC 8561B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 8, "Discrimination in Employment," Iowa Administrative Code.

This proposed amendment rescinds rules 161—8.1(216) to 161—8.7(216) because the rules are outdated and do not conform to common procedure. References to federal regulations are also outdated and are not available to provide guidance in establishing and publishing new rules.

Any interested persons may make written comments on the proposed amendment on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendment is subject to the Commission's general waiver provisions found at 161—Chapter 15.

This amendment is intended to implement Iowa Code sections 216.5 and 216.6.

The following amendment is proposed.

Rescind and reserve rules **161—8.1(216)** to **161—8.7(216)**.

## ARC 8563B

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 8, "Discrimination in Employment," Iowa Administrative Code.

These amendments are proposed to facilitate public access to the administrative rules by clarifying the language through modifications to style and grammar.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code sections 216.5 and 216.6.

The following amendments are proposed.

ITEM 1. Amend subrule **8.47(1)**, introductory paragraph, as follows:

**8.47(1)** The following situations do not warrant ~~the application of the~~ a bona fide occupational qualification exception:

CIVIL RIGHTS COMMISSION[161](cont'd)

ITEM 2. Amend paragraph **8.47(1)"a"** as follows:

*a.* The refusal to hire ~~a woman~~ an individual because of ~~her sex~~ gender, based on assumptions of the comparative employment characteristics of ~~women~~ that gender in general~~, for example, the assumption that the turnover rate among women is higher than among men~~;

**ARC 8560B**

# CIVIL RIGHTS COMMISSION[161]

**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 216.5, the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 11, "Public Records and Fair Information Practices," and Chapter 15, "Miscellaneous Provisions," Iowa Administrative Code.

These amendments are proposed to update the location of the Commission.

Any interested persons may make written comments on the proposed amendments on or before 4:30 p.m. on April 6, 2010. Written comments should be addressed to the Iowa Civil Rights Commission, Grimes State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)242-5840 or by E-mail to ralph.rosenberg@iowa.gov.

A public hearing will be held in the Commission Office, First Floor South, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, from 2 to 4 p.m. on April 6, 2010. At this time, persons may present their views either orally or in writing. Persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

The proposed amendments are subject to the Commission's general waiver provisions found at 161—Chapter 15.

These amendments are intended to implement Iowa Code section 216.5.

The following amendments are proposed.

ITEM 1. Amend subrule 11.3(1) as follows:

**11.3(1)** *Location of record.* A request for access to a record should be directed to the Iowa civil rights commission or the particular agency office where the record is kept. The request shall be directed to the Iowa Civil Rights Commission, ~~211 E. Maple Street, c/o~~ Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319-1004. If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

ITEM 2. Amend subrule 15.3(1) as follows:

**15.3(1)** *Filing of a request for waiver or variance.* Any person may file a request for waiver or variance of an administrative rule of the civil rights commission by writing a proper request which is received by Executive Director, Iowa Civil Rights Commission, ~~Second Floor, 211 East Maple Street~~ Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa ~~50309-1858~~ 50319-1004. All requests for waiver or variance of an administrative rule must be in writing and meet all requirements set out in paragraph 15.3(2)*"a."* A request for a waiver is filed by any of the methods listed in rule 161—3.5(216). The date a request for waiver is filed is governed by ~~rule~~161—subrule ~~3.5(7)~~ 3.5(4). The commission shall provide the requester with a file-stamped copy of the request if the requester provides an extra copy for this purpose.

ITEM 3. Amend subrule 15.3(6) as follows:

**15.3(6)** *Public inspection of waiver requests.* All waiver or variance requests and responses shall be indexed by administrative rule number and available to members of the public for inspection at the offices

of the Civil Rights Commission, ~~Second Floor, 211 East Maple Street~~ Grimes State Office Building, 400 E. 14th Street, Des Moines, Iowa 50319. Identifying information concerning any person, including parties to complaints on file, may be withheld by the commission in order to protect the confidentiality of case-related information as required by Iowa Code section 216.15(4).

**ARC 8597B**

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455A.6, the Environmental Protection Commission hereby gives Notice of Intended Action to adopt new Chapter 16, "Revocation, Suspension, and Nonrenewal of License for Failure to Pay State Liabilities," Iowa Administrative Code.

The proposed chapter provides a mechanism through which the Department may suspend, revoke or deny issuance or renewal of licenses of persons who fail to pay liabilities to the state in compliance with the requirements in Iowa Code chapter 272D and Iowa Code section 261.126.

Any interested person may make written suggestions or comments on the proposed chapter on or before April 13, 2010. Such written materials should be directed to Kelley Myers, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-7147; or E-mail Kelley.Myers@dnr.iowa.gov. Persons who wish to convey their views orally should contact Kelley Myers at (515)281-5634 or at Kelley Myers' office by visiting the fourth floor of the Wallace State Office Building.

These rules are intended to implement Iowa Code chapter 272D and Iowa Code section 261.126.

The following amendment is proposed.

Adopt the following **new** 567—Chapter 16:

## CHAPTER 16
## REVOCATION, SUSPENSION, AND NONRENEWAL OF LICENSE FOR FAILURE TO PAY STATE LIABILITIES

**567—16.1(272D,261) Purpose and use.** This chapter is intended to help collect liabilities of the state or a state agency from persons who have licenses with the commission or department. This chapter shall apply to all licenses issued, renewed or otherwise authorized by the department or the commission.

**567—16.2(272D,261) Definitions.** For purposes of this chapter, the following definitions shall apply:

*"Certificate of noncompliance"* means a document provided by the collecting agency certifying the named person has outstanding liability placed with the collecting agency and has not entered into an approved payment plan to pay the liability.

*"Collecting agency"* means the centralized collection unit of the department of revenue or the Iowa college student aid commission.

*"Commission"* means the environmental protection commission.

*"Department"* means the department of natural resources.

*"Liability"* means a debt or obligation placed with the collecting agency for collection that is greater than $1,000. For purposes of this chapter, "liability" does not include child support payments collected pursuant to Iowa Code chapter 252J.

*"License"* means a license, certification, registration, permit, approval, renewal or other similar authorization issued to a person by the department which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation, including those authorizations set out in Iowa Code chapters 455A, 455B, 455C, 455D, 456A, 459, and 459A.

*"Licensee"* means a person to whom a license has been issued by the department or who is seeking the issuance of a license from the department.

*"Notice of intent"* means a notice sent to a licensee indicating the department's intent to suspend, revoke, or deny renewal or issuance of a license.

*"Obligor"* means a person with a liability placed with the collecting agency.

*"Person"* means a licensee.

*"Withdrawal of a certificate of noncompliance"* means a document provided by the collecting agency certifying that the certificate of noncompliance is withdrawn and that the department may proceed with issuance, reinstatement, or renewal of a person's license.

**567—16.3(272D,261) Requirements of the department.**

**16.3(1)** *Records.*

*a.* The department shall collect and maintain records of its licensees that must include, at a minimum, the following:

(1) The licensee's first and last names.

(2) The licensee's current known address.

(3) The licensee's social security number.

*b.* The records shall be made available to the collecting agency so that the collecting agency may match to the records the names of persons with any liabilities placed with the collecting agency for collections. The records must be submitted in an electronic format and updated on a quarterly basis.

**16.3(2)** *Certificate of noncompliance.* Upon receipt of a certificate of noncompliance from the collecting agency, the department shall initiate rules and procedures for the suspension, revocation, or denial of issuance or renewal of a license to a person.

**16.3(3)** *Notice of intent.* The department shall provide to a person a notice of intent to suspend, revoke or deny issuance or renewal of the person's license in accordance with Iowa Code chapter 272D or Iowa Code section 261.126, whichever is appropriate. The suspension, revocation, or denial shall be effective no sooner than 30 days following the issuance of the notice of intent to the person. The notice shall state all of the following:

*a.* That the department has received a certificate of noncompliance from the collecting agency and intends to suspend, revoke or deny issuance or renewal of a person's license;

*b.* That the person must contact the collecting agency to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance;

*c.* That the department will revoke, suspend or deny issuance or renewal of the person's license unless a withdrawal of a certificate of noncompliance is received from the collecting agency within 30 days from the date of the notice of intent;

*d.* That in the event the department's rules and procedures conflict with the additional rules and procedures under this chapter, the rules and procedures of this chapter shall apply;

*e.* That mistakes of fact in the amount of the liability owed and the person's identity may not be contested to the department; and

*f.* That the person may request a district court hearing as outlined in rule 701—153.10(272D).

**16.3(4)** *Withdrawal.* Upon receipt of a withdrawal of a certificate of noncompliance from the collecting agency, the department shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with the department's requirements.

**567—16.4(272D,261) No administrative appeal of the department's action.** Pursuant to Iowa Code sections 261.126 and 272D.8, a person does not have a right to a hearing before the department to contest the department's action under this chapter but may request a court hearing pursuant to rule 567—16.5(272D,261).

**567—16.5(272D,261) District court hearing.** A person may seek review of the actions listed in 701—subrule 153.14(1) and request a hearing before the district court by filing an application with the district court in the county in which the majority of the liability was incurred. The person must send a copy of the application to the collecting agency by regular mail. The application must be filed no later than 30 days after the department issues its notice of intent.

**16.5(1)** *Scheduling.* The clerk of the district court shall schedule a hearing and mail a copy of the scheduling order to the person, the collecting agency, and the department.

**16.5(2)** *Certification.* Prior to the hearing, the collecting agency shall certify to the court a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the department shall certify to the court a copy of the notice issued pursuant to subrule 16.3(3).

**16.5(3)** *Stay.* Upon receipt of a copy of a scheduling order from the clerk of court and prior to the hearing, the department shall stay any action contemplated on the person's license pursuant to the notice of intent.

**16.5(4)** *Hearing.* The hearing on the person's application shall be scheduled and held within 30 days of the filing of the application. However, if the person fails to appear at the scheduled hearing, the stay shall be lifted and the department shall continue its procedures pursuant to the notice of intent.

**16.5(5)** *Scope of review.* The district court's review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

**16.5(6)** *Findings.* If the court finds the collecting agency was in error either in issuing a certificate of noncompliance or in its failure to issue a withdrawal of a certificate of noncompliance, the collecting agency shall issue a withdrawal of a certificate of noncompliance to the department. If the court finds the collecting agency was justified in issuing a certificate of noncompliance or in not issuing a withdrawal of a certificate of noncompliance, a stay imposed under subrule 16.5(3) shall be lifted and the department shall proceed with the action as outlined in its notice of intent.

These rules are intended to implement Iowa Code chapter 272D and Iowa Code section 261.126.

## ARC 8599B

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The proposed amendment will:

1. Revise and list approximately 95 river and stream segments as Class A2 Secondary Contact Recreational Use designated waters in the rule-referenced document "Surface Water Classification."

2. Revise and list approximately 305 river and stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."

3. Revise and list eight stream segments as Class A2 Secondary Contact Recreational Use and Class B(WW-3) Warm Water-Type 3 designated waters in the rule-referenced document "Surface Water Classification."

4. Revise and list 33 river and stream segments as Class A3 Children's Recreational Use and Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."

5. Revise and list 19 river and stream segments as Class A3 Children's Recreational Use designated waters in the rule-referenced document "Surface Water Classification."

6. Revise and list 39 stream segments as Class B(WW-2) Warm Water-Type 2 designated waters in the rule-referenced document "Surface Water Classification."

Recent rule making and 2006 legislative action have brought the Department's water quality rules closer to compliance with federal Clean Water Act requirements and U.S. Environmental Protection Agency (EPA) regulations establishing new levels of protection for water quality. As an outcome of these efforts, all 26,000 miles of Iowa's perennial (flowing year-round) streams are initially protected at the highest levels for recreation and warm water aquatic life uses. These actions provide initial protection for many miles of perennial streams that were previously not designated for aquatic life or recreational uses.

Under the rules adopted in 2006, it is presumed that all perennial streams and rivers are attaining the highest level of recreation and aquatic life uses and should be protected for activities such as fishing and swimming. This concept of assigning all perennial streams the highest use designation, unless assessments show that the stream does not deserve that level of protection, is referred to as the "rebuttable presumption." Included in the federal regulations are the provisions that allow for scientific analysis of these "presumed" recreational and aquatic life uses. An integral part of implementing the rules adopted in 2006 is verifying that a stream is capable of supporting the presumed uses.

The concept of Use Assessment and Use Attainability Analysis (UA/UAA) is being applied by the Department as a step-by-step process to gather site-specific field data on stream features and uses. The Department then assesses available information to determine if the "presumed" recreational and aquatic life uses are appropriate.

The Department elected to perform a UA/UAA on any newly designated stream that receives a continuous discharge from a facility with a National Pollutant Discharge Elimination System (NPDES) permit. Prior to issuing an NPDES permit for an affected facility, the Department will complete a UA/UAA for the receiving stream or stream network. Below is a list of the 499 stream segments proposed as a result of field assessments conducted from 2005 to 2009. (Duplicate listings represent separate segments along the overall reach of the stream.) Specific locations of these stream segments can be found in the draft "Surface Water Classification" document and by using the visual mapping aid that utilizes Google Earth at the following Web site: http://www.iowadnr.gov/water/uaa.html. In addition, each stream listed in this Notice can be viewed in detail on the UA/UAA Database at http://programs.iowadnr.gov/uaa/search.aspx.

The proposed stream segment revisions are as follows:

Class A2 Stream Segments

| | **Stream Name** | **Basin** | **Stream Segment Length (miles)** |
|---|---|---|---|
| 1 | Ames Creek (Clinton Co.) | Northeast | 4.59 |
| 2 | Bailey Creek (Franklin Co.) | Iowa-Cedar | 5.6 |
| 3 | Bass Creek (Fayette Co.) | Northeast | 1.55 |
| 4 | Bear Creek (Dallas Co.) | Des Moines | 0.44 |
| 5 | Bear Creek (Dallas Co.) | Des Moines | 0.93 |
| 6 | Bear Creek (Dallas Co.) | Des Moines | 3.5 |
| 7 | Bear Creek (Delaware/Dubuque Co.) | Northeast | 2.25 |
| 8 | Bear Creek (Jackson Co.) | Northeast | 2.9 |
| 9 | Beaverdam Creek (Cerro Gordo/Franklin Co.) | Iowa-Cedar | 25.68 |
| 10 | Big Creek (Linn Co.) | Iowa-Cedar | 2.87 |
| 11 | Bloody Run (Clayton/Delaware Co.) | Northeast | 2.62 |
| 12 | Bluff Creek (Mahaska Co.) | Des Moines | 4.63 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | **Stream Name** | **Basin** | **Stream Segment Length (miles)** |
|---|---|---|---|
| 13 | Bluff Creek (Mahaska Co.) | Des Moines | 0.2 |
| 14 | Brush Creek (aka Skunk Slough) (Des Moines Co.) | Iowa-Cedar | 10.7 |
| 15 | Brush Creek (Fayette Co.) | Northeast | 10.19 |
| 16 | Brush Creek (Jackson Co.) | Northeast | 1.4 |
| 17 | Brushy Creek (Carroll/Audubon/Guthrie Co.) | Des Moines | 13.48 |
| 18 | Buffalo Creek (Kossuth Co.) | Des Moines | 13.6 |
| 19 | Camp Creek (Polk/Jasper Co.) | Des Moines | 12.72 |
| 20 | Camp Creek (Polk/Jasper Co.) | Des Moines | 0.8 |
| 21 | Cavitt Creek (Warren Co.) | Des Moines | 1.14 |
| 22 | Cavitt Creek (Warren Co.) | Des Moines | 3.36 |
| 23 | Cedar Creek (Keokuk Co.) | Skunk | 8.1 |
| 24 | Cedar Creek (Monroe/Marion/Mahaska Co.) | Des Moines | 20.05 |
| 25 | Cherry Creek (Jasper Co.) | Skunk | 8.59 |
| 26 | Chialk Creek (Howard Co.) | Northeast | 1.09 |
| 27 | Clear Creek (Jasper/Marshall Co.) | Skunk | 10.74 |
| 28 | Crooked Creek (Henry/Washington/Jefferson Co.) | Skunk | 12.52 |
| 29 | Deer Creek (Tama Co.) | Iowa-Cedar | 7.1 |
| 30 | East Branch Buffalo Creek (Fayette/Buchanan Co.) | Northeast | 4.77 |
| 31 | East Branch Buffalo Creek (Fayette/Buchanan Co.) | Northeast | 4.94 |
| 32 | East Fork Crooked Creek (Henry/Washington Co.) | Skunk | 11.92 |
| 33 | East Fork Crooked Creek (Henry/Washington Co.) | Skunk | 1.9 |
| 34 | Elk Creek (Clayton Co.) | Northeast | 5.9 |
| 35 | Elk Creek (Clayton Co.) | Northeast | 5.023 |
| 36 | Elk Creek (Jasper Co.) | Skunk | 18 |
| 37 | Elkhorn Creek (Shelby Co.) | Southern | 2.9 |
| 38 | English Creek (Marion Co.) | Des Moines | 5.62 |
| 39 | Farm Creek (Pottawattamie/Mills Co.) | Southern | 5.88 |
| 40 | Honey Creek (Lucas Co.) | Southern | 6.15 |
| 41 | Indian Creek (Story/Polk/Jasper Co.) | Skunk | 23.31 |
| 42 | Jordan Creek (Pottawattamie Co.) | Southern | 10.45 |
| 43 | Keg Creek (Harrison/Pottawattamie/Mills Co.) | Western | 25.22 |
| 44 | Keg Creek (Harrison/Pottawattamie/Mills Co.) | Western | 2.42 |
| 45 | Knapp Creek (Benton/Johnson Co.) | Iowa-Cedar | 3.8 |
| 46 | Lime Creek (Buchanan/Benton Co.) | Iowa-Cedar | 4.6 |
| 47 | Lime Creek (Buchanan/Benton Co.) | Iowa-Cedar | 3.6 |
| 48 | Little River (Decatur Co.) | Southern | 16.75 |
| 49 | Little Turkey River (Clayton Co.) | Northeast | 1.6 |
| 50 | Little Wapsipinicon River (Buchanan Co.) | Northeast | 7.92 |
| 51 | Little Wapsipinicon River (Fayette/Bremer Co.) | Northeast | 19.9 |
| 52 | Little Whitebreast Creek (Lucas Co.) | Des Moines | 13.02 |
| 53 | Lost Island Outlet (Clay Co.) | Western | 3.34 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Stream Segment Length (miles) |
|---|---|---|---|
| 54 | Lost Island Outlet (Clay Co.) | Western | 1.54 |
| 55 | Middle Branch Boone River (Wright/Hancock Co.) | Des Moines | 7.5 |
| 56 | Middle Creek (Warren Co.) | Des Moines | 1.33 |
| 57 | Mill Creek (O'Brien Co.) | Western | 9.31 |
| 58 | Mill Race (Iowa Co.) | Iowa-Cedar | 6.8 |
| 59 | Morgan Creek (Linn/Benton Co.) | Iowa-Cedar | 1.51 |
| 60 | North Fork Maquoketa River (Dubuque Co.) | Northeast | 7.02 |
| 61 | North Fork Maquoketa River (Dubuque Co.) | Northeast | 3.84 |
| 62 | Otter Creek (Fayette Co.) | Northeast | 8.14 |
| 63 | Otter Creek (Fayette Co.) | Northeast | 0.13 |
| 64 | Otter Creek (Fayette/Buchanan Co.) | Northeast | 7.53 |
| 65 | Otter Creek (Jackson/Dubuque Co.) | Northeast | 7.65 |
| 66 | Otter Creek (Tama Co.) | Iowa-Cedar | 17 |
| 67 | Panther Creek (Dallas Co.) | Des Moines | 8.39 |
| 68 | Pitman Creek (Lee Co.) | Skunk | 2.02 |
| 69 | Roberts Creek (Clayton Co.) | Northeast | 5.06 |
| 70 | Roberts Creek (Clayton Co.) | Northeast | 4.75 |
| 71 | Roberts Creek (Clayton Co.) | Northeast | 5.32 |
| 72 | Roberts Creek (Clayton Co.) | Northeast | 18.09 |
| 73 | Rock Creek (Clinton Co.) | Northeast | 3.66 |
| 74 | Rock Creek (Polk Co.) | Des Moines | 3.11 |
| 75 | Salt Creek (Tama Co.) | Iowa-Cedar | 17 |
| 76 | Silver Creek (Clayton Co.) | Northeast | 2.82 |
| 77 | Snake Creek (Greene Co.) | Des Moines | 2.7 |
| 78 | South Fork Middle River (Guthrie Co.) | Des Moines | 2.77 |
| 79 | Squaw Creek (Story/Boone Co.) | Skunk | 13 |
| 80 | Sugar Creek (Lee Co.) | Skunk | 7.81 |
| 81 | Union Slough Outlet (Kossuth Co.) | Des Moines | 11.71 |
| 82 | Unnamed Creek (City of Lime Springs) | Northeast | 1.01 |
| 83 | Unnamed Creek (City of Lime Springs) | Northeast | 1.03 |
| 84 | Unnamed Creek #3 (aka Volga Lake Outlet Creek) (Volga River Recreational Area) | Northeast | 2.85 |
| 85 | Volga River (Fayette Co.) | Northeast | 2.57 |
| 86 | Walnut Creek (Cedar/Jones Co.) | Northeast | 0.48 |
| 87 | Walnut Creek (Cedar/Jones Co.) | Northeast | 5.94 |
| 88 | West Branch Blue Earth River (Kossuth Co.) | Des Moines | 0.49 |
| 89 | West Branch Buffalo Creek (Buchanan Co.) | Northeast | 6.48 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Stream Segment Length (miles) |
|---|---|---|---|
| 90 | West Branch Panther Creek (Dallas Co.) | Des Moines | 1.38 |
| 91 | West Fork Cedar River (Butler/Franklin Co.) | Iowa-Cedar | 4.66 |
| 92 | West Fork Little Sioux River (Monona/Cherokee Co.) | Western | 27.55 |
| 93 | West Fork Little Sioux River (Monona/Cherokee Co.) | Western | 7.05 |
| 94 | West Fork West Nishnabotna River (Crawford/Shelby Co.) | Southern | 20.23 |
| 95 | West Indian Creek (Story Co.) | Skunk | 9.55 |

Class A2, B(WW-2) Stream Segments

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 1 | Badger Creek (Webster Co.) | Des Moines | 1.64 | 1.64 |
| 2 | Battle Creek (Ida Co.) | Western | 2.67 | 2.67 |
| 3 | Bear Creek (Story Co.) | Skunk | 4.76 | 3.17 |
| 4 | Beaverdam Creek (Cerro Gordo/Franklin Co.) | Iowa-Cedar | 3.72 | 3.72 |
| 5 | Beers Creek (Jackson/Jones Co.) | Northeast | 16.17 | 2.75 |
| 6 | Benjamin Creek (Jasper Co.) | Skunk | 2.03 | 0.83 |
| 7 | Big Creek (Henry Co.) | Skunk | 6.86 | 6.86 |
| 8 | Big Hollow Creek (Des Moines Co.) | Iowa-Cedar | 1.35 | 1.35 |
| 9 | Big Hollow Creek (Des Moines Co.) | Iowa-Cedar | 0.85 | 0.85 |
| 10 | Big Hollow Creek (Des Moines Co.) | Iowa-Cedar | 1.52 | 1.52 |
| 11 | Black Cat Creek (Emmet/Kossuth Co.) | Des Moines | 42.2 | 8.3 |
| 12 | Bloody Run (Dubuque Co.) | Northeast | 4.92 | 1.54 |
| 13 | Bloody Run (Dubuque Co.) | Northeast | 0.56 | 0.56 |
| 14 | Bluff Creek (Boone Co.) | Des Moines | 2.68 | 2.68 |
| 15 | Bridge Creek (Keokuk Co.) | Skunk | 3.98 | 3.98 |
| 16 | Brush Creek (Jasper/Marion Co.) | Des Moines | 5.81 | 5.81 |
| 17 | Brush Creek (Jasper/Marion Co.) | Des Moines | 0.33 | 0.33 |
| 18 | Brushy Creek (Carroll/Audubon/Guthrie Co.) | Des Moines | 22.63 | 3.82 |
| 19 | Brushy Creek (Carroll/Audubon/Guthrie Co.) | Des Moines | 4.04 | 4.04 |
| 20 | Buck Creek (Jasper Co.) | Skunk | 3.28 | 3.28 |
| 21 | Bull Ditch (Dickinson Co.) | Western | 1.79 | 1.79 |
| 22 | Bull Ditch (Dickinson Co.) | Western | 0.16 | 0.16 |
| 23 | Butcher Creek (Warren Co.) | Des Moines | 1.7 | 1.7 |
| 24 | Calhoun Creek (Jasper/Marion Co.) | Des Moines | 11.22 | 5.49 |
| 25 | Chelsea Creek (Cerro Gordo Co.) | Iowa-Cedar | 0.68 | 0.68 |
| 26 | Chicken Creek (Marshall Co.) | Iowa-Cedar | 3.43 | 3.43 |
| 27 | Cleghorn Ditch (Monona/Woodbury Co.) | Western | 1.73 | 1.73 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 28 | Cleghorn Ditch (Monona/Woodbury Co.) | Western | 26.41 | 26.41 |
| 29 | Coal Creek (Monroe Co.) | Des Moines | 0.58 | 0.58 |
| 30 | Comstock Creek (Wapello Co.) | Des Moines | 2.79 | 2.79 |
| 31 | Coon Creek (Iowa/Benton Co.) | Iowa-Cedar | 1.06 | 1.06 |
| 32 | Coon Creek (Iowa/Benton Co.) | Iowa-Cedar | 1.07 | 1.07 |
| 33 | Deer Creek (Tama Co.) | Iowa-Cedar | 1.54 | 1.54 |
| 34 | Dickersons Branch (Decatur Co.) | Southern | 0.24 | 0.24 |
| 35 | Donaldson Creek (Scott Co.) | Northeast | 2.96 | 2.96 |
| 36 | Drainage Ditch #11 (Clinton Co.) | Northeast | 6.12 | 6.12 |
| 37 | Drainage Ditch #11 (Polk Co.) | Skunk | 1 | 1 |
| 38 | Drainage Ditch #46 (Dickinson Co.) | Western | 2.9 | 2.9 |
| 39 | Drainage Ditch #51 (Kossuth Co.) | Des Moines | 3.59 | 3.59 |
| 40 | Drainage Ditch #60 (Palo Alto/Clay Co.) | Western | 10.96 | 10.96 |
| 41 | Drainage Ditch #60 (Sac Co.) | Western | 1.65 | 1.65 |
| 42 | Drainage Ditch #61 (Dickinson/Clay Co.) | Western | 6.3 | 6.3 |
| 43 | Drainage Ditch #64 (Hamilton Co.) | Skunk | 5.31 | 5.31 |
| 44 | Drainage Ditch #71 (Hamilton Co.) | Skunk | 7.12 | 7.12 |
| 45 | Drainage Ditch #80 (Kossuth Co.) | Des Moines | 4 | 4 |
| 46 | Drainage Ditch #105 (Hancock Co.) | Des Moines | 4.17 | 4.17 |
| 47 | Drainage Ditch #219 (Webster Co.) | Des Moines | 2.14 | 2.14 |
| 48 | East Branch Salt Creek (Tama Co.) | Iowa-Cedar | 11.12 | 11.12 |
| 49 | East Buttrick Creek (Greene/Webster Co.) | Des Moines | 17.72 | 2.04 |
| 50 | East Buttrick Creek (Greene/Webster Co.) | Des Moines | 5.02 | 5.02 |
| 51 | East Cedar Creek (Calhoun Co.) | Des Moines | 15.39 | 15.39 |
| 52 | East Fork Crooked Creek (Henry/Washington Co.) | Skunk | 4.98 | 4.98 |
| 53 | Elkhorn Creek (Shelby Co.) | Southern | 1.07 | 1.07 |
| 54 | Elliott Creek (Woodbury Co.) | Western | 1.25 | 1.25 |
| 55 | Elliott Creek (Woodbury Co.) | Western | 3.2 | 3.2 |
| 56 | Farmers Creek (Jackson Co.) | Northeast | 21.7 | 2.17 |
| 57 | Farmers Ditch (Woodbury Co.) | Western | 8.982 | 8.982 |
| 58 | Farmers Ditch (Woodbury Co.) | Western | 0.02 | 0.02 |
| 59 | Feddeke Creek (Butler Co.) | Iowa-Cedar | 5.39 | 5.39 |
| 60 | Frink Creek (Polk Co.) | Des Moines | 4.22 | 4.22 |
| 61 | Garretson Ditch (Woodbury Co.) | Western | 17.72 | 17.72 |
| 62 | Halburn Creek (Carroll Co.) | Des Moines | 1.43 | 1.43 |
| 63 | Halfway Creek (Sac/Ida Co.) | Western | 10.27 | 6.99 |
| 64 | Happy Run (Greene Co.) | Des Moines | 1.5 | 1.5 |
| 65 | Honey Creek (Lucas Co.) | Southern | 6.025 | 6.025 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | **Stream Name** | **Basin** | **Recreational Stream Segment Length (miles)** | **Aquatic Stream Segment Length (miles)** |
|---|---|---|---|---|
| 66 | Hoosier Creek (Linn Co.) | Iowa-Cedar | 7.07 | 5.83 |
| 67 | Howard Creek (Clayton Co.) | Northeast | 1.96 | 1.96 |
| 68 | Howard Creek (Clayton Co.) | Northeast | 1.56 | 1.56 |
| 69 | Jack Creek (Lee Co.) | Skunk | 0.38 | 0.38 |
| 70 | Johnny Creek (Louisa Co.) | Iowa-Cedar | 2.77 | 2.77 |
| 71 | Klondike Creek (Lyon Co.) | Western | 5.99 | 5.99 |
| 72 | Knapp Creek (Benton/Johnson Co.) | Iowa-Cedar | 4.76 | 4.76 |
| 73 | Lateral 6 (Buena Vista Co.) | Des Moines | 5.27 | 5.27 |
| 74 | Lateral 8 (Buena Vista Co.) | Des Moines | 2.31 | 2.31 |
| 75 | Lateral A (Hamilton/Hardin Co.) | Iowa-Cedar | 3.51 | 3.51 |
| 76 | Lime Creek (Sac Co.) | Western | 1.87 | 1.87 |
| 77 | Little Bear Creek (Iowa Co.) | Iowa-Cedar | 10.05 | 10.05 |
| 78 | Little Muchakinock Creek (Mahaska Co.) | Des Moines | 1.98 | 1.98 |
| 79 | Little River (Decatur Co.) | Southern | 4.77 | 4.77 |
| 80 | Long Creek (Des Moines Co.) | Skunk | 5.18 | 5.18 |
| 81 | Lotts Creek (Kossuth/Humboldt Co.) | Des Moines | 22.41 | 9.79 |
| 82 | Mason Creek (Scott Co.) | Northeast | 5.9 | 5.9 |
| 83 | McClure Creek (Butler Co.) | Iowa-Cedar | 1.1 | 1.1 |
| 84 | McGruder Creek (Decatur Co.) | Southern | 4.42 | 4.42 |
| 85 | Menneika Creek (Wapello Co.) | Des Moines | 1.37 | 1.16 |
| 86 | Middle Avery Creek (Wapello Co.) | Des Moines | 13.87 | 4.3 |
| 87 | Middle Branch Boone River (Hancock Co.) | Des Moines | 4 | 4 |
| 88 | Middle Fork South Beaver Creek (Hardin/Grundy Co.) | Iowa-Cedar | 12.66 | 12.66 |
| 89 | Mill Creek (Cedar/Jones Co.) | Northeast | 9.48 | 3.13 |
| 90 | Miller Creek (Monroe/Wapello Co.) | Des Moines | 16.64 | 8.57 |
| 91 | Mineral Creek (Jones Co.) | Northeast | 29.98 | 6 |
| 92 | Morgan Creek (Linn/Benton Co.) | Iowa-Cedar | 7.25 | 7.28 |
| 93 | Muchikinock Creek (Polk Co.) | Des Moines | 1.52 | 1.52 |
| 94 | Mud Creek (Kossuth Co.) | Des Moines | 12.3 | 4 |
| 95 | Murphy Branch (Dallas/Boone Co.) | Des Moines | 2 | 2 |
| 96 | North Branch Old Mans Creek (Johnson Co.) | Iowa-Cedar | 8.43 | 8.43 |
| 97 | North Branch Volga River (Fayette Co.) | Northeast | 11.67 | 6.4 |
| 98 | North Skunk River (Jasper Co.) | Skunk | 6.09 | 6.09 |
| 99 | North Skunk River (Marshall Co.) | Skunk | 5.76 | 5.76 |
| 100 | Otter Creek (Fayette/Buchanan Co.) | Northeast | 3.2 | 2.65 |
| 101 | Paint Creek (Allamakee Co.) | Northeast | 4.68 | 4.68 |
| 102 | Pee Dee Creek (Davis Co.) | Des Moines | 1.37 | 1.37 |
| 103 | Pine Creek (Clayton Co.) | Northeast | 3.5 | 3.5 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 104 | Pioneer Creek (Cedar/Jones Co.) | Northeast | 2.6 | 2.6 |
| 105 | Plum Creek (Linn/Johnson Co.) | Iowa-Cedar | 7.45 | 7.45 |
| 106 | Poor Farm Creek (Buena Vista Co.) | Des Moines | 0.21 | 0.21 |
| 107 | Poor Farm Creek (Buena Vista Co.) | Des Moines | 4.02 | 4.02 |
| 108 | Prairie Creek (Jasper Co.) | Skunk | 5.7 | 5.7 |
| 109 | Rhine Creek (Johnson Co.) | Iowa-Cedar | 0.45 | 0.45 |
| 110 | Richland Creek (Keokuk/Washington Co.) | Skunk | 4.9 | 4.9 |
| 111 | Rock Creek (Keokuk Co.) | Skunk | 9.19 | 9.19 |
| 112 | Rock Creek (Story Co.) | Skunk | 0.93 | 0.93 |
| 113 | Sanders Creek (Johnson Co.) | Iowa-Cedar | 2.13 | 2.13 |
| 114 | Sents Creek (Marion Co.) | Des Moines | 1.6 | 1.6 |
| 115 | Skillet Creek (Webster Co.) | Des Moines | 6.44 | 6.44 |
| 116 | Smith Creek (Keokuk Co.) | Skunk | 4.81 | 4.81 |
| 117 | Smith Creek (Keokuk/Washington Co.) | Iowa-Cedar | 11.97 | 11.97 |
| 118 | Snake Creek (Greene Co.) | Des Moines | 3.24 | 3.24 |
| 119 | Soap Creek (Lee Co.) | Skunk | 0.94 | 0.94 |
| 120 | South Fork Middle River (Guthrie Co.) | Des Moines | 3.54 | 3.54 |
| 121 | South Hoosier Creek (Linn Co.) | Iowa-Cedar | 5.53 | 5.53 |
| 122 | South Skunk River (Hamilton Co.) | Skunk | 2.65 | 2.65 |
| 123 | South Skunk River (Hamilton Co.) | Skunk | 1.19 | 1.19 |
| 124 | South Skunk River (Hamilton Co.) | Skunk | 9.38 | 9.38 |
| 125 | Spring Creek (Black Hawk Co.) | Iowa-Cedar | 7.32 | 7.29 |
| 126 | Spring Creek (Clinton Co.) | Northeast | 1.23 | 1.23 |
| 127 | Spring Creek (Des Moines Co.) | Iowa-Cedar | 3.76 | 3.76 |
| 128 | Spring Creek (Linn Co.) | Iowa-Cedar | 2.24 | 2.24 |
| 129 | Spring Creek (Mahaska Co.) | Skunk | 3.47 | 3.47 |
| 130 | Squaw Creek (Warren/Clarke Co.) | Des Moines | 19.9 | 19.9 |
| 131 | Stewart Creek (Floyd Co.) | Iowa-Cedar | 1.65 | 1.65 |
| 132 | Storm Creek (Carroll Co.) | Des Moines | 13.3 | 13.3 |
| 133 | Thunder Creek (Marion/Mahaska Co.) | Skunk | 3.06 | 3.06 |
| 134 | Tracey Creek (Marion Co.) | Des Moines | 5.64 | 5.64 |
| 135 | Turkey Run (Louisa Co.) | Iowa-Cedar | 2.46 | 2.46 |
| 136 | Unnamed Creek (Advanced Heat Treat Corp.) | Iowa-Cedar | 0.08 | 0.08 |
| 137 | Unnamed Creek (Advanced Heat Treat Corp.) | Iowa-Cedar | 0.3 | 0.3 |
| 138 | Unnamed Creek (aka Hecker Creek) (Allamakee Co.) | Northeast | 3.69 | 3.69 |
| 139 | Unnamed Creek (Amana Colonies Golf Course) | Iowa-Cedar | 0.54 | 0.54 |
| 140 | Unnamed Creek (Ankeny Aquifer Storage Project) | Des Moines | 0.39 | 0.39 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 141 | Unnamed Creek (City of Albia - West) | Des Moines | 2.38 | 2.38 |
| 142 | Unnamed Creek (City of Allison) | Iowa-Cedar | 2.72 | 2.72 |
| 143 | Unnamed Creek (City of Arthur) | Western | 0.3 | 0.3 |
| 144 | Unnamed Creek (City of Balltown - North) | Northeast | 3.67 | 3.67 |
| 145 | Unnamed Creek (City of Baxter) | Skunk | 5.2 | 5.2 |
| 146 | Unnamed Creek (City of Belle Plaine) | Iowa-Cedar | 1.25 | 1.25 |
| 147 | Unnamed Creek (City of Breda) | Des Moines | 7.38 | 7.38 |
| 148 | Unnamed Creek (City of Burt) | Des Moines | 1.57 | 1.86 |
| 149 | Unnamed Creek (City of Chariton) | Des Moines | 2.35 | 2.35 |
| 150 | Unnamed Creek (City of Dallas Center) | Des Moines | 5.9 | 5.9 |
| 151 | Unnamed Creek (City of Dayton) | Des Moines | 0.74 | 0.74 |
| 152 | Unnamed Creek (City of Early) | Western | 0.48 | 0.48 |
| 153 | Unnamed Creek (City of Elk Horn) | Southern | 0.75 | 0.75 |
| 154 | Unnamed Creek (City of Halbur) | Des Moines | 0.4 | 0.4 |
| 155 | Unnamed Creek (City of Hartford) | Des Moines | 0.6 | 0.6 |
| 156 | Unnamed Creek (City of Holstein) | Western | 0.73 | 0.73 |
| 157 | Unnamed Creek (City of Jesup - South/Southeast) | Iowa-Cedar | 0.64 | 0.64 |
| 158 | Unnamed Creek (City of Jesup - South/Southeast) | Iowa-Cedar | 2.68 | 2.68 |
| 159 | Unnamed Creek (City of Larchwood) | Western | 1.58 | 1.58 |
| 160 | Unnamed Creek (City of Lidderdale) | Des Moines | 2.06 | 2.06 |
| 161 | Unnamed Creek (City of Marcus) | Western | 5.9 | 5.9 |
| 162 | Unnamed Creek (City of Marengo) | Iowa-Cedar | 0.32 | 0.32 |
| 163 | Unnamed Creek (City of Marengo) | Iowa-Cedar | 0.45 | 0.45 |
| 164 | Unnamed Creek (City of Masonville) | Northeast | 0.07 | 0.07 |
| 165 | Unnamed Creek (City of Massena) | Southern | 0.34 | 0.34 |
| 166 | Unnamed Creek (City of Maynard) | Northeast | 0.27 | 0.27 |
| 167 | Unnamed Creek (City of Mitchellville) | Des Moines | 1.59 | 1.59 |
| 168 | Unnamed Creek (City of Mt. Carmel) | Des Moines | 1.93 | 1.93 |
| 169 | Unnamed Creek (City of Norwalk) | Des Moines | 0.26 | 0.26 |
| 170 | Unnamed Creek (City of Oskaloosa NE) | Skunk | 0.11 | 0.11 |
| 171 | Unnamed Creek (City of Oskaloosa SW) | Des Moines | 0.02 | 0.02 |
| 172 | Unnamed Creek (City of Parnell) | Iowa-Cedar | 3.2 | 3.2 |
| 173 | Unnamed Creek (City of Peosta) | Northeast | 0.67 | 0.67 |
| 174 | Unnamed Creek (City of Reasnor) | Skunk | 0.47 | 0.47 |
| 175 | Unnamed Creek (City of Rickardsville) | Northeast | 0.13 | 0.13 |
| 176 | Unnamed Creek (City of Rickardsville) | Northeast | 0.71 | 0.71 |
| 177 | Unnamed Creek (City of Rose Hill) | Skunk | 0.83 | 0.83 |
| 178 | Unnamed Creek (City of Sheldon) | Western | 0.01 | 0.01 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 179 | Unnamed Creek (City of Sigourney, East) | Skunk | 0.27 | 0.27 |
| 180 | Unnamed Creek (City of St. Lucas) | Northeast | 0.97 | 0.97 |
| 181 | Unnamed Creek (City of Swisher) | Iowa-Cedar | 2.62 | 2.62 |
| 182 | Unnamed Creek (City of Van Wert) | Southern | 0.22 | 0.22 |
| 183 | Unnamed Creek (City of West Burlington) | Iowa-Cedar | 0.56 | 0.56 |
| 184 | Unnamed Creek (aka Gails Creek) (City of Williamsburg) | Iowa-Cedar | 0.27 | 0.27 |
| 185 | Unnamed Creek (City of Winfield) | Skunk | 0.22 | 0.22 |
| 186 | Unnamed Creek (City of Winthrop) | Northeast | 7.29 | 4.66 |
| 187 | Unnamed Creek (Clear Lake Sanitary District) | Iowa-Cedar | 0.28 | 0.28 |
| 188 | Unnamed Creek (Clow Valve Company) | Skunk | 0.47 | 0.47 |
| 189 | Unnamed Creek (Comfort Inn Amana Colonies) | Iowa-Cedar | 3.7 | 3.7 |
| 190 | Unnamed Creek (Country Living MHP) | Des Moines | 1.04 | 1.04 |
| 191 | Unnamed Creek (The Dexter Company - Foundry) | Skunk | 1.85 | 1.85 |
| 192 | Unnamed Creek (DNR Backbone SP - Cabins) | Northeast | 0.04 | 0.04 |
| 193 | Unnamed Creek (DNR Bellevue State Park) | Northeast | 1.9 | 1.9 |
| 194 | Unnamed Creek (DNR Lake of Three Fires) | Southern | 1.46 | 1.46 |
| 195 | Unnamed Creek (Dubuque Regional Airport) | Northeast | 0.57 | 0.57 |
| 196 | Unnamed Creek (Eastern Iowa Airport 003) | Iowa-Cedar | 0.14 | 0.14 |
| 197 | Unnamed Creek (Golden Grain Energy) | Iowa-Cedar | 0.35 | 0.35 |
| 198 | Unnamed Creek (Harvester Golf Club Development) | Skunk | 0.6 | 0.6 |
| 199 | Unnamed Creek (Hawkeye Renewables) | Northeast | 3.19 | 3.19 |
| 200 | Unnamed Creek (Heller's Carbonic West) | Western | 1.33 | 1.33 |
| 201 | Unnamed Creek (Hickory Hollow Water Service) | Des Moines | 0.76 | 0.76 |
| 202 | Unnamed Creek (Hunt Cleaners) | Skunk | 3.16 | 3.16 |
| 203 | Unnamed Creek (IDOT Garage - Maquoketa) | Northeast | 0.15 | 0.15 |
| 204 | Unnamed Creek (IP&L-Ottumwa) | Des Moines | 0.21 | 0.21 |
| 205 | Unnamed Creek (IP&L-Sutherland) | Iowa-Cedar | 0.38 | 0.38 |
| 206 | Unnamed Creek (Keomah Village) | Skunk | 1.76 | 1.76 |
| 207 | Unnamed Creek (Kinze Manufacturing) | Iowa-Cedar | 1.9 | 1.9 |
| 208 | Unnamed Creek (Magellan Pipeline 200) | Western | 0.17 | 0.17 |
| 209 | Unnamed Creek (MidAmerican Energy Neal North) | Western | 0.32 | 0.32 |
| 210 | Unnamed Creek (aka Comrie Creek) (Montpelier Sanitary District) | Northeast | 0.75 | 0.75 |
| 211 | Unnamed Creek (Northern Natural Gas - Oakland) | Southern | 2.66 | 2.66 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 212 | Unnamed Creek (Northern Natural Gas - Redfield) | Des Moines | 2.78 | 2.78 |
| 213 | Unnamed Creek (Oakland Foods) | Southern | 0.8 | 0.8 |
| 214 | Unnamed Creek (Oskaloosa Food Products) | Des Moines | 0.43 | 0.43 |
| 215 | Unnamed Creek (PCS Nitrogen) | Northeast | 0.58 | 0.58 |
| 216 | Unnamed Creek (Pella Municipal Power Plant) | Skunk | 1.11 | 1.11 |
| 217 | Unnamed Creek (Plymouth Energy LLC) | Western | 0.8 | 0.8 |
| 218 | Unnamed Creek (South Squaw Valley Association) | Skunk | 0.19 | 0.19 |
| 219 | Unnamed Creek (Speedway Super America) | Iowa-Cedar | 2.14 | 2.14 |
| 220 | Unnamed Creek (Sunrise MHP) | Skunk | 0.9 | 0.9 |
| 221 | Unnamed Creek (Teen Challenge of the Midlands) | Skunk | 0.23 | 0.23 |
| 222 | Unnamed Creek (Tyson Fresh Meats - Perry) | Des Moines | 0.25 | 0.25 |
| 223 | Unnamed Creek (Unverferth Manufacturing Co.) | Iowa-Cedar | 0.1 | 0.1 |
| 224 | Unnamed Creek (US Bio Energy) | Northeast | 0.17 | 0.17 |
| 225 | Unnamed Creek (US Filter) | Northeast | 0.1 | 0.1 |
| 226 | Unnamed Creek (US Gypsum - Sperry Plant) | Iowa-Cedar | 0.68 | 0.68 |
| 227 | Unnamed Creek (Valley Hill Trailer Park) | Northeast | 0.07 | 0.07 |
| 228 | Unnamed Creek (Valley Hill Trailer Park) | Northeast | 0.56 | 0.56 |
| 229 | Unnamed Creek (Viking Pump Inc.) | Iowa-Cedar | 0.38 | 0.38 |
| 230 | Unnamed Creek (Yarmouth Community Building) | Skunk | 3.52 | 3.52 |
| 231 | Unnamed Creek #1 (Center Village Care Facility) | Des Moines | 1.6 | 1.6 |
| 232 | Unnamed Creek #1 (City of Earlham) | Des Moines | 0.4 | 0.4 |
| 233 | Unnamed Creek #1 (City of Luxemburg) | Northeast | 1.73 | 1.73 |
| 234 | Unnamed Creek #1 (City of Mechanicsville) | Northeast | 0.32 | 0.32 |
| 235 | Unnamed Creek #1 (City of Melbourne) | Skunk | 0.19 | 0.19 |
| 236 | Unnamed Creek #1 (City of Monona) | Northeast | 5.7 | 5.7 |
| 237 | Unnamed Creek #1 (City of Mt. Vernon) | Iowa-Cedar | 2.1 | 2.1 |
| 238 | Unnamed Creek #1 (City of New Albin) | Northeast | 0.47 | 0.47 |
| 239 | Unnamed Creek #1 (City of Sidney) | Southern | 0.76 | 0.76 |
| 240 | Unnamed Creek #1 (City of Wall Lake) | Western | 0.38 | 0.38 |
| 241 | Unnamed Creek #1 (City of Waterville) | Northeast | 0.35 | 0.35 |
| 242 | Unnamed Creek #1 (City of Waukon) | Northeast | 1.76 | 1.76 |
| 243 | Unnamed Creek #1 (City of Wellsburg) | Iowa-Cedar | 0.26 | 0.26 |
| 244 | Unnamed Creek #1 (Country View Estates) | Des Moines | 2.077 | 2.077 |
| 245 | Unnamed Creek #1 (Country View Estates) | Des Moines | 0.034 | 0.034 |
| 246 | Unnamed Creek #1 (East Fork Biodiesel) | Des Moines | 0.38 | 0.38 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 247 | Unnamed Creek #1 (FPL Duane Arnold) | Iowa-Cedar | 0.27 | 0.27 |
| 248 | Unnamed Creek #1 (IDOT Garage - Carlisle) | Des Moines | 2.75 | 2.75 |
| 249 | Unnamed Creek #1 (IDOT Garage - Oskaloosa) | Des Moines | 1.18 | 1.18 |
| 250 | Unnamed Creek #1 (Lake Ridge Inc.) | Iowa-Cedar | 1.14 | 1.14 |
| 251 | Unnamed Creek #1 (Louis Dreyfus Commodities) | Des Moines | 0.52 | 0.52 |
| 252 | Unnamed Creek #1 (Marion County Care) | Des Moines | 1.78 | 1.78 |
| 253 | Unnamed Creek #1 (Marion County Care) | Des Moines | 0.6 | 0.6 |
| 254 | Unnamed Creek #1 (Norplex) | Northeast | 2.28 | 2.28 |
| 255 | Unnamed Creek #1 (Oregon Trail Energy) | Western | 1.38 | 1.38 |
| 256 | Unnamed Creek #1 (Viking Pump) | Iowa-Cedar | 0.33 | 0.33 |
| 257 | Unnamed Creek #2 (City of Crawfordsville) | Iowa-Cedar | 0.77 | 0.77 |
| 258 | Unnamed Creek #2 (City of Delhi) | Northeast | 2.02 | 2.02 |
| 259 | Unnamed Creek #2 (City of Earlham) | Des Moines | 2.57 | 2.57 |
| 260 | Unnamed Creek #2 (City of Earlham) | Des Moines | 1.52 | 1.52 |
| 261 | Unnamed Creek #2 (City of Fontanelle) | Southern | 3.68 | 3.68 |
| 262 | Unnamed Creek #2 (City of Le Grand) | Iowa-Cedar | 0.64 | 0.64 |
| 263 | Unnamed Creek #2 (City of Luxemburg) | Northeast | 0.8 | 0.8 |
| 264 | Unnamed Creek #2 (City of Mechanicsville) | Northeast | 2.47 | 2.47 |
| 265 | Unnamed Creek #2 (City of Melbourne) | Skunk | 2.16 | 2.16 |
| 266 | Unnamed Creek #2 (City of Monroe - East) | Skunk | 0.75 | 0.75 |
| 267 | Unnamed Creek #2 (City of Mt. Vernon) | Iowa-Cedar | 0.53 | 0.53 |
| 268 | Unnamed Creek #2 (City of Richland) | Skunk | 0.86 | 0.86 |
| 269 | Unnamed Creek #2 (City of Sidney) | Southern | 0.64 | 0.64 |
| 270 | Unnamed Creek #2 (City of Springbrook) | Northeast | 4.41 | 4.41 |
| 271 | Unnamed Creek #2 (City of Urbana) | Iowa-Cedar | 2.62 | 2.62 |
| 272 | Unnamed Creek #2 (City of Waukon) | Northeast | 0.03 | 0.03 |
| 273 | Unnamed Creek #2 (City of Wellsburg) | Iowa-Cedar | 1.82 | 1.82 |
| 274 | Unnamed Creek #2 (Eastern Iowa Airport-010) | Iowa-Cedar | 2.57 | 2.57 |
| 275 | Unnamed Creek #2 (King's Material Inc.) | Iowa-Cedar | 1.28 | 1.28 |
| 276 | Unnamed Creek #2 (Lake Ridge Inc.) | Iowa-Cedar | 0.09 | 0.09 |
| 277 | Unnamed Creek #2 (Louis Dreyfus Commodities) | Des Moines | 1.78 | 1.78 |
| 278 | Unnamed Creek #2 (Ortonville Business Park) | Des Moines | 0.76 | 0.76 |
| 279 | Unnamed Creek #2 (Risen Son Christian Village) | Western | 1.18 | 1.18 |
| 280 | Unnamed Creek #2 (Super 20 MHP) | Northeast | 1.79 | 1.79 |
| 281 | Unnamed Creek #2 (Swiss Valley Creamery - Luana) | Northeast | 0.55 | 0.55 |
| 282 | Unnamed Creek #2 (Volga River Recreation) | Northeast | 0.57 | 0.57 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Recreational Stream Segment Length (miles) | Aquatic Stream Segment Length (miles) |
|---|---|---|---|---|
| 283 | Unnamed Creek #2 (Western Iowa Energy) | Western | 0.63 | 0.63 |
| 284 | Unnamed Creek #3 (City of Crawfordsville) | Iowa-Cedar | 1.34 | 1.34 |
| 285 | Unnamed Creek #3 (Western Iowa Energy) | Western | 0.04 | 0.04 |
| 286 | Walnut Creek (Jasper/Marion Co.) | Des Moines | 9.12 | 9.12 |
| 287 | Walnut Creek (Scott Co.) | Northeast | 8.87 | 8.87 |
| 288 | West Beaver Creek (Greene Co.) | Des Moines | 4.02 | 4.02 |
| 289 | West Branch Buffalo Creek (Buchanan Co.) | Northeast | 1.32 | 1.32 |
| 290 | West Branch Buffalo Creek (Buchanan Co.) | Northeast | 1.1 | 1.1 |
| 291 | West Branch Buffalo Creek (Buchanan Co.) | Northeast | 0.96 | 0.96 |
| 292 | West Branch Mill Creek (O'Brien Co.) | Western | 2.36 | 2.36 |
| 293 | West Buttrick Creek (Webster Co.) | Des Moines | 3.73 | 3.73 |
| 294 | West Fork Little Sioux River (Monona/Cherokee Co.) | Western | 9.32 | 9.32 |
| 295 | West Nodaway River (Cass/Montgomery Co.) | Southern | 19.33 | 1.78 |
| 296 | West Nodaway River (Cass/Montgomery Co.) | Southern | 5.64 | 5.64 |
| 297 | Westfield Creek (Plymouth Co.) | Western | 1.01 | 1.01 |
| 298 | Whiskey Creek (Cherokee/Plymouth Co.) | Western | 11 | 3.88 |
| 299 | Whitewater Creek (Dubuque Co.) | Northeast | 0.62 | 0.62 |
| 300 | Whitewater Creek (Dubuque Co.) | Northeast | 0.68 | 0.68 |
| 301 | Williams Creek (Allamakee Co.) | Northeast | 9.88 | 8.1 |
| 302 | Willow Creek (Cherokee Co.) | Western | 22.72 | 13.24 |
| 303 | Willow Creek (Clay Co.) | Western | 4.26 | 4.26 |
| 304 | Willow Creek (Sioux/Plymouth Co.) | Western | 15.36 | 7.31 |
| 305 | Willow Creek (Worth Co.) | Iowa-Cedar | 2.81 | 2.81 |

Class A2, B(WW-3) Stream Segments

| | Stream Name | Basin | Class A2 Stream Segment Length (miles) | Class B(WW-3) Stream Segement Length (miles) |
|---|---|---|---|---|
| 1 | Little Bluff Creek (Mahaska/Monroe Co.) | Des Moines | 3.85 | 3.85 |
| 2 | Packinghouse Creek (Monroe Co.) | Des Moines | 0.42 | 0.42 |
| 3 | Pitman Creek (Lee Co.) | Skunk | 3.48 | 3.48 |
| 4 | Unnamed Creek (City of Aurora) | Northeast | 0.6 | 0.6 |
| 5 | Unnamed Creek (City of Balltown - South) | Northeast | 0.56 | 0.56 |
| 6 | Unnamed Creek (Pattison Sand) | Northeast | 0.15 | 0.15 |
| 7 | Unnamed Creek #1 (City of West Point) | Skunk | 0.69 | 0.69 |
| 8 | Unnamed Creek #2 (Ortonville Business Park) | Des Moines | 0.16 | 0.16 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Class A3, B(WW-2) Stream Segments

| | Stream Name | Basin | Class A3 Stream Segment Length (miles) | Class B(WW-2) Stream Segment Length (miles) |
|---|---|---|---|---|
| 1 | Black Hawk Creek (Scott Co.) | Northeast | 5.45 | 5.45 |
| 2 | Brush Creek (Fayette Co.) | Northeast | 1.09 | 1.09 |
| 3 | Chelsea Creek (Cerro Gordo Co.) | Iowa-Cedar | 0.89 | 0.89 |
| 4 | College Creek (Story Co.) | Skunk | 0.0087 | 0.0087 |
| 5 | Elliott Creek (Woodbury Co.) | Western | 0.85 | 0.85 |
| 6 | Farmers Creek (Jackson Co.) | Northeast | 0.23 | 0.23 |
| 7 | Honey Creek (Boone Co.) | Des Moines | 0.85 | 0.85 |
| 8 | Middle Fork Catfish Creek (Dubuque Co.) | Northeast | 10.53 | 1.16 |
| 9 | Morgan Creek (Linn/Benton Co.) | Iowa-Cedar | 1.18 | 0.27 |
| 10 | Muchikinock Creek (Polk Co.) | Des Moines | 1.08 | 1.08 |
| 11 | Paint Creek (Allamakee Co.) | Northeast | 0.81 | 0.81 |
| 12 | Poor Farm Creek (Buena Vista Co.) | Des Moines | 2.4 | 2.4 |
| 13 | Ralston Creek (Johnson Co.) | Iowa-Cedar | 1.18 | 1.18 |
| 14 | Rogg Creek (Sioux Co.) | Western | 1.19 | 1.19 |
| 15 | Sents Creek (Marion Co.) | Des Moines | 0.33 | 0.33 |
| 16 | Soap Creek (Lee Co.) | Skunk | 2.84 | 2.84 |
| 17 | South Skunk River (Hamilton Co.) | Skunk | 0.65 | 0.65 |
| 18 | Unnamed Creek (Amana Colonies Golf Course) | Iowa-Cedar | 0.66 | 0.66 |
| 19 | Unnamed Creek (City of Charles City WTP) | Iowa-Cedar | 1.48 | 1.48 |
| 20 | Unnamed Creek (City of Coralville WTP) | Iowa-Cedar | 0.81 | 0.81 |
| 21 | Unnamed Creek (The Dexter Company - Foundry) | Skunk | 1.03 | 1.03 |
| 22 | Unnamed Creek (Hunt Cleaners) | Skunk | 0.84 | 0.84 |
| 23 | Unnamed Creek (Louise P. Moon ASR Well) | Des Moines | 1.31 | 1.31 |
| 24 | Unnamed Creek (Oskaloosa Food Products) | Des Moines | 1 | 1 |
| 25 | Unnamed Creek (Pella Municipal Power Plant) | Skunk | 1.35 | 1.35 |
| 26 | Unnamed Creek (Speedway Super America) | Iowa-Cedar | 1.1 | 1.1 |
| 27 | Unnamed Creek #1 (ISU Heating Plant) | Skunk | 0.2 | 0.2 |
| 28 | Unnamed Creek #2 (Advanced Heat Treat) | Iowa-Cedar | 0.4 | 0.4 |
| 29 | Unnamed Creek #2 (Viking Pump) | Iowa-Cedar | 3.55 | 3.55 |
| 30 | Virden Creek (Black Hawk Co.) | Iowa-Cedar | 1.13 | 1.13 |
| 31 | Walnut Creek (Dallas/Polk Co.) | Des Moines | 15.6 | 3.83 |
| 32 | Walnut Creek (Marion Co.) | Des Moines | 4.87 | 4.87 |
| 33 | Yeader Creek (Polk Co.) | Des Moines | 3 | 3 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Class A3 Stream Segments

| | Stream Name | Basin | Stream Segment Length (miles) |
|---|---|---|---|
| 1 | Bear Creek (Dallas Co.) | Des Moines | 0.075 |
| 2 | Bear Creek (Delaware/Dubuque Co.) | Northeast | 0.9 |
| 3 | Brush Creek (Fayette Co.) | Northeast | 0.19 |
| 4 | Camp Creek (Polk/Jasper Co.) | Des Moines | 0.71 |
| 5 | Cavitt Creek (Warren Co.) | Des Moines | 0.5 |
| 6 | Deer Creek (Tama Co.) | Iowa-Cedar | 0.36 |
| 7 | Dry Run (Black Hawk Co.) | Iowa-Cedar | 3.05 |
| 8 | East Branch Buffalo Creek (Fayette/Buchanan Co.) | Northeast | 3.5 |
| 9 | Lime Creek (Buchanan/Benton Co.) | Iowa-Cedar | 0.78 |
| 10 | North Fork Maquoketa River (Dubuque Co.) | Northeast | 32.51 |
| 11 | Otter Creek (Fayette Co.) | Northeast | 1.39 |
| 12 | Otter Creek (Fayette/Buchanan Co.) | Northeast | 2.39 |
| 13 | Otter Creek (Jackson/Dubuque Co.) | Northeast | 0.82 |
| 14 | Roberts Creek (Clayton Co.) | Northeast | 0.2 |
| 15 | Spring Creek (Black Hawk Co.) | Iowa-Cedar | 5.87 |
| 16 | Volga River (Fayette Co.) | Northeast | 0.24 |
| 17 | Walnut Creek (Cedar/Jones Co.) | Northeast | 1.01 |
| 18 | West Fork West Nishnabotna River (Crawford/Shelby Co.) | Southern | 1.26 |
| 19 | Willow Creek (Sioux/Plymouth Co.) | Western | 2.8 |

Class B(WW-2) Stream Segments

| | Stream Name | Basin | Stream Segment Length (miles) |
|---|---|---|---|
| 1 | Battle Creek (Ida Co.) | Western | 3.29 |
| 2 | Big Creek (Henry Co.) | Skunk | 0.35 |
| 3 | Big Hollow Creek (Des Moines Co.) | Iowa-Cedar | 0.01 |
| 4 | Bloody Run (Dubuque Co.) | Northeast | 0.02 |
| 5 | Brushy Creek (Carroll/Audubon/Guthrie Co.) | Des Moines | 0.01 |
| 6 | Bull Ditch (Dickinson Co.) | Western | 0.15 |
| 7 | Cleghorn Ditch (Monona/Woodbury Co.) | Western | 0.14 |
| 8 | Cleghorn Ditch (Monona/Woodbury Co.) | Western | 0.02 |
| 9 | Coon Creek (Iowa/Benton Co.) | Iowa-Cedar | 0.01 |
| 10 | Drainage Ditch #61 (Clay Co.) | Western | 0.96 |
| 11 | East Buttrick Creek (Greene/Webster Co.) | Des Moines | 0.01 |
| 12 | East Nishnabotna River (Carroll/Audubon Co.) | Southern | 11.9 |
| 13 | Elliott Creek (Woodbury Co.) | Western | 0.04 |
| 14 | Farmers Ditch (Woodbury Co.) | Western | 0.008 |
| 15 | Farmers Garretson Outlet Ditch (Monona/Woodbury Co.) | Western | 2.5 |

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | Stream Name | Basin | Stream Segment Length (miles) |
|---|---|---|---|
| 16 | Honey Creek (Lucas Co.) | Southern | 0.125 |
| 17 | Howard Creek (Clayton Co.) | Northeast | 0.03 |
| 18 | Lime Creek (Washington Co.) | Iowa-Cedar | 1.76 |
| 19 | Muchikinock Creek (Polk Co.) | Des Moines | 0.51 |
| 20 | North Skunk River (Jasper/Marshall Co.) | Skunk | 0.09 |
| 21 | Poor Farm Creek (Buena Vista Co.) | Des Moines | 0.05 |
| 22 | Snake Creek (Greene Co.) | Des Moines | 0.032 |
| 23 | South Skunk River (Hamilton Co.) | Skunk | 0.01 |
| 24 | Spring Creek (Mahaska Co.) | Skunk | 1.58 |
| 25 | Unnamed Creek (City of Jesup - South/Southeast) | Iowa-Cedar | 0.01 |
| 26 | Unnamed Creek (Pattison Sand) | Northeast | 0.12 |
| 27 | Unnamed Creek #1 (City of Le Grand) | Iowa-Cedar | 0.01 |
| 28 | Unnamed Creek #1 (City of Sidney) | Southern | 0.01 |
| 29 | Unnamed Creek #1 (Country View Estates) | Des Moines | 0.009 |
| 30 | Unnamed Creek #2 (City of Earlham) | Des Moines | 0.01 |
| 31 | Unnamed Creek #2 (Oregon Trail Energy) | Western | 5.35 |
| 32 | Unnamed Creek #2 (Ortonville Business Park) | Des Moines | 0.01 |
| 33 | Walnut Creek (Marion Co.) | Des Moines | 1.12 |
| 34 | West Branch Buffalo Creek (Buchanan Co.) | Northeast | 0.05 |
| 35 | West Branch Buffalo Creek (Buchanan Co.) | Northeast | 0.04 |
| 36 | West Nodaway River (Cass/Montgomery Co.) | Southern | 0.04 |
| 37 | West Nodaway River (Cass/Montgomery Co.) | Southern | 0.02 |
| 38 | West Nodaway River (Cass/Montgomery Co.) | Southern | 0.39 |
| 39 | Whitewater Creek (Dubuque Co.) | Northeast | 0.01 |

As required by recent legislation, a Fiscal Impact Statement (FIS) has been prepared for this Notice and is available upon request.

Additional information on Iowa's Water Quality Standards, including the FIS and detailed maps of the stream assessments, can be found on the Department's Web site at http://www.iowadnr.com/water/standards/index.html.

Any person may submit written suggestions or comments on the proposed amendment through April 30, 2010. If submitted comments are intended to describe recreational activities that occur on specific stream segments, the comment must specify:

1. The type of water recreational activity(ies) (e.g., canoeing, children's play, minnow seining, etc.);
2. Where the activity(ies) took place (e.g., bridge crossing, park, etc.) using Section/Township/Range, latitude/longitude, or map; and
3. The frequency the activity(ies) occurred and when (e.g., 1/month in the summer of 2002).

Such written material should be submitted to Lori McDaniel, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail lori.mcdaniel@dnr.iowa.gov. Persons who have questions may contact Lori McDaniel at (515)281-8094.

Persons are invited to present oral or written comments at a series of public hearings, which will be held throughout the state as follows:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

| | | |
|---|---|---|
| April 1, 2010 | 10 a.m. | Atlantic Municipal Utilities Conference Room<br>15 W. 3rd Street<br>Atlantic |
| April 1, 2010 | 6 p.m. | Spencer Public Library<br>21 E. 3rd Street<br>Spencer |
| April 5, 2010 | 10 a.m. | Falcon Civic Center<br>1305 5th Avenue NE<br>Independence |
| April 5, 2010 | 6 p.m. | Washington Public Library<br>115 West Washington Street<br>Washington |
| April 7, 2010 | 1 p.m. | Clear Lake Community Meeting Room<br>15 N. 6th Street<br>Clear Lake |
| April 9, 2010 | 1 p.m. | Wallace State Office Building<br>Fifth Floor Conference Rooms<br>502 E. 9th Street<br>Des Moines |

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

This amendment may have an impact upon small businesses.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendment is proposed.

Amend subrule 61.3(5) as follows:

**61.3(5)** *Surface water classification.* The department hereby incorporates by reference "Surface Water Classification," effective ~~February 17, 2010~~ [insert effective date of this amendment]. This document may be obtained on the department's Web site at http://www.iowadnr.com/water/standards/index.html.

## ARC 8581B

# HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

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

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

The proposed amendment changes the definition of "client error" used in the recovery of overpayments to include the failure of an enrollee to report correct information or changes in family circumstances. The Department would not have to prove the client's negligence or intent to defraud the program in order to recover premiums that were incorrectly paid. This change will bring the HAWK-I definition of "client error" in line with that used in the Medicaid and Family Investment programs.

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before March 30, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code chapter 514I.

The following amendment is proposed.

Amend subrule **86.19(1)**, definition of "Client error," as follows:

*"Client error"* means ~~an intentional or negligent~~ any action or inaction attributed to the enrollee that results in incorrect payment of benefits, including premiums paid to a health or dental plan, because the enrollee or the enrollee's representative:

1. Failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or
2. Failed to timely report a change as defined in rule 441—86.10(514I).

## ARC 8582B

# 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 238.16, the Department of Human Services proposes to amend Chapter 108, "Licensing and Regulation of Child-Placing Agencies," Iowa Administrative Code.

This amendment changes licensing requirements for child-placing agencies that provide supervised apartment living placement services to be consistent with 441—subrule 202.9(2). The amendment requires weekly supervisory visits when the youth in placement is under the age of 18 and biweekly visits when the youth is aged 18 or older. The change requires more frequent supervision of minor children in supervised apartment living placement.

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before March 30, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code chapter 238.

The following amendment is proposed.

Amend paragraph **108.10(3)"c"** as follows:

*c.* ~~At least weekly face-to-face contacts with the child for the first 60 days of placement and at least twice a month face-to-face contact thereafter. Frequency of visits shall be based on the needs of the individual child.~~ Supervision to assist the youth in developing the needed structure to live in this setting and in locating and using other needed services. Supervision may include guidance, oversight, and behavior monitoring.

(1) If the youth is under age 18, supervision shall include a minimum of weekly face-to-face contacts.

(2) For youth aged 18 or older, supervision shall include a minimum of biweekly face-to-face contacts.

## ARC 8613B

# HUMAN SERVICES DEPARTMENT[441]

### Notice of Termination

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby terminates rule-making proceedings under the provisions of Iowa Code section 17A.4(1)"b" for proposed rule making relating to Chapter 204, "Subsidized Guardianship Program," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 23, 2009, as **ARC 8183B**. The proposed amendments would have rescinded provisions for the five-year federal demonstration waiver project for guardianship subsidy and replaced them with a permanent guardianship subsidy program.

The Department has determined there are insufficient resources to implement subsidized guardianship under the federal Fostering Connections to Success and Increasing Adoptions Act at this time. Amendments will be filed to end the demonstration project as currently authorized under Chapter 204. No new applicants will be accepted into the project, but the Department will honor the subsidy agreements entered into under the waiver. Once sufficient resources are in place to implement subsidized guardianship under the federal Act, new amendments will be submitted.

## ARC 8579B

# MEDICINE BOARD[653]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76 and chapters 148 and 272C, the Board of Medicine hereby proposes to amend Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

The proposed rule establishes standards of practice for interventional chronic pain management. The purpose of this rule is to assist physicians who consider interventional techniques to treat patients with chronic pain.

The Board approved this Notice of Intended Action to amend Chapter 13 during a regularly scheduled meeting on February 5, 2010.

Any interested person may present written comments on this proposed amendment not later than 4:30 p.m. on March 30, 2010. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by E-mail to mark.bowden@iowa.gov.

There will be a public hearing on March 30, 2010, at 11 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medicine is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 147.76 and chapters 148 and 272C.

The following amendment is proposed.

Adopt the following **new** rule 653—13.9(147,148,272C):

**653—13.9(147,148,272C) Standards of practice—interventional chronic pain management.** This rule establishes standards of practice for the practice of interventional chronic pain management. The purpose of this rule is to assist physicians who consider interventional techniques to treat patients with chronic pain.

MEDICINE BOARD[653](cont'd)

**13.9(1)** *Definition.* As used in this rule:

*"Interventional chronic pain management"* means the diagnosis and treatment of pain-related disorders with the application of interventional techniques in managing subacute, chronic, persistent, and intractable pain. Interventional techniques include percutaneous (through the skin) needle placement to inject drugs in targeted areas. Interventional techniques also include nerve ablation (excision or amputation) and certain surgical procedures. Interventional techniques often involve injection of steroids, analgesics, and anesthetics and include: lumbar, thoracic, and cervical spine injections, intra-articular injections, intrathecal injections, epidural injections (both regular and transforaminal), facet injections, discography, nerve destruction, occipital nerve blocks, lumbar sympathetic blocks and vertebroplasty, and kyphoplasty. Interventional chronic pain management includes the use of fluoroscopy when it is used to assess the cause of a patient's chronic pain or when it is used to identify anatomic landmarks during interventional techniques. Specific interventional techniques include: SI joint injections; spinal punctures; epidural blood patches; epidural injections; epidural/spinal injections; lumbar injections; epidural/subarachnoid catheters; occipital nerve blocks; axillary nerve blocks; intercostals nerve blocks; multiple intercostals nerve blocks; ilioinguinal nerve blocks; peripheral nerve blocks; facet joint injections; cervical/thoracic facet joint injections; lumbar facet injections; multiple lumbar facet injections; transforaminal epidural steroid injections; transforaminal cervical steroid injections; sphenopalatine ganglion blocks; paravertebral sympathetic blocks; neurolysis of the lumbar facet nerve; neurolysis of the cervical facet nerve; and destruction of the peripheral nerve.

**13.9(2)** *Interventional chronic pain management.* The practice of interventional chronic pain management shall include the following:

*a.* Comprehensive assessment of the patient;
*b.* Diagnosis of the cause of the patient's pain;
*c.* Evaluation of alternative treatment options;
*d.* Selection of appropriate treatment options;
*e.* Termination of prescribed treatment options when appropriate;
*f.* Follow-up care; and
*g.* Collaboration with other health care providers.

**13.9(3)** *Practice of medicine.* Interventional chronic pain management is the practice of medicine.

## ARC 8593B

# NATURAL RESOURCE COMMISSION[571]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

The proposed amendments:

1. Update the definition of "immediate family" to also include spouses, legal guardians, and domestic partners.

2. Limit the number of persons allowed on a campsite to no more than six with two exceptions: (1) designated chaperoned, organized youth group campsites; and (2) families that exceed six persons, are all members of an immediate family, and cannot logically be split to occupy two campsites.

3. Remove the requirement that the occupants of an approved second tent on a campsite must be under the age of 18 and dependent members of the immediate family occupying the basic unit. This last change will, for example, allow individuals such as a husband and wife to sleep in two small separate

tents on the same campsite, and allow unrelated campers with six or fewer people, such as school club members or friends, to have an approved second tent on a campsite.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 30, 2010. Such written material should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034. Comments may be sent by fax to (515)281-6794 or by E-mail to Sherry.Arntzen@dnr.iowa.gov. Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233.

There will be a public hearing on March 30, 2010, at 2 p.m. in the Fourth Floor East Conference Room in the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to discuss further.

These amendments are intended to implement Iowa Code sections 461A.3, 461A.48 and 461A.57.

The following amendments are proposed.

ITEM 1. Amend rule **571—61.2(461A)**, definition of "Immediate family," as follows:

*"Immediate family"* means spouses, parents or legal guardians, domestic partners, dependent children and grandparents.

ITEM 2. Rescind subrule 61.4(5) and adopt the following **new** subrule in lieu thereof:

**61.4(5)** *Restrictions on campsite/campground use.* This subrule sets forth conditions of public use which apply to all state parks and recreation areas. Specific areas as listed in 61.4(6), 571—61.7(461A) and 571—61.10(461A) are subject to additional restrictions or exceptions. The conditions in this subrule are in addition to specific conditions and restrictions set forth in Iowa Code chapter 461A.

*a.* Camping is restricted to designated camping areas within state parks and recreation areas and state forest campgrounds.

*b.* No more than six persons shall occupy a campsite except for the following:

(1) Families that exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be split to occupy two campsites.

(2) Campsites which are designated as chaperoned, organized youth group campsites.

*c.* Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

*d.* Each camping group shall utilize only the electrical outlet fixture designated for its particular campsite. No extension cords or other means of hookup shall be used to furnish electricity from one designated campsite to another.

*e.* Each camping group will be permitted to park one motor vehicle not being used for camping purposes at the campsite. Unless otherwise posted, one additional vehicle may be parked at the campsite.

*f.* All motor vehicles, excluding motorcycles, not covered by the provision in 61.4(5)"e" shall be parked in designated extra-vehicle parking areas.

*g.* Walk-in campers occupying nonreservable campsites or unrented, reservable campsites shall register as provided in subrule 61.4(3) within one-half hour of entering the campground.

*h.* Campers occupying nonreservable campsites shall vacate the campground or register for the night prior to 4 p.m. daily. Registration can be for more than 1 night at a time but not for more than 14 consecutive nights for nonreservable campsites. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

NATURAL RESOURCE COMMISSION[571](cont'd)

*i.* Walk-in campers shall not occupy unrented, reservable campsites until 10 a.m. on the first camping day of their stay. Campers shall vacate the campground by 3 p.m. of the last day of their stay. Initial registration shall not exceed 2 nights. Campers may continue to register after the first 2 nights on a night-to-night basis up to a maximum of 14 consecutive nights, subject to campsite availability. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

*j.* Campers with reservations shall not occupy a campsite before 4 p.m. of the first day of their stay. Campers shall vacate the site by 3 p.m. of the last day of their stay. Campers may register for more than 1 night at a time but not for more than 14 consecutive nights. All members of the camping party must vacate the state park or recreation area campground after the fourteenth night and may not return to the state park or recreation area until a minimum of 3 nights has passed. All equipment must be removed from the site at the end of each stay. The 14-night limitation shall not apply to volunteers working under a department of natural resources program.

*k.* Campsites marked with the international symbol of accessibility shall be used only by vehicles displaying a persons with disabilities parking permit. The vehicle must be in use by a person with a disability, either as an operator or a passenger.

*l.* In designated campgrounds, equine animals and llamas must be stabled at a hitching rail, individual stall or corral if provided. Equine animals and llamas may be hitched to trailers for short periods of time to allow for grooming and saddling. These animals may be stabled inside trailers if no hitching facilities are provided. Portable stalls/pens and electric fences are not permitted.

## ARC 8592B

# NATURAL RESOURCE COMMISSION[571]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 62, "State Forest Camping," Iowa Administrative Code.

The proposed amendments:

1. Update the definition of "immediate family" to also include spouses, legal guardians, and domestic partners.

2. Limit the number of persons allowed on a campsite to no more than six with two exceptions: (1) designated chaperoned, organized youth group campsites; and (2) families who exceed six persons, are all members of an immediate family, and cannot logically be split to occupy two campsites.

3. Remove the requirement that the occupants of an approved second tent on a campsite must be under the age of 18 and dependent members of the immediate family occupying the basic unit. For example, this amendment will allow individuals such as a husband and wife to sleep in two small separate tents on the same campsite and allow unrelated campers with six or fewer people, such as a school club or friends, to have an approved second tent on a campsite.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 30, 2010. Such written material should be directed to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034. Comments may be sent by fax to (515)281-6794 or by E-mail to

Sherry.Arntzen@dnr.iowa.gov. Persons who wish to convey their views orally should contact Sherry Arntzen at (515)242-6233.

There will be a public hearing on March 30, 2010, at 2 p.m. in the Fourth Floor East Conference Room in the Wallace State Office Building, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

These amendments are intended to implement Iowa Code sections 461A.3, 461A.48 and 461A.57.

The following amendments are proposed.

ITEM 1. Amend rule **571—62.2(461A)**, definition of "Immediate family," as follows:

*"Immediate family"* means spouses, parents or legal guardians, domestic partners, dependent children and grandparents.

ITEM 2. Rescind subrule 62.6(3) and adopt the following **new** subrule in lieu thereof:

**62.6(3)** No more than six persons shall occupy a campsite except for the following:

*a.* Families that exceed six persons may be allowed on one campsite if all members are immediate family and cannot logically be split to occupy two campsites.

*b.* Campsites which are designated as chaperoned, organized youth group campsites.

ITEM 3. Adopt the following **new** subrule 62.6(5):

**62.6(5)** Camping is restricted to one basic unit per site except that a small tent may be placed on a site with the basic unit. The area occupied by the small tent shall be no more than 8 feet by 10 feet and the tent shall hold no more than four people.

## ARC 8595B

# NATURAL RESOURCES DEPARTMENT[561]

### 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 483A.24 and 456A.24, the Department of Natural Resources proposes to amend Chapter 12, "Special Nonresident Deer and Turkey Licenses," Iowa Administrative Code.

These rules clarify the processes used to select recipients of special nonresident deer and wild turkey licenses and establish application deadlines and applicant restrictions. These amendments are proposed to improve benefits to the state under this chapter.

Any interested person may make written suggestions or comments on the proposed amendments on or before March 30, 2010. Written comments may be sent to Ross Harrison, Special Nonresident Deer and Turkey License Program Coordinator, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Program Coordinator at (515)281-5973 or at the Department's offices on the fourth floor of the Wallace State Office Building.

These amendments are intended to implement Iowa Code section 483A.24.

The following amendments are proposed.

NATURAL RESOURCES DEPARTMENT[561](cont'd)

ITEM 1. Amend rule **561—12.2(483A)**, definition of "Conservation organization," as follows:

*"Conservation organization"* means an organization that is ~~developed~~ licensed and managed pursuant to Iowa Code chapter 504, the revised Iowa nonprofit corporation Act, and whose mission emphasizes natural resource conservation or supports science-based natural resource management. A local or state chapter or division of a national or international conservation organization shall qualify as a conservation organization.

ITEM 2. Amend rule 561—12.3(483A) as follows:

**561—12.3(483A) Availability of special licenses.** The program shall be available to provide ~~not~~ no more than the number of special licenses allowed by Iowa Code section 483A.24 to nonresidents through requests submitted by individual hunters or through a sponsor. Sponsors may be located in the state of Iowa.

ITEM 3. Amend rule 561—12.5(483A) as follows:

**561—12.5(483A) Request, review and selection process.**

**12.5(1)** *Submission of requests.*

*a.* Individual hunters or sponsors shall submit a request, or requests, to the coordinator.

(1) A request for a deer license must be on the form provided by the department and ~~may~~ shall be submitted to the coordinator ~~at any time during the year~~ by August 15 prior to the season to be hunted.

(2) A request for a turkey license must be on the form provided by the department and shall be submitted to the coordinator at least 14 days prior to the season to be hunted.

*b.* Applicants will not qualify for a deer license under this rule if they were issued a deer license under this rule the previous year.

**12.5(2)** *Review.*

~~*a.*~~ The internal committee shall review the summaries prepared by the coordinator, rank the hunters according to criteria in rule 561—12.7(483A), and forward the rankings to the legislative committee for consideration and final selection. The internal committee shall exercise its discretion and, in addition to the criteria in rule 561—12.7(483A), shall also consider the following:

~~*b.*~~ *a.* Requests that demonstrate little or no promotion of the state of Iowa or its natural resources~~, as determined by the internal committee,~~ shall not be included in the rankings forwarded to or considered by the legislative committee.

*b.* Requests from a sponsor, a sponsor-related entity, or hunter that has been found guilty of a game violation in Iowa or elsewhere within the past five years or that, in the opinion of the internal committee, has exhibited poor hunting ethics or judgment shall not be considered for a special license.

*c.* Review of requests shall occur at least once annually but may occur more frequently as needed based upon the number of requests and the dates by which they are received.

**12.5(3)** No change.

ITEM 4. Amend rule 561—12.6(483A), introductory paragraph, as follows:

**561—12.6(483A) Consideration of requests.** The ~~legislative~~ internal committee will ~~determine~~ recommend to the legislative committee which conservation organizations ~~and hunters~~ are best qualified to promote the state and its natural resources. In making ~~such a determination,~~ recommendations to the legislative committee ~~will select hunters and conservation organizations based~~, the internal committee will base its recommendations on ~~their~~ the expected ability of hunters to promote the state and its natural resources and, if applicable, based on the degree of success special license holders have had in previous years or seasons in promoting the state and its natural resources. By way of illustration, the committee may consider requests from the following:

ITEM 5. Amend subrule 12.7(1) as follows:

**12.7(1)** The following criteria shall be used by the internal committee to rank individual hunters as identified in subrules 12.6(1), 12.6(4) and 12.6(5). The rankings shall be determined as the average of

the following rating points and will be provided to the legislative committee as an aid in determining the selection of hunters.

*a.* ~~Ten~~ Five points if the hunter is directly affiliated with an Iowa-based outdoor industry.

*b.* From 0 to 10 points ~~applied to each of~~ for the following:

(1) The relative size of the hunter's potential audience.

(2) The hunter's proposal to promote the state and its natural resources.

(3) If the hunter has received a special license in the past, the value of the actual promotion of the state and its natural resources or special services provided as a result.

*c.* No change.

ITEM 6. Amend subrule 12.7(2) as follows:

**12.7(2)** A conservation organization's request shall be forwarded to the legislative committee if the conservation organization meets the definition in rule 561—12.2(483A) and approval shall be based on ~~an~~ evaluation of the organization's prior performance, if any, in selling the special nonresident deer license.

ITEM 7. Amend rule 561—12.8(483A) as follows:

**561—12.8(483A) Services provided by recipients of special licenses.** In addition to promoting the state and its natural resources, recipients of special licenses may improve the ranking they receive for future license requests by providing additional services as specified by the department. Services shall be limited to ~~services which~~ those that improve communications between the department and outdoor recreationalists and to assistance in marketing outdoor recreation and natural resource conservation.

## ARC 8598B

## NATURAL RESOURCES DEPARTMENT[561]

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455A.4, the Director of the Department of Natural Resources hereby gives Notice of Intended Action to adopt new Chapter 15, "Revocation, Suspension, and Nonrenewal of License for Failure to Pay State Liabilities," Iowa Administrative Code.

The proposed chapter provides a mechanism through which the Department may suspend, revoke or deny issuance or renewal of licenses of persons who fail to pay liabilities to the state in compliance with the requirements in Iowa Code chapter 272D and Iowa Code section 261.126.

Any interested person may make written suggestions or comments on the proposed chapter on or before April 13, 2010. Such written materials should be directed to Kelley Myers, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-7147; or E-mail Kelley.Myers@dnr.iowa.gov. Persons who wish to convey their views orally should contact Kelley Myers at (515)281-5634 or at Kelley Myers' office by visiting the fourth floor of the Wallace State Office Building.

These rules are intended to implement Iowa Code chapter 272D and Iowa Code section 261.126.

The following amendment is proposed.

Adopt the following **new** 561—Chapter 15:

CHAPTER 15
REVOCATION, SUSPENSION, AND NONRENEWAL OF LICENSE
FOR FAILURE TO PAY STATE LIABILITIES

NATURAL RESOURCES DEPARTMENT[561](cont'd)

**561—15.1(272D,261) Purpose and use.** This chapter is intended to help collect liabilities of the state or a state agency from persons who have licenses with the department. This chapter shall apply to all licenses issued, renewed or otherwise authorized by the department.

**561—15.2(272D,261) Definitions.** For purposes of this chapter, the following definitions shall apply:

*"Certificate of noncompliance"* means a document provided by the collecting agency certifying the named person has outstanding liability placed with the collecting agency and has not entered into an approved payment plan to pay the liability.

*"Collecting agency"* means the centralized collection unit of the department of revenue or the Iowa college student aid commission.

*"Department"* means the department of natural resources.

*"Liability"* means a debt or obligation placed with the collecting agency for collection that is greater than $1,000. For purposes of this chapter, "liability" does not include child support payments collected pursuant to Iowa Code chapter 252J.

*"License"* means a license, certification, registration, permit, approval, renewal or other similar authorization issued to a person by the department which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation, including those authorizations set out in Iowa Code chapters 321G, 321I, 455B, 455C, 455D, 456A, 459, 459A, 461A, 462A, 481A, 481B, 481C, 482, 483A, 484B and 484C.

*"Licensee"* means a person to whom a license has been issued by the department or who is seeking the issuance of a license from the department.

*"Notice of intent"* means a notice sent to a licensee indicating the department's intent to suspend, revoke, or deny renewal or issuance of a license.

*"Obligor"* means a person with a liability placed with the collecting agency.

*"Person"* means a licensee.

*"Withdrawal of a certificate of noncompliance"* means a document provided by the collecting agency certifying that the certificate of noncompliance is withdrawn and that the department may proceed with issuance, reinstatement, or renewal of a person's license.

**561—15.3(272D,261) Requirements of the department.**

**15.3(1)** *Records.*

*a.* The department shall collect and maintain records of its licensees that must include, at a minimum, the following:

(1) The licensee's first and last names.

(2) The licensee's current known address.

(3) The licensee's social security number.

*b.* The records shall be made available to the collecting agency so that the collecting agency may match to the records the names of persons with any liabilities placed with the collecting agency for collections. The records must be submitted in an electronic format and updated on a quarterly basis.

**15.3(2)** *Certificate of noncompliance.* Upon receipt of a certificate of noncompliance from the collecting agency, the department shall initiate rules and procedures for the suspension, revocation, or denial of issuance or renewal of a license to a person.

**15.3(3)** *Notice of intent.* The department shall provide to a person a notice of intent to suspend, revoke or deny issuance or renewal of the person's license in accordance with Iowa Code chapter 272D or Iowa Code section 261.126, whichever is appropriate. The suspension, revocation, or denial shall be effective no sooner than 30 days following the issuance of the notice of intent to the person. The notice shall state all of the following:

*a.* That the department has received a certificate of noncompliance from the collecting agency and intends to suspend, revoke or deny issuance or renewal of a person's license;

*b.* That the person must contact the collecting agency to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance;

*c.* That the department will revoke, suspend or deny issuance or renewal of the person's license unless a withdrawal of a certificate of noncompliance is received from the collecting agency within 30 days from the date of the notice of intent;

*d.* That in the event the department's rules and procedures conflict with the additional rules and procedures under this chapter, the rules and procedures of this chapter shall apply;

*e.* That mistakes of fact in the amount of the liability owed and the person's identity may not be contested to the department; and

*f.* That the person may request a district court hearing as outlined in rule 701—153.10(272D).

**15.3(4)** *Withdrawal.* Upon receipt of a withdrawal of a certificate of noncompliance from the collecting agency, the department shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with the department's requirements.

**561—15.4(272D,261) No administrative appeal of the department's action.** Pursuant to Iowa Code sections 261.126 and 272D.8, a person does not have a right to a hearing before the department to contest the department's action under this chapter but may request a court hearing pursuant to rule 561—15.5(272D,261).

**561—15.5(272D,261) District court hearing.** A person may seek review of the actions listed in 701—subrule 153.14(1) and request a hearing before the district court by filing an application with the district court in the county in which the majority of the liability was incurred. The person must send a copy of the application to the collecting agency by regular mail. The application must be filed no later than 30 days after the department issues its notice of intent.

**15.5(1)** *Scheduling.* The clerk of the district court shall schedule a hearing and mail a copy of the scheduling order to the person, the collecting agency, and the department.

**15.5(2)** *Certification.* Prior to the hearing, the collecting agency shall certify to the court a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the department shall certify to the court a copy of the notice issued pursuant to subrule 15.3(3).

**15.5(3)** *Stay.* Upon receipt of a copy of a scheduling order from the clerk of court and prior to the hearing, the department shall stay any action contemplated on the person's license pursuant to the notice of intent.

**15.5(4)** *Hearing.* The hearing on the person's application shall be scheduled and held within 30 days of the filing of the application. However, if the person fails to appear at the scheduled hearing, the stay shall be lifted and the department shall continue its procedures pursuant to the notice of intent.

**15.5(5)** *Scope of review.* The district court's review shall be limited to demonstration of the amount of the liability owed or the identity of the person.

**15.5(6)** *Findings.* If the court finds the collecting agency was in error either in issuing a certificate of noncompliance or in its failure to issue a withdrawal of a certificate of noncompliance, the collecting agency shall issue a withdrawal certificate of noncompliance to the department. If the court finds the collecting agency was justified in issuing a certificate of noncompliance or in not issuing a withdrawal of a certificate of noncompliance, a stay imposed under subrule 15.5(3) shall be lifted and the department shall proceed with the action as outlined in its notice of intent.

These rules are intended to implement Iowa Code chapter 272D and Iowa Code section 261.126.

**ARC 8555B**

# TRANSPORTATION DEPARTMENT[761]

**Notice of Intended Action**

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

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

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

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

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year.

The amendments to the FMCSR and the HMR that have become final and effective since the 2008 edition of the CFR are listed in the information below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 385 and 395 (FR Vol. 73, No. 224, Pages 69567-69586, 11-19-08)

This final rule from the Federal Motor Carrier Safety Administration (FMCSA) adopts the provisions of the December 17, 2007, interim final rule concerning hours of service for commercial motor vehicle (CMV) drivers. This final rule allows CMV drivers to continue to drive up to 11 hours within a 14-hour, nonextendable window from the start of the workday, following at least 10 consecutive hours off duty (11-hour rule). The rule also allows motor carriers and drivers to continue to restart calculations of the weekly on-duty limits after the driver has at least 34 consecutive hours off duty (34-hour restart). Effective date: January 19, 2009.

Parts 390 and 391 (FR Vol. 73, No. 231, Pages 73095-73128, 12-01-08)

This final rule from the FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSR) to require commercial driver's license (CDL) holders subject to the physical qualification requirements of 49 CFR Part 391 to provide a current copy of their medical examiner's certificate to their state driver licensing agency (SDLA). FMCSA also requires the SDLA to record on the Commercial Driver License Information System (CDLIS) driver record the self-certification the driver made regarding the applicability of the federal driver qualification rules and, for drivers subject to those requirements, the medical certification status information specified in this final rule. This action is required by Section 215 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). Effective dates: This final rule is effective January 30, 2009. State compliance (for the SDLA) is required by January 30, 2012. All CDL holders must comply by January 30, 2014, with the requirement to submit to the SDLA their self-certification on whether they are subject to the physical qualification rules.

TRANSPORTATION DEPARTMENT[761](cont'd)

Parts 385 and 390 (FR Vol. 73, No. 242, Pages 76472-76497, 12-16-08)

This final rule from the Federal Motor Carrier Safety Administration (FMCSA) adopts the New Entrant Safety Assurance Program regulations initiated by a Notice of Proposed Rulemaking (NPRM) on December 21, 2006 (FR Vol. 71, No. 245, pages 76729-76793). These changes do not impose additional regulatory requirements on any new entrant motor carrier because these carriers are already required to comply with all applicable rules. Effective date: February 17, 2009. Compliance with this rule is required beginning December 16, 2009.

Parts 385, 390, 392, 393, and 396 (FR Vol. 73, No. 243, Pages 76793-76827, 12-17-08)

This final rule from the FMCSA adopts regulations implementing Section 4118 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The regulations require intermodal equipment providers (IEPs) to: register and file with FMCSA an Intermodal Equipment Provider Identification Report; establish a systematic inspection, repair, and maintenance program to ensure the safe operating condition of each intermodal chassis; maintain documentation of their maintenance program; and provide a means to effectively respond to driver and motor carrier reports about intermodal chassis mechanical defects and deficiencies. The regulations also require IEPs to mark each intermodal chassis with a U.S. Department of Transportation (U.S. DOT) identification number. These new regulations, for the first time, make IEPs subject to the Federal Motor Carrier Safety Regulations (FMCSR) and call for shared safety responsibility among IEPs, motor carriers, and drivers. Additionally, this final rule adopts inspection requirements for motor carriers and drivers operating intermodal equipment. Effective date: June 17, 2009. Implementation Date: Intermodal equipment providers must comply with the requirements for establishing inspection, repair, maintenance programs, and record-keeping systems by December 17, 2009. Intermodal equipment providers must comply with the requirement to mark their intermodal chassis with a U.S. DOT identification number by December 17, 2010.

Parts 171, 172, 173, and 178 (FR Vol. 74, No. 9, Pages 2199-2270, 01-14-09)

This final rule from the Pipeline and Hazardous Materials Safety Administration (PHMSA) revises the Hazardous Materials Regulations (HMR) to maintain alignment with international standards by incorporating various changes to proper shipping names, hazard classes, packing groups, special provisions, and packaging authorizations. These revisions are necessary to harmonize the HMR with recent changes to the Transport Canada's Transportation of Dangerous Goods Regulations and the United Nations Recommendations on the Transport of Dangerous Goods. Effective date: February 13, 2009. Delayed Compliance Date: Except as specified in 49 CFR Sections 171.14, 171.25, 172.102, 172.448, and 178.703 as amended to October 1, 2009, compliance with the amendments adopted in this final rule is required beginning January 1, 2010.

Parts 171, 173, 178, and 180 (FR Vol. 74, No. 67, Pages 16135-16144, 04-09-09)

The final rule from the PHMSA amends the HMR to revise certain requirements applicable to the manufacture, maintenance, and use of DOT and Motor Carrier specification cargo tank motor vehicles, DOT specification cylinders and United Nations pressure receptacles. The revisions are based on petitions for rule making submitted by the regulated community and are intended to enhance the safe transportation of hazardous materials in commerce, clarify regulatory requirements, and reduce operating burdens on cargo tank and cylinder manufacturers, requalifiers, carriers, shippers, and users. The most significant amendment adopted in this final rule addresses a safety issue identified by the National Transportation Safety Board concerning the transportation of compressed gases in cylinders mounted on motor vehicles or in frames, commonly referred to as tube trailers. Effective Date: This final rule is effective May 11, 2009. Voluntary Compliance Date: Voluntary compliance with all these amendments, including those with delayed mandatory compliance, is authorized as of April 9, 2009.

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

TRANSPORTATION DEPARTMENT[761](cont'd)

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.

2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.

3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet E-mail address: steven.bowman@dot.iowa.gov.

5. Be received by the Office of Policy and Legislative Services no later than March 30, 2010.

A meeting to hear requested oral presentations is scheduled for Thursday, April 1, 2010, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

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

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by June 6, 2010.

These amendments are intended to implement Iowa Code chapter 321.

Proposed rule-making actions:

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

*a. Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2008~~ 2009).

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

*b. Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2008~~ 2009).

# USURY

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

| | |
|---|---|
| March 1, 2009 — March 31, 2009 | 4.50% |
| April 1, 2009 — April 30, 2009 | 5.00% |
| May 1, 2009 — May 31, 2009 | 4.75% |
| June 1, 2009 — June 30, 2009 | 5.00% |
| July 1, 2009 — July 31, 2009 | 5.25% |
| August 1, 2009 — August 31, 2009 | 5.75% |
| September 1, 2009 — September 30, 2009 | 5.50% |
| October 1, 2009 — October 31, 2009 | 5.50% |
| November 1, 2009 — November 30, 2009 | 5.50% |
| December 1, 2009 — December 31, 2009 | 5.50% |
| January 1, 2010 — January 31, 2010 | 5.50% |
| February 1, 2010 — February 28, 2010 | 5.50% |
| March 1, 2010 — March 31, 2010 | 5.75% |

**ARC 8583B**

# WORKFORCE DEVELOPMENT DEPARTMENT[871]

**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 96.11, the Director of the Workforce Development Department hereby gives Notice of Intended Action to amend Chapter 21, "Unemployment Insurance Services Division," Chapter 22, "Employer Records and Reports," Chapter 23, "Employer's Contribution and Charges," and Chapter 24, "Claims and Benefits," Iowa Administrative Code.

The proposed amendments make the following changes:

The amendments to paragraphs 21.1(1)"c" and "d" update the description of functions performed in the tax bureau.

The amendment to subrule 22.3(1) includes new electronic filing provisions.

The amendment to subrule 22.3(6) provides for electronically filed reports.

The amendment to rule 871—22.4(96) removes obsolete language and updates procedures.

The amendment to rule 871—22.11(96) provides for reporting units in lieu of separate account numbers.

The amendment to rule 871—22.12(96) provides information regarding reporting units.

The amendment to rule 871—22.13(96) reflects electronic filing, which will have reporting units in place of location codes.

The amendment to paragraph 22.17(4)"i" provides a description of current audit procedures.

The amendment to paragraph 22.17(4)"k" updates the current procedures of the Department.

The amendments to subrules 22.18(1) and 22.18(2) update the information required of employer representatives to include electronic filing.

The amendment to subrule 23.8(3) includes the due date for new agricultural and domestic employers.

The amendment to rule 871—23.9(96) reflects the format of the current form.

The amendments to subrules 23.11(3) to 23.11(6) remove obsolete language.

The amendments to subrules 23.17(1), 23.17(9) and 23.17(14) remove obsolete language and update procedures.

The amendment to subrule 23.18(3) excludes sons or daughters from coverage for performing services for parents as part of a community-based support program.

The amendment to subrule 23.31(2) updates the items transferred in a partial successorship.

The amendments to subrule 23.32(4) remove obsolete language.

The amendment to rule 871—23.36(96) updates procedures.

The amendment to rule 871—23.37(96) removes obsolete language and updates procedures.

The amendment to rule 871—23.46(96) rescinds the rule because the applicable accounts have been eliminated.

The amendment to rule 871—23.47(96) clarifies that employer accounts with no activity are placed in inactive status.

The amendment to rule 871—23.48(96) provides that a reactivated account will retain the same account number.

The amendment to subrule 23.60(2) provides the current penalty structure for obsolete reports.

The amendment to subrule 23.70(11) clarifies that an employer changing status will retain the same account number.

The amendment to paragraph 24.22(2)"f" conforms with federal law contained in the American Recovery and Reinvestment Act of 2009 and provides that individuals must be available for work for the same number of hours as they earned wages in the base period.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

The amendment adopting new rule 871—24.40(96) implements the new training extension benefits established in 2009 Iowa Acts, Senate File 197, and is designed to be in conformity with the American Recovery and Reinvestment Act of 2009.

The amendment to subrule 24.58(1) extends the duration of a voluntary shared work program by an employer from 26 weeks to 52 weeks.

The amendment to rule 871—24.58(96) updates the implementation sentence.

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

No variance provisions are included in these rules. Variances procedures are set forth in 871—Chapter 41 where applicable.

Interested persons, governmental agencies and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m. on March 30, 2010, to LeLoie Dutemple, Workforce Development Department, Unemployment Insurance Services Division, 1000 East Grand Avenue, Des Moines, Iowa 50319.

A public hearing will be held at 9:30 a.m. on March 30, 2010, at the above address. The proposed amendments are subject to revision after the Department considers all written and oral presentations. Persons who wish to convey their views orally should contact LeLoie Dutemple at (515)281-5526 or at the above address.

These amendments are intended to implement Iowa Code sections 96.4(3), 96.6(2), 96.7(2), 96.7(2)"b," 96.7(2)"b"(5), 96.7(7), 96.7(10), 96.8, 96.8(2), 96.8(4), 96.11(1), 96.11(6), 96.11(6)"a," 96.14(2), 96.19(18)"a"(2), 96.19(18)"g"(5), 96.19(16)"l" and "m," 96.19(17), and 2009 Iowa Acts, Senate File 197, section 1, 2009 Iowa Acts, Senate File 478, section 111, and 2009 Iowa Acts, Senate File 197, section 2.

The following amendments are proposed.

ITEM 1. Amend paragraph **21.1(1)"c"** as follows:

*c. Tax bureau.* The tax bureau is responsible for the maintenance and control of all records of unemployment insurance tax paid by liable employers in the state of Iowa. Taxes collected are deposited in a fund to be subsequently used for benefit payments. ~~This section~~ The bureau maintains financial records on employers; assigns rates each year to employers; makes all necessary adjustments to ensure proper charging to employers of benefits chargeable to them; maintains records of employer overpayments and refunds; and maintains the necessary contacts with employers' accountants, attorneys, and the general public to ensure the proper and timely submission of all the required reports to the division of unemployment insurance. The ~~collection section~~ bureau is responsible for the collection of delinquent tax contributions, benefit reimbursements, and unpaid interest and penalty assessments from all Iowa employers who file job insurance reports. Staff instigates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Employers are contacted by mail, telephone, or personally to initiate the collection process. The ~~deposition section thoroughly~~ bureau reviews contribution reports against payroll reports for matching totals and verifies the amount of the check against the employer's report. The ~~section~~ bureau is responsible for depositing all money received for contribution reports, benefit reimbursements, and interest and penalties with the state treasurer's office. ~~The information on the contribution reports is keypunched and the proof sheets are checked to see that they have been correctly punched.~~ The ~~adjustment/chargeback section~~ bureau assigns contribution rates to employers, handles the accounting work on partial changes of ownership, adjusts the amounts owed by employers, and audits the taxable wages reported by the employer in accordance with state and federal requirements. ~~The chargeback unit removes erroneous charges when employers are charged in error. This unit is also responsible for corrections on employee charge notices which could affect employee contribution tax rates.~~ It is the bureau's responsibility to contact Iowa and out-of-state employers who do business in Iowa to establish taxpayers' liability under the law; explain the law's provisions; secure information and make determinations pertaining to new accounts, successorships and terminating tax liability; collect delinquent contributions; give information and assistance to ensure compliance in the preparation of tax reports and in securing refunds of overpaid taxes; conduct

investigations on FUTA discrepancy problems, contractor registration issues, business closings, and claimant requests for omitted wage credits; determine employer/employee and independent contractor relationship issues; assist in fraud investigations; conduct payroll and financial audits; and appear as an expert witness at employer liability hearings. The bureau also provides services to other states that request assistance with unemployment insurance enforcement of Iowa-based employers who conduct business in their states. The bureau also assigns all field audit work. Information is entered into the automated system which generates materials to be utilized by the field audit staff in conducting an employer inquiry and audit.

ITEM 2. Rescind and reserve paragraph **21.1(1)"d."**

ITEM 3. Amend subrule 22.3(1) as follows:

**22.3(1)** Each employer shall, ~~not later than~~ by the due date ~~required for the payment of quarterly contributions~~, file a 65-5300, Employer's Contribution ~~and~~ & Payroll Report, for ~~such quarter on a form prescribed by the department based upon~~ each quarter listing wages paid with respect to all the employer's business maintained within this state ~~and~~ computed in accordance with the Iowa Code and these rules. ~~The 60-0103, Employer Payroll Continuation Sheet, shall be used for the additional payroll information which cannot be entered on the 65-5300.~~

ITEM 4. Amend subrule 22.3(6) as follows:

**22.3(6)** Each Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report, shall include:

*a.* The social security number, name (last name first), and total wages paid ~~and taxable wages paid~~ to each employee during the calendar quarter. All corrections to previous reports must be submitted ~~to the department must be listed and submitted~~ on Form 68-0061, Employer's Wage Adjustment Report. All employees' wages will be reported by the reporting unit under which the work was performed. See rules 871—23.3(96) through 871—23.6(96).

*b.* The sum of the total and taxable wages paid to all employees during the calendar quarter. If reported electronically, the sum of the total and taxable wages will be computed for the employer. The electronic system will compute the taxable wages for each employee. If the employer is claiming taxable wages reported to another state, the amount claimed and the state that the wages were reported to will be listed.

*c.* The amount of contribution due for the calendar quarter. If the report is filed electronically, the system will compute and enter the contribution due.

*d.* The amount of interest due, if any, for the calendar quarter. If the report is filed electronically, the system will compute and enter the interest due.

*e.* The amount of penalty due, if any, for the calendar quarter. If the report is filed electronically, the system will compute and enter any penalty due.

*f.* The total amount of contribution, interest and penalty due for the calendar quarter. If the report is filed electronically, the system will compute and enter the total amount due.

*g.* ~~The number and amount of the credit memo, if any, used to reduce the net remittance due.~~

*h.* The amount of net remittance due for the calendar quarter; however, if the amount of net remittance due is less than $1, the employer ~~may show ".00" as the net remittance due and~~ need not submit ~~a~~ payment ~~with the report~~. If the report is filed electronically, the system will compute and enter the net remittance due.

*i.* The total number of employees listed on the report. If the report is filed electronically, the system will compute and enter the total number of employees on the report.

*j.* The amount of extraordinary pay which was paid to the employees during the calendar quarter for each reporting unit.

*k.* The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for each reporting unit.

*l.* The number of the county in which the ~~worksite~~ reporting unit is located if only one business activity is conducted at only one worksite during the calendar quarter; however, if the same business activity is conducted at more than one worksite or if different business activities are conducted at one or more worksites, the employer shall also be required to complete and return the Form 65-5519, Multiple

Worksite Report, which shall include for each worksite~~,~~ the total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter and the total wages paid during the calendar quarter. The system will compute and enter taxable wages if the report is filed electronically.

(1) The total number of employees paid wages during the pay periods which include the twelfth day of each month of the calendar quarter for all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total number of employees reported for that month ~~in item 11~~ on the Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report.

(2) The total wages paid to all employees at all worksites as reported on the Form 65-5519, Multiple Worksite Report, should equal the total wages reported ~~in item 1~~ on the Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report.

(3) It could be possible for wages to be reported for a worksite without corresponding employment being reported in any of the months during the quarter because wages paid are reportable for the full 13-week period in the calendar quarter, while employment is reportable ~~in item 11~~ on the Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report, when such employment occurs during the pay periods which include the twelfth day of any month in the calendar quarter.

*m.* and *n.* No change.

*o.* The signature, written or electronic, of the owner, responsible officer, or authorized agent of the employer certifying that the information given is true and correct to the best of the signer's knowledge and belief, the date the report was submitted and the telephone number.

*p.* No change.

ITEM 5. Rescind rule 871—22.4(96) and adopt the following **new** rule in lieu thereof:

**871—22.4(96) Reporting of earnings data by secure file transfer.**

**22.4(1)** The employer may submit an electronic file in lieu of Form 65-5300, Employer's Contribution & Payroll Report. Authorization for this reporting method will be given if the employer meets the specification requirements to be compatible with the department's computer capabilities. Such specifications will be furnished upon request.

**22.4(2)** The electronic file submitted will contain all of the employer information, wage information, and labor market information required when filing using the Form 65-5300, Employer's Contribution & Payroll Report. If this method of filing is selected, all wages must be filed using this method. The report will not be considered filed until all worksite reporting units have filed. All corrections to previous reports submitted to the department must be listed and submitted on Form 68-0061, Employer's Wage Adjustment Report.

**22.4(3)** The director shall annually designate the number of wage lines per report that will require the report be filed electronically.

This rule is intended to implement Iowa Code section 96.11(6)"a."

ITEM 6. Amend rule 871—22.11(96) as follows:

**871—22.11(96) Employer account.**

**22.11(1)** ~~Separate accounts.~~ The department shall maintain one account for each employer (or single legal entity). An employer who has more than one establishment or business shall be considered to be one employing unit entitled to one account and a single experience rate. ~~However, the employer may request that the department assign a separate reporting number (account number) to each establishment or business in accordance with rule 22.12(96). If the department issues a separate reporting number to the various establishments or businesses, each establishment or business that has a reporting number must submit a quarterly contribution and payroll report showing all wages paid by the establishment or business during each quarter. The experience of all the establishments or businesses of the employer shall be combined on the rate computation date for the purpose of computing one experience rate which shall be applicable to all of the employer's establishments or businesses.~~

If an establishment or business owned by an employer is a separate legal entity in its own right (i.e., a subsidiary corporation), it will be considered to be a separate employer and must have an experience rate based on its own experience.

When an already covered employer acquires another establishment or business, the employer will have a separate account number with a separate experience rate for the acquired business only if that business retains its character as a separate legal entity. If the acquired business is merged with that of the employer so that they become a single legal entity under the law, the successor is not entitled to separate rates ~~although the employer may request a separate reporting number in accordance with rule 22.12(96)~~ for each establishment or business.

**22.11(2)** Each employer shall report all wages ~~for employment~~ paid ~~by the employer in all employing enterprises~~ and pay all contributions ~~thereon~~ into the ~~active~~ unemployment account ~~or accounts~~ maintained by the department. The title of the employer's account shall be the name of the individual, partnership, corporation, association or other organization constituting the employing unit, and may contain the trade name used by the employing unit. Where the employing unit is a fiduciary agent or legal representative, the title of the account shall be the name of the fiduciary or legal representative and the official title.

**22.11(3)** Each employer's account shall be assigned a number and, ~~except as~~ unless the system of numbering accounts ~~may be~~ is changed, the number identifying an employer's account shall not be changed ~~unless the employer's account is legally terminated and the employer is again determined to be a covered employer~~.

**22.11(4)** No change.

This rule is intended to implement Iowa Code sections 96.7(2)*"a"*(1) and 96.19(17).

ITEM 7. Amend rule 871—22.12(96) as follows:

**871—22.12(96) ~~Employer's request to maintain separate accounts~~ Reporting units.**

~~**22.12(1)**~~ Any employer having two or more separate establishments will file those establishments as separate reporting units. Additionally at the employer's discretion, the employer may establish reporting units to report according to function within the business. When filing a Form 65-5300, Employer's Contribution & Payroll Report, by paper, all reporting units will be listed on a separate page and will all be submitted together. When filing a Form 65-5300, Employer's Contribution & Payroll Report, by electronic means, the individual reporting units may be filed separately by the reporting units when authorized but the complete account report is not submitted until all reporting units are completed. Maintaining current status for the reporting units will be the employer's responsibility. If any reporting units are deleted or added, the department shall be notified within ten working days from the date of change ~~within this state may file a written request with the department that a separate account number be assigned to each separate establishment. The department at its discretion may grant the employer a separate account number for each separate establishment; however, the separate accounts shall be considered to be one account for all purposes of Iowa Code chapter 96 and shall all carry the same contribution rate~~.

~~**22.12(2)** If an employer which has two or more separate establishments with separate account numbers sells or conveys one of the separate establishments to another employer, it shall be considered a partial sale of a business and shall be subject to laws and rules governing partial transfers of experience.~~

~~**22.12(3)** When a covered employer acquires a separate enterprise or business, the employer may file a written request with the department that a separate account number be assigned to the newly acquired enterprise or business. The department at its discretion may grant the employer a separate account number for the newly acquired establishment; however, the separate accounts shall be considered to be one account for all purposes of Iowa Code chapter 96 and shall both carry the same contribution rate.~~

~~**22.12(4)** An employer's request to have separate account numbers for separate establishments shall not be granted unless it is shown to the satisfaction of the department that allowing the separate account numbers will not add significantly to the administrative costs of the department.~~

This rule is intended to implement Iowa Code sections 96.7(2)*"a"* and 96.19(6).

ITEM 8. Amend rule 871—22.13(96) as follows:

**871—22.13(96) Procedure to be followed by an employer wishing to have an active ~~account location~~ reporting unit coded for notice of claim for unemployment benefit mailing.**

**22.13(1)** Any employing unit reporting under an assigned account and having one or more ~~separate and distinct employing locations~~ reporting units in the state of Iowa may request in writing or electronically the assignment of a ~~location code for each of the various separate and distinct establishments. The location code, which is limited to three digits,~~ reporting unit number which will be assigned for the specific purpose of mailing Form 65-5317, Notice of Claim Filing, to the ~~location coded account~~ reporting unit so that responsible personnel at that location can make a timely protest on Form 65-5317 if the employment separation was for a disqualifiable reason. Those accounts so wishing may request in writing that all unemployment insurance material other than Form 65-5317, Notice of Claim Filing, be sent to the home office or regional accounting office. All such requests must be from a responsible financial or operating officer of the firm and shall indicate:

*a.* No change.

*b.* The full ~~trade~~ employer name and address of the home office or financial office ~~that~~ where all unemployment insurance material other than Form 65-5317 is to be sent.

**22.13(2)** No change.

~~**22.13(3)** Once an account becomes location coded it will become the responsibility of the employer to complete Form 65-5305, Summary of Quarterly Payroll by Location. The employer will record the following information on the Form 65-5305, if it has not been preprinted on the form by the computer:~~

~~*a.* Employer account number.~~

~~*b.* The location code.~~

~~*c.* Firm name and mailing address for Form 65-5317.~~

~~*d.* Industrial classification code.~~

~~*e.* The payroll page numbers for the location code payroll attributable to that location.~~

~~*f.* The total wages attributable to the location code.~~

~~*g.* The taxable wages attributable to that location.~~

~~**22.13(4)** Once the employer's account is properly location coded, the following information will be preprinted by the computer on Form 65-5305.~~

~~*a.* The employer's account number.~~

~~*b.* Location code(s).~~

~~*c.* The firm name(s) and mailing address(es) for Form 65-5317.~~

~~*d.* The industrial classification code(s).~~

~~**22.13(5)** It will then become the employer's responsibility to complete the following column headings on the Form 65-5305.~~

~~*a.* Page numbers.~~

~~*b.* Total wages attributable to each coded location.~~

~~*c.* Taxable wages attributable to each coded location.~~

~~**22.13(6)** It will be the employing unit's responsibility to complete this information in the proper sequence in order for the location code procedure to be maintained in a workable manner. If any locations are deleted or added, the department shall be notified within ten working days from the date of change.~~

~~**22.13(7)** Until such time as the first calendar quarter that is entered into the department's data processing system by location code becomes a quarter in a base period, the location coding procedure cannot be considered as fully implemented. Form 65-5317 will continue to be mailed to the employer's last recorded address until the location coded procedure is fully implemented.~~

This rule is intended to implement Iowa Code section 96.6(2).

ITEM 9. Amend paragraph **22.17(4)"i"** as follows:

*i.* ~~Generally the~~ The audit will cover ~~a minimum of~~ four calendar quarters; however, if ~~the initial audit discloses~~ material errors ~~as defined by the department~~ are found, the audit may be expanded to cover prior or subsequent ~~periods~~ years subject to limitations of subrule 22.1(1)~~, except that no period~~

~~covered by a prior audit may be included in the expansion~~. The auditor will review and correct similar errors in a minimum of a year prior to and after the audited year.

ITEM 10. Amend paragraph **22.17(4)"k"** as follows:

*k.* When the audit is completed, the audit will be discussed with the employer or a representative designated by the employer. The employer will be furnished copies of any wage adjustments, supplemental reports or delinquent reports prepared by the auditor. An audit report with all worksheets, adjustments and reports will be ~~submitted~~ retained by ~~the auditor to the~~ Iowa workforce development ~~administrative office~~.

ITEM 11. Amend subrules 22.18(1) and 22.18(2) as follows:

**22.18(1)** An agent, tax practitioner, accounting firm, attorney or any other firm or individual that represents or intervenes on behalf of an employer in any unemployment insurance matter shall have on file with the department:

*a.* A power of attorney, or

*b.* A letter of authorization from the employer~~.~~, or

*c.* An electronic designation of authority from the employer.

**22.18(2)** The foregoing documents shall contain the following information:

*a.* ~~The employer's~~ Employer's full ~~trade~~ legal name, address and account number.

*b.* ~~The name, address and telephone number of the agent or firm representing the employer.~~ Employer doing business as (DBA) or trade name if any.

*c.* ~~The signature of the employer.~~ Legal name, address, telephone number and federal employer identification number (FEIN) of the agent or firm representing the employer.

*d.* ~~A statement that such agent or firm is duly authorized to represent the employer.~~ Employer's E-mail address.

*e.* Address of the designated agent.

*f.* Roles that the agent or firm is authorized to perform for the employer.

*g.* Signature of the employer.

ITEM 12. Amend subrule 23.8(3) as follows:

**23.8(3)** *Due date for new employer.* The first contribution payment of any employer who becomes newly liable for contributions in any year shall become due and payable on the last day of the month ~~next~~ following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of one or more workers were employed on any one day, or the last day of the month ~~next~~ following that calendar quarter in which a total of $1500 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

*a.* The first contribution payment of any agricultural employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of ten or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of $20,000 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

*b.* The first contribution payment of any domestic employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein the liability was established, or the last day of the month following that calendar quarter in which a total of $1,000 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

ITEM 13. Amend rule 871—23.9(96) as follows:

**871—23.9(96) Delinquency notice.** Within 20 days from the delinquent date for filing Form 65-5300, Employer's Quarterly Contribution ~~and~~ & Payroll Report, a Delinquency Notice, Form 65-5313, will be

sent to all employers from whom no report has been received. Such notice shall state the employer's name, account number, experience rate, and the quarter for which the report needs to be made. The notice will be sent to the employer's last-known address or place of business. If the employer has sold or dissolved the business, the employer shall fill out the ~~reverse side of the notice,~~ information section on Form 65-5313, showing the date of the last wages paid and the date of last employment. If the business was sold or transferred, the employer shall show the name and address of the successor~~,~~ and the employer's future mailing address. Such notice shall then be returned to the department for a change of status determination.

ITEM 14. Rescind subrules **23.11(3)**, **23.11(5)** and **23.11(6)**.

ITEM 15. Renumber subrule **23.11(4)** as **23.11(3)**.

ITEM 16. Amend renumbered paragraph **23.11(3)"b"** as follows:

*b.* Each worker who has not secured an account number shall file an application for a federal social security account number on Form SS-5 of the Treasury Department, ~~bureau of internal revenue~~ Internal Revenue Service. The application shall be filed on or before the seventh day after the date on which the worker first performs employment for wages, except that the application shall be filed on or before the date the worker leaves employment if such date precedes such seventh day. ~~Copies of Form SS-5, application for a social security account number, can be secured at the field office of the social security board nearest the worker's place of employment or the local post office.~~

ITEM 17. Amend paragraph **23.17(1)"a"** as follows:

*a.* *New group accounts.* The application shall list each proposed member and must be signed by each proposed member and shall ~~set out~~ appoint one member as the agent for the group ~~with respect to~~ for all dealings with the ~~workforce development~~ department.

ITEM 18. Amend subrule 23.17(9) as follows:

**23.17(9)** ~~A government group shall not post bond; however, should~~ Should a government group or any ~~member(s) thereof~~ group member default with respect to any payments due the department, the amount of such delinquency shall be deducted from any further moneys due to the members of the group by the state as provided in Iowa Code section 96.14(2).

ITEM 19. Amend paragraphs **23.17(14)"c"** and **"d"** as follows:

*c.* Each member of a group ~~shall~~ may submit quarterly wage information and labor market information for their reporting unit electronically or each member of a group shall submit a quarterly payroll report to the group's agent who shall combine such reports into one report for all reporting units on Form 65-5300, Employer's Contribution ~~and~~ & Payroll Report, and shall submit such combined report to the department on or before the delinquent date for such quarter.

*d.* ~~The agent shall also submit Form 65-5305, Summary of Quarterly Payroll by Location, designating which page(s) of the combined payroll report belongs to each member of the group in the manner provided in 871—subrules 22.13(3) to 22.13(5).~~ Submittal of the quarterly report electronically by worksite reporting unit will eliminate the requirement to submit the multiple worksite report.

ITEM 20. Adopt the following **new** paragraph **23.18(3)"c"**:

*c.* Services performed by a son or daughter over the age of 18 as an approved provider for consumer-directed care in the employ of a father or mother who is an approved consumer of a home and community-based waiver services program are exempt from the provisions of Iowa Code chapter 96.

ITEM 21. Amend subrule 23.31(2) as follows:

**23.31(2)** *Portion of reserve and payroll transferred.* When the requirements for partial transfer as defined in subrule 23.31(1) have been met, the transfer shall be made in accordance with one of the following:

*a.* If the predecessor's account has been in existence less than five years prior to the acquisition or purchase date (or more than five years when records are available), the ~~actual taxable wages contributions, benefit charges, interest earned, and wage records of individual employees (as supplied~~

~~on Form 68-0065) attributable to the portion acquired shall be transferred~~ information necessary to calculate future rates will be transferred; or~~,~~

*b.* If the predecessor's account has been in existence more than five years (and records prior to five years are unavailable) and the acquired portion has also been in existence more than five years,

(1) The actual taxable wages, ~~contributions,~~ and benefit charges~~, and interest earned~~ attributable to the acquired portion for the five-year period immediately preceding the date of acquisition shall be transferred, plus

(2) That portion of the predecessor's ~~contributions,~~ benefit charges~~, and interest earned~~ for the period commencing with the beginning date of the predecessor's account and ending five years prior to the acquisition date equal to the ratio of the taxable wages attributable to the acquired portion for the 12 completed calendar quarters immediately preceding the acquisition date to the total taxable wages reported by the predecessor for the same 12-quarter period, and

(3) The individual wage records attributable to the acquired portion (as supplied on Form 68-0065); or~~,~~

*c.* If the predecessor's account has been in existence more than five years but the acquired portion came into existence within the last five years, the actual taxable wages, ~~contributions,~~ benefit charges, ~~interest earned~~ and individual wage records (as supplied on Form 68-0065) attributable to the acquired portion shall be transferred~~.~~; or

*d.* In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

ITEM 22. Amend subparagraph **23.32(4)"a"(2)** as follows:

(2) Using this percentage, taxable wages~~, contributions,~~ and benefit charges ~~and interest earned~~, commencing with the beginning date of the predecessor's account, will be transferred from the predecessor's account to the successor's account.

ITEM 23. Adopt the following **new** paragraph **23.32(4)"h"**:

*h.* In the case of governmental transfers in addition to the items listed above, contributions and interest earned must be transferred for all years.

ITEM 24. Amend rule 871—23.36(96) as follows:

**871—23.36(96) Predecessor—contribution rates for winding down a business.** In the case where a predecessor has transferred its organization, trade, or business, or substantially all assets, to a successor in interest and the predecessor employer continues to operate a part of the business in order to wind down or close the business after the date of transfer, the predecessor shall ~~be assigned a new account number and the rate of a newly covered employer for the purposes of reporting the wind down wages~~ retain the same account number but will recompute the eligibility year, determination date, effective date, law citation and tax rate to that of a newly covered employer. For the purposes of this rule, the term "wind down wages" may exclude wages earned before the sale or transfer that were paid in the four consecutive quarters after the quarter in which the sale or transfer occurred.

This rule is intended to implement Iowa Code sections 96.8(1) and 96.8(4)*"a."*

ITEM 25. Amend rule 871—23.37(96) as follows:

**871—23.37(96) Adjustments and refunds of contributions.**

**23.37(1)** ~~Contribution reports, when once submitted, shall not be returned to employers for correction.~~ Whenever any employer discovers that the contribution report submitted is incorrect resulting in overpayment of contributions due and owing, such employer may file an application for credit allowance or refund. If the department discovers that the contribution report submitted by any employer is incorrect resulting in overpayment of contribution, it may on its own initiative refund or make a credit allowance. No refund or credit allowance will be made after three years from the date on which the overpayment was made. The ~~application (~~ Form 68-0061, Employer's Wage Adjustment Report, ~~Form 68-0061) shall be furnished by the department and~~ shall be filed by paper or electronically to show corrections to the individual wage amounts, corrections ~~to the report~~ of grand totals (total

wages, taxable wages and ~~contribution~~ contributions), and a full explanation for the adjustment. Adjustment shall be made by the department in the form of credit allowance or refund as provided in subrule 23.37(3) equal to that portion of contributions erroneously paid which exceeds the benefits paid to claimants as a direct result of the employer's erroneous report.

**23.37(2)** If the contribution and wage report first submitted by an employer understates the amount of wages paid for a given period, ~~such~~ the employer ~~shall~~ will file using a ~~supplemental report or Employer's Wage Adjustment Report,~~ Form 68-0061, Employer's Wage Adjustment Report, for the period and make ~~remittance~~ payment covering all additional contributions, penalty and interest due ~~and owing for the period on the unreported wages and interest~~.

*a.* If it is apparent, upon examination of any regular or supplemental contribution report or Form 68-0061, Employer's Wage Adjustment Report, ~~Form 68-0061,~~ that a greater contribution than is required by law has been paid, the department may, within three years from the date of such overpayment, make an adjustment and issue a credit adjustment memorandum for such overpayment.

*b.* If it is not apparent from the examination of any regular or supplemental contribution report or Form 68-0061, Employer's Wage Adjustment Report, ~~Form 68-0061,~~ that a contribution greater than that required by law has been made, any employer or employing unit claiming a credit adjustment shall file with the department a written application for such adjustment within three years from the date on which such overpayment was made. Such credit adjustment shall be granted only after a review of the application which ~~shall~~ will set forth such information in the matter as may be required. If, after such review, the adjustment is found to be in order, the department shall issue a credit adjustment ~~memorandum~~ or refund for the overpayment.

**23.37(3)** ~~Each credit adjustment memorandum issued shall be mailed to the employer at the last-known address. The employer may attach the memorandum to the contribution and wage report to the department for a future reporting period following receipt of the memorandum.~~ The amount of the credit ~~memo~~ will be deducted from the contributions in the employer's account and credited to ~~a credit memo~~ any outstanding account balance until the credit ~~memo~~ is used or canceled in accordance with these rules. ~~Upon receipt by the department, the credit memorandum will be applied against contributions due for the period covered by the contribution report to which the memorandum is attached and the account will be adjusted accordingly.~~ If the employer fails to utilize the credit ~~memorandum issued to it~~ as provided above, the department shall, three years from the date of issuance, cancel the credit and ~~redeposit the amount of the credit to the employer's reserve balance~~ show it as a nonrefundable credit. The department, upon request of the employer ~~or employing unit~~ or ~~upon~~ on its own initiative, may issue ~~an order directing~~ a refund of the overpayment. The state comptroller is responsible for the issuance of the warrant.

**23.37(4)** and **23.37(5)** No change.

ITEM 26. Rescind and reserve rule **871—23.46(96)**.

ITEM 27. Amend rule 871—23.47(96) as follows:

**871—23.47(96) Termination of accounts because of no wage reports.**

**23.47(1)** If an employer discontinues business or continues business without employment, the employer may request that the employer's account be placed ~~into pending~~ in an inactive status. ~~The term "pending" refers to an account that is placed in inactive status pending termination as provided in Iowa Code section 96.8(4)*"b."*~~ Upon determination of ~~pending~~ an inactive status, the department shall notify the employer ~~on Form 65-5308, Notice of Employer Status and Liability,~~ that the employer's account has been placed in an inactive status and that the employer ~~shall no longer receive a quarterly reporting Form 65-5300, Employer's Contribution and Payroll Report. While in pending status, the business~~ is not required to file quarterly reports. However, the employer must notify the department if~~, at any time,~~ the employer resumes paying Iowa wages.

**23.47(2)** If~~, at any time,~~ the department finds ~~by~~ that an employer ~~liability investigation or otherwise that an employer~~ has discontinued business or is no longer paying wages, the department may on its

own motion place the account in ~~pending~~ an inactive status. However, the employer must notify the department if~~, at any time,~~ the employer resumes paying Iowa wages.

**23.47(3)** If~~, at any time~~ prior to termination, ~~a pending~~ an inactive account is found to have paid wages in any quarter, the employer account shall be reactivated, reports shall be secured for all quarters ~~in which~~ the account was ~~in pending~~ inactive, including no wage reports for quarters for which there was no employment, and the account shall receive an experience rating; provided, the account has been in existence long enough to qualify for an experience rating.

**23.47(4)** No change.

**23.47(5)** If an employer has filed eight consecutive reports with zero wages, the account may be placed in inactive status.

This rule is intended to implement Iowa Code sections 96.7(2)*"c"* and *"d"* and 96.8(4)*"b."*

ITEM 28. Amend rule 871—23.48(96) as follows:

**871—23.48(96) Previously covered employers.** If a contributory employer's account has been properly terminated ~~(including an employer who has terminated an election to be contributory and has elected to be reimbursable),~~ and ~~such~~ the employer is again determined liable or a reimbursable employer again elects to be contributory, the employer shall be treated the same as a newly covered employer, except the employer will not receive a new account number. The employer's wage information prior to the termination will not be used for tax rate or taxable wage calculations.

This rule is intended to implement Iowa Code sections 96.7 and 96.8.

ITEM 29. Amend subrule 23.60(2) as follows:

**23.60(2)** The amount of the penalty for a delinquent or insufficient report shall be based on the total wages paid by the employer in the period for which the report was due, except that the penalty shall not be less than ~~$10~~ $35 for the ~~first~~ delinquent report or the ~~first~~ insufficient report not made sufficient within 30 days of a request to do so. ~~The penalty shall not be less than $25 for the second delinquent or insufficient report, and not less than $50 for each subsequent delinquent or insufficient report, until four consecutive calendar quarters of reports are timely and sufficiently filed.~~ An insufficient report is defined as a quarterly report that does not have all social security numbers, all corresponding names, total wages for each employee, or a reporting unit number. Reports submitted without a correct account number, federal employer identification number, labor market information, signature, or report submitted for an unemployment account that has not yet been established by the employer or agent may be considered insufficient.

ITEM 30. Amend paragraphs **23.70(11)"a"** and **"b"** as follows:

*a.* A nonprofit organization changing its tax status from reimbursable to contributory or contributory to reimbursable will retain the same employer account number. A nonprofit organization terminating its election to reimburse the fund shall be treated as a newly covered employer for the purpose of establishing a contribution rate, except as provided in paragraph *"b."*

*b.* ~~Separate accounts will be maintained for the period of time that a nonprofit organization is reimbursable and for the period of time for which the nonprofit organization is contributory.~~ The experience ~~of these accounts~~, while under each tax status, will not be combined for rate computation purposes unless the department finds, or has reason to believe, that the nonprofit organization changing from a reimbursable status to a contributory status is unable to reimburse the fund for benefits outstanding at the time of the change in status, plus any benefits paid after the change in status that are based on wages paid while the nonprofit organization was still in a reimbursable status. The department may then, at its own option, use the unreimbursed benefits in the computation of the nonprofit organization's contribution rate and transfer any contributions collected, above what the nonprofit organization would have paid as a newly covered employer, from the nonprofit organization's contributory account to the reimbursable account to apply against the unreimbursed benefits.

ITEM 31. Amend paragraph **24.22(2)"f"** as follows:

*f. Part-time worker, student—other.* Part-time worker shall mean any individual who has been in the employ of an employing unit and has established a pattern of part-time regular employment which

is subject to the employment security tax, and has accrued wage credits while working in a part-time job. If such part-time worker becomes separated from this employment for no disqualifiable reason, and providing such worker has reasonable expectation of securing other employment ~~during the same hours and~~ for the same number of hours worked, no disqualification shall be imposed under Iowa Code section 96.4(3). In other words, if an individual is available to the same degree and to the same extent as when the wage credits were accrued, the individual meets the eligibility requirements of the law.

ITEM 32. Adopt the following **new** rule 871—24.40(96):

**871—24.40(96) Training extension benefits.**

**24.40(1)** The purpose of training extension benefits is to provide the individual with continued eligibility for benefits so that the individual may pursue a training program for entry into a high-demand or high-technology occupation. Training extension benefits are available to an individual who was laid off or voluntarily quit with good cause attributable to the individual's employer from full-time employment in a declining occupation or is involuntarily separated from full-time employment as a result of a permanent reduction of operations.

**24.40(2)** The weekly benefit amount shall be pursuant to the same terms and conditions as regular unemployment benefits and the benefits shall be for a maximum of 26 times the weekly benefit amount of the claim which resulted in eligibility. Both contributory and reimbursable employers shall be relieved of charges for training extension benefits.

**24.40(3)** The course or courses must be for a high-demand or high-technology occupation. The department will make available to serve as a guide a list of high-demand, high-technology, and declining occupations. The lists shall be available on the department's Web site and workforce centers.

*a.* High-technology occupations include life sciences, advanced manufacturing, biotechnology, alternative fuels, insurance, environmental technology, and technologically advanced green jobs. A high-technology occupation is one which requires a high degree of training in the sciences, engineering, or other advanced learning area and has work opportunities available in the labor market area or the state of Iowa.

*b.* A high-demand occupation means an occupation in a labor market area or the state of Iowa as a whole in which the department determines that work opportunities are available.

*c.* A declining occupation has a lack of sufficient current demand in the individual's labor market area or the state of Iowa for the occupational skills possessed by the individual, and the lack of employment opportunities is expected to continue for an extended period of time.

*d.* A declining occupation includes an occupation for which there is a seasonal variation in demand in the labor market or the state of Iowa, and the individual has no other skill for which there is a current demand.

*e.* A declining or high-demand occupation will be determined by using Iowa labor market information for each region in the state.

**24.40(4)** The individual must be enrolled in the training no later than the end of the benefit year which included the separation which made the individual eligible for training benefits or the week in which any federal benefit program based upon that benefit year is exhausted. Enrolled before the end of the benefit year means the individual has taken all steps available for entry into the training and has secured a reserved position in the training class. The individual has paid tuition or will pay tuition when the training starts. The training class may begin after the end of the benefit year. The application for training benefits must be received 30 days after the end of the benefit year or 30 days after federal benefits are exhausted. The individual must be enrolled and making satisfactory progress to complete the training program in order to continue to be eligible for training extension benefits.

**24.40(5)** Training benefits shall cease to be available if the training is completed; the individual quits the training course; the individual exhausts the training extension maximum benefit amount; or the individual fails to make satisfactory progress; and benefits shall cease no later than one calendar year following the end of the benefit year in which the individual became eligible for the benefits. Individuals

must file and receive benefits under any federal or state unemployment insurance benefit program until the claim has expired or has been exhausted, in order to maintain eligibility for training extension benefits.

This rule is intended to implement 2009 Iowa Acts, Senate File 197, section 1.

ITEM 33. Amend subrule 24.58(1) as follows:

**24.58(1)** A shared work plan will last no longer than ~~26~~ 52 weeks from the date on which the plan is first effective. The minimum length of a plan is four weeks. An employing unit is eligible for only one plan during a 24-month period.

ITEM 34. Amend rule **871—24.58(96)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 96.40 as amended by 2009 Iowa Acts, Senate File 478, section 111.

# ARC 8600B

# ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts an amendment to Chapter 78, "Small Business Disaster Recovery Financial Assistance Program," Iowa Administrative Code.

This amendment deletes the requirement that eligible businesses have "executed" loan documents for a disaster loan from an eligible lender prior to receiving assistance from this program. This amendment allows a business to apply for assistance if it can provide documentation to show that it has been approved for a disaster loan from an eligible lender. The amendment further provides that subrule 78.4(2) is retroactive to awards made on or after September 18, 2008 (the date this program began).

Original rules for this program, adopted by the IDED Board on September 18, 2008, required businesses to have received a disaster loan from an eligible lender. On September 26, 2008, the IDED Board adopted an amendment to the rules that changed and clarified a number of items. Among these items was an amendment to require businesses to have executed loan documents. The purpose of the amendment was to ensure that there was evidence of underwriting or the reasonable assurance of the viability of businesses that were damaged by the 2008 disasters and that applied for recovery assistance.

Guidance sent out from the state to local program operators and prospective businesses stated the requirements for businesses to be eligible to receive a disaster recovery loan. The guidance did not specify that the business must show proof that it had accepted the loan or executed loan documents. Review of the recipients for this program has shown that, while recipients had documented loan approval, the majority did not decide to accept the loan and therefore did not execute the loan documents. Federal officials have noted the discrepancy between documentation of loan approval and the rule requirement for executed loan documents. Federal officials have advised the Department that this discrepancy could result in disallowance of federal funds for the program.

The Department has reviewed the original rule, which required documentation of loan approval and sufficient evidence that a responsible lender had performed due diligence on the financial viability of the business and that the lender was prepared to underwrite the business. This assurance of due diligence was the purpose of the rule and the subsequent amendment. The rule change requiring "executed" loan documents had an unintended consequence. It was not the Department's intent to require recipients to take on a loan they did not want.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because there is an immediate need to correct a provision that will enable federal funding to eligible businesses in the areas of the state that suffered damage due to the natural disasters in 2008. The public interest in the availability of federal funding to distribute outweighs the benefit of a comment period. The Department also finds that amendment of the rule retroactively confers a substantial benefit to the state and its businesses that were affected by the disasters of 2008 and that no businesses or other parties are adversely affected. The original rule which required documentation of loan approval from an eligible lender provided the assurance the Department sought for adequate due diligence prior to making a loan.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and the amendment be made effective upon filing with the Administrative Rules Coordinator on February 19, 2010. This amendment confers a benefit on the public by enabling federal funding for applicants in need of financial assistance for help with disaster recovery efforts.

The Iowa Economic Development Board adopted this amendment on February 18, 2010.

This amendment became effective on February 19, 2010.

This amendment is intended to implement Iowa Code section 15.109.

The following amendment is adopted.

Amend subrule 78.4(2) as follows:

**78.4(2)** The business has ~~executed loan documents~~ been approved for a disaster loan from an eligible lender. This subrule is retroactive to September 18, 2008.

[Filed Emergency 2/19/10, effective 2/19/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

**ARC 8556B**

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 234.6(6) and 249A.4, the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," and Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The amendments remove the requirement for a client to verify dependent care expenses for determination of Food Assistance eligibility and of Medicaid eligibility related to the Family Medical Assistance Program. Both programs allow a deduction for the expenses of care for children or dependent adults when the client is working or looking for a job. Federal regulations do not require verification of these expenses, and care expenses have not been an error-prone area. The Department is streamlining eligibility requirements in this area as a means of dealing with higher caseloads. Questionable claims will still be subject to verification.

These amendments do not provide for waivers in specified situations because a reduction in documents that need to be supplied is a benefit to clients.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on December 16, 2009, as **ARC 8407B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on February 10, 2010.

The Department finds that these amendments reduce restrictions on clients with dependent care expenditures by streamlining procedures. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code sections 234.12 and 249A.4.

These amendments became effective on February 10, 2010.

The following amendments are adopted.

ITEM 1. Rescind and reserve paragraphs **65.22(1)"b," "d"** and **"e."**

ITEM 2. Amend rule 441—65.33(234) as follows:

**441—65.33(234) Dependent care deduction.** Households shall be allowed a deduction for the amount of ~~verified~~ monthly dependent care expenses.

ITEM 3. Amend subparagraph **75.57(2)"b"(7)** as follows:

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

[Filed Emergency After Notice 2/10/10, effective 2/10/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

# ARC 8580B

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed Emergency After Notice**

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

These amendments enable children to establish or regain eligibility for HAWK-I when eligibility has been denied or canceled due to failure to provide required information or a completed review form. In both situations, eligibility will be granted if the necessary information or the completed review form is provided no later than 14 calendar days from the date of the notice of denial or the effective date of cancellation, and if the Department determines that eligibility exists.

These amendments allow families to resolve the reason for the denial or cancellation rather than having to start all over again with a new application. Having to reapply may discourage families of otherwise eligible children from obtaining needed assistance. These changes are expected to result in the issuance of more timely benefits, fewer gaps in benefit eligibility, and less repeated work for eligibility staff. The changes should also reduce the number of appeals of denials and cancellations.

The amendments also exempt reasonable income-producing costs from all unearned income to align policies with other health and financial support programs of the Department.

These amendments do not provide for waivers in specified situations because the changes benefit the families affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on November 18, 2009, as **ARC 8279B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Department finds that these amendments confer a benefit on HAWK-I members who are late returning information by streamlining procedures for continuing eligibility. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

The HAWK-I Board adopted these amendments on February 15, 2010.

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

These amendments became effective on March 1, 2010.

The following amendments are adopted.

ITEM 1. Amend rule **441—86.1(514I)**, definition of "Unearned income," as follows:

*"Unearned income"* means cash income of all parents, spouses, and children under the age of 19 who are living together in accordance with subrule 86.2(3) that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes) <u>and any reasonable income-producing costs</u>. Examples of unearned income include, but are not limited to:

1. to 4. No change.

ITEM 2. Amend paragraph **86.3(7)"b"** as follows:

*b.* Failure to supply the information or verification or refusal to authorize the third-party administrator to secure the information shall serve as a basis for rejection of the application or cancellation of coverage. <u>If the requested information or authorization is received within 14 calendar days of the notice of decision on an application or within 14 calendar days of the effective date of cancellation for enrollees, the information or authorization shall be acted upon as though it had been provided timely. If the fourteenth calendar day falls on a weekend or state holiday, the applicant or enrollee shall have until the next business day to provide the information.</u>

ITEM 3. Amend subrule 86.9(2) as follows:

**86.9(2)** *Failure to provide information.* The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in

the annual review process. If the completed review form and any information necessary to establish continued eligibility are received within 14 calendar days of the end of an enrollment period, the review form and information shall be acted upon as though they had been received timely. If the fourteenth calendar day falls on a weekend or state holiday, the enrollee shall have until the next business day to provide the review form and any information necessary to establish continued eligibility.

[Filed Emergency After Notice 2/15/10, effective 3/1/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

# ARC 8614B

## DENTAL BOARD[650]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby amends Chapter 29, "Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia," Iowa Administrative Code.

The amendments make various changes to the rules on the use of sedation and antianxiety premedication. The intent of these changes is to clarify the different levels of sedation and to clarify when a dentist must hold a sedation permit. In 2008, the American Dental Association (ADA) revised its guidelines for the use of sedation and adopted new definitions concerning sedation. The ADA adopted new definitions for "minimal sedation" and "moderate sedation," which was previously referred to as "conscious sedation." The Board is adopting these new definitions, along with additional guidance for dentists on what constitutes minimal sedation or antianxiety premedication.

The training requirements for obtaining a moderate sedation or deep sedation permit in Iowa have not changed; however, the Board is incorporating the specific requirements in its rules. To qualify for a moderate sedation permit, a dentist must complete a Board-approved course in moderate (conscious) sedation that consists of a minimum of 60 hours of instruction and management of at least 20 patients. The Board does not differentiate between an enteral sedation permit or a parenteral sedation permit. All dentists who administer moderate sedation, regardless of the route of administration, must meet the same training requirements.

The amendments also require that a dentist utilizing moderate sedation on pediatric (patients aged 12 and under) or American Society of Anesthesiologists (ASA) category 3 or 4 patients must have completed additional postgraduate training approved by the Board. This requirement is consistent with the ADA guidelines that require dentists to have completed additional training in pediatric and medically compromised patients in order to provide sedation to these patients. This change will impact all current permit holders as well as new applicants. The Board surveyed existing permit holders to determine the level of impact. Two-thirds of permit holders responded to the survey. Only one person who responded to the survey would be negatively impacted. The permit holder would be eligible to apply for a waiver of this subrule.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the December 16, 2009, Iowa Administrative Bulletin as **ARC 8370B**. A public hearing on the proposed amendments was held on January 5, 2010. Four written comments on the proposed amendments were received. In response to these comments, the following changes were made.

In Item 4, the definition of "ASA" has been changed and a new definition for "maximum recommended dose (MRD)" has been added.

In Item 7, paragraph "c" has been amended to clarify that a dentist may also be eligible for a moderate sedation permit if the dentist completes an accredited residency program that includes formal training and clinical experience in moderate sedation.

In Item 13, the time period for reporting mortality or hospitalization incidents due to the use of sedation has been changed from 30 days to 7 days.

A new Item 14 has been added in response to comments from the Iowa Dental Association requesting that record-keeping requirements for each level of sedation be specified in accordance with ADA guidelines.

These amendments were approved at the January 26, 2010, teleconference meeting of the Iowa Dental Board.

These amendments will become effective on April 14, 2010.

These amendments are intended to implement Iowa Code sections 153.33 and 153.34.

The following amendments are adopted.

ITEM 1. Amend **650—Chapter 29**, title, as follows:

~~DEEP SEDATION/GENERAL ANESTHESIA, CONSCIOUS~~ SEDATION AND NITROUS OXIDE INHALATION ANALGESIA

ITEM 2. Amend rule 650—29.1(153), introductory paragraph, as follows:

**650—29.1(153) Definitions.** For the purpose of these rules, relative to the administration of deep sedation/general anesthesia, ~~conscious~~ moderate sedation, minimal sedation, and nitrous oxide inhalation analgesia by licensed dentists, the following definitions shall apply:

ITEM 3. Amend rule **650—29.1(153)**, definitions of "Antianxiety premedication" and "Conscious sedation," as follows:

*"Antianxiety premedication"* ~~is the prescription/administration of pharmacologic substances for the relief of anxiety and apprehension which does not result in a depressed level of consciousness~~ means minimal sedation. A dentist providing minimal sedation must meet the requirements of rule 650—29.7(153).

*"Conscious sedation"* ~~is a depressed level of consciousness produced by the administration of pharmacologic substances, that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command~~ means moderate sedation.

ITEM 4. Adopt the following **new** definitions of "ASA," "Maximum recommended dose (MRD)," "Minimal sedation," "Moderate sedation" and "Pediatric" in rule **650—29.1(153)**:

*"ASA"* refers to the American Society of Anesthesiologists Patient Physical Status Classification System. Category 1 means normal healthy patients, and category 2 means patients with mild systemic disease. Category 3 means patients with moderate systemic disease, and category 4 means patients with severe systemic disease that is a constant threat to life.

*"Maximum recommended dose (MRD)"* means the maximum FDA-recommended dose of a drug as printed in FDA-approved labeling for unmonitored home use.

*"Minimal sedation"* means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. The term "minimal sedation" also means "antianxiety premedication" or "anxiolysis." A dentist providing minimal sedation shall meet the requirements of rule 650—29.7(153).

*"Moderate sedation"* means a drug-induced depression of consciousness, either by enteral or parenteral means, during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Prior to January 1, 2010, moderate sedation was referred to as conscious sedation.

*"Pediatric"* means patients aged 12 or under.

ITEM 5. Strike "conscious" wherever it appears in rules **650—29.2(153)** to **650—29.7(153)**, **650—29.11(153)** and **650—29.12(153)** and insert "moderate" in lieu thereof.

ITEM 6. Amend paragraph **29.3(1)"a"** as follows:

*a.* Has successfully completed ~~Part II of the American Dental Association Council on Dental Education Guidelines~~ an advanced education program accredited by the Commission on Dental Accreditation that provides training in deep sedation and general anesthesia; and

ITEM 7. Amend subrule 29.4(1) as follows:

**29.4(1)** A permit may be issued to a licensed dentist to use ~~conscious~~ moderate sedation ~~on an outpatient basis~~ for dental patients provided the dentist meets the following requirements:

*a.* Has successfully completed a training program approved by the board that meets ~~Parts I and III of~~ the American Dental Association ~~Council on Dental Education~~ Guidelines for Teaching Pain Control

and Sedation to Dentists and Dental Students and that consists of a minimum of 60 hours of instruction and management of at least 20 patients; and

*b.* No change.

*c.* Has submitted evidence of successful completion of ~~conscious sedation experience at the graduate level~~ an accredited residency program that includes formal training and clinical experience in moderate sedation, which is approved by the board.

ITEM 8. Adopt the following **new** subrule 29.4(9):

**29.4(9)** A dentist utilizing moderate sedation on pediatric or ASA category 3 or 4 patients must have completed an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA category 3 or 4 patients. A dentist who does not meet the requirements of this subrule is prohibited from utilizing moderate sedation on pediatric or ASA category 3 or 4 patients.

ITEM 9. Amend subrule 29.5(8) as follows:

**29.5(8)** Permit holders shall follow the American Dental Association's guidelines for the use of ~~conscious sedation, deep~~ sedation and general anesthesia for dentists, except as otherwise specified in these rules.

ITEM 10. Adopt the following **new** subrule 29.5(9):

**29.5(9)** A dentist utilizing moderate sedation on pediatric or ASA category 3 or 4 patients must have completed an accredited residency program that includes formal training in anesthesia and clinical experience in managing pediatric or ASA category 3 or 4 patients. A dentist who does not meet the requirements of this subrule is prohibited from utilizing moderate sedation on pediatric or ASA category 3 or 4 patients.

ITEM 11. Amend rule 650—29.7(153) as follows:

**650—29.7(153) ~~Antianxiety premedication~~ Minimal sedation.**

**29.7(1)** ~~Antianxiety premedication is the prescription or administration of pharmacologic substances for the relief of anxiety and apprehension.~~ The term "minimal sedation" also means "antianxiety premedication" or "anxiolysis."

~~**29.7(2)** The regulation and monitoring of this modality of treatment are the responsibility of the ordering dentist.~~

~~**29.7(3)**~~ **29.7(2)** If a dentist intends to achieve a state of ~~conscious~~ moderate sedation from the administration of ~~an antianxiety premedication~~ minimal sedation, the rules for ~~conscious~~ moderate sedation shall apply.

~~**29.7(4)**~~ **29.7(3)** A dentist utilizing ~~antianxiety premedication~~ minimal sedation and the dentist's auxiliary personnel shall be trained in and capable of administering basic life support.

**29.7(4)** Minimal sedation for adults.

*a.* Minimal sedation for adults is limited to a dentist's prescribing or administering a single enteral drug that is no more than 1.0 times the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. A single supplemental dose of the same drug may be administered, provided the supplemental dose is no more than one-half of the initial dose and the dentist does not administer the supplemental dose until the dentist has determined the clinical half-life of the initial dose has passed.

*b.* The total aggregate dose shall not exceed 1.5 times the MRD on the day of treatment.

*c.* For adult patients, a dentist may also utilize nitrous oxide inhalation analgesia in combination with a single enteral drug.

*d.* Combining two or more enteral drugs, excluding nitrous oxide, prescribing or administering drugs that are not recommended for unmonitored home use, or administering any intravenous drug constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.

**29.7(5)** Minimal sedation for ASA category 3 or 4 patients or pediatric patients.

*a.* Minimal sedation for ASA category 3 or 4 patients or pediatric patients is limited to a dentist's prescribing or administering a single dose of a single enteral drug that can be prescribed for unmonitored home use and that is no more than 1.0 times the maximum recommended dose.

*b.* A dentist may administer nitrous oxide inhalation analgesia for minimal sedation of ASA category 3 or 4 patients or pediatric patients provided the concentration does not exceed 50 percent and is not used in combination with any other drug.

*c.* The use of one or more enteral drugs in combination with nitrous oxide, the use of more than a single enteral drug, or the administration of any intravenous drug in ASA category 3 or 4 patients or pediatric patients constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.

**29.7(6)** A dentist providing minimal sedation shall not bill for non-IV conscious or moderate sedation.

**29.7(7)** A dentist shall ensure that any advertisements related to the availability of antianxiety premedication, anxiolysis, or minimal sedation clearly reflect the level of sedation provided and are not misleading.

ITEM 12. Amend rule 650—29.9(153), catchwords, as follows:

**650—29.9(153) Reporting of adverse occurrences related to ~~deep sedation/general anesthesia, conscious~~ sedation, nitrous oxide inhalation analgesia, and antianxiety premedication.**

ITEM 13. Amend subrules 29.9(1) and 29.9(2) as follows:

**29.9(1)** *Reporting.* All licensed dentists in the practice of dentistry in this state must submit a report within a period of ~~30~~ seven days to the board of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, ~~conscious sedation~~ or ~~deep sedation/general anesthesia related thereto~~ sedation. The report shall include responses to at least the following:

*a.* to *f.* No change.

**29.9(2)** *Failure to report.* Failure to comply with subrule 29.9(1), when the occurrence is related to the use of ~~deep sedation/general anesthesia, conscious~~ sedation, nitrous oxide inhalation analgesia, or antianxiety premedication, may result in the dentist's loss of authorization to administer ~~deep sedation/general anesthesia, conscious~~ sedation, nitrous oxide inhalation analgesia, or antianxiety premedication or in ~~other sanctions~~ any other sanction provided by law.

ITEM 14. Amend rule 650—29.13(153) as follows:

**650—29.13(153) Record keeping.**

**29.13(1)** *Minimal sedation.* An appropriate sedative record must be maintained and must contain the names of all drugs administered, including local anesthetics and nitrous oxide, dosages, time administered, and monitored physiological parameters, including oxygenation, ventilation, and circulation.

**29.13(2)** *Moderate or deep sedation.* The patient chart must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. ~~Intermittent vital signs shall be taken and recorded in the patient chart during procedures and~~ Pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged.

**29.13(3)** *Nitrous oxide inhalation analgesia.* ~~For nitrous oxide inhalation analgesia, the~~ The patient chart must include the concentration administered and duration of administration, as well as any vital signs taken.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8606B

## EDUCATIONAL EXAMINERS BOARD[282]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 12, "Fees," Iowa Administrative Code.

This amendment establishes a portfolio review and evaluation process fee, which is necessary due to the many staff hours that are required to review each applicant portfolio.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 4, 2009, as **ARC 8251B**. A public hearing on the amendment was held on Wednesday, November 25, 2009. No one attended the public hearing, and no written comments were received. This amendment is identical to the one published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 14, 2010.

The following amendment is adopted.

Adopt the following **new** rule 282—12.8(272):

**282—12.8(272) Portfolio review and evaluation fees.** The fee for review and evaluation of an applicant portfolio is set as follows:

**12.8(1)** For the professional education core, the portfolio review and evaluation fee shall be $500.

**12.8(2)** For content endorsement, the portfolio review and evaluation fee shall be $250.

[Filed 2/19/10, effective 4/14/10]
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## ARC 8610B

## EDUCATIONAL EXAMINERS BOARD[282]

**Adopted and Filed**

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

The amendment to the rule for the portfolio review and evaluation process ensures that applicants who are completing nontraditional teacher preparation programs meet the same basic requirements as other applicants for Iowa licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 4, 2009, as **ARC 8249B**. A public hearing on the amendments was held on Wednesday, November 25, 2009. No one attended the public hearing, and no written comments were received. This amendment has been changed from that published under Notice. Some additional citations were included to clarify to whom this amendment applies, and the percentage of coursework that must be finished before an endorsement was changed from 50 to 75 percent.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 14, 2010.

The following amendment is adopted.

Amend rule 282—13.3(272) as follows:

**282—13.3(272) Applicants from ~~recognized~~ non-Iowa institutions.**

**13.3(1)** *Requirements for applicants from non-Iowa institutions.* An applicant for ~~initial~~ licensure who completes the teacher, administrator, or school service personnel preparation program from a ~~recognized~~ non-Iowa institution shall verify the requirements of either subrule 13.18(4) or 13.18(5).

**13.3(2)** *Requirements for applicants from non-Iowa traditional teacher preparation programs.* Provided all requirements for Iowa licensure have been met through a state-approved regionally accredited teacher education program at the graduate or undergraduate level in which college or university credits were given and student teaching was required, the applicant shall:

*a.* Provide a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed, and

*b.* Submit a copy of a valid regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate, and

*c.* Provide verification of successfully passing mandated tests in the state in which the applicant is currently licensed if the applicant has fewer than three years of teaching experience.

~~**13.3(1)**~~ **13.3(3)** *Requirements for ~~an alternative~~ applicants from out-of-state nontraditional teacher preparation ~~license for out-of-state candidates~~ programs.* An applicant who holds a valid license from another state and whose preparation was completed through a state-approved ~~alternative~~ nontraditional teacher preparation program must:

*a.* Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution.

*b.* Provide a valid out-of-state teaching license based on a state-approved ~~alternative~~ nontraditional teacher preparation program.

*c.* Provide a recommendation from a regionally accredited institution, department of education, or a state's standards board indicating the completion of an approved ~~alternative~~ nontraditional teacher preparation program.

*d.* Provide an official institutional transcript(s) to be analyzed for the requirements necessary for full Iowa licensure based on 13.9(4)*"a"*(1) to (7), ~~and~~ 13.9(4)*"c"*(1) to (5), 13.18(2), 282—13.28(272), and 282—14.2(272).

*e.* Meet the recency requirements listed in 13.10(3).

~~*e.*~~ *f.* If the applicant has ~~completed~~ fewer than three years of teaching experience, provide verification from the state licensing agency/department in the state where the ~~alternative~~ nontraditional teacher preparation program was completed indicating that the applicant has successfully passed that state's mandated tests.

~~*f.*~~ *g.* ~~Verify~~ Complete a student teaching or internship experience or verify three years of teaching experience~~, which will waive the student teaching requirement~~.

*h.* If through a transcript analysis the professional education core requirements set forth in 13.9(4)*"a"*(1) to (7), 13.9(4)*"c"*(1) to (5), and 13.18(2) and the content endorsement requirements pursuant to 282—13.28(272) may be identified by course titles, published course descriptions, and grades, then the transcripts will be reviewed to determine the applicant's eligibility for an Iowa teaching license. However, if the professional education core requirements of 13.9(4)*"a"*(1) to (7), 13.9(4)*"c"*(1) to (5), and 13.18(2) and the content endorsement requirements cannot be reviewed in this manner, a portfolio review and evaluation process will be utilized.

**13.3(4)** *Portfolio review and evaluation process.* An applicant whose professional education core requirements pursuant to 13.9(4)*"a"*(1) to (7), 13.9(4)*"c"*(1) to (5), and 13.18(2) or whose content endorsement requirements for special education (282—subrule 14.2(2)) could not be reviewed through transcript analysis may submit to the board a portfolio in the approved format for review and evaluation.

*a.* An applicant must demonstrate proficiency in seven of the nine standards in the Iowa professional education core, set forth in 13.18(4)*"a"* to *"i,"* to be eligible to receive a license.

*b.* An applicant must have completed at least 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the license. An applicant who does not have at least 75 percent of one content endorsement area as described in 282—13.28(272) completed will not be issued a license.

*c.* An applicant must meet with the board of educational examiners to answer any of the board's questions concerning the portfolio.

*d.* Any deficiencies in the professional education core as set forth in 13.18(4)*"a"* to *"i"* or in the special education content endorsement area that are identified during the portfolio review and evaluation process shall be met through coursework with course credits completed at a state-approved, regionally accredited institution or through courses approved by the executive director. Other content deficiencies may be met through coursework in a two- or four-year institution in which course credits are given.

~~**13.3(2)**~~ **13.3(5)** *Definitions.* ~~A recognized non-Iowa teacher preparation institution is one~~

*"Nontraditional"* means any method of teacher preparation that falls outside the traditional method of preparing teachers, that provides at least a one- or two-year sequenced program of instruction taught at regionally accredited and state-approved colleges or universities, that includes commonly recognized pedagogy classes being taught for course credit, and that requires a student teaching component.

*"Proficiency,"* for the purposes of 13.3(4)*"a,"* means that an applicant has passed all parts of the standard.

*"Recognized non-Iowa teacher preparation institution"* means an institution that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8604B

## EDUCATIONAL EXAMINERS BOARD[282]

**Adopted and Filed**

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

The amendment to the rule regarding exchange license requirements for applicants who submit a portfolio for review and evaluation pursuant to subrule 13.3(4) [see **ARC 8610B** herein] ensures that applicants who are completing nontraditional teacher preparation programs meet the same basic requirements as other applicants for Iowa licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 4, 2009, as **ARC 8250B**. A public hearing on the amendment was held on Wednesday, November 25, 2009. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 14, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [13.17] is being omitted. This amendment is identical to that published under Notice as **ARC 8250B**, IAB 11/4/09.

[Filed 2/19/10, effective 4/14/10]
[Published 3/10/10]

[For replacement pages for IAC, see IAC Supplement 3/10/10.]

## ARC 8607B

# EDUCATIONAL EXAMINERS BOARD[282]

**Adopted and Filed**

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

The following amendment adds greater clarity to each core content area to better communicate what elementary teachers must know in order to better serve students. The new subrule places greater emphasis on content and on meeting the needs of a wide range of learners in today's changing population. The new requirements will be effective for teachers beginning September 1, 2015.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 16, 2009, as **ARC 8408B**. A public hearing on the amendment was held on Wednesday, January 6, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 14, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [13.26(5)] is being omitted. This amendment is identical to that published under Notice as **ARC 8408B**, IAB 12/16/09.

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[For replacement pages for IAC, see IAC Supplement 3/10/10.]

## ARC 8608B

# EDUCATIONAL EXAMINERS BOARD[282]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 23, "Behind-the-Wheel Driving Instructor Authorization," Iowa Administrative Code.

The following amendment removes the requirement that the holder of a behind-the-wheel driving instructor authorization hold a driver's license specifically from Iowa. The rationale for this decision is that driving instructors in bordering states are occasionally hired to teach in driver education programs in Iowa, and requiring the applicants to get Iowa driver's licenses creates a barrier to their being able to work in driver education programs in Iowa.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 16, 2009, as **ARC 8409B**. A public hearing on the amendment was held on Wednesday, January 6, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to the one published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 14, 2010.

The following amendment is adopted.

Amend subrule 23.1(1) as follows:

**23.1(1)** *Qualifications.* To qualify for the behind-the-wheel driving instructor authorization, the applicant must:

*a.* Be at least 25 years of age.

*b.* Hold a valid ~~Iowa~~ driver's license that permits unaccompanied driving, other than a motorized bicycle license or a temporary restricted license.

*c.* No change.

[Filed 2/19/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

# ARC 8609B

# EDUCATIONAL EXAMINERS BOARD[282]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

This amendment establishes the criteria for renewal of the new Professional Service License adopted in July 2009.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 30, 2009, as **ARC 8410B**. A public hearing on the amendment was held on Wednesday, January 20, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to the one published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective April 14, 2010.

The following amendment is adopted.

Adopt the following **new** rules 282—27.4(272) and 282—27.5(272):

**282—27.4(272) Specific renewal requirements for the initial professional service license.**

**27.4(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

**27.4(2)** If a person meets all requirements for the standard professional service license except for the requirements in paragraph 27.2(2)*"b,"* the initial professional service license may be renewed upon written request. A second renewal may be granted if the holder of the initial license has not met the requirements in paragraph 27.2(2)*"b"* and if the license holder can provide evidence of employment which will be acceptable for the experience requirement.

**282—27.5(272) Specific renewal requirements for the standard professional service license.**

**27.5(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth in rule 282—20.3(272).

**27.5(2)** Four units are needed for renewal. These units may be earned in any combination listed below:

*a.* One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master's, specialist's, or doctor's degree program.

*b.* One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

*c.* One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

*d.* One unit may be earned upon completion of each licensure renewal course or activity approved pursuant to guidelines established by the board of educational examiners.

[Filed 2/19/10, effective 4/14/10]
[Published 3/10/10]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

**ARC 8584B**

# ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 2, "Fees and Charges," Iowa Administrative Code.

This amendment updates the administrative fee structure for engineers and land surveyors. The $25 application fee to take the Fundamentals of Engineering examination and the $30 application fee to take the Fundamentals of Land Surveying examination are being eliminated. These fees were paid to a third-party examination administrator. That administrator is no longer in service to the state; therefore, the fees are not needed. The $45 application fees to take the Principles and Practice of Engineering and the Principles and Practice of Land Surveying are both being increased to $100. These fees are paid directly to the Board for the service of processing and approving applications. This service is time-intensive, and the increase is in keeping with the amount that an outside vendor would charge for the service.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 16, 2009, as **ARC 8393B**. This amendment is identical to that published under Notice of Intended Action.

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

This amendment was adopted by the Board on January 21, 2010.

This amendment shall become effective April 14, 2010.

This amendment is intended to implement Iowa Code section 542B.30.

The following amendment is adopted.

Amend rule 193C—2.1(542B) as follows:

**193C—2.1(542B) General statement.** Fees are fixed in such an amount as will defray the expense of administering board responsibilities. Fees are charged in accordance with the following table:

| Type of fee | Amount |
|---|---|
| Renewal | |
| Active license renewal | $100 |
| Inactive license renewal | $40 |
| Reinstatement of lapsed license<br>(In addition to the reinstatement fee, the applicant for reinstatement must also pay the appropriate prorated reinstated license fee below.) | $100 |
| Reinstatement of inactive to active license | $60 |
| New or reinstated license<br>(In addition to the appropriate prorated reinstated license fee, the applicant for reinstatement must also pay the reinstatement fee above.) | $100<br>Prorated at six-month intervals |
| Application for examinations | |
| ~~Fundamentals of Engineering~~ | ~~$25~~ |
| ~~Fundamentals of Land Surveying~~ | ~~$30~~ |

ENGINEERING AND LAND SURVEYINGEXAMINING BOARD[193C](cont'd)

| Type of fee | Amount |
|---|---|
| Principles and Practice of Engineering | ~~$45~~ 100 |
| Principles and Practice of Land Surveying | ~~$45~~ 100 |
| Examinations | |
| Fees for NCEES examinations are paid directly to the examination service at the rate established by contract based upon cost of the examination materials and processing expenses. | Variable |
| Iowa State Specific Land Surveying Examination | $30 |
| Application for licensure by comity as a professional engineer or land surveyor | $150 |
| Certificates | |
| Initial professional engineer or land surveyor certificate | $15 |
| Additional or duplicate certificate | $25 |
| Engineer or land surveyor intern certificate | No charge |
| Check returned for insufficient funds | $15 |
| Verification of records for lapsed licensees | $15 per verification |
| Late renewal fee (for renewals postmarked after December 31 and before February 1) | $25 |

[Filed 2/17/10, effective 4/14/10]
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8596B

# ENVIRONMENTAL PROTECTION COMMISSION[567]

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.173, 455B.105(11) and 455B.299, the Environmental Protection Commission hereby amends Chapter 90, "Scope of Title—Definitions—Forms," Chapter 91, "Criteria for Rating and Ranking Projects for the Water Pollution Control State Revolving Fund," Chapter 92, "Clean Water State Revolving Fund," and Chapter 93, "Nonpoint Source Pollution Control Set-Aside Programs," Iowa Administrative Code.

The purpose of the amendments is to update the rules for the Clean Water State Revolving Fund to reflect new definitions and current program practices and to better define project eligibility and prioritization. The most extensive changes are to the Livestock Water Quality Facilities program. The goal of the amendments is to ensure that loan funds are targeted to water quality improvement.

The changes in Chapters 90 through 93 include the following:

**Chapter 90**

1. Update definitions of eligible projects to reflect new EPA Clean Watersheds Needs categories.
2. Add a definition of "sponsored projects" pursuant to Senate File 339, legislation passed in 2009 Iowa Acts that changed municipal finance law.
3. Remove financial terms. Financial functions are the responsibility of the Iowa Finance Authority.
4. Add a definition of "new AFO" for purposes of loan eligibility.

**Chapter 91**

1. Integrate point source and nonpoint source prioritization. Prioritization will be based on classification and designated use of receiving waters, relative impact of various project types, and project purpose.
2. Remove project readiness criteria that are covered by bypass procedures in Chapter 92 and remove compliance status criteria.

3. Allow nonpoint source projects to be funded on a first-come, first-funded concept until 90 percent of the set-aside is allocated.

**Chapter 92**

1. Clarify public notice procedures.
2. Remove disbursement schedules and the possibility of environmental impact statements from Intended Use Plan (IUP) components.
3. Remove financial analysis from criteria for fundable list. This is the Iowa Finance Authority's responsibility and is done through the loan application, not the IUP application.
4. Remove restrictions on funding to projects that previously received construction grants.
5. Reference the Clean Water Act to clarify eligibility of land purchase.
6. Make language on sponsored projects consistent with 2009 Iowa Acts, Senate File 339.
7. Include all assurances stated in the EPA Operating Agreement as required by the Clean Water Act.
8. Delete specific procedures for minority business enterprise (MBE)/women's business enterprise (WBE) and substitute a reference to new EPA disadvantaged business enterprise (DBE) rules.

**Chapter 93**

1. Onsite Wastewater Systems

• Change onsite fund to set-aside. The state fund originally established is no longer used.

• Remove financial underwriting criteria and other financial procedures. These are now covered in the Iowa Finance Authority's 265—Chapter 26 and in participation agreements with lenders.

2. Livestock Water Quality Facilities

• Change pass-through loan to linked deposit.
• Delete location preference.
• Give DNR the authority to deny applications based on enforcement actions.
• Limit funding to avoid subsidization of expansions.
• Refine list of eligible practices.
• Make certain equipment attachments eligible only when an open feedlot is replaced with a dry bedded confinement building and the equipment is integral to the new manure management system.
• Change application procedure. Applications will be submitted to the Soil and Water Conservation Districts rather than to the Department.
• Adopt Natural Resources Conservation Service technical standards where appropriate.
• Allow DNR or its agent to place restrictive covenant on land where open lot pens were shut down.
• Remove financial information.

3. Local Water Protection

• Delete location preference.
• Adopt Natural Resources Conservation Service technical standards.
• Limit overbuilding of practices.

4. General Nonpoint Source (GNS)

• Allow participation agreement as well as linked deposit.
• Define eligibility according to EPA Clean Watershed Needs categories.
• Change application procedure for GNS projects. Storm water and green infrastructure project applications will be submitted to the Soil and Water Conservation Districts, and other GNS project applications will be submitted to the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 18, 2009, as **ARC 8312B**. Public hearings were held December 10, 2009, and January 6, 2010. The written comment period closed January 11, 2010. As a result of the comments received, the following changes have been made to the amendments as published under Notice of Intended Action:

1. In paragraph 91.8(1)"e," an additional project purpose category has been added as follows:

| Project Purpose | Points |
|---|---|
| Protects or restores the physical, chemical, and biological integrity of water resources at a specific site | 50 |

2. Item 10, which rescinded existing rule 567—91.9(455B) and adopted a new rule in lieu thereof to define the terms "traditional" and "nontraditional," was not adopted.

3. In paragraph 93.5(1)"b," language has been modified to reflect that concentrated animal feeding operations, as defined in federal law, are not eligible to receive assistance from the state revolving fund. Paragraph 93.5(1)"b" now reads as follows:

"*b. Applicant eligibility.* Assistance is limited to livestock producers operating animal feeding operations according to federal law. Concentrated animal feeding operations as defined in 40 CFR Section 122.23 are not eligible."

These amendments are intended to implement Iowa Code sections 17A.3(1)"b," 455B.105 and 455B.291 to 455B.298, and 2009 Iowa Acts, Senate Files 339 and 432.

These amendments shall become effective April 14, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 90 to 93] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8312B**, IAB 11/18/09.

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[For replacement pages for IAC, see IAC Supplement 3/10/10.]

# ARC 8557B

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 239B.4(6) and 239B.8(2), the Department of Human Services amends Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code.

This amendment rescinds the amendment that was Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8346B**, and readopts it after a notice period to solicit public comments.

The amendment decreases the mileage reimbursement rate for travel to PROMISE JOBS activities in a private vehicle from $.34 per mile to $.30 per mile. The Department must reduce its projected spending for state fiscal year 2010 to comply with Executive Order Number 19, which mandated a 10 percent across-the-board spending reduction. Additionally, caseloads in the Family Investment Program and the PROMISE JOBS program are increasing at a higher rate than anticipated for state fiscal year 2010. Decreasing the mileage reimbursement rate assists the Department in reducing its spending and staying within budget.

Notice of Intended Action to solicit comments on the amendment was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8347B**. The Department received one comment on the Notice of Intended Action questioning the impact on the recipients affected and whether there was another savings option that would have a lesser impact. Because of the decline in fuel prices since this mileage rate was adopted, the Department finds that the lower rate still allows more reimbursement for the nonfuel operating costs than the higher rate did at the time of its adoption. This amendment is identical to the amendment that was Adopted and Filed Emergency and published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations. Needed savings will not be achieved if waivers are granted. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on February 10, 2010.

This amendment is intended to implement Executive Order Number 19 and Iowa Code section 239B.8(2).

This amendment shall become effective on April 14, 2010.

The following amendment is adopted.

Rescind subparagraph **93.11(3)"b"(2)** and adopt the following **new** subparagraph in lieu thereof:

(2) Private transportation. For participants who use a privately owned motor vehicle or who hire private transportation, the transportation payment shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the payment multiplied by the participant's anticipated daily round-trip miles and then multiplied by the mileage rate of 30 cents per mile.

[Filed 2/10/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

# ARC 8611B

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 153, "Funding for Local Services," Iowa Administrative Code.

These amendments rescind the amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on December 12, 2009, as **ARC 8319B**, and readopt them after a notice period to solicit public comments.

The amendments specify how the State Payment Program will implement a waiting list. Implementation of the waiting list is necessary for the state to operate within the reduced appropriation due to Executive Order Number 19, which mandated a 10 percent across-the-board spending reduction.

New applicants will be placed on a waiting list until the Department determines there is money to fund another applicant's services. The rules specify the procedures for submitting applications, determining the application date, and determining the priority of services for persons on the waiting list. Placement on the waiting list will not apply to persons applying to the program for payment of commitment costs.

Notice of Intended Action to solicit comment on these amendments was published in the December 12, 2009, Iowa Administrative Bulletin as **ARC 8320B**. The Department received no comments on the Notice of Intended Action. However, rules Adopted and Filed Emergency that were published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8486B** made further amendments to some of the provisions of the rules originally Adopted and Filed Emergency as **ARC 8319B**. Therefore, these amendments contain the following changes to the amendments published as **ARC 8319B** and **ARC 8320B**:

- The introductory paragraph of subrule 153.54(5) now reads: "The department shall start a waiting list when analysis of submitted expenditure reports indicates that the amount of funds needed to pay for the currently assigned payment slots exceeds the state payment program appropriation."
- Paragraph 153.54(5)"b" now reads: "When a waiting list is in effect, all new applications shall be placed on the waiting list with the exception of applicants who are subject to an involuntary commitment. Applicants who are subject to an involuntary commitment are exempted from waiting list placement for the services listed on the court order when the CPC includes a copy of relevant court orders directing services under Iowa Code chapter 229 for which payment is sought. If this documentation is not included, the application will be placed on the waiting list."
- Subrule 153.58(1) now reads: "Decisions regarding denial or termination of state payment program eligibility, including disenrollment, may be appealed to the department pursuant to 441—Chapter 7. Continuation of assistance will be granted pursuant to rule 441—7.9(17A)."

These amendments do contain provisions for a waiver for services provided under an involuntary commitment only. Requests for the waiver of any provision of the rules may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on February 18, 2010.

These amendments are intended to implement Executive Order Number 19 and Iowa Code section 331.440.

These amendments shall become effective on April 14, 2010.

The following amendments are adopted.

ITEM 1. Rescind paragraph **153.53(2)"a"** and adopt the following **new** paragraph in lieu thereof:

*a.* A funding request for the applicant showing:

(1) The services being requested,

(2) The total monthly dollar amount needed for the services requested, and

(3) The chart of accounts codes from the county billing system for the requested services.

ITEM 2. Rescind subrule 153.53(4) and adopt the following **new** subrule in lieu thereof:

**153.53(4)** *Application date.*

*a.* *Waiting list not in effect.* When a waiting list is not in effect, the application date shall be the latest of the following dates:

(1) The date on court commitment documents,

(2) The date on the CPC application form, or

(3) 60 days before the division receives the complete application, if the complete application is received more than 60 days after the date on the CPC application form.

*b.* *Waiting list in effect.* When a waiting list is in effect pursuant to subrule 153.54(5), the date of application shall be:

(1) The date on court commitment documents, or

(2) The date the application is moved off the waiting list.

ITEM 3. Rescind paragraph **153.54(2)"b"** and adopt the following **new** paragraph in lieu thereof:

*b.* An application shall be approved only when funds are available. When funds are insufficient, the application shall be placed on a statewide waiting list pursuant to subrule 153.54(5).

ITEM 4. Rescind subrule 153.54(5) and adopt the following **new** subrule in lieu thereof:

**153.54(5)** *Waiting list.* The department shall start a waiting list when analysis of submitted expenditure reports indicates that the amount of funds needed to pay for the currently assigned payment slots exceeds the state payment program appropriation.

*a.* *Notice of waiting list.* The department shall notify county CPCs:

(1) Before implementing a waiting list, and

(2) Promptly when the department determines a waiting list is no longer required.

*b.* *Placement on the waiting list.* When a waiting list is in effect, all new applications shall be placed on the waiting list with the exception of applicants who are subject to an involuntary commitment. Applicants who are subject to an involuntary commitment are exempted from waiting list placement for the services listed on the court order when the CPC includes a copy of relevant court orders directing services under Iowa Code chapter 229 for which payment is sought. If this documentation is not included, the application will be placed on the waiting list.

*c.* *Movement off the waiting list.* The department shall review the waiting list every 30 days. As funds are determined available, applications shall be moved off of the statewide waiting list. Applicants shall be served on a first-come, first-served basis, as determined by the date and time the complete application is received in the division office.

(1) In cases where applications are received simultaneously, the applicants will be prioritized by the birth month and day (earliest birth date first).

(2) If there are multiple applicants with the same birth month and day, the last four digits of the applicants' social security numbers will be used, with the lowest number being considered first.

*d.* *Notification of applicant status.* The department shall notify the CPC of each applicant's status quarterly, unless an application can be removed from the waiting list sooner. When the department notifies the CPC that an application can be removed from the waiting list, the CPC shall:

(1) Verify with the applicant that the services are still needed, and
(2) Notify the applicant that service funding is available for services identified.

ITEM 5. Rescind subrule 153.58(1) and adopt the following **new** subrule in lieu thereof:

**153.58(1)** Decisions regarding denial or termination of state payment program eligibility, including disenrollment, may be appealed to the department pursuant to 441—Chapter 7. Continuation of assistance will be granted pursuant to rule 441—7.9(17A).

ITEM 6. Amend **441—Chapter 153**, implementation sentence for division IV, as follows:

These rules are intended to implement Iowa Code section 331.440 ~~as amended by 2006 Iowa Acts, chapter 1115, division III~~.

[Filed 2/19/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

# ARC 8612B

# HUMAN SERVICES DEPARTMENT[441]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 153, "Funding for Local Services," Iowa Administrative Code.

These amendments rescind the amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8486B**, and readopt them after a notice period to solicit public comments. The amendments:

• Provide for disenrollment of members from the State Payment Program when available funds are insufficient to meet the costs of services for all of the members enrolled.

• Require the county central points of coordination for mental health, mental retardation, and developmental disability services (CPCs) to provide for evidence of receipt of an application for State Payment Program funding.

• Clarify the assignment to a waiting list for application approval.

• Prohibit reimbursement for case management costs eligible for Medicaid reimbursement, appointments and consultations for which the member did not appear, and other specified administrative and service costs.

Notice of Intended Action to solicit comments on these amendments was published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8438B**. The Department received no comments on the Notice of Intended Action. Amendments to subrules 153.54(5) and 153.58(1) are not included in this filing because those changes were readopted in **ARC 8611B**, published herein.

Disenrollment may be necessary to reduce State Payment Program expenses due to Executive Order Number 19, which mandates a 10 percent reduction in all state appropriations. Iowa Code section 8.38 states "No state department, institution, or agency . . . shall expend funds or approve claims in excess of the appropriations made thereto, nor expend funds for any purpose other than that for which the money was appropriated."

To implement the disenrollment provisions, each member will be assigned a payment slot number based on the member's application date and commitment status. The lowest numbers will be assigned to members in involuntary commitment status. When the person is released from the commitment order, a new payment slot will be assigned according to the procedures for all other applicants.

When disenrollment is necessary, members will be disenrolled in reverse order of their payment slot numbers, i.e., with the highest number (most recent approval) first. The Department will give members timely and adequate notice of the funding decision. This action will be subject to appeal according to the Department's procedures, which provide for continuation of assistance until the final appeal decision is reached, with recoupment of excess assistance if the final decision upholds the Department.

These amendments do not provide for waivers in specified situations other than the preference accorded to funding for involuntary services provided under court commitment. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on February 18, 2010.

These amendments are intended to implement Iowa Code section 331.440.

These amendments shall become effective on April 14, 2010.

The following amendments are adopted.

ITEM 1. Rescind subrule 153.53(3) and adopt the following **new** subrule in lieu thereof:

**153.53(3)** *Application submission.* The CPC or the CPC's designee shall:

*a.* Submit the complete application as defined in subrule 153.53(2) to the division within 15 business days of the date the CPC or designee receives a completed and signed CPC application form containing a properly completed legal settlement worksheet.

*b.* Generate a delivery receipt for the application, whether sent to the division by E-mail, fax, or certified mail. The division may require the delivery receipt when it is alleged that an application was sent but the division has no record of receiving the application.

ITEM 2. Rescind subrule 153.54(3) and adopt the following **new** subrule in lieu thereof:

**153.54(3)** *Effective date of eligibility.*

*a.* An applicant's eligibility for state payment program funding shall be effective from the application date as defined in subrule 153.53(4).

*b.* Each member shall be assigned a payment slot number based on the member's application date and commitment status.

(1) Members under a court-ordered involuntary commitment shall be considered the first priority for payment slot number assignment, in order of oldest commitment date first. The CPC shall notify the department within seven days of the date when the commitment order is released. When the commitment order is released, the member shall be reassigned a payment slot according to subparagraph 153.54(5)*"b"*(2).

(2) Slot number assignment for members who are not under an involuntary commitment order shall be based on the application date. For a member who was on a commitment order which has been released, the application date is the date of the member's first commitment order or the member's original application date, whichever is earliest. If there are multiple members with the same application date, the members will be prioritized by the birth month and day (earliest birth date first). If there are multiple members with the same birth month and day, the last four digits of the members' social security numbers will be used, with the lowest number being considered first.

ITEM 3. Rescind subrule 153.55(2) and adopt the following **new** subrule in lieu thereof:

**153.55(2)** *Excluded costs.* The following costs are excluded from payment by the state payment program:

*a.* Services received before the effective date of eligibility.

*b.* The cost of local services that the member is eligible to have funded by private sources or by other state or federal programs or funds, such as medical assistance program services or services provided in a state institution.

*c.* Scheduled appointments or consultations for which the member did not appear.

*d.* Service management (county chart of accounts numbers beginning with 22-000) for members eligible for Medicaid targeted case management, unless the Iowa plan contractor decertifies the member for case management services.

*e.* Services described by the following county chart of accounts codes:

(1) 4x03, information and referral.

(2) 4x04, consultation.

(3) 4x11, direct administrative.

(4) 4x12, purchased administrative.

(5) 4x21-374, case management Medicaid match.

(6) 4x32-328, home/vehicle modification.

ITEM 4. Rescind subparagraph **153.56(2)"a"(3)** and adopt the following **new** subparagraph in lieu thereof:

(3) Closing data system files on members as directed by the counties, or when the member has not had any payments processed for a six-month period.

ITEM 5. Rescind rule 441—153.57(331) and adopt the following **new** rule in lieu thereof:

**441—153.57(331) Reduction, denial, or termination of benefits.** The member's state payment program benefits may be denied, terminated, or reduced according to the provisions of the approved county management plan of the member's county of residence.

**153.57(1)** *Termination of eligibility.* A member shall remain eligible until:

*a.* Reimbursement for episodic commitment costs has been made to the county if the member was enrolled for commitment costs only;

*b.* The CPC in the county of residence notifies the state payment program manager that the member is no longer eligible;

*c.* No services have been reported for the member for six months; or

*d.* The member is disenrolled pursuant to subrule 153.57(2).

**153.57(2)** *Disenrollment.* If instituting a waiting list does not adequately address the funding shortfall, the department shall begin disenrollment of members.

*a.* Members who are enrolled and receiving services being reimbursed by the state and who are not under court-ordered involuntary commitment shall be disenrolled beginning with the highest payment slot number first.

*b.* The department shall notify the member and the CPC when a member is to be disenrolled. The department shall give the member at least ten days' notice of disenrollment pursuant to rule 441—7.7(17A). The department shall give a member receiving any residential service 30 days' notice of disenrollment from the program consistent with department of inspections and appeals' rule 481—57.36(135C).

*c.* Any member who is disenrolled shall be placed on the waiting list as provided in subrule 153.54(5).

[Filed 2/19/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8601B

# IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 7, "Service Credit and Vesting Status," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 16, "Qualified Domestic Relations Orders and Other Assignments," Iowa Administrative Code.

The amendments implement the new contribution rates for special service members effective July 1, 2010; amend a provision overlooked in a previous rule making (see **ARC 6514B**, IAB 1/2/08) that raised the amount of wages from $300 to $1,000 for a member on unpaid leave of absence who performs services for the same employer during the leave of absence; amend demographic reporting requirements for employers; amend the provisions for voluntary suspension of payments to retired reemployed members who exceed the yearly earnings limit and the collection of related overpayments; add provisions for the administration of marital property orders involving same gender spouses and same gender former

spouses; and add provisions for the tax treatment of distributions to same gender spouses and same gender former spouses.

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

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8477B**. A public hearing was held on February 2, 2010. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

None of these amendments are subject to requests for waivers; however, the amendments are subject to IPERS' normal appeal process.

These amendments will become effective April 14, 2010.

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

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 4, 7, 11, 12, 14, 16] is being omitted. These amendments are identical to those published under Notice as **ARC 8477B**, IAB 1/13/10.

[Filed 2/19/10, effective 4/14/10]
[Published 3/10/10]
[For replacement pages for IAC, see IAC Supplement 3/10/10.]

## ARC 8591B

# LABOR SERVICES DIVISION[875]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby rescinds Chapter 8, "Consultative Services," Iowa Administrative Code, and adopts a new chapter with the same title.

The Occupational Safety and Health Consultation and Education Bureau of the Iowa Division of Labor Services provides services upon request to employers without charge. The purpose of the services is to help employers provide safe and healthy workplaces.

The amendment updates the rules for the Bureau to reflect current federal requirements; updates the rules to reflect the confidentiality provision of Iowa Code subsection 88.16(4); makes changes to the definitions; makes editorial and technical changes; changes the rules governing the relationship between the Bureau and the Iowa OSHA Enforcement Bureau of the Iowa Division of Labor Services; allows recognition and exemption programs; adopts changes concerning preparation by a consultant for an on-site consultation visit; adopts changes concerning an opening conference, an initial walk-through of a work site, employee interviews, and a closing conference; requires an employer to share certain information about the consultation visit with employees; and changes provisions governing the right of an employer to expand or narrow the scope of consultation activity.

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

Notice of Intended Action was published in the January 13, 2010, Iowa Administrative Bulletin as **ARC 8472B**. No public comment was received on the proposed rules. These rules are identical to those that were published under Notice of Intended Action.

No variance provisions are included in these rules. Variance procedures are set forth in 875—Chapter 5.

These rules are intended to implement Iowa Code chapter 88.

These rules shall become effective on April 14, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 8] is being omitted. These rules are identical to those published under Notice as **ARC 8472B**, IAB 1/13/10.

[Filed 2/18/10, effective 4/14/10]
[Published 3/10/10]
[For replacement pages for IAC, see IAC Supplement 3/10/10.]

## ARC 8590B

# LABOR SERVICES DIVISION[875]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board amends Chapter 91, "General Requirements for All Objects," Iowa Administrative Code.

The amendments update references to the American Society of Mechanical Engineers codes.

The purposes of these amendments are to keep the rules current, protect the safety of the public, and implement legislative intent.

Notice of Intended Action was published in the December 16, 2009, Iowa Administrative Bulletin as **ARC 8391B**. No public comment was received on these amendments. These amendments are identical to those that were published under Notice of Intended Action.

No variance provision is included in these rules. Applicable variance procedures are set forth in 875—Chapter 81.

These amendments are intended to implement Iowa Code chapter 89.

These amendments shall become effective on April 14, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 91.1(1) as follows:

**91.1(1)** *ASME boiler and pressure vessel codes adopted by reference.* The ASME Boiler and Pressure Vessel Code (2007 with ~~2008~~ 2008a and 2009b addenda) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (2007 with ~~2008~~ 2008a and 2009b addenda) except for objects that meet one of the following criteria:

*a.* to *f.* No change.

ITEM 2. Amend subrule 91.1(4) as follows:

**91.1(4)** *Piping codes adopted by reference.* The Power Piping Code, ASME ~~B31.1 (2007 with 2008 addenda)~~ B31.1 (2007), ASME B31.1a (2008), and ASME B31.1b (2009), and the Building Services Piping Code, ASME B31.9 (2008), are adopted by reference, and reinstallations and installations after ~~January 1, 2010~~ April 14, 2010, shall comply with them up to and including the first valve.

[Filed 2/18/10, effective 4/14/10]
[Published 3/10/10]
EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8554B

# MEDICINE BOARD[653]

**Adopted and Filed**

Pursuant to the authority of Iowa Code chapters 148 and 272C, the Board of Medicine hereby amends Chapter 9, "Permanent Physician Licensure," Iowa Administrative Code.

These amendments define the expedited endorsement process which eliminates the verification of core credentials for a physician who has an unrestricted license in another United States jurisdiction or Canada, who has been in practice for at least five years, and who holds current specialty board certification by an ABMS or AOA board.

The Board approved the amendments to Chapter 9 during a regularly scheduled meeting on October 22, 2009. Notice of Intended Action for these amendments was published in the December 16, 2009, Iowa Administrative Bulletin as **ARC 8379B**.

A public hearing was held on January 5, 2010. Two changes have been made to these amendments since they were published under Notice. Cross references were corrected in paragraphs 9.4(3)"j" and 9.5(3)"j" to read "9.3(1)'c.'"

The Board of Medicine voted to adopt these amendments during a regularly scheduled meeting on February 5, 2010.

These amendments will become effective on April 14, 2010.

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

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [9.1, 9.3(1), 9.4 to 9.18] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8379B**, IAB 12/16/09.

[Filed 2/5/10, effective 4/14/10]

[Published 3/10/10]

[For replacement pages for IAC, see IAC Supplement 3/10/10.]

## ARC 8594B

## NATURAL RESOURCE COMMISSION[571]

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 461A.35, 461A.41, and 461A.57, the Natural Resource Commission hereby amends Chapter 54, "Restriction on Removal of Plant Life," Iowa Administrative Code.

The amendments establish a means for the Department to permit the introduction of aquatic plant species in public waters as defined in rule 571—13.2(455A,461A,462A) for the purpose of enhancing water quality and aquatic habitats and a means for the removal of aquatic plants from public waters for the purpose of establishing a designated travel lane from a boat dock to open water. These amendments also delete language which relates to the harvesting of American ginseng and references harvesting regulations established in 571—Chapter 78.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8332B**. A public hearing was held on January 5, 2010. No one attended the hearing, and no oral or written comments were received.

There are two changes from the Notice of Intended Action. In Item 4, the implementation sentence for rule 571—54.3(461A), which was stricken in the Notice, will be retained. Item 5 of the Notice proposed to amend rule 571—54.4(461A) by striking the implementation sentence; that amendment has been omitted and the subsequent items have been renumbered.

These amendments are intended to implement Iowa Code sections 461A.35, 461A.41 and 461A.57.

These amendments will become effective April 14, 2010.

The following amendments are adopted.

ITEM 1. Amend **571—Chapter 54**, title, as follows:

~~RESTRICTION~~ RESTRICTIONS ON INTRODUCTION AND REMOVAL OF PLANT LIFE

ITEM 2. Amend rule 571—54.1(461A) as follows:

**571—54.1(461A) Mushrooms and asparagus.** Lands under the jurisdiction of the commission shall be open for the ~~taking~~ harvesting of mushrooms and asparagus during the hours the areas are open to the public.

ITEM 3. Amend rule 571—54.2(461A) as follows:

**571—54.2(461A) Fruit.** Lands under the jurisdiction of the commission shall be open for the ~~taking~~ harvesting of all varieties of nuts, fruits, and berries unless signs are posted prohibiting such activity. Nut, fruit, and berry gathering shall be permitted only during the hours the areas are open to the public and shall not be permitted in state preserves unless otherwise allowed by the preserves management plan.

ITEM 4. Amend rule 571—54.3(461A) as follows:

**571—54.3(461A) American ginseng.** The harvesting of American ginseng (Panax quinquefolius) is subject to regulation by 571—Chapter 78.

~~**54.3(1)** Lands under the jurisdiction of the commission except state parks and preserves shall be open for the taking of American ginseng (Panax quinquefolius) during the season established by 571—78.2(456A).~~

~~**54.3(2)** When digging is done to collect ginseng, the earth is not to be unduly disturbed. The collector shall, immediately upon removal of the plant, restore the disturbed area as nearly as possible to its original condition.~~

This rule ~~implements~~ is intended to implement Iowa Code ~~section~~ sections 456A.24(11) and 461A.41.

ITEM 5. Adopt the following **new** rule 571—54.5(461A):

**571—54.5(461A) Aquatic plants.** This rule applies to the introduction and removal of plants in public waters as those waters are defined by rule 571—13.2(455A,461A,462A). For purposes of this rule, aquatic plants are those listed in subrule 54.5(6) and include vegetation that exists at or below the ordinary high water line of a waterway.

**54.5(1)** *Permits.* The department may issue permits for the introduction and removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department's application form for sovereign lands construction permits, as described in rule 571—13.9(455A,461A,462A), and shall complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in rule 571—13.10(455A,461A). The term of the permit shall be stated in the permit. Permits are nontransferable and shall be subject to reevaluation upon expiration. Permits may be issued for between one and five years.

**54.5(2)** *Evaluation.* The department shall evaluate all permits sought under this rule in accordance with the evaluation criteria enumerated in rule 571—13.6(455A,461A,462A). In addition, the department shall consider the following criteria:

*a.* For aquatic plant introduction:

(1) Unless otherwise approved by the department, all introduced plants shall be included in the list provided in subrule 54.5(6);

(2) Introduced plants shall not include cultivars;

(3) Plants shall be introduced for the purposes of preventing shoreline erosion, stabilizing bottom sediment, providing fish or wildlife habitat, or removing nutrients from the water;

(4) Plants shall be thoroughly rinsed away from the water into which they are being introduced prior to being transported to the site if the plants have not been cultivated on site in a manner to prevent any foreign nonplant or seed material from entering the water prior to introduction; and

(5) Plants shall be obtained from a seed source that is within 50 miles of the introduction area and from stocks of only cultivated material (i.e., material that has not been taken from natural areas) or from a source that is approved by the department. Approval for a seed source may be sought from the department by contacting the area fisheries management biologist.

*b.* For aquatic plant removal:

(1) The plants shall be removed by hand-cutting, hand-pulling, hand-raking or mechanical cutting only;

(2) The plants shall be removed to establish a designated travel lane from a boat dock that has been permitted in accordance with 571—Chapter 16. Such travel lane shall not exceed a 15-foot width, and the placement of such lane shall be subject to the review and approval of the department. A travel lane allowed under this rule may be in the same location during the term of this permit, may be sited by the department to accommodate vegetation, and may not necessarily be the most direct path from the dock to the open water area; and

(3) All plant material removed under the permit must be left in place or collected and composted on the land owned, leased or otherwise subject to use by the applicant that is adjacent to the removal area.

Unless otherwise provided by this rule, in no event may a person be allowed to apply chemicals including, without limitation, pesticides or herbicides to remove aquatic plants from public waters. For nonpublic waters that meet certain designations in 567—Chapter 66, a person may be required to seek a permit under the rules established herein to use pesticides.

**54.5(3)** *Inspection requirements.* For the purpose of inspecting for compliance with permit conditions, the department shall have the right to enter the property attached to the public water at or near the place of introduction or removal. This inspection shall include, without limitation, identification of introduced species; a determination as to whether the travel lane is being maintained in accordance with the permit conditions; and whether plant material, if removed, is left on site.

**54.5(4)** *Violations.* Persons in violation of this rule are guilty of a simple misdemeanor as described by Iowa Code section 461A.57.

**54.5(5)** *Exceptions.*

*a.* Activities accomplished by the department or its agents to introduce or remove aquatic vegetation in public waters shall be deemed appropriate and shall not be subject to the permit requirements of this rule provided the activity is in the public interest and the activity does not constitute one of the prohibited activities described in 571—subrule 13.6(2).

*b.* Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.

*c.* Aquatic vegetation located in public waters may be removed by persons without a permit under this rule only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental condition exists and the proposed mitigative activity is appropriate. Such activity shall be limited only to the work required to address the immediate hazard or other detrimental activity. Any removal allowed by this rule shall conform to the requirements enumerated by the department regarding such removal, or the removal shall be deemed an unauthorized action resulting in damage to public waters. Persons proposing to remove hazards must contact a local department official and request an exception to a permit. The department official shall inspect the hazard or detrimental condition and provide written authorization to proceed or shall require the person to apply for a permit under this rule.

**54.5(6)** *Appropriate plants.* The department is committed to maintaining the natural integrity of public waters in the state and strengthening native populations of vegetation and wildlife in those waters. To that end, the following table comprises the plants that may be permitted to be introduced into public waters:

NATURAL RESOURCE COMMISSION[571](cont'd)

| **Scientific name** | **Common name** |
|---|---|
| *Acorus americanus* | Sweet Flag |
| *Alisma plantago-aquatica* | Water Plantain |
| *Asclepias incarnata* | Marsh Milkweed |
| *Bidens cernua* | Nodding Beggars Ticks |
| *Bidens coronata* | Tickseed Sunflower |
| *Brasenia schreberi* | Water Shield |
| *Calamagrostis canadensis* | Blue Joint Grass |
| *Caltha palustris* | Marsh Marigold |
| *Carex atherodes* | Wheat Sedge |
| *Carex comosa* | Longhair Sedge |
| *Carex cristatella* | Crested Sedge |
| *Carex hystericina* | Bottlebrush Sedge |
| *Carex lacustris* | Hairy Sedge |
| *Carex normalis* | Greater Straw Sedge |
| *Carex pellita* | Wooly Sedge |
| *Carex prairea* | Prairie Sedge |
| *Carex scoparia* | Broom Sedge |
| *Carex stipata* | Awlfruit Sedge |
| *Carex stricta* | Upright Sedge |
| *Carex tribuloides* | Blunt Broom Sedge |
| *Carex vulpinoidea* | Fox Sedge |
| *Ceratophyllum demersum* | Coontail |
| *Eleocharis acicularis* | Needle Spikerush |
| *Eleocharis obtuse* | Blunt Spikerush |
| *Elodea canadensis* | Canada Waterweed |
| *Eupatorium perfoliatum* | Boneset |
| *Glyceria striata* | Fowl Manna Grass |
| *Iris versicolor* | Blue Flag Iris |
| *Juncus dudleyi* | Dudley's Rush |
| *Juncus torreyi* | Torrey's Rush |
| *Leersia oryzoides* | Rice Cutgrass |
| *Lobelia siphilitica* | Great Lobelia |
| *Lysimachia ciliate* | Fringed Loosestrife |
| *Lythrum alatum* | Winged Loosestrife |
| *Muhlenbergia mexicana* | Leafy Satin Grass |
| *Muhlenbergia racemosa* | Marsh Muhly |
| *Nymphea tuberosa* | White Water Lily |
| *Poa palustris* | Fowl Bluegrass |
| *Polygonum amphibium* | Water Smartweed |
| *Pontederia cordata* | Pickerelweed |
| *Potamogeton nodosus* | Longleaf Pondweed |
| *Ranunculus secleratus* | Cursed Crowfoot |
| *Sagittaria latifolia* | Broadleaf Arrowhead |
| *Schoenoplectus acutus* | Hardstem Bulrush |

NATURAL RESOURCE COMMISSION[571](cont'd)

| | |
|---|---|
| *Schoenoplectus fluviatilis* | River Bulrush |
| *Schoenoplectus tabernaemontani* | Soft-Stem Bulrush |
| *Scirpus atrovirens* | Green Bulrush |
| *Sparganium eurycarpum* | Giant Burreed |
| *Spartina pectinata* | Prairie Cord Grass |
| *Stuckenia pectinatus* | Sago Pondweed |
| *Typha latifolia* | Broadleaf Cattail |

In addition, an applicant may propose, as part of the application, species that do not appear on this list, which the department will consider. The department's consideration of species not on this list will be based on the commitment described above as well as the potential impact of the proposed species to the public water and ecosystem.

ITEM 6. Adopt the following **new** implementation sentence in **571—Chapter 54**:

These rules are intended to implement Iowa Code chapter 461A.

[Filed 2/18/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8587B

# PROFESSIONAL LICENSURE DIVISION[645]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work hereby rescinds Chapter 279, "Administrative and Regulatory Authority for the Board of Social Work," amends Chapter 280, "Licensure of Social Workers," Chapter 281, "Continuing Education for Social Workers," and Chapter 283, "Discipline for Social Workers," and rescinds Chapter 284, "Fees," Iowa Administrative Code.

These amendments remove duplicative chapters and rules that have been placed in common chapters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 16, 2009, as **ARC 8368B**. A public hearing was held on January 5, 2010, and public comments were allowed through that same date. No public comments were received. These amendments are identical to those published under Notice.

These amendments were adopted by the Board of Social Work on February 8, 2010.

These amendments will become effective April 14, 2010.

These amendments are intended to implement Iowa Code chapters 21, 147, 154C and 272C.

The following amendments are adopted.

ITEM 1. Rescind and reserve **645—Chapter 279**.

ITEM 2. Rescind and reserve rules **645—280.8(154C)**, **645—280.12(272C)** and **645—280.13(17A,147,272C)**.

ITEM 3. Rescind and reserve rules **645—281.4(154C,272C)** to **645—281.7(154C,272C)**.

ITEM 4. Rescind and reserve rule **645—283.5(154C)**.

ITEM 5. Rescind and reserve **645—Chapter 284**.

[Filed 2/18/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8586B

# PROFESSIONAL LICENSURE DIVISION[645]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work hereby amends Chapter 280, "Licensure of Social Workers," Iowa Administrative Code.

This amendment clarifies the requirements for the supervised professional practice for the licensed independent social worker (LISW) candidate to ensure that the candidate has performed diagnosis and treatment of mental and emotional disorders or conditions and provided psychosocial therapy, in preparation for independent licensure as a private practice (Iowa Code chapter 154C).

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 16, 2009, as **ARC 8374B**. A public hearing was held on January 5, 2010, and public comments were allowed through that same date.

Since publication of the Notice of Intended Action, several public comments were received regarding this amendment, and Board staff has met several times with representatives of the National Association of Social Workers Iowa Chapter (NASW) on behalf of stakeholders. The Board also met with NASW and stakeholders on February 8, 2010. An outline of agreeable options to address the comments was developed by NASW and members of the Legislature and was presented to the Board for its consideration. The language adopted herein, which has been changed since the Notice in response to these comments, was agreed to by the Board and by a majority of stakeholders in attendance at the February 8 meeting.

This amendment was adopted by the Board of Social Work on February 8, 2010.

This amendment will become effective April 14, 2010.

This amendment is intended to implement Iowa Code chapters 21, 147, 154C and 272C.

The following amendment is adopted.

Adopt the following **new** paragraphs **280.6(1)"e"** and **"f"**:

*e.* Include as at least one component of the diagnostic practice the identification of specific mental or emotional disorders or conditions demonstrating a working knowledge of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM), the current edition.

*f.* Include the provision of treatment, which shall include but not be limited to evaluation of symptoms and behaviors; effects of the environment on behavior; psychosocial therapy with individuals, couples, families, or groups; establishment of treatment goals; and differential treatment planning.

[Filed 2/18/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8588B

# PROFESSIONAL LICENSURE DIVISION[645]

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Physician Assistants hereby amends Chapter 329, "Discipline for Physician Assistants," Iowa Administrative Code.

This amendment to subrule 329.2(11) changes the word "felony" to "crime" to be consistent with Iowa Code chapter 147 requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 18, 2009, as **ARC 8282B**. A public hearing was held on December 8, 2009, and public comments were allowed through that same date. No public comment was received. This amendment is identical to that published under Notice.

This amendment was adopted by the Board of Physician Assistants on February 12, 2010.

This amendment will become effective April 14, 2010.

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

The following amendment is adopted.

Amend subrule 329.2(11) as follows:

**329.2(11)** Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee's ability to practice within the profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

[Filed 2/18/10, effective 4/14/10]
[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.

## ARC 8603B

## REVENUE DEPARTMENT[701]

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 8, "Forms and Communications," and Chapter 39, "Filing Return and Payment of Tax," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXII, No. 15, p. 1788, on January 13, 2010, as **ARC 8482B**.

These amendments provide information regarding the electronic filing of both individual and corporation income tax returns. The Department will start accepting electronically filed returns for corporations beginning with the 2009 tax year. These amendments also include changes based on a modernized electronic filing initiative that has been undertaken by the Internal Revenue Service. These amendments also include information regarding an option to use direct debit when remitting payment for Iowa individual income tax or Iowa corporation income tax.

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

These amendments will become effective April 14, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 422.21 and 422.68.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [8.5, 39.13] is being omitted. These amendments are identical to those published under Notice as **ARC 8482B**, IAB 1/13/10.

[Filed 2/19/10, effective 4/14/10]
[Published 3/10/10]

[For replacement pages for IAC, see IAC Supplement 3/10/10.]

## ARC 8605B

## REVENUE DEPARTMENT[701]

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 38, "Administration," Chapter 40, "Determination of Net Income," Chapter 43, "Assessments and Refunds," Chapter 46, "Withholding," Chapter 50, "Apportionment of Income for Resident Shareholders of S Corporations," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXII, No. 15, p. 1792, on January 13, 2010, as **ARC 8481B**.

Item 1 amends rule 701—38.19(422) to provide that the indication of dependent child health care coverage on Iowa individual income tax returns will be mandatory starting with the tax year beginning January 1, 2010.

Item 2 amends rule 701—40.1(422) to reference new rules 701—40.73(422) and 701—40.74(422).

Item 3 amends rule 701—40.3(422) to provide that Iowa Jobs Program bonds are exempt from Iowa income tax.

Item 4 amends the implementation clause for rule 701—40.3(422).

Items 5 and 6 amend rule 701—40.47(422) to provide additional examples and clarification on the partial exclusion from Iowa individual income tax of pension and other retirement benefits for disabled individuals, individuals who are 55 years of age or older, surviving spouses and survivors.

Item 7 adopts new rule 701—40.73(422) relating to the exclusion for Iowa individual income tax of health care benefits of nonqualified dependents.

Item 8 adopts new rule 701—40.74(422) relating to the exclusion for Iowa individual income tax of AmeriCorps Segal Education Awards.

Item 9 adopts new subrule 43.8(5) to reflect the repeal of the livestock production credit refund for refund claims filed on or after November 1, 2008.

Item 10 amends the implementation clause for rule 701—43.8(422).

Item 11 amends subrule 46.9(2) to reflect the repeal of the alternative credit for housing assistance programs for Iowa withholding tax.

Item 12 amends the implementation clause for rule 701—46.9(422).

Item 13 amends rule 701—50.7(422) to clarify that if an Iowa resident taxpayer claims the S corporation apportionment credit, the resident taxpayer can still claim an out-of-state tax credit for taxes paid to another state or foreign country for income other than S corporation income.

Item 14 amends subrule 52.10(5) to provide that the Department of Revenue will now issue the tax credit certificates for certain sales taxes paid by a third-party developer.

Item 15 amends the implementation clause for rule 701—52.10(15).

Item 16 adopts new subrule 52.27(4) to provide that owners of small wind energy systems operating within a small wind innovation zone are eligible for the renewable energy tax credit for corporation income tax.

Item 17 amends the implementation clause for rule 701—52.27(422,476C).

Item 18 adopts new rule 701—52.42(16,422), which provides for a disaster recovery housing project tax credit for corporation income tax.

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

These amendments will become effective April 14, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement 2009 Iowa Acts, House File 810 [Iowa Code Supplement section 476.48]; Iowa Code section 15.331C as amended by 2009 Iowa Acts, Senate File 142; 2009 Iowa Acts, Senate File 376 [Iowa Code Supplement section 12.87]; Iowa Code sections 422.7 and 422.12M as amended by 2009 Iowa Acts, Senate File 389; 2009 Iowa Acts, Senate File 457 [Iowa Code Supplement section 16.191]; Iowa Code sections 15E.196, 422.120, 422.121 and 422.122

as amended by 2009 Iowa Acts, Senate File 478; and Iowa Code section 422.7 as amended by 2009 Iowa Acts, Senate File 482.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 38, 40, 43, 46, 50, 52] is being omitted. These amendments are identical to those published under Notice as **ARC 8481B**, IAB 1/13/10.

[Filed 2/19/10, effective 4/14/10]

[Published 3/10/10]

[For replacement pages for IAC, see IAC Supplement 3/10/10.]

## ARC 8589B

## REVENUE DEPARTMENT[701]

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 39, "Filing Return and Payment of Tax," Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 46, "Withholding," Chapter 48, "Composite Returns," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 53, "Determination of Net Income," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXII, No. 14, p. 1690, on December 30, 2009, as **ARC 8430B**.

This rule making:

• Amends rule 701—39.12(422) to allow additional time for certain military personnel deployed outside the United States to file Iowa returns and perform other acts related to the Department of Revenue.

• Amends rule 701—40.43(422) to remove an obsolete provision and provide clarification regarding an exclusion from Iowa individual income tax for payments received by individuals providing unskilled in-home health care to members of a caregiver's family.

• Amends subrule 40.60(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2010, does not apply for Iowa individual income tax.

• Adopts new subrule 40.60(4) to provide that the 50 percent bonus depreciation for qualified disaster assistance property does not apply for Iowa individual income tax.

• Amends rule 701—40.70(422) to provide that the exclusion of income for individual income tax for qualified expenditures related to a film project registered with the Iowa film office on or after July 1, 2009, must be excluded over a four-year period.

• Amends subrule 41.3(2) to provide that the federal refund received due to the first-time homebuyer credit does not have to be reported on the Iowa individual income tax return.

• Adopts new subrule 41.3(8) to provide that the federal rebate received by individuals in 2009 does have to be included as part of an individual's federal income tax refund for Iowa individual income tax purposes.

• Adopts new subrule 41.5(16) to provide that the charitable contribution for which an endow Iowa tax credit was claimed is not allowed as an itemized deduction for Iowa individual income tax for years beginning on or after January 1, 2010.

• Amends subrule 46.1(2) to clarify the treatment of withholding tax for sick pay benefits.

• Amends subrule 46.3(3) to clarify that amended returns must be filed to claim a refund for Iowa withholding tax if tax was paid which was not due.

• Amends rule 701—48.5(422) to provide that composite returns for Iowa individual income tax may be allowed for nonresidents other than nonresident partners, members, beneficiaries or shareholders in partnerships, limited liability companies, trusts or S corporations.

• Amends subrules 52.7(3) and 52.7(5) to include federal revisions made in 2008 to the research activities credit for corporation income tax and adopts new subrule 52.7(6) to provide for an annual report of certain research activities credit claims, which report is due by February 15 of each year.

• Amends rule 701—52.12(422) to update the sequence of deducting tax credits for corporation income tax.

• Amends subrule 52.14(3) to provide for additional research activities credit for companies eligible under the enterprise zone program for expenses related to the development and deployment of innovative renewable energy generation.

• Amends rule 701—52.18(422) to provide for changes to the historic preservation and cultural and entertainment district tax credit for corporation income tax.

• Amends rule 701—52.23(15E) to provide for changes to the endow Iowa tax credit for corporation income tax.

• Amends rule 701—52.26(422,476B) to provide for changes to the wind energy production tax credit for corporation income tax.

• Amends rule 701—52.27(422,476C) to provide for changes to the renewable energy tax credit for corporation income tax.

• Amends rule 701—52.28(15) to provide, for corporation income tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.

• Amends rule 701—52.33(175,422) to provide for a cap for the agricultural assets transfer tax credit effective with the fiscal year beginning July 1, 2009.

• Amends rule 701—52.34(15,422) to provide for changes to the film qualified expenditure tax credit for corporation income tax.

• Amends rule 701—52.35(15,422) to provide for changes to the film investment tax credit for corporation income tax.

• Amends 701—Chapter 52 by adopting new corporation income tax rules 701—52.38(422) for the school tuition organization tax credit, 701—52.39(15,422) for the redevelopment tax credit, 701—52.40(15) for credits related to the high quality jobs program, and 701—52.41(15) for the aggregate tax credit limit on certain economic development program tax credits.

• Amends rules 701—53.2(422), 701—53.4(422), and 701—53.15(422) to provide that any Iowa net operating loss for corporation income tax is no longer allowed to be carried back for tax years beginning on or after January 1, 2009.

• Amends subrule 53.22(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2010, does not apply for Iowa corporation income tax.

• Adopts new subrule 53.22(4) to provide that the 50 percent bonus depreciation for qualified disaster assistance property does not apply for Iowa corporation income tax.

• Amends rule 701—53.25(422) to provide that the exclusion of income for corporation income tax for qualified expenditures related to a film project registered with the Iowa film office on or after July 1, 2009, must be excluded over a four-year period.

• Amends rule 701—58.13(15E) to provide for changes to the endow Iowa tax credit for franchise tax.

• Amends rule 701—58.17(15) to provide, for franchise tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.

• Adopts new rule 701—58.21(15) relating to tax credits for the high quality jobs program for franchise tax.

• Amends rules 701—59.2(422) and 701—59.4(422) to provide that any Iowa net operating loss for franchise tax is no longer allowed to be carried back for tax years beginning on or after January 1, 2009.

• Adopts new subrule 59.23(3) providing for the disallowance of 50 percent bonus depreciation for assets acquired after December 31, 2008, but before January 1, 2010, and subrule 59.23(4) relating to the disallowance of 50 percent bonus depreciation for qualified disaster assistance property for Iowa franchise tax.

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

These amendments will become effective April 14, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 15.335 as amended by 2009 Iowa Acts, House File 817 and Senate File 478; Iowa Code section 422.21 as amended by 2009 Iowa Acts, Senate File 253; Iowa Code sections 15.329 and 15.335A as amended by 2009 Iowa Acts, Senate File 344; Iowa Code sections 476B.4 and 476C.3 as amended by 2009 Iowa Acts, Senate File 456; Iowa Code section 422.33 as amended by 2009 Iowa Acts, Senate File 470 and Senate File 478; Iowa Code section 469.10 as amended by 2009 Iowa Acts, Senate File 471; Iowa Code sections 15A.9, 15E.305 and 422.10 as amended by 2009 Iowa Acts, Senate File 478; Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480; Iowa Code section 404A.4 as amended by 2009 Iowa Acts, Senate File 481; and Iowa Code sections 15.119, 175.37 and 422.35 as amended by 2009 Iowa Acts, Senate File 483.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 39 to 41, 46, 48, 52, 53, 58, 59] is being omitted. These amendments are identical to those published under Notice as **ARC 8430B**, IAB 12/30/09.

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# ARC 8559B

# REVENUE DEPARTMENT[701]

**Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 17A and section 421.17, the Department of Revenue hereby adopts amendments to Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

Notice of Intended Action was published in IAB Volume XXXII, Number 12, pages 1457-1458, on December 2, 2009, as **ARC 8352B**.

Subrule 71.1(1) is amended to remove any reference regarding the valuation of real estate from the subrule, which is intended to govern the classification of real estate.

Item 2 published under Notice, an amendment to subrule 71.1(2), was not adopted.

This amendment will become effective April 14, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code section 441.21.

The following amendment is adopted.

Amend subrule 71.1(1) as follows:

**71.1(1)** *Responsibility of assessors.* All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property. An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building (dual classification). A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify ~~and value~~ property according to its present use and not according to its highest and best use. ~~For example, property currently used as a golf course shall be assessed and valued by the assessor as a golf course even though its highest and best potential use may be an industrial park or commercial development.~~ See subrule 71.1(8) for an exception to the general rule that property is to be classified according to its use. The classification shall

be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

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**ARC 8602B**

# REVENUE DEPARTMENT[701]

**Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 17A and sections 421.14, 422.68 and 423.42, the Department of Revenue hereby adopts amendments to Chapter 230, "Exemptions Primarily Benefiting Manufacturers and Other Persons Engaged in Processing," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXII, No. 15, p. 1798, on January 13, 2010, as **ARC 8480B**.

These amendments add two new rules to Chapter 230 which are intended to implement 2009 Iowa Acts, Senate File 478, Division XV, "Data Centers." The rules outline the qualifications data center businesses must meet in order to obtain either a sales tax exemption or a sales tax refund.

These amendments are identical to those published under Notice of Intended Action with two differences. First, the definition of "rehabilitation" has been revised to match 2010 Iowa Acts, House File 2305. Second, the dollar amounts necessary to qualify for the sales tax refunds have been corrected to match the language in Iowa Code section 422.4. An incorrect number was inadvertently included in the Notice of Intended Action.

These amendments will become effective April 14, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code section 422.4.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 701—230.12(423):

**701—230.12(423) Large data center business exemption.** Effective on or after July 1, 2009, a data center business that has a physical location in Iowa and that meets specific criteria may obtain an exemption from sales and use tax on specific purchases that are used in the operation and maintenance of the data center business.

**230.12(1)** *Definitions.* For the purpose of this rule, the following definitions apply:

*"Data center"* means a building rehabilitated or constructed to house a group of networked server computers in one physical location in order to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge.

*"Data center business"* means an entity whose business, among other businesses, is to operate a data center.

**230.12(2)** *Criteria to claim exemption.* The following govern whether a business qualifies for an exemption from sales and use tax on purchases made or leases executed by a data center business:

*a. Requirements.* All of the following requirements must be met by a data center business for the purpose of this exemption:

(1) The business, among other businesses, of the purchaser or lessee shall be as a provider of a data center.

(2) The data center business shall have a physical location in Iowa that is, in the aggregate, at least 5,000 square feet in size used for the operation and maintenance of the data center.

1. A data center facility includes, but is not limited to, the centralization, storage, management and dissemination of data and information.

2. The physical location shall include the mechanical and electrical systems, redundant or backup power supplies, redundant data communications connections, environmental controls, and fire suppression systems for the data center business. The data center business's physical location may also include a restricted access area employing advanced physical security measures such as video surveillance systems and card-based security or biometric security access systems.

(3) The data center business shall make a minimum investment in an Iowa physical location of $200 million within the first six years of operation in Iowa beginning with the date the data center business initiates site preparation activities. The minimum investment includes the initial investment, including land and subsequent acquisition of additional adjacent land and subsequent investment at the Iowa location.

(4) The data center business shall comply with the applicable sustainable design and construction standards in Iowa Administrative Code 661—Chapter 310 as established by the state building code commissioner pursuant to Iowa Code section 103A.8B.

*b. Failure to meet investment qualifications.* If a data center business claiming exemption from sales and use tax under this exemption fails to meet at least 80 percent of the minimum investment amount required within the first six years of operation beginning with the initiation of the site preparation activities by the data center business, the data center business will lose the right to claim this exemption from sales and use tax. Immediately following the loss of the right to claim this exemption from sales and use tax, the data center business is required to pay all sales and use taxes that would have been due on the purchase or rental of all purchases previously claimed exempt from sales and use tax, plus any and all applicable statutory penalty and interest due on the tax.

**230.12(3)** *Exempt purchases.* Sales and leases of the following are exempt from sales and use tax when sold or leased to a qualifying data center business:

*a.* Computers and equipment that are necessary for the maintenance and operation of the data center business;

*b.* All equipment used for the operation and maintenance of the cooling system for the computers and equipment used in the operation of the data center business;

*c.* All equipment used for the operation and maintenance of the cooling towers for the cooling system referenced in paragraph *"b"*;

*d.* All equipment used for the operation and maintenance of the temperature control infrastructure for the computers and equipment used in the operation of the data center business;

*e.* All equipment used for the operation and maintenance of the power infrastructure that is used for the transformation, distribution, or management of electricity used for the operation and maintenance of the data center business. This equipment includes, but is not limited to, exterior dedicated business-owned power substations and backup power generation systems, battery systems, and related infrastructure;

*f.* All equipment used in the racking system, including cabling and trays;

*g.* Fuel purchased by the data center business that is used in the backup power generation system and in all items listed in paragraphs *"a"* to *"f."* This includes the fuel used in the backup generators that may be located outside the building and that are used if power is interrupted to ensure the data center business continues operation; and

*h.* Electricity purchased for use in operating the data center business.

**230.12(4)** *Limitation of exemption.* The purchase or lease of the items listed in subrule 230.12(3) is only exempt if the items being purchased or leased are being used in the operation or maintenance of the data center business. Such purchases or leases will not be exempt from sales or use tax if the item is to be used in the business for another purpose. For example:

*a.* The purchase of electricity for use in the office portion of the data center business facility would not be exempt.

*b.* The purchase of building materials that become real property would not be exempt. For example, the purchase of a dishwasher that will be built into a kitchen area in the break room for employees would not be exempt from tax. Although the purchase of a dishwasher is the purchase of

tangible personal property, upon installation, the dishwasher becomes part of the building and realty and, therefore, is not exempt from Iowa sales and use tax.

**230.12(5)** *Initial date of exemption.* The exemption from sales and use tax begins on and after the date of the initial investment in or the initiation of site preparation activities for the facility that will contain the qualifying data center business.

This rule is intended to implement Iowa Code section 423.3 as amended by 2009 Iowa Acts, Senate File 478, sections 197 through 202.

ITEM 2. Adopt the following **new** rule 701—230.13(423):

**701—230.13(423) Data center business sales and use tax refunds.** Effective on or after July 1, 2009, data center businesses in Iowa meeting certain criteria may make an annual application to the department for a refund of 50 percent of the sales and use tax paid on the sales price of certain computers, equipment, fuel, and electricity used in the operation of the data center business.

**230.13(1)** *Definitions.* For the purpose of this rule, the following definitions apply:

*"Data center"* means a building rehabilitated or constructed to house a group of networked server computers in one physical location in order to centralize the storage, management, and dissemination of data and information pertaining to a particular business, taxonomy, or body of knowledge.

*"Data center business"* means an entity whose business, among other businesses, is to operate a data center.

*"Refund year"* means the year beginning with the date of initial site preparation of the data center facility.

*"Rehabilitation"* means a process of substantial repair, remodeling, or alteration, which may include but is not limited to upgrading mechanical systems, plumbing, roofing, wiring, windows, and heating and cooling systems, and performing significant interior or exterior structural modification. Although they may be included as part of an overall rehabilitation project, singular actions such as the installation of a new information system or cosmetic changes to the interior or exterior appearance of a building do not, in and of themselves, constitute a rehabilitated building.

**230.13(2)** *Basis and criteria for refunds.* The amount, type, and length of refunds available to data center businesses depend upon the dollar amount of investment made, the type of construction undertaken, and the size in square feet of the facility.

*a. Investment of $136 million to $200 million.* Data center businesses which make investments in an Iowa facility of $136 million to $200 million in the first six years of operations and which facility contains at least 5,000 square feet are eligible for a refund of 50 percent of the sales and use tax paid on qualifying computers and equipment, backup fuel, and electricity for the first seven years of operation.

*b. Investment of $10 million to $136 million—new construction.* Data center businesses which make investments of $10 million to $136 million in the first six years of operations in the new construction of an Iowa facility that is at least 5,000 square feet are eligible for a refund of 50 percent of the sales and use tax paid on qualifying computers and equipment, backup fuel, and electricity for the first ten years of operation.

*c. Investment of $5 million to $136 million—rehabilitation.* Data center businesses which make investments of $5 million to $136 million in the first six years of operations in the rehabilitation of an Iowa facility that is at least 5,000 square feet are eligible for a refund of 50 percent of the sales and use tax paid on qualifying computers and equipment, backup fuel, and electricity for the first ten years of operation.

*d. Investment of $1 million to $10 million—new construction.* Data center businesses which make investments of $1 million to $10 million in the first three years of operations in the new construction of an Iowa facility of any size are eligible for a refund of 50 percent of the sales and use tax paid on fuel and electricity for the first five years of operation.

*e. Investment of $1 million to $5 million—rehabilitation.* Data center businesses which make investments of $1 million to $5 million in the first three years of operations in the rehabilitation of an Iowa facility of any size are eligible for a refund of 50 percent of the sales and use tax paid on fuel and electricity for the first five years of operation.

**230.13(3)** *Purchases eligible for refunds.* Sales and leases of the following are eligible for a refund of 50 percent of the sales and use tax paid when sold or leased to a qualifying data center business:

*a.* Computers and equipment that are necessary for the maintenance and operation of the data center business;

*b.* All equipment used for the operation and maintenance of the cooling system for the computers and equipment used in the operation of the data center business;

*c.* All equipment used for the operation and maintenance of the cooling towers for the cooling system referenced in paragraph *"b"*;

*d.* All equipment used for the operation and maintenance of the temperature control infrastructure for the computers and equipment used in the operation of the data center business;

*e.* All equipment used for the operation and maintenance of the power infrastructure that is used for the transformation, distribution, or management of electricity used for the operation and maintenance of the data center business. This equipment includes, but is not limited to, exterior dedicated business-owned power substations and backup power generation systems, battery systems, and related infrastructure;

*f.* All equipment used in the racking system, including cabling and trays;

*g.* Fuel purchased by the data center business that is used in the backup power generation system and in all items listed in paragraphs *"a"* to *"f."* This includes the fuel used in the backup generators that may be located outside the building and that are used if power is interrupted to ensure the data center business continues operation; and

*h.* Electricity purchased for use in operating the data center business.

**230.13(4)** *Sustainable design standards.* In order to claim the refunds detailed in subrule 230.13(3), paragraphs *"a"* through *"h,"* data center businesses must comply with the sustainable design and construction standards as required by Iowa Administrative Code 661—Chapter 310 as established by the state building code commissioner pursuant to Iowa Code section 103A.8B.

**230.13(5)** *Failure to meet investment qualifications.* If a data center business claiming a refund of sales and use tax under this rule fails to meet at least 80 percent of the minimum investment amount required within the first six years of operation beginning with the initiation of the site preparation activities by the data center business, the data center business will lose the right to claim the refund of sales and use tax. Immediately following the loss of the right to claim the refund of sales and use tax, the data center business is required to return the refund of sales and use tax paid on qualifying computers, equipment, fuel, and electricity, plus any and all applicable statutory penalty and interest due on the tax.

**230.13(6)** *Limitation of refunds.*

*a.* *Use in operation or maintenance.* The purchase or lease of the items listed in subrule 230.13(3) is only eligible for a refund of sales and use tax if the items being purchased or leased are being used in the operation or maintenance of the data center business. Such purchases or leases will not be eligible for a refund of sales and use tax if the item is to be used in the business for another purpose. For example:

(1) The purchase of electricity for use in the office portion of the data center business facility would not be eligible for a refund.

(2) The purchase of building materials that become real property would not be eligible for a refund. For example, the purchase of a dishwasher that will be built into a kitchen area in the break room for employees would not be eligible for a refund of tax. Although the purchase of a dishwasher is the purchase of tangible personal property, upon installation, the dishwasher becomes part of the building and realty and, therefore, is not eligible for a refund of Iowa sales and use tax.

*b.* *State sales tax only.* Refunds issued under this rule may not exceed 5 percent of the sales price of computers and equipment listed in subrule 230.13(3) and the fuel used to create heat, power and steam for processing or generating electrical current or from the sales price of electricity consumed by computers, machinery, or other equipment for operation of the data center business facility. The refund will not include any local option sales and services taxes.

*c.* *Qualifying dates for fuel and electricity refund.* To qualify for the 50 percent refund, the following must be on or after the first day of the first month through the last day of the last month of the refund year:

(1) The dates of the utility billing or meter reading cycle for the sale or furnishing of metered gas and electricity;

(2) The dates of the sale or furnishing of fuel for purposes of commercial energy; and

(3) The delivery of the fuel used for purposes of commercial energy.

**230.13(7)** *Form and filing requirements.*

*a. Form.* The owner of a data center business seeking a refund of sales and use tax imposed upon the sale or lease of any qualifying computers, equipment, fuel, and electricity must complete and file with the department Form IA 843, Claim for Refund. All of the information on the Claim for Refund must be completed.

*b. Due date.* The refund request form must be filed with the department no later than one year after the purchase of the qualifying computers, equipment, fuel, or electricity and within three months after the end of the refund year. The refund for sales and use tax begins with purchases made on and after July 1, 2009, or on and after the date of the initial investment in or the initiation of site preparation activities for the facility that will contain the qualifying data center business.

*c. Date required.* The refund request must include detailed schedules of the items being claimed including dates of purchase of tangible personal property, amount of purchase, and tax paid. The purchase of fuel and electricity must be computed and documented separately from other purchases.

*d. Affidavit.* In addition to completing and filing Form IA 843, Claim for Refund, the owner of a data center business seeking a refund as specified in this rule must also complete and file with the department an affidavit certifying that qualifications for the refund have been met. The affidavit must be filed prior to any refund request and must be approved by the department before a refund claim can be filed. The following format must be used for the affidavit:

Iowa Department of Revenue
Sales Tax Refund Affidavit

| | | |
|---|---|---|
| NAME OF AFFIANT<br><br>ADDRESS OF AFFIANT | } | AFFIDAVIT FOR<br>DATA CENTER BUSINESS |

The undersigned duly swears that the named data center business complies with criteria to be entitled to refund of sales tax as required in Iowa Code section 423.4 as follows:

1. The facility is a data center business as defined by Iowa Code section 423.4(8) or 423.4(9);

2. The data center business facility will be a minimum of 5,000 square feet, as applicable, located upon Iowa land; and located at _____; with total square footage of _____;

3. The data center business will make an investment of (check only one):

□ $136 million to $200 million within the first six years of operation (refund available for first seven years).

□ $10 million to $136 million for new construction within the first six years of operation (refund available for first ten years).

□ $5 million to $136 million for rehabilitation of an existing facility within the first six years of operation (refund available for first ten years).

□ $1 million to $10 million for new construction within the first three years of operation (refund of tax paid on fuel and electricity only; refund available for first five years).

□ $1 million to $5 million for rehabilitation of an existing facility within the first three years of operation (refund of tax paid on fuel and electricity only; refund available for first five years).

4. The data center business facility will be constructed in accordance with the sustainable design and construction standards as required by Iowa Administrative Code 661—Chapter 310 and established by the building code commissioner pursuant to Iowa Code section 103A.8B;

5. Construction of the data center business facility was commenced on or after July 1, 2009; and the date of the initial site preparation or building rehabilitation was _____; and

6. Purchases of qualifying computers, equipment, fuel or electricity were made on or after July 1, 2009.

The undersigned duly swears that he or she is the owner of the qualifying data center business or that the undersigned is the authorized representative of the qualifying data center business and has the authority to sign this document. The undersigned swears that he or she has personal knowledge regarding the facts contained in this affidavit and that the statements set forth in this affidavit are true and accurate and that the qualifying data center business has met all of the requirements as contained herein.

_____ _____

Name of Affiant Date

_____

Position of Affiant

This rule is intended to implement Iowa Code section 423.4 as amended by 2009 Iowa Acts, Senate File 478, sections 198 through 202.

[Filed 2/19/10, effective 4/14/10]

[Published 3/10/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.