



IOWA ADMINISTRATIVE BULLETIN

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- Filed, Reimbursement for certain
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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

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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 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
22	Friday, April 11, 2014	April 30, 2014
23	Friday, April 25, 2014	May 14, 2014
24	Friday, May 9, 2014	May 28, 2014

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, April 4, 2014, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the March 19, 2014, Iowa Administrative Bulletin.

EDUCATION DEPARTMENT[281]

School buses, amendments to ch 44 Notice **ARC 1409C**..... 4/2/14
 Child development coordinating council, amendments to ch 64 Notice **ARC 1394C** 4/2/14
 Educational support programs for parents of at-risk children, amendments to ch 67 Notice **ARC 1396C**..... 4/2/14

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Prohibition on campaign contributions from corporations, 4.44(1) Filed **ARC 1390C** 4/2/14
 Supporting documentation for complaint, 9.1(1) Filed **ARC 1389C**..... 4/2/14

HUMAN SERVICES DEPARTMENT[441]

Medicaid for employed people with disabilities—premiums, 75.1(39)“b”(3) Notice **ARC 1417C**..... 4/2/14
 Increase in average statewide private-pay cost of nursing facility services and of charges for institutional care, 75.23(3), 75.24(3)“b” Notice **ARC 1415C**..... 4/2/14
 Decrease in statewide maximum Medicaid rate for ICF/IDs, 75.24(3)“b”(2) Notice **ARC 1416C**..... 4/2/14
 Medicaid—pharmacy professional dispensing fee, 79.1(8) Notice **ARC 1391C**..... 4/2/14

INSPECTIONS AND APPEALS DEPARTMENT[481]

Special classification within residential care facility—memory care, 57.7 Notice **ARC 1413C** 4/2/14
 Nursing facilities—administrators, services, classification of violations, 58.1, 58.8, 58.14(8), 58.18(2), 58.19, 58.28(3) Filed **ARC 1398C** 4/2/14

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Duties of pharmacy benefits managers and insurers, 59.1 to 59.10 Notice of Termination **ARC 1399C** 4/2/14
 Pharmacy benefits managers and insurers, 59.1 to 59.10 Notice **ARC 1412C**..... 4/2/14

IOWA FINANCE AUTHORITY[265]

Iowa agricultural development authority division, adopt 265—ch 44; rescind 25—chs 1 to 11 Filed **ARC 1400C**..... 4/2/14

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Pharmacist-interns, 4.1, 4.3, 4.6, 4.7, 4.9(2) Filed **ARC 1406C** 4/2/14
 Pharmacist-documented verification, 8.3(3) Notice **ARC 1411C**..... 4/2/14
 Temporary designation of controlled substances, 10.38 Filed Emergency **ARC 1408C** 4/2/14
 Controlled substances—annual inventory, change of ownership of a pharmacy, 10.35 Notice **ARC 1407C** 4/2/14

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Speech pathologists and audiologists—examinations, continuing education, 300.3(4), 300.5, 300.6, 300.9, 300.17(3), 303.1, 303.2(3), 303.3 Filed **ARC 1397C** 4/2/14

PUBLIC HEALTH DEPARTMENT[641]

Physical protection of category 1 and category 2 quantities of radioactive material, adopt ch 37; amend chs 38 to 40 Notice **ARC 1414C** 4/2/14
 Mammography and stereotactic breast biopsy equipment—workstations, physician training, quality control, 41.6, 41.7(7) Filed **ARC 1401C**..... 4/2/14
 Vision screening, ch 52 Notice of Termination **ARC 1388C**..... 4/2/14
 Vital records—overpayment of fees, 95.6(2) Filed **ARC 1402C** 4/2/14
 Medical residency training state matching grants program, ch 108 Notice **ARC 1392C**..... 4/2/14
 Reimbursement for certain autopsies, 127.4 Filed **ARC 1403C** 4/2/14
 Scope of practice for emergency medical care providers, 131.3(3)“b,” 132.2(4)“b” Filed **ARC 1404C** 4/2/14
 Iowa health information network, ch 206 Filed **ARC 1405C** 4/2/14

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Organization and operation; forms; first-aid room, 1.2, 1.5, 5.4(4) Notice **ARC 1393C** 4/2/14

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Professional Licensing and Regulation Bureau[193]
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TRANSPORTATION DEPARTMENT[761]

Bridge safety fund, rescind ch 162 Filed **ARC 1395C** 4/2/14

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Representative Lisa Heddens
4115 Wembley Avenue
Ames, Iowa 50010

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

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

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Representative Jeff Smith
1006 Brooks North Lane
Okoboji, Iowa 51355

Senator Roby Smith
2036 East 48th Street
Davenport, Iowa 52807

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Governor's Ex Officio Representative
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Des Moines, Iowa 50319
Telephone (515)281-5211

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School buses, amendments to ch 44 IAB 4/2/14 ARC 1409C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 22, 2014 1 to 2 p.m.
Child development coordinating council, amendments to ch 64 IAB 4/2/14 ARC 1394C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 22, 2014 3 to 4 p.m.
Educational support programs for parents of at-risk children, amendments to ch 67 IAB 4/2/14 ARC 1396C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	April 22, 2014 2 to 3 p.m.

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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Appraiser qualifications before and after January 1, 2015, 1.1(2), 1.2(1), 1.3, 1.4, 1.6(1), 1.18 to 1.22 IAB 4/2/14 ARC 1410C	Board Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	April 23, 2014 9 a.m.
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The following list will be updated as changes occur.

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

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

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

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EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 44, “School Buses,” Iowa Administrative Code.

This chapter provides the rules concerning school bus regulation in Iowa. Approximately every five years, there is a comprehensive review of these rules and subsequent update to reflect best current practice. The major change in this update concerns combining into one rule elements that are currently in two separate rules. The bus chassis used to be bid out separately from the remainder of the bus, so rules were split for both areas of the bus. Now, the common practice is for bus bids to be done comprehensively, and these rules reflect that comprehensive change by incorporating the content of rule 281—44.4(285), which pertains to school bus bodies, into rule 281—44.3(285), which pertains to chassis. Much of what is underscored herein in rule 281—44.3(285) is content from rescinded rule 281—44.4(285) to reflect that change.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before 4:30 p.m. on Tuesday, April 22, 2014. Comments on the proposed amendments should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; or e-mail mike.cormack@iowa.gov.

A public hearing will be held on Tuesday, April 22, 2014, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and who have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

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

These amendments are intended to implement Iowa Code chapter 285.

The following amendments are proposed.

ITEM 1. Amend rule 281—44.2(285) as follows:

281—44.2(285) School bus—type classifications. A bus owned, leased, contracted to or operated by a school or school district and regularly used to transport students to and from school or school-related activities, but not including a charter bus or transit bus, meets all applicable FMVSS, and is readily identified by alternately flashing lights, national school bus yellow (NSBY) paint, and the legend “School Bus.”

44.2(1) to 44.2(4) No change.

44.2(5) Type III. Type III vehicles are not regular school buses but nonetheless are used to transport students in a school-related context and may be marked as a “school bus.” A Type III vehicle is a passenger car (including a minivan, SUV, or station wagon) or van. The difference between a family automobile and an equivalent Type III vehicle is not the vehicle itself, but rather its use: Type III vehicles are used by schools for purposes of pupil transportation. To qualify as a Type III vehicle, the vehicle must carry a maximum of nine or fewer people, including the driver, and weigh 10,000 pounds or less.

44.2(5) 44.2(6) Specially equipped. A specially equipped school bus is a school bus designed, equipped, or modified to accommodate students with special needs.

EDUCATION DEPARTMENT[281](cont'd)

~~44.2(6)~~ **44.2(7)** *Multifunction school activity bus (MFSAB)*. A multifunction school activity bus is a school bus whose purposes do not include transporting students to and from home or school bus stops as defined in 49 CFR 571.3. MFSABs meet all FMVSS for school buses except the traffic control requirements (alternately flashing signal and stop arm). MFSABs are not allowed for use by schools or school districts in the state of Iowa.

ITEM 2. Amend rule 281—44.3(285) as follows:

281—44.3(285) School bus body and chassis specifications.

44.3(1) No change.

44.3(2) Aisle.

a. All emergency doors shall be accessible by a 12-inch minimum aisle. Aisles shall be unobstructed at all times by any type of barrier, seat, wheelchair, tie-down, or other object(s), with the exception of a flip seat that is installed and occupied at a side emergency door position. The track of a track-seating system is exempt from this requirement. A flip seat in the unoccupied (up) position shall not obstruct the 12-inch minimum aisle to any side emergency door.

b. The seat backs shall be slanted sufficiently to give aisle clearance of 15 inches at the top of the seat backs.

~~**44.3(2)**~~ **44.3(3) Alternator.**

a. and b. No change.

44.3(3) 44.3(4) Axles. The front and rear axle and suspension systems shall have gross axle weight rating (GAWR) at ground commensurate with the respective front and rear weight loads that will be imposed by the bus.

~~**44.3(4) Backup warning alarm.** A backup warning alarm shall be installed on every school bus. Responsibility for installation of the alarm shall rest with the school bus body manufacturer unless other arrangements have been made between the body and chassis manufacturers. See also subrule 44.4(2).~~

44.3(5) Backup warning alarm. An automatic audible alarm shall be installed behind the rear axle on every school bus/vehicle and shall comply with the published Backup Alarm Standards (SAE J994B), providing a minimum of 112 dBA. A variable volume feature is not allowed.

44.3(6) Battery compartment.

a. Battery(ies) shall be furnished by the manufacturer.

b. Battery(ies) shall be mounted in the body skirt of the vehicle and shall be accessible for convenient servicing from outside the bus. The manufacturer shall securely attach the battery(ies) on a slide-out or swing-out tray with a safety stop to prevent the battery(ies) from dropping to the ground at the outermost extremity of tray travel.

c. The battery compartment door or cover shall be hinged at the top, bottom or forward side of the door. When hinged at the top, a fastening device shall be provided which will secure the door in an open position. The door or cover over the compartment opening shall completely cover and, as completely as practical, seal the opening and shall be secured by an adequate and conveniently operated latch or other type of fastener to prevent free leakage of the battery contents into the passenger compartment should the vehicle overturn. Battery cables installed by the manufacturer shall meet SAE requirements. Battery cables shall be of sufficient length to allow the battery tray to fully extend and to allow some slack in the cables. In Type A buses, if batteries cannot be installed under the hood, a battery compartment is required.

d. The top surface area of the inside of the battery compartment (the area likely to come into contact with battery electrical terminals as the result of a blow to, and upward collapse of, the bottom of the battery box in the event of an accident or other event) shall be covered with a rubber matting or other impact-resistant nonconductive material. The matting shall be a minimum of 1/8-inch thick and cover the entire top inside surface of the battery box. The matting shall be securely installed to maintain its position at all times.

e. The word "BATTERY" in 2-inch black letters shall be placed on the door covering the battery opening.

~~**44.3(5)**~~ **44.3(7) Battery system.**

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~~a.~~ A 12-volt battery system tested at 0 degrees Fahrenheit shall be provided which meets or exceeds the following capacity ratings:

~~(1) a.~~ Gasoline engines (greater than 10,000 pounds GVWR): 150 minutes reserve and 500 cold cranking ampere capacity.

~~(2) b.~~ Gasoline engines (10,000 pounds GVWR or less): 125 minutes reserve and 450 cold cranking ampere capacity.

~~(3) c.~~ Diesel engines (all): 200 minutes reserve and 1,000 cold cranking ampere capacity, or a cold cranking ampere capacity not less than the engine manufacturer's minimum requirements, whichever is greater.

~~b.~~—Since all batteries are to be secured in a sliding tray in the body, chassis manufacturers shall temporarily mount the battery on the chassis frame. Type A or B van conversion or cutaway front-section chassis may have the battery located in the forward engine compartment beneath the hood or temporarily mounted for final mounting in the body skirt by the body manufacturer. In these cases, the final location of the battery and the appropriate cable lengths shall be according to the SBMTC School Bus Design Objectives, August 1996 edition, or as mutually agreed upon by the chassis and body manufacturers. In all cases, however, the battery cable provided with the chassis shall have sufficient length to allow some slack.

44.3(8) Body sizes. Type A vehicles may be purchased with manufacturer's recommended seating capacities when the chassis is manufactured with rear dual tires.

~~44.3(6) 44.3(9) Brakes.~~

~~a. and b.~~ No change.

~~c.~~ *Air brakes, general requirements.*

~~(1)~~ No change.

~~(2)~~ The chassis manufacturer shall provide an accessory outlet for other air-operated systems installed by in or on the body manufacturer bus. This outlet shall include a pressure protection valve to prevent loss of air pressure in the service brake reservoir.

~~(3) to (6)~~ No change.

~~d.~~ *Brakes, all, specific requirements.*

~~(1) to (3)~~ No change.

~~(4)~~ Brake system reservoirs.

~~1. and 2.~~ No change.

~~3.~~ Connection for auxiliary accessory reservoir. The brake system shall include a suitable and convenient connection for installation of an auxiliary air or vacuum reservoir by the body bus manufacturer.

~~(5) to (8)~~ No change.

~~44.3(7) 44.3(10) Bumper, front.~~

~~a.~~ All school buses shall be equipped with a front bumper painted glossy black. The chassis manufacturer shall furnish the front bumper on all chassis unless there is a specific arrangement between the chassis manufacturer and body manufacturer that the body manufacturer will furnish the front bumper.

~~b.~~—The bumper shall be not less than 8 inches wide (high), except on Type D buses where the front bumper shall be a minimum of 9 inches wide (high).

~~c.~~—The front bumper shall be of pressed steel channel or equivalent material of sufficient structural and mounting strength to ensure that the front of the vehicle may be lifted by means of an air bumper-type jack, without permanent deformation of the bumper, bracketry, or chassis frame rail(s). The front bumper, except breakaway bumper ends, shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight without permanent distortion to the bumper, chassis, or body.

~~d.~~—On Type A vehicles less than 14,500 pounds GVWR, the front bumper may be of manufacturer's standard construction.

~~e.~~—The bumper shall extend beyond the forward-most part of the body, grille, hood, and fenders (flush-mounted bumpers are not acceptable) and shall extend to the outer edges of the fenders at the bumper's top line. The bumper shall be curved, beveled, or have other design features at each end to

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~~prevent snagging or hooking and shall be bolted to the chassis frame so it can be conveniently removed for maintenance.~~

~~*b.* The front bumper on buses of Type A-2 (with GVWR greater than 14,500 pounds), Type B, Type C, and Type D shall be equivalent in strength and durability to pressed steel channel at least 3/16 inches thick and not less than 8 inches wide (high). The front bumper shall extend beyond the forward-most part of the body, grille, hood and fenders and shall extend to the outer edges of the fenders at the bumper's top line. Type A buses having a GVWR of 14,500 pounds or less may be equipped with an original equipment manufacturer (OEM)-supplied front bumper. The front bumper shall be of sufficient strength to permit its being pushed by another vehicle on a smooth surface with a 5 degree (8.7 percent) grade, without permanent distortion to the bumper, chassis or body. The contact point on the front bumper is intended to be between the frame rails, with as wide a contact area as possible. If the front bumper is used for lifting, the contact points shall be under the bumper attachments to the frame rail brackets unless the manufacturer specifies different lifting points in the owner's manual. Contact and lifting pressures should be applied simultaneously at both lifting points.~~

~~*c.* The front bumper, except breakaway bumper ends, shall be of sufficient strength to permit pushing a vehicle of equal gross vehicle weight, per paragraph 44.3(10) "b," without permanent distortion to the bumper, chassis or body.~~

~~*d.* The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow hooks/eyes. For the purpose of meeting this specification, the bus shall be empty and positioned on a level, hard surface and both tow hooks/eyes shall share the load equally.~~

~~*f. e.* Tow eyes or hooks are required on chassis Type B, C, and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks shall be installed by the chassis bus manufacturer so as not to project beyond the front bumper. Tow eyes or hooks shall be attached to the chassis frame in accordance with the chassis manufacturer's standards.~~

~~*g.* The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is passed under the bumper (or through the bumper if holes are provided for this purpose) and attached to both tow eyes. For the purpose of meeting this standard, the bus shall be empty and positioned on a level, hard surface and both tow eyes shall share the load equally.~~

~~*f.* An optional energy-absorbing front bumper may be used, provided its design incorporates a self-restoring, energy-absorbing system of sufficient strength to:~~

~~(1) Push another vehicle of similar GVWR without permanent distortion to the bumper, chassis, or body; and~~

~~(2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following performance standards:~~

~~1. 7.5 mph fixed-barrier impact (FMVSS cart and barrier test).~~

~~2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).~~

~~3. 20.0 mph into parked passenger car (Type B, C, and D buses of 18,000 pounds GVWR or more).~~

~~The manufacturer of the energy-absorbing bumper system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.~~

~~**44.3(8) Bumper, rear.** A rear bumper of manufacturer's standard construction shall be provided by the chassis manufacturer on all Type A-2 chassis unless there is a specific arrangement between the chassis manufacturer and body manufacturer that the body manufacturer will furnish the rear bumper. The rear bumper shall be painted glossy black.~~

~~**44.3(9) Certification, chassis.** The chassis manufacturer will, upon request, certify to the state agency having pupil transportation jurisdiction that the product(s) meets minimum standards on items not covered by certification issued under requirements of the National Traffic and Motor Vehicle Safety Act.~~

~~**44.3(10) Clutch.**~~

~~*a.* Clutch torque capacity shall be equal to or greater than the engine torque output.~~

~~*b.* A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed.~~

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44.3(11) Bumper, rear.

- a. All school buses shall be equipped with a rear bumper painted glossy black.
- b. The rear bumper shall be pressed steel channel or equivalent material, at least 3/16 inches thick and shall be a minimum of 8 inches wide (high) on Type A-2 vehicles and a minimum of 9½ inches wide (high) on Type A-1, B, C and D buses. The rear bumper shall be of sufficient strength to permit its being pushed by another vehicle without permanent distortion to the bumper, body, or chassis.
- c. The rear bumper shall be wrapped around the back corners of the bus. It shall extend forward at least 12 inches, measured from the rear-most point of the body at the floor line and shall be flush-mounted to the body side or protected with an end panel.
- d. The rear bumper shall be attached to the chassis frame in such a manner that the bumper may be easily removed. It shall be braced so as to resist deformation of the bumper resulting from a rear or side impact. It shall be designed so as to discourage the hitching of rides.
- e. The bumper shall extend at least 1 inch beyond the rear-most part of body surface measured at the floor line.
- f. Additions or alterations to the rear bumper, including the installation of trailer hitches, are prohibited.
- g. An optional energy-absorbing rear bumper may be used, provided a self-restoring, energy-absorbing bumper system attached to prevent the hitching of rides is of sufficient strength to:
 - (1) Permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body; and
 - (2) Withstand repeated impacts without damage to the bumper, chassis, or body according to the following FMVSS performance standards:
 - 1. 2.0 mph fixed barrier impact (FMVSS cart and barrier test).
 - 2. 4.0 mph corner impact at 30 degrees (Part 581, CFR Title 49).
 - 3. 5.0 mph center impact (Part 581, CFR Title 49).

The manufacturer of the energy-absorbing system shall provide evidence of conformance to the above standards from an approved test facility capable of performing the above FMVSS tests.

44.3(12) Certification. The manufacturer(s) shall, upon request, certify to the Iowa department of education that the manufacturer's product(s) meets Iowa minimum standards on items not covered by FMVSS certification requirements of 49 CFR Part 567.

~~44.3(11)~~ **44.3(13) Color.**

- a. Chassis and front bumper shall be black. Body cowl, hood, and fenders shall be national school bus yellow. The flat top surface of the hood may be nonreflective national school bus yellow; black is not acceptable.
 - b. Wheels and rims shall be gray, black, or national school bus yellow.
 - c. The grille must be gray, black, or national school bus yellow. Chrome is not acceptable.
 - d. The school bus body shall be painted national school bus yellow. (See color standard, Appendix B, National School Transportation Specifications and Procedures Manual 2010, available from Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.)
 - e. The body exterior trim shall be glossy black, including the rear bumper, exterior lettering, numbering, body trim, rub rails, lamp hoods (if any), and emergency door arrow. This may also include the entrance door and window sashes. As an alternative, the rear bumper may be covered with a black retroreflective material as described in subrule 44.3(52). When the bus number is placed on the front or rear bumper, the number shall be national school bus yellow.
 - f. As an option, the roof of the bus may be painted white extending down to within 6 inches above the drip rails on the sides of the body, except that the vertical portion of the front and rear roof caps shall remain national school bus yellow.
 - g. Commercial advertising is forbidden on the exterior and in the interior of all school buses.
- 44.3(12) Daytime running lights (DRL).** ~~Rescinded IAB 10/11/06, effective 11/15/06.~~
- 44.3(13) Defroster.** ~~See subrules 44.3(22) and 44.4(18).~~

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44.3(14) Construction.

a. The school bus body shall be constructed of materials certified to be durable under normal operating conditions and shall meet all applicable FMVSS at the date of manufacture as certified by the bus body manufacturer.

b. Construction shall be reasonably dustproof and watertight.

c. Body joints present in that portion of the Type A school bus body furnished exclusively by the body manufacturer shall conform to the performance requirements of FMVSS 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

d. A flat floor system featuring no wheel wells and no step-up at the rear of the passenger compartment may be used in accordance with the following:

(1) The inside height of the body shall remain at least 72 inches, when measured in accordance with subrule 44.3(41) when this option is installed.

(2) If this option utilizes a raised floor that is stepped up behind the driver's area, the forward edge of the aisle shall have a white or yellow stripe and be labeled "Step Up" visible to passengers upon entering the aisle; and a label "Step Down" shall be visible to passengers as they exit the aisle. Minimum headroom of 72 inches shall be maintained at all times.

(3) A flat floor design shall provide for the additional option for a track-mounted seating system using button-type (L track) and a wheelchair securement system meeting Iowa specifications but mounting into the track of the track-seating system. Aisle clearances shall be maintained in accordance with these rules.

44.3(15) Crossing control arms.

a. Type A, B, and C school buses shall be equipped with a crossing control arm which is mounted on the right side of the front bumper and which shall not open more than 90 degrees. This requirement does not apply to Type D vehicles having transit-style design features.

b. The crossing control arm shall incorporate a system of quick-disconnect connectors (electrical, vacuum, or air) at the crossing control arm base unit and shall be easily removable to allow for towing of the bus.

c. All components of the crossing control arm and all connections shall be weatherproofed.

d. The crossing control arm shall be constructed of noncorrodible or nonferrous material or treated in accordance with the body sheet metal standard. See subrule 44.3(42).

e. There shall be no sharp edges or projections that could cause hazard or injury to students.

f. The crossing control arm shall extend a minimum of 70 inches from the front bumper when in the extended position. This measurement shall be taken from the arm assembly attachment point on the bumper. However, the crossing control arm shall not extend past the ends of the bumper when in the stowed position.

g. The crossing control arm shall extend simultaneously with the stop arm(s) by means of the stop arm controls.

h. The crossing control arm system shall be designed to operate in extreme weather conditions, including freezing rain, snow and temperatures below 0 degrees Fahrenheit, without malfunctioning. The crossing control arm itself shall be constructed of a material that will prevent the arm from prematurely extending or from failing to retract due to sustained wind or wind gusts of up to 40 miles per hour.

i. To ensure that the unit mounts flush and operates properly, the chassis bumper mounting bracket must be designed for the specific model chassis on which it will be mounted.

j. A single, cycle-interrupt switch with automatic reset shall be installed in the driver's compartment and shall be accessible to the driver from the driver's seat.

k. The assembly may include a device attached to the bumper near the end of the arm to automatically retain the arm while in the stowed position. That device shall not interfere with normal operations of the crossing control arm.

44.3(16) Daytime running lights (DRL). See subrule 44.3(33).

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44.3(17) Defrosters.

a. Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the interior surfaces of the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

b. The defrosting system shall conform to SAE Standard J381.

c. The defroster and defogging system shall be capable of furnishing heated outside ambient air; however, the part of the system furnishing additional air to the windshield, entrance door and step well may be of the recirculating air type.

d. Auxiliary fans are required; however, they are not considered defrosting or defogging systems. See also subrule 44.3(80).

e. Portable heaters shall not be used.

44.3(18) Doors and exits.

a. Service door.

(1) The service door shall be heavy-duty power- or manually operated under the control of the driver and shall be designed to afford easy release and prevent accidental opening. When a hand lever is used, no parts shall come together to shear or crush fingers. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation. A power-operated door must provide for manual operation in case of power failure.

(2) The service door shall be located on the right side of the bus opposite the driver and within the driver's direct view and shall remain closed anytime the vehicle is in motion.

(3) The service door shall have a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches. Type A vehicles shall have a minimum opening of 1,200 square inches.

(4) The service door shall be of split or jackknife type. (Split door includes any sectioned door which divides and opens inward or outward.) If one section of the split door opens inward and the other opens outward, the front section shall open outward.

(5) Lower as well as upper panels shall be of approved safety glass. The bottom of each lower glass panel shall not be more than 10 inches from the top surface of the bottom step. The top of each upper glass panel shall not be more than 3 inches from the top of the door.

(6) The upper window panels of the service door shall be of insulated double glass. This standard applies to all vehicles equipped with a service door as described in paragraph 44.3(18) "a."

(7) Vertical closing edges on split or folding entrance doors shall be equipped with flexible material to protect children's fingers.

(8) There shall be no door to the left of the driver on Type B, C or D vehicles. All Type A vehicles may be equipped with the chassis manufacturer's standard left side (driver's side) door.

(9) All doors shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend horizontally the full width of the door opening.

(10) Door hinges shall be secured to the body without the use of metal screws.

(11) There shall be no grab handle installed on the exterior of the service door.

(12) A door-locking mechanism may be installed in accordance with subrule 44.3(79).

(13) On power-operated service doors, the emergency release valve, switch or device to release the service door must be placed above or to the left or right of the service door and be clearly labeled. The emergency release valve, switch or device shall work in the absence of power.

b. Emergency doors.

(1) Emergency door(s) and other emergency exits shall comply with the requirements of FMVSS 217 and any of the requirements of these rules that exceed FMVSS 217.

(2) The upper portion of the emergency door shall be equipped with approved safety glazing, the exposed area of which shall be at least 400 square inches. The lower portion of the rear emergency doors on Type A-2, B, C and D vehicles shall be equipped with a minimum of 350 square inches of approved safety glazing.

(3) There shall be no steps leading to an emergency door.

(4) The emergency door(s) shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend the full width of the door opening.

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(5) There shall be no obstruction higher than ¼ inch across the bottom of any emergency door opening.

c. Emergency exit requirements.

(1) Any installed emergency exit shall comply with the design and performance requirements of FMVSS 217, Bus Emergency Exits and Window Retention and Release, applicable to that type of exit, whether or not that exit is required by FMVSS 217, and shall comply with any of the requirements of these rules that exceed FMVSS 217.

(2) An emergency exit may include either an emergency door or emergency exit-type windows. Where emergency exit-type windows are used, they shall be installed in pairs, one on each side of the bus. Type A, B, C, and D vehicles shall be equipped with a total number of emergency exits as follows for the designed capacities of vehicles:

1. 0 to 42 passengers = 1 emergency exit per side and 1 roof hatch.
2. 43 to 78 passengers = 2 emergency exits per side and 2 roof hatches.
3. 79 to 90 passengers = 3 emergency exits per side and 2 roof hatches.

These emergency exits are in addition to the rear emergency door or rear pushout window/side emergency door combination required by FMVSS 217. Additional emergency exits installed to meet the capacity-based requirements of FMVSS 217 may be included to comprise the total number of exits specified. All roof hatches shall have design features as specified in subrule 44.3(80).

(3) Side and rear emergency doors and each emergency window exit shall be equipped with an audible warning device.

(4) Roof hatches shall be equipped with an audible warning device.

(5) Rear emergency windows on Type D rear-engine buses shall have a lifting-assistance device that will aid in lifting and holding the rear emergency window open.

(6) Side emergency windows may be either top-hinged or vertically hinged on the forward side of the window. No side emergency exit window will be located above a stop sign.

(7) On the inside surface of each school bus, located directly beneath or above all emergency doors and windows, shall be a "DO NOT BLOCK" label in a color that contrasts with the background of the label. The letters on this label shall be at least 1 inch high.

44.3(14) 44.3(19) Drive shaft. The drive shaft shall be protected by a metal guard or guards around the circumference of the drive shaft to reduce the possibility of its whipping through the floor or dropping to the ground if broken.

44.3(20) Driver's compartment.

a. The driver's seat supplied by the body company shall be a high-back seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile adult male, as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flange-headed nuts.

b. The driver's seat positioning and range of adjustments shall be designed to accommodate comfortable actuation of the foot control pedals by 95 percent of the male and female adult population.

c. See also subrule 44.3(56).

d. A driver's document compartment or pouch shall be provided. The document compartment or pouch shall measure at least 17 inches × 12 inches × 4 inches. If a document pouch, rather than a covered compartment, is provided, it shall be located on the barrier behind the driver. It shall be constructed of a material of equal durability to that of the covering on the barrier and shall have a lid or cover with a latching device to hold the cover or lid closed.

e. A manual noise suppression switch shall be required and located in the control panel within easy reach of the driver while seated. The switch shall be labeled. This switch shall be an on/off type that deactivates body equipment that produces noise, including, at least, the AM/FM radio, heaters, air conditioners, fans, and defrosters. This switch shall not deactivate safety systems, such as windshield wipers, lighting systems, or two-way radio communication systems.

44.3(15) 44.3(21) Electrical system. See subrule 44.3(41) 44.3(85).

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44.3(22) Emergency equipment.

a. All Type A, B, C, and D school buses shall be equipped with the following emergency equipment: first-aid kit, fire extinguisher, webbing cutter, body fluid cleanup kit, and triangular warning devices.

b. All emergency equipment shall be securely mounted so that, in the event the bus is overturned, this equipment is held in place. Emergency equipment, with the exception of the webbing cutter mounted in a location accessible to the driver, may be mounted in an enclosed compartment provided that the compartment is labeled in not less than 1-inch letters, stating the piece(s) of equipment contained therein.

c. Fire extinguishers shall meet the following requirements:

(1) The bus shall be equipped with at least one five-pound capacity, UL-approved, pressurized dry chemical fire extinguisher complete with hose. The extinguisher shall be located in the driver's compartment readily accessible to the driver and passengers and shall be securely mounted in a heavy-duty automotive bracket so as to prevent accidental release in case of a crash or in the event the bus overturns.

(2) A calibrated or marked gauge shall be mounted on the extinguisher to indicate the amount of pressure in the extinguisher and shall be easily read without moving the extinguisher from its mounted position. Plastic discharge heads and related parts are not acceptable.

(3) The fire extinguisher shall have a rating of 2A-10BC or greater. The operating mechanism shall be sealed with a type of seal which will not interfere with the use of the fire extinguisher.

(4) All fire extinguishers shall be inspected and maintained in accordance with the National Fire Protection Association requirements.

(5) Each extinguisher shall have a tag or label securely attached that indicates the month and year the extinguisher received its last maintenance and the identity of the person performing the service.

d. First-aid kit.

(1) The bus shall have a removable moistureproof and dustproof first-aid kit in an accessible place in the driver's compartment. It shall be mounted and secured, and identified as a first-aid kit. The location for the first-aid kit shall be marked.

(2) Type III vehicles used as school buses shall be equipped with a ten-unit first-aid kit containing the following items:

1 1-inch adhesive compress.

1 2-inch bandage compress.

1 4-inch bandage compress.

1 3-inch × 3-inch plain gauze pad.

1 gauze roller bandage (4-inch × 5 yards).

1 plain absorbent gauze compress (2 piece, 18-inch × 36-inch).

1 plain absorbent gauze compress (24-inch × 72-inch).

2 triangular bandages.

1 wire splint (instant splints may be substituted).

(3) A first-aid kit meeting the national standards (National Standards First-Aid Kit) (per NCST – National Congress on School Transportation Specifications and Procedures 2010 – first-aid kit) and containing the following items is required on all Type A, B, C and D school buses:

2 1-inch × 2½-yard adhesive tape rolls.

24 3-inch × 3-inch sterile gauze pads.

100 ¾-inch × 3-inch adhesive bandages.

8 2-inch bandage compresses.

10 3-inch bandage compresses.

2 2-inch × 6-foot sterile gauze roller bandages.

2 39-inch × 35-inch × 54-inch nonsterile triangular bandages with two safety pins.

3 36-inch × 36-inch sterile gauze pads.

3 sterile eye pads.

1 pair medical examination gloves.

1 mouth-to-mouth airway.

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e. Body fluid cleanup kit. Each bus shall be equipped with a disposable, removable, and moistureproof body fluid cleanup kit in a disposable container which includes the following items:

(1) An EPA-registered liquid germicide (tuberculocidal) disinfectant;

(2) A fully disposable wiping cloth;

(3) A water-resistant spatula;

(4) Step-by-step directions;

(5) Absorbent material with odor counteractant;

(6) Two pairs of gloves (latex);

(7) One package towelettes;

(8) A discard bag (nonlabeled paper bag with a plastic liner and a twist tie). This bag shall be approximately 4 inches × 6 inches × 14 inches and shall be of a nonsafety color (i.e., the bag shall not be red, orange, or yellow). The kit shall be mounted by a method that will retain the kit in place during normal school bus operation and shall be removable without the use of tools. The kit container shall be sealed with a breakable, nonreusable seal and must be accessible to the driver.

f. Triangular warning devices. Each school bus shall contain at least three reflectorized triangle road warning devices mounted in an accessible place. These devices must meet requirements in FMVSS 125.

g. Each bus shall be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device shall be mounted in an easily detachable manner and in a location accessible to the seated driver.

h. Axes are not allowed.

44.3(16) 44.3(23) Exhaust system.

a. to i. No change.

44.3(17) 44.3(24) Fenders, front and hood. This subrule does not apply to Type A-1, A-2 A or D vehicles.

a. to e. No change.

44.3(25) Floor insulation and covering.

a. The floor structure of Type A, B, C and D school buses shall be covered with an insulating layer of either a 5-ply minimum 5/8-inch-thick plywood, or a material of equal or greater strength and insulation R-value, having properties equal to or exceeding exterior-type softwood plywood, C-D grade as specified in standards issued by the United States Department of Commerce. All edges shall be sealed.

b. Type A buses may be equipped with a minimum 1/2-inch-thick plywood meeting the above requirements.

c. The floor in the under-seat area of Type B, C, and D buses, including tops of wheelhousings, driver's compartment and toeboard, shall be covered with an elastomer floor covering having a minimum overall thickness of 1/8 inch and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302. The floor covering of the driver's area and toeboard area on all Type A buses may be the manufacturer's standard flooring and floor covering.

d. The floor covering in aisles of all buses shall be of a ribbed or other raised-pattern elastomer, having a coefficient of friction of 0.85, using ASTM 1894 or 0.65 using ASTM 2047, and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302. Minimum overall thickness shall be 3/16 inch measured from tops of ribs.

e. Floor covering must be permanently bonded to the floor and must not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of a type recommended by the manufacturer of the floor-covering material. All seams must be sealed with waterproof sealer.

f. On Type B, C and D buses, access to the fuel tank sending unit shall be provided. The access opening shall be large enough and positioned to allow easy removal of the sending unit. Any access opening in the body shall be capable of being sealed with a screw-down plate from within the body. When in place, the screw-down plate shall seal out dust, moisture and exhaust fumes. This plate shall not be installed under flooring material.

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g. Cove molding or watertight sealant shall be used along the sidewalls and rear corners. All joints or seams in the floor covering shall be covered with nonferrous metal stripping or stripping constructed of material exhibiting equal durability and sealing qualities.

44.3(18) 44.3(26) Frame.

a. to d. No change.

e. Frame lengths shall be provided in accordance with SBMTC School Bus Design Objectives, August 1996 edition, except where body and chassis manufacturers are the same or have established mutual design criteria for the vehicle established in accordance with the design criteria for the complete vehicle.

44.3(27) Fuel system.

a. All fuel tanks, including auxiliary fuel tanks, fuel tank filler pipes, and fuel tank connections shall conform to all applicable FMVSS at the date of manufacture and shall be installed in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

b. On all Type B, C, and D vehicles, the fuel tank shall comply with FMVSS 301, Fuel System Integrity, and with Federal Motor Carrier Safety Regulations, Section 393.67, paragraphs (c) through (f), with reference to material and method of construction, leak testing and certification. On Type A-1 and A-2 vehicles, the fuel tank may be of the manufacturer's standard construction.

c. On chassis with a wheelbase greater than 170 inches, at least one fuel tank of 60-gallon capacity shall be provided and installed by the manufacturer. Chassis with a wheelbase of 170 inches or less shall be equipped with at least one fuel tank of 30-gallon minimum capacity, as provided and installed by the manufacturer.

d. The fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle by the manufacturer. Tanks shall be mounted directly to the chassis frame, filled, and vented outside the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

e. Fuel filtration shall be accomplished by means of the following:

(1) Gasoline-powered systems—one in-line fuel filter shall be installed between the fuel tank and the engine.

(2) Diesel-powered systems—one engine-mounted fuel filter with water/fuel separator shall be supplied and installed by the engine manufacturer.

f. The actual draw capacity of each fuel tank shall be 83 percent of the tank capacity.

g. Unless specific agreement has been made between the body and chassis manufacturers, fuel tanks and filler spouts shall not be located in spaces restricted by SBMTC School Bus Design Objectives, August 1996 edition.

44.3(19) 44.3(28) Fuels, alternative Fuel system, alternative fuels. An alternative fuel is defined as ~~propane~~ liquefied petroleum gas (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, methanol, ethanol, clean diesel, biodiesel, soydiesel, reformulated gasoline, or any type of hybrid system. Vehicles that operate on an alternative fuel shall meet the following requirements:

a. and b. No change.

c. Original equipment manufacturers (OEMs) and conversion systems using compressed natural gas (CNG) shall comply with NFPA Standard 52, "Compressed Natural Gas Vehicular Fuel Systems," in effect at the time of installation. Fuel systems using liquefied petroleum gas (LPG) shall comply with the NFPA Standard 58, "Liquefied Petroleum Gases Engine Fuel Systems," in effect at the time of installation.

d. All alternative fuel buses shall travel a loaded range of not less than 200 miles, except those powered by electricity, which shall travel not less than 80 miles.

e. Liquefied natural gas (LNG)-powered buses shall comply with NFPA Standard 57, "Liquefied Natural Gas Vehicular-Fueled Systems," and be equipped with an interior/exterior gas detection system. All natural gas-powered buses shall be equipped with a fire detection and suppression system.

f. to p. No change.

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44.3(20) Fuel system.

a. All fuel tanks, including auxiliary fuel tanks, fuel tank filler pipes, and fuel tank connections shall conform to all applicable FMVSS at the date of manufacture and shall be installed in accordance with SBMTC School Bus Design Objectives, August 1996 edition.

b. On all Type B, C, and D vehicles, the fuel tank shall comply with FMVSS 301, Fuel System Integrity, and with Motor Carrier Safety Regulations, Section 393.67, paragraphs (e) through (f), with reference to material and method of construction, leak testing and certification. On Type A-1 and A-2 vehicles, the fuel tank may be of the manufacturer's standard construction.

c. On chassis with a wheelbase greater than 170 inches, at least one fuel tank of 60-gallon capacity shall be provided and installed by the manufacturer. Chassis with a wheelbase of 170 inches or less shall be equipped with at least one fuel tank of 30-gallon minimum capacity, as provided and installed by the manufacturer.

d. Fuel tank(s) may be mounted between the chassis frame rails or outboard of the frame rails on either the left or right side of the vehicle by the manufacturer. Tanks shall be mounted directly to the chassis frame, filled, and vented outside the body, in a location where accidental fuel spillage will not drip or drain on any part of the exhaust system.

e. Fuel filtration shall be accomplished by means of the following:

(1) Gasoline-powered systems—one in-line fuel filter shall be installed between the fuel tank and the engine.

(2) Diesel-powered systems—one engine-mounted fuel filter with water/fuel separator shall be supplied and installed by the engine manufacturer.

f. The actual draw capacity of each fuel tank shall be 83 percent of the tank capacity.

g. Unless specific agreement has been made between the body and chassis manufacturers, fuel tanks and filler spouts shall not be located in spaces restricted by SBMTC School Bus Design Objectives, 1996 edition.

44.3(29) Fuel system, fuel fill opening and cover. Where an opening in the school bus body skirt is needed for access to the fuel fill cap, the opening shall be large enough to permit filling the fuel tank without the need for special fuel nozzle adapters, a funnel, or other device. The opening shall be equipped with a forward hinged cover held closed by a spring or other conveniently operated device. The cover may be of a lockable design. Type A buses are exempt from the requirement of a cover.

44.3(21) 44.3(30) Governor. An electronic engine speed limiter shall be provided and set to limit engine speed, not to exceed the maximum revolutions per minute as recommended by the engine manufacturer.

44.3(31) Heating and air conditioning.

a. Each heater shall be hot-water or combustion type.

b. If only one heater is used, it shall be a fresh-air or combination fresh-air and recirculation type.

c. If more than one heater is used, additional heaters may be recirculating air type.

d. The heating system shall be capable of maintaining bus interior temperatures as specified in SAE test procedure J2233.

e. Auxiliary fuel-fired heating systems are permitted, provided that they comply with the following:

(1) The auxiliary heating system shall utilize the same type of fuel as specified for the vehicle engine.

(2) Heater(s) may be direct hot air or connected to the engine's coolant system.

(3) An auxiliary heating system, when connected to the engine's coolant system, may be used to preheat the engine coolant or preheat and add supplementary heat to the bus's heating system.

(4) Auxiliary heating systems must be installed pursuant to the manufacturer's recommendations and shall not direct exhaust in a manner that will endanger bus passengers.

(5) Auxiliary heating systems which operate on diesel fuel shall be capable of operating on #1, #2 or blended diesel fuel without the need for system adjustment.

(6) The auxiliary heating system shall be low voltage.

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(7) Auxiliary heating systems shall comply with all applicable FMVSS including FMVSS 301 as well as SAE test procedures.

f. Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or any sharp edges and shall not interfere with or restrict the operation of any engine function. Heater hoses shall conform to SAE Standard J20c. Heater lines on the interior of the bus shall be shielded to prevent scalding of the driver or passengers.

g. Each hot water system installed by a body manufacturer shall include one shut-off valve in the pressure line and one shut-off valve in the return line with both valves at the engine in an accessible location, except that on all Type A and B buses, the valves may be installed in another accessible location.

h. Each hot water heating system shall be equipped with a device that is installed in the hot water pressure line that regulates the water flow to all heaters and that is located for convenient operation by the driver while seated.

i. All combustion heaters shall be in compliance with current Federal Motor Carrier Safety Regulations.

j. Accessible bleeder valves shall be installed in an appropriate place in the return lines of body manufacturer-installed heaters to remove air from the heater lines.

k. Access panels shall be provided to make heater motors, cores, and fans readily accessible for service. An outside access panel may be provided for the driver's heater.

l. Air-conditioning systems may be installed in accordance with the following:

(1) Evaporator cases, lines and ducting (as equipped) shall be designed so that all condensation is effectively drained to the exterior of the bus below floor level under all conditions of vehicle movement without leakage on any interior portion of the bus.

(2) Any evaporator or ducting system shall be designed and installed so as to be free of injury-producing projections or sharp edges. Installation shall not reduce compliance with any FMVSS applicable to the school bus. Ductwork shall be installed so that exposed edges face the front of the bus and do not present sharp edges.

(3) Any evaporators used must be copper-cored (aluminum or copper fins acceptable), except that the front evaporator, if provided by a Type A chassis manufacturer, may be aluminum-cored.

(4) Air intake for any evaporator assembly(ies) except for the front evaporator of a Type A bus shall be equipped with replaceable air filter(s) accessible without disassembly of the evaporator case.

(5) On buses equipped for the transportation of persons with disabilities, the evaporator and ducting shall be placed high enough so that they will not obstruct existing or potential occupant securement shoulder strap upper attachment points. This clearance shall be provided along the entire length of the passenger area on both sides of the bus interior to allow for potential retrofitting of new wheelchair positions and occupant securement devices throughout the bus.

(6) The total air-conditioning system shall be warranted, including parts and labor, for at least two years and shall include, but not be limited to, compressor-mounting bracketry and hardware and any belts which, directly or indirectly, drive the compressor(s). Air-conditioning compressor applications must be approved in writing by the chassis engine manufacturer, stating that the installations will not void or reduce the engine manufacturer's warranty or extended service coverage liabilities in any way.

(7) All components requiring periodic servicing must be readily accessible for servicing.

(8) Parts and service manuals shall be provided for the entire system including, but not limited to, compressor(s), wiring (includes wiring diagram), evaporators, condensers, controls, hoses and lines.

(9) Electrical requirements for the air-conditioning system shall be provided to the customer prior to vehicle purchase or, in the case of an after-purchase installation, prior to installing the air-conditioning system to ensure that adequate electrical demands imposed by the air-conditioning system are capable of being met.

(10) The installed air-conditioning system should cool the interior of the bus down to at least 80 degrees Fahrenheit, measured at a minimum of three points, located 4 feet above the floor at the longitudinal centerline of the bus. The three points shall be: near the driver's location; at the midpoint of the body; and 2 feet forward of the emergency door, or for Type D rear engine buses, 2 feet forward of the end of the aisle. Test conditions will be those as outlined in the National School Transportation

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Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

44.3(22) 44.3(32) Heating system, provisions for.

a. and b. No change.

c. For Type A-2 A vehicles with GVWR of 10,000 pounds or less, the chassis manufacturer shall provide a fresh-air front heater and defroster of recirculating hot water type. See also subrules 44.4(12) 44.3(17) and 44.4(18) 44.3(31).

44.3(23) 44.3(33) Headlamps.

a. to e. No change.

44.3(34) Hinges. All exposed metal passenger-door hinges subject to corrosion shall be designed to allow lubrication without disassembly. All passenger-door hinges shall be securely bolted to the bus body. Metal screws are not acceptable.

44.3(24) 44.3(35) Horn. Chassis shall be equipped with a horn of standard make capable of producing a complex sound in a band of audio frequencies between approximately 250 and 2,000 cycles per second and tested in accordance with Society of Automotive Engineers (SAE) Standard J377.

44.3(36) Identification.

a. The body shall bear the words "SCHOOL BUS" in black letters at least 8 inches high on both front and rear of the body or on attached signs. The lettering shall be placed as high as possible without impairment of its visibility. The lettering shall conform to Series B of Standard Alphabets of Highway Signs. "SCHOOL BUS" lettering shall have a reflective background or, as an option, may be illuminated by backlighting.

b. The bus, whether school-owned or contractor-owned, shall have displayed at the beltline on each side of the vehicle the official name of the school in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

Examples:

- (1) Blank community school district.
- (2) Blank independent school district.
- (3) Blank consolidated school district.

If there is insufficient space due to the length of the name of the school district, the words "community," "independent," "consolidated," and "district" may be abbreviated. If, after these abbreviations, there is still insufficient space available, the words "community school district" may be replaced by the uppercase letters "CSD" upon prior approval by the school transportation consultant of the Iowa department of education.

c. The incorporated names of cities located within an officially reorganized school district may be placed on either side of the bus in a single line situated beneath the official school district name. The lettering shall not exceed 2 inches in height and shall be black. This paragraph shall apply only when the names of the cities are not included in the official school district name on the beltline.

d. Buses privately owned and operated by an individual or individuals and used exclusively for transportation of students shall bear the name of the owner, at the beltline on each side of the vehicle in black standard unshaded letters at least 5 inches high, but not more than 7 inches high.

e. The words "RATED CAPACITY," along with the appropriate number indicating the rated pupil seating capacity of the bus, shall be printed to the left of the entrance door, at least 6 inches below the name of the school district and on the bulkhead of the bus above the right windshield. The letters shall be black in color and at least 2 inches in height. The word "CAPACITY" may be abbreviated and shown as "CAP." where necessary.

f. The number of the bus shall be printed in not less than 5-inch nor more than 8-inch black letters, except as otherwise noted in this subrule, and shall be displayed on both sides, the front and the rear of the bus. The location of the bus number is at the discretion of the vehicle owner except that the number:

- (1) Shall be located to the rear of the service door not more than 36 inches from the ground on the right side of the bus and at the same respective position on the left side of the bus.
- (2) Shall be yellow if located on either the front or rear bumper.

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(3) May be placed on the roof of the bus at a position representing the approximate lateral and longitudinal midpoint of the bus. The bus number shall be black and shall measure not less than 24 inches in length.

(4) Shall not be located on the same line as the name of the school district on either side of the bus, on the emergency door, or in a location that will interfere with the words "SCHOOL BUS."

g. Buses privately owned by individuals, a company, or a contractor shall also bear the name of the owner, followed by the word "OWNER" in not more than 2-inch characters printed approximately 6 inches below the bus capacity on the right side of the bus.

h. Symbols, characters or letters, for the purpose of vehicle or route identification by students, may be displayed in the lower, split-sash, glass portion of the third passenger window from the front on the service entrance side of the bus. Such symbols, characters or lettering, if used, shall not exceed 36 square inches. This requirement applies to all school buses regardless of date of purchase.

i. Symbols identifying the bus as equipped for or transporting students with special needs shall be displayed. See subrule 44.4(2).

j. The words "UNLAWFUL TO PASS WHEN LIGHTS FLASH" shall be displayed on the rear emergency door of the bus between the upper and lower window glass sections. The letters shall be black and not less than 2 inches nor more than 6 inches in height. If there is not sufficient space on the emergency door, letter size may be reduced upon approval of the Iowa department of education.

k. The word "BATTERY" in 2-inch black letters shall be placed on the door covering the battery opening.

l. Pressure-sensitive markings of vinyl material may be used for the lettering mentioned in this subrule in lieu of painting.

m. Any lettering, including the name of the school's athletic team(s), numbers, drawings, bumper stickers, characters, or mascot symbols other than the bus manufacturer's registered trademarks or those specifically noted in paragraphs 44.3(36) "a" through "k" above are prohibited.

44.3(25) 44.3(37) Instruments and instrument panel.

a. to e. No change.

44.3(38) Insulation.

a. Thermal insulation in the ceiling and walls shall be fire-resistant, UL-approved, and approximately 1½-inch thick with a minimum R-value of 5.5. Insulation shall be installed in such a way as to prevent it from sagging.

b. Roof bows shall be insulated in accordance with paragraph 44.3(38) "a."

44.3(39) Interior.

a. The interior of the bus shall be free of all unnecessary projections, including luggage racks and attendant handrails, to minimize the potential for injury. This standard requires inner lining on ceilings and walls. If the ceiling is constructed to contain lapped joints, the forward panel shall be lapped by the rear panel and exposed edges shall be beaded, hemmed, flanged, or otherwise treated to minimize sharp edges. Buses may be equipped with a storage compartment for tools, tire chains, and tow chains. See also subrule 44.3(64).

b. Radio speakers are permitted in the passenger compartment area only. No radio speaker, other than that which is necessary for use with two-way communication equipment, shall be located within the driver's compartment area. All radio speakers shall be flush-mounted with the roof or side panels and shall be free of sharp edges which could cause injury to a child.

c. The driver's area forward of the foremost padded barriers shall permit the mounting of required safety equipment and vehicle operation equipment.

d. Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dBA when tested according to the procedure found in Appendix B, National School Transportation Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

e. An access panel must be provided, front and rear, so lights and wiring for the 8-light warning system may be repaired or serviced without removing ceiling panels.

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f. Ceiling material designed to reduce noise within the driver compartment or passenger compartment may be installed by the manufacturer.

g. An electronic “child check” monitor shall be installed. This monitor shall operate in such a way as to require the driver to physically walk to the back of the bus to disengage the monitor system after having first shut off the engine of the bus.

h. Mobile Wi-Fi Internet is allowed, in accordance with other provisions of subrule 44.3(39).

i. On-board interior bus camera heads are allowed within the passenger area of the bus. Camera heads shall not extend more than 1 inch from the ceiling and shall have rounded edges as much as possible. Camera heads shall not be mounted directly above the aisle.

44.3(40) Lamps and signals.

a. All lamps and lamp components shall meet or exceed applicable standards established by the Society of Automotive Engineers (SAE), the American Association of Motor Vehicle Administrators (AAMVA), and FMVSS. These lamps shall be of incandescent or LED design.

b. Clearance lamps. The body shall be equipped with two amber clearance lamps at the front and two red clearance lamps at the rear mounted at the highest and widest portion of the body.

c. Identification lamps. The bus shall be equipped with three amber identification lamps on the front and three red identification lamps on the rear. Each group shall be evenly spaced not less than 6 or more than 12 inches apart along a horizontal line near the top of the vehicle.

d. Intermediate side marker lamps. On all buses over 30 feet long, one amber side lamp is required on each side, located midway between the front and rear clearance lamps.

e. Stop/tail (brake) lamps. Buses shall be equipped with four combination, red stop/tail lamps meeting SAE specifications. Each lamp shall have double filament lamp bulbs or LEDs that are connected to the headlamp and brake-operated stop lamp circuits. These should be positioned as follows:

(1) Two combination lamps with a minimum diameter of 7 inches or, if a shape other than round, a minimum of 38 square inches of illuminated area shall be mounted on the rear of the bus just to the inside of the turn signal lamps.

(2) Two combination lamps with a minimum diameter of 4 inches or, if a shape other than round, a minimum of 12 square inches of illuminated area shall be mounted on the rear of the body between the beltline and the floor line. The rear license plate lamp may be combined with one lower tail lamp. Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated. Type A-2 buses with bodies supplied by the chassis manufacturer may have the manufacturer’s standard stop and tail lamps.

f. Items described in paragraphs 44.3(40) “b,” “c,” “d,” and “e” shall be connected to the headlamp switch.

g. Backup lamps. The bus body shall be equipped with two white rear backup lamps. All vehicles shall be equipped with lamps at least 4 inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area. All lamps shall have a white or clear lens and shall meet SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they shall be to the inside.

h. Interior lamps. Interior lamps shall be provided which adequately illuminate the interior aisle and the step well. Step well lights shall be illuminated by a service door-operated switch, to illuminate only when headlights and clearance lights are on and the service door is open. In addition, the following interior lamps shall be provided:

(1) Supervisor’s light. The rearmost ceiling light or a separate light may be used as a supervisor’s light and shall be activated by a separate switch controlled by the driver.

(2) Driver’s area dome light. This light shall have a separate switch controlled by the driver and shall illuminate the driver’s compartment area.

(3) Body instrument panel lights shall be controlled by a rheostat switch.

(4) On buses equipped with a monitor for the front and rear lamps of the school bus, the monitor shall be mounted in full view of the driver. If the full circuit current passes through the monitor, each circuit shall be protected by a fuse or circuit breaker against any short circuit or intermittent shorts.

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i. License plate lamp. The bus shall be equipped with a rear license plate illuminator. This lamp may be combined with one of the tail lamps.

j. Reflectors. Reflectors shall be securely attached to the body with sheet metal screws or another method having equivalent securement properties and installed in accordance with the requirements of FMVSS 108; however, the vehicle shall, as a minimum, be equipped with the following:

(1) Two amber reflectors, one on each side at the lower front and corner of the body approximately at floor level and back of the door on the right side, and at a similar location on the left side. For all buses over 30 feet long, an additional amber reflector is required on each side at or near the midpoint between the front and rear side reflectors.

(2) Four red reflectors, one at each side at or near the rear and two on the rear, one at each side.

(3) Reflectors are to be mounted at a height not more than 42 inches or less than 30 inches above the ground on which the vehicle stands.

k. Warning signal lamps.

(1) Buses shall be equipped with two red lamps at the rear of the vehicle and two red lamps at the front of the vehicle.

(2) In addition to the four red lamps described above, four amber lamps shall be installed so that one amber lamp is located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red and amber signal lamps shall be wired so that amber lamps are energized manually and the red lamps are automatically energized (sequential), with amber lamps being automatically de-energized, when the stop signal arm is extended or when the bus service door is opened. An amber pilot light and a red pilot light shall be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

(3) The area immediately around the lens of each alternately flashing signal lamp shall be black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of the lamp, there shall be a circular or square band of black immediately below and to both sides of the lens, on the body or roof area against which the signal lamp is seen from a distance of 500 feet along the axis of the vehicle. Black visors or hoods, with a minimum depth of 4 inches, may be provided.

(4) Red lamps shall flash at any time the stop signal arm is extended.

(5) All flashers for alternately flashing red and amber signal lamps shall be enclosed in the body in a readily accessible location.

(6) Strobe lights are permissible.

(7) Additional electronic/lighted warning devices mounted on the rear of the bus are allowed. Each design shall be evaluated and approved by Iowa department of education personnel per established criteria.

l. Turn signal lamps.

(1) The bus body shall be equipped with amber rear turn signal lamps that meet SAE specifications and are at least 7 inches in diameter or, if a shape other than round, a minimum of 38 square inches of illuminated area. These signal lamps must be connected to the chassis hazard warning switch to cause simultaneous flashing of turning signal lamps when needed as a vehicular traffic hazard warning. Turn signal lamps are to be placed as far apart as practical and their centerline shall be approximately 8 inches below the rear window. Type A-2 conversion vehicle lamps must be at least 21 square inches in lens area and in the manufacturer's standard color.

(2) Buses shall be equipped with amber side-mounted turn signal lights. The turn signal lamp on the left side shall be mounted rearward of the stop signal arm, and the turn signal lamp on the right side shall be mounted rearward of the service door.

m. A white flashing strobe light rated for outdoor use and weather-sealed shall be installed on the roof of the bus not less than 1 foot or more than 18 inches from the rear center of the bus. The strobe light shall be located to the rear of the rearmost emergency roof hatch to prevent the roof hatch from diminishing the effectiveness of the strobe light. In addition:

(1) The strobe light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than the maximum legal height.

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(2) The strobe light must be controlled by a separate switch with an indicator light which when lit will indicate that the strobe light is turned on.

(3) The light shall be used only in fog, rain, snow, or at times when visibility is restricted.

(4) Each model strobe shall be approved by the motor vehicle division, Iowa department of transportation.

44.3(41) Measurements.

a. Interior body height shall be 72 inches or more, measured metal to metal, at any point on the longitudinal centerline from the front vertical bow to the rear vertical bow. Inside body height of Type A-2 buses shall be 62 inches or more.

b. Overall height, length and width of the bus shall not exceed the maximums allowed by the Iowa department of transportation.

44.3(42) Metal treatment.

a. All metal, except high-grade stainless steel or aluminum, used in construction of the bus body shall be zinc-coated or aluminum-coated to prevent corrosion. This requirement applies to, but is not limited to, such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

b. All metal parts that will be painted shall be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed to improve paint adhesion.

c. In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, unvented or undrained areas, and surfaces subjected to abrasion during vehicle operation.

d. As evidence that the above requirements have been met, samples of materials and sections used in construction of the bus body subjected to a 1,000-hour salt spray test as provided for in the latest revision of ASTM Standard B-117 shall not lose more than 10 percent of material by weight.

44.3(43) Mirrors.

a. The interior mirror shall be either clear view laminated glass or clear view glass bonded to a backing that retains the glass in the event of breakage. The mirror shall have rounded corners and protected edges. All Type A buses shall have a minimum of a 6-inch × 16-inch mirror; and Type B, C, and D buses shall have a minimum of a 6-inch × 30-inch mirror.

b. Each school bus shall be equipped with exterior mirrors meeting the requirements of FMVSS 111. Mirrors shall be easily adjustable, but shall be rigidly braced so as to reduce vibration.

c. Heated right- and left-side rearview mirrors shall be provided.

d. Systems offering a design feature permitting the driver to remotely adjust rearview mirrors from the driver's compartment shall be utilized.

e. The right-side rearview mirrors must be unobstructed by the unwiped section of the windshield.

f. Heated cross-view mirrors shall be provided.

g. Stainless steel mirror brackets are allowed.

44.3(44) Mounting.

a. The chassis frame shall support the rear body cross member. Except where chassis components interfere, the bus body shall be attached to the chassis frame at each main floor sill in such manner as to prevent shifting or separation of the body from the chassis under severe operating conditions.

b. Isolators shall be placed at all contact points between the body and chassis frame and shall be secured by a positive means to the chassis frame or body to prevent shifting, separation, or displacement of the isolators under severe operating conditions.

c. The body front shall be attached and sealed to the chassis cowl to prevent entry of water, dust, and fumes through the joint between the chassis cowl and body.

d. The refurbishing or reconditioning of a body-on-chassis school bus is restricted to the repair and replacement of school bus body or chassis components. The original body and chassis, as certified by the original equipment manufacturers (OEMs), shall be retained as a unit upon completion of repairs. It is not permissible to exchange or interchange school bus bodies and chassis. The refurbisher or reconditioner

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shall certify that the vehicle meets all state and federal construction standards in effect as of the date of manufacture and shall provide suitable warranty on all work performed. See also subrule 44.6(1).

44.3(45) Mud flaps.

a. Mud flaps or guards are required and shall be provided and installed by the body manufacturer or manufacturer's representative for both front and rear wheels.

b. Front mud flaps or guards shall be of adequate size to protect body areas vulnerable to road debris from wheels and shall be mounted so as to be free of wheel movement at all times.

c. Rear mud flaps or guards shall be comparable in size to the width of the rear wheelhousing and shall reach within approximately 9 inches of the ground when the bus is empty. They shall be mounted at a distance from the wheels to permit free access to spring hangers for lubrication and maintenance and to prevent their being damaged by tire chains or being pulled off while the vehicle is in reverse motion.

d. All mud flaps shall be constructed of rubber. Vinyl or plastic is not acceptable.

~~44.3(26)~~ **44.3(46) Oil filter.** An oil filter with a replaceable element or cartridge shall be of manufacturer's recommended capacity and shall be connected by flexible oil lines if it is not of built-in or engine-mounted design.

~~44.3(27)~~ **44.3(47) Openings.** All openings in the floorboard or fire wall between the chassis and passenger compartment, such as for gearshift selector and parking brake lever, shall be sealed.

~~44.3(28)~~ **44.3(48) Passenger load.**

a. and b. No change.

44.3(49) Passenger securement seating system.

a. All vehicles shall conform to all FMVSS at date of manufacture.

b. Unless otherwise required by FMVSS, school bus seats may be equipped with passenger securement systems for passengers with disabilities in accordance with 281—Chapter 41 when the child's individual education program staffing team determines that special seating and positioning are necessary during transportation. When the staffing team determines that a passenger securement system is necessary to safely transport a student with a disability, the need shall be documented in the student's individual education plan (IEP).

c. When a child securement system is required in paragraph 44.3(49) "b," the seat, including seat frame, seat cushion, belt attachment points, belts and hardware, shall comply with all applicable FMVSS at the time of manufacture. When it is determined that the securement system is no longer necessary to provide seating assistance to a child with a disability, the securement system shall be removed from the seat frame.

d. Children transported in child safety seats shall be secured to a school bus seat utilizing a seat belt-ready seat frame, according to the child safety seat manufacturer's instructions.

44.3(50) Public address system. A public address system permitting interior, exterior or both interior and exterior communication with passengers may be installed.

44.3(51) Radio/communication system. Each school bus shall have a communication system to allow communication between the driver of the bus and the school's base of operations for school transportation. This system shall be a two-way radio, cellular phone, or similar device as allowed by local and state policies regarding use of handheld communication equipment.

44.3(52) Retroreflective material.

a. Retroreflective material shall be provided in accordance with the following:

(1) The rear of the bus body shall be marked with strips of reflective NSBY material to outline the perimeter of the back of the bus using material which conforms with the "Retroreflective Sheeting Daytime Color Specification Proposal" of Appendix B, National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. The perimeter marking of rear emergency exits in accordance with FMVSS 217 and the use of reflective "SCHOOL BUS" signs partially accomplish the objective of this requirement. To complete the perimeter marking of the back of the bus, strips of at least 1¾-inch reflective NSBY material shall be applied horizontally above the rear windows and above the rear bumper, extending from the rear emergency exit perimeter marking outward to the left and right rear corners of the bus; and vertical strips shall be applied at the corners connecting these horizontal strips.

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(2) "SCHOOL BUS" signs, if not of lighted design, shall be marked with reflective NSBY material comprising background for lettering of the front and rear "SCHOOL BUS" signs.

(3) Sides of the bus body shall be marked with reflective NSBY material at least 1¾ inches in width, extending the length of the bus body and located within 6 inches above or below the floor line or on the beltline.

b. Front and rear bumpers may be marked diagonally 45 degrees down to centerline of pavement with 2-inch +/- ¼ inch wide strips of noncontrasting reflective material. This material shall appear black during daylight hours; however, it will be seen as a reflective material during periods of reduced light conditions when a direct light source strikes the material.

44.3(29) 44.3(53) Road speed control. When it is desired to accurately control vehicle maximum speed, a road speed control device may be utilized. A vehicle cruise control may also be utilized.

44.3(54) Rub rails.

a. One rub rail located on each side of the bus at, or no more than 8 inches above, the seat level shall extend from the rear side of the entrance door completely around the bus body (except for emergency door or any maintenance access door) to the point of curvature near the outside cowl on the left side.

b. One rub rail located at, or no more than 10 inches above, the floor line shall cover the same longitudinal area as the upper rub rail, except at wheel housings, and shall extend only to radii of the right and left rear corners.

c. Rub rails at or above the floor line shall be attached at each body post and all other upright structural members.

d. Each rub rail shall be 4 inches or more in width in its finished form, shall be of 16-gauge steel or suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion.

e. Rub rails shall be applied to outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For all buses using a rear luggage or rear engine compartment, rub rails need not extend around rear corners.

f. The bottom edge of the body side skirts shall be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

g. Rub rails shall be painted black or shall be covered with black retroreflective material.

44.3(55) Seating, crash barriers.

a. All school buses (including Type A) shall be equipped with restraining barriers which conform to FMVSS 222.

b. Crash barriers shall be installed conforming to FMVSS 222; however, all Type A-2 school bus bodies shall be equipped with padded crash barriers, one located immediately to the rear of the driver's seat and one at the service door entrance immediately to the rear of the step well.

c. Crash barriers and passenger seats may be constructed with materials that enable the crash barriers and passenger seats to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. Fire block material, when used, shall include the covering of seat bottoms.

d. All crash/restraining barriers shall be the same height as the passenger seating height in the bus.

44.3(56) Seating, driver.

a. Type A school buses shall be equipped with a driver's seat of manufacturer's standard design meeting FMVSS.

b. All Type B, C, and D school buses shall have a driver's seat equipped with a one-piece high back designed to minimize the potential for head and neck injuries in rear impacts, providing minimum obstruction to the driver's view of passengers and meeting applicable requirements of FMVSS 222. The height of the seat back shall be sufficient to provide the specified protection for a 5th percentile adult female up to a 95th percentile adult male, as defined in FMVSS 208. The seat shall be centered behind the steering wheel with a backrest a minimum distance of 11 inches behind the steering wheel. The seat shall be securely mounted to the floor of the bus with grade 5 or better bolts and shall be secured with locking nuts or lock washers and nuts.

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c. All air brake-equipped school buses may be equipped with an air suspension driver's seat meeting the following additional requirements:

(1) The air control for height adjustment shall be within easy reach of the driver in the seated position.

(2) The seat cushion shall be a minimum of 19½ inches wide, shall be fully contoured for maximum comfort, and shall have a minimum of four adjustment positions to allow changes in seat bottom angle.

(3) The backrest shall include adjustable lumbar support.

(4) The seat shall have a minimum of 7 inches of forward and rearward travel, adjustable with the driver in the seated position. This requirement applies to the seat mechanism. Reduction of this requirement to no less than 4 inches due to barrier placement on 89-passenger capacity buses will be acceptable.

(5) The seat shall have a minimum of 4 inches of up and down travel.

(6) Seat back shall include adjustability of tilt angle.

(7) All adjustments shall be by fingertip controls without the use of tools.

(8) The seat shall comply with all applicable FMVSS.

d. Buses shall be equipped with a Type 2 lap belt/shoulder harness seat belt assembly for the driver. This assembly may be integrated into the driver's seat. The seat belt assembly and anchorage shall meet applicable FMVSS. The design shall also meet the following additional requirements:

(1) The design shall incorporate a fixed female push-button-type latch on the right side at seat level, and a male locking-bar tongue on the left retracting side.

(2) The assembly shall be equipped with a single, dual-sensitive emergency locking retractor (ELR) for the lap and shoulder belt. This system shall be designed to minimize "cinching down" on air sprung and standard seats.

(3) The lap portion of the belt shall be anchored or guided at the seat frame by a metal loop or other such device attached to the right side of the seat to prevent the driver from sliding sideways out of the seat.

(4) There shall be a minimum of 7 inches of adjustment of the "D" loop of the driver's shoulder harness on a nonintegrated style of seat belt assembly.

(5) Shoulder belt tension shall be no greater than is necessary to provide reliable retraction of the belt and removal of excess slack.

(6) The driver's seat belt assembly shall incorporate high-visibility material.

44.3(57) Seating, passenger:

a. All seats, component parts, and seat anchorage shall comply with applicable federal requirements as of the date of manufacture.

b. All seats shall have a minimum cushion depth of 15 inches and shall comply with all other requirements of FMVSS 222.

c. In determining the rated seating capacity of the bus, allowable average rump width shall be:

(1) Thirteen inches where a three-three seating plan is used.

(2) Fifteen inches where a three-two seating plan is used.

d. The following knee room requirements shall apply to all school bus bodies:

(1) Knee room shall meet the requirements of FMVSS 222 and shall be measured, on Type A-2, B, C and D school buses, at the center of the transverse line of the seat and at seat cushion height. The distance from the front of a seat back (cushion) to the back surface of the cushion on the preceding seat shall be not less than 24 inches. The seat upholstery may be placed against the seat cushion padding, but without compressing the padding, before the measurement is taken.

(2) On Type A-1 school buses, seat spacing shall be of the manufacturer's standard spacing.

e. All seats shall be forward-facing with seat frames attached to the seat rail with two bolts, washers and nuts or flange-headed nuts. Each seat leg shall be secured to the floor by a minimum of two bolts, washers, and nuts. Flange-headed nuts may be used in lieu of nuts and washers, or seats may be track-mounted in conformance with FMVSS 222. This information shall be on a label permanently affixed to the bus.

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f. Jump seats or portable seats are prohibited; however, use of a flip seat at any side emergency door location in conformance with FMVSS 222, including required aisle width to side door, is acceptable. Any flip seat shall be free of sharp projections on the underside of the seat bottom. The underside of the flip-up seat bottoms shall be padded or contoured to reduce the possibility of snagged clothing or injury during use. Flip seats shall be constructed to prevent passenger limbs from becoming entrapped between the seat back and the seat cushion when in an upright position. The seat cushion shall be designed to rise to a vertical position automatically when not occupied.

g. Seats and seat back cushions shall be covered with a material having 42-ounce finished weight, 54-inch width, and finished vinyl coating of 1.06 broken twill or other material with equal tensile strength, tear strength, seam strength, adhesion strength, and resistance to abrasion, cold and flex separation.

h. All fabric seams shall be chain- or lock-stitch sewn with two threads, each equal to or exceeding the tensile strength of "F"-rated nylon thread.

i. Passenger seats shall be constructed with materials that enable them to meet the criteria contained in the School Bus Seat Upholstery Fire Block Test specified in the National School Transportation Specifications and Procedures Manual 2010, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093. Fire block material, when used, shall include the covering of seat bottoms.

j. Seat cushions shall contain a positive locking mechanism that requires removal of a security device before the seat may be unlatched.

44.3(58) Seating, passenger restraints.

a. Lap belts shall not be installed on passenger seats in large school buses (over 10,000 pounds GVWR) except in conjunction with child safety restraint systems that comply with the requirements of FMVSS 213, Child Restraint Systems.

b. Three-point (3-point) lap shoulder belts may be installed in all buses. If installed, the restraint system shall include a flexible design feature, thus allowing three-two seating on the same 39-inch seat, depending on student size.

44.3(30) 44.3(59) Shock absorbers. Buses shall be equipped with double-action shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

44.3(60) Steps.

a. The first step at the service door shall be not less than 10 inches and not more than 14 inches from the ground when measured from the top surface of the step to the ground, based on standard chassis specifications, except that on Type D vehicles, the first step at the service door shall be 11 inches to 16 inches from the ground. A step well guard/skid plate shall be installed by the manufacturer on all Type D vehicles.

b. Step risers shall not exceed a height of 10 inches. When plywood is used on a steel floor or step, the riser height may be increased by the thickness of the plywood.

c. Steps shall be enclosed to prevent accumulation of ice and snow.

d. Steps shall not protrude beyond the side body line.

e. A suitable device(s) shall be installed within the service entrance door area to assist passengers during entry or egress from the bus. The device(s) shall be designed so as to prevent injury or fatality to passengers from being dragged by the bus after becoming entangled in the device(s).

44.3(61) Step treads.

a. All steps, including floor line platform area, shall be covered with an elastomer floor covering having a minimum overall thickness of 3/16 inch.

b. Grooved design step treads shall be such that grooves run at a 90-degree angle to the long dimension of the step tread. The step covering shall be permanently bonded to a durable backing material that is resistant to corrosion.

c. Step treads shall have a 1/2-inch white or yellow nosing as an integral piece without any joint.

d. Step treads shall have abrasion resistance, slip resistance, weathering resistance, and flame resistance as outlined in the National School Transportation Specifications and Procedures Manual 2010, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

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e. A 3-inch white or yellow rubber step edge at floor level, flush with the floor covering, shall be provided.

44.3(62) *Stirrup steps.*

a. There shall be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning. Handles on the service door are prohibited.

b. Steps or cutouts are permitted in the front bumper only, in lieu of the stirrup steps, if the windshield and lamps are easily accessible for cleaning from that position.

44.3(63) *Stop signal arm.*

a. The stop signal arm shall be a flat 18-inch octagon exclusive of brackets for mounting. All lamps and lamp components shall comply with the requirements of FMVSS 131.

b. Both surfaces of the sign shall be covered with reflectorized material having a reflective capability equal to or exceeding that of 3M Corporation high-intensity sheeting.

c. The application of the reflective sheeting material shall be in accordance with the sheeting manufacturer's suggested application process. All copy shall be sharply defined and clean cut.

d. The stop arm blade shall be mounted in the area below the driver's window on the left side of the bus.

e. A second stop signal arm may be installed on the left side at or near the left rear corner of the school bus and shall meet the requirements of FMVSS 131.

f. Each stop arm blade shall be automatically extended upon activation of the red warning signal lamp system and remain extended until the red signal lamps are deactivated. In addition, each stop arm blade shall be equipped with two double-faced, 4-inch, alternately flashing red lights. The use of strobe lamps in the stop arm blade is acceptable.

g. A wind guard shall be installed which prevents air currents from circulating behind the blades.

h. The stop arm shall be vacuum-, electric-, or air-operated; and the system must positively hold the sign in extended or retracted position to prevent whipping in the wind.

i. If the air for an air-operated stop arm comes from the regular air brake system, the body manufacturer shall provide the necessary check valve and pressure reduction valve to safeguard the air supply for brake application.

j. The two double-faced, 4-inch flashing lights may be replaced with an LED illuminated, high-visibility display, spelling out the word "STOP" visible to the front and rear. This lighting system shall comply with applicable FMVSS prior to installation.

44.3(64) *Storage compartments.*

a. An enclosed space shall be provided in the driver's compartment for storing manuals and bus driver records. See also subrule 44.3(20).

b. A storage container for tools, tire chains, and tow chains may be located either inside or outside the passenger compartment; but, if inside, it shall have a cover (seat cushion may not serve this purpose) capable of being securely latched and fastened to the floor, convenient to either the service or emergency door.

c. Luggage compartments located within the area comprising the wheelbase of the vehicle are allowed. Compartments shall include a door and a means of holding the door in an open position when the compartment is being loaded or unloaded.

44.3(31) 44.3(65) *Suspensions.*

a. to c. No change.

44.3(32) 44.3(66) *Steering gear.*

a. to g. No change.

44.3(33) 44.3(67) *Sun shield.* See subrule 44.4(45).

a. For Type B, C, and D vehicles, an interior adjustable transparent sun shield not less than 6 inches × 30 inches with a finished edge shall be installed in a position convenient for use by the driver.

b. On all Type A buses, the sun shield shall be the manufacturer's standard.

44.3(68) *Tailpipe.* See subrule 44.3(23).

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44.3(34) 44.3(69) Throttle.

- a. The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.
- b. A driver-operated, mechanical or electronic variable-speed hand throttle, or a fast idle switch, shall be provided on all Type C and D vehicles.
- c. OEM adjustable pedals are acceptable as an option.

44.3(35) 44.3(70) Tires and rims.

- a. Tires and rims of the proper size and tires with a load rating commensurate with the chassis manufacturer's gross vehicle weight rating (GVWR) shall be provided.
- b. Tires shall be of tubeless, steel-belted, radial (standard or low-profile) construction.
- c. "Bud" type, hub-piloted steel rims are required. Multipiece and "Dayton" rims are prohibited.
- d. Dual tires shall be provided on all vehicles listed in rule 281—44.2(285), except Type III vehicles.
- e. All tires on a vehicle shall be of the same size, and the load range of the tires shall meet or exceed the GVWR as required by FMVSS 120.
- f. Spare tires are not required; however, if specified, the spare tire shall be located outside the passenger compartment. The spare tire may not be attached to any part of the rear portion of the body including the emergency door, bumper or roof. If a tire carrier is required, it shall be suitably mounted in an accessible location outside the passenger compartment.
- g. Recapped tires are permissible as replacements on equipment now in operation for use on rear wheels only, providing tires are guaranteed by the seller. Recapped tires are not permissible where single rear wheels are used.
- h. Tires, when measured on any two or more adjacent tread grooves, shall have a tread groove pattern depth of at least 4/32 of an inch on the front wheels and 2/32 of an inch on the rear wheels. No measurement shall be made where tire bars, humps, or fillets are located. On Type A-1 and Type A-2 buses with single front and rear wheels, the tread groove pattern depth shall be at least 4/32 of an inch. Where specific measurement points are provided by the tire manufacturer, they shall be utilized in determining tires approved for service. This requirement also applies to buses now in service.
- i. Tire pressure equalizing systems for dual rear wheels are acceptable.
- j. Traction-assisting devices, including hopper-sanders, tire chains or automatic traction chains, may be installed.
- k. Wheel check indicators for lug nuts are allowed.

44.3(36) Tow hooks. See subrule 44.3(7).

44.3(71) Tow hooks, front. Tow eyes or hooks are required on Type B, C and D buses of 14,501 pounds GVWR or greater. Two tow eyes or hooks shall be installed by the manufacturer so as not to project beyond the front bumper

44.3(72) Tow hooks, rear. Two rear tow hooks are required on all school buses. Rear tow hooks shall be attached to the chassis frame and located under the rear bumper so the hook portion is under the body.

44.3(73) Traction-assisting devices. Traction-assisting devices including hopper-sanders, tire chains or automatic traction chains may be installed.

44.3(37) 44.3(74) Transmission.

- a. Automatic transmissions shall provide for not less than three forward speeds and one reverse speed. The shift lever, if applicable, shall provide a detent between each gear position when the gear selector quadrant and shift lever are not steering column-mounted.
- b. ~~An electronic control or similar device shall be installed to ensure that the automatic transmission cannot accidentally be moved out of the neutral or park gear position.~~ Automatic transmissions incorporating a parking pawl shall have a transmission shifter interlock controlled by the application of the service brake to prohibit accidental engagement of the transmission. All non-parking pawl transmissions shall incorporate a park brake interlock that requires the service brake to be applied to allow release of the parking brake.

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~~*e.* In manual transmissions, second gear and higher shall be synchronized except when incompatible with engine power. A minimum of three forward speeds and one reverse speed shall be provided.~~

44.3(75) *Trash container and holding device.*

a. When a trash container is placed on the school bus, it shall comply with the following:

- (1) Meet the requirements of FMVSS 302, Flammability of Interior Materials.
- (2) Be no greater than 20-quart capacity.
- (3) Be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement.

b. The container shall be placed in an accessible location in the driver's compartment of the school bus subject to Iowa department of education approval. The container shall not obstruct the aisle of the bus, access to safety equipment or passenger use of the service entrance door.

44.3(38) 44.3(76) *Turning radius.*

a. and *b.* No change.

~~**44.3(39) 44.3(77) *Undercoating.***~~ Chassis manufacturers or their agents shall coat the undersides of steel or metallic constructed front fenders with a rustproofing compound for which compound manufacturers have issued notarized certification of compliance to the chassis builder that the compound meets or exceeds all performance and qualitative requirements of Paragraph 3.4 of Federal Specification TT-C-520B, using modified tests.

a. The entire underside of the bus body, including floor sections, cross member and below floor line side panels, and chassis front fenders shall be coated with rustproofing material for which the material manufacturer has issued to the bus body manufacturer a notarized certification that materials meet or exceed all performance requirements of SAE J1959.

b. Undercoating material shall be applied with suitable airless or conventional spray equipment to the undercoating material manufacturer's recommended film thickness and shall show no evidence of voids in cured film.

c. The undercoating material shall not cover any exhaust components of the chassis.

d. If chassis is built as a separate unit, the chassis manufacturer or its agents shall be responsible for providing undercoating to the chassis areas.

44.3(40) *Windshield washer/wiper system.*

a. On Type A-1 vehicles, wet-arm-type windshield wipers and washer system shall be provided by the chassis manufacturer. On Type A-2 vehicles, the windshield wiper/washer system shall be of the manufacturer's standards.

b. A two-speed or variable-speed windshield wiping system, with an intermittent feature, shall be provided and shall be operated by a single switch.

c. The wipers shall meet the requirements of FMVSS No. 104.

d. Wiper control(s) shall be located within easy reach of the driver and shall be designed to move the blades from the driver's direct view when the wiper control is in the "off" position.

e. Wiper blades and arms shall be heavy duty and of manufacturer's standard length for the vehicle.

44.3(78) *Vacuum check valve.* A vacuum check valve shall be provided and installed on the chassis by the school bus body manufacturer for connecting vacuum accessory items.

44.3(79) *Vandal lock.*

a. The school bus may be equipped with a vandal locking system for securing the service entrance and emergency door(s).

b. The vandal locking system shall include the following design features:

(1) The entrance door is to be locked by an exterior key with a dead bolt, a remote control (cable) device or an electric device. The system must prevent the door from being accidentally locked by any motion the bus may encounter during its normal operation. This requirement does not apply to Type A vehicles with a left-side driver's door.

(2) When the bus is equipped with a rear-mounted engine, the emergency door and rear emergency exit window are to be locked by an interior slide bolt which shall activate a buzzer when the door or

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emergency exit window is locked and the ignition of the bus is turned on. The locking mechanism must be capable of being locked or unlocked without the use of a separate key or other similar device.

(3) The engine starting system of the bus shall not operate if the rear or side emergency door or rear emergency exit window over the rear engine compartment is locked from either the inside or outside of the bus.

(4) Hasp-type devices may not be attached to the bus for the purpose of securing any door or window.

44.3(80) Ventilation.

a. The body ventilation system on Type A, B, C and D buses shall include one static, nonclosing exhaust vent in the low-pressure area of the roof and one or more combination roof ventilation/emergency escape hatches in accordance with 44.3(18). The ventilation system shall be capable of being controlled and shall have sufficient capacity to maintain a proper quantity of air under operating conditions without the opening of windows except in extremely warm weather.

b. Each combination roof ventilation/emergency escape hatch shall be installed by the school bus body manufacturer or the body manufacturer's approved representative and shall have the following design and installation features:

(1) Multiposition fresh air ventilation.

(2) Release handle(s) permitting operation as an emergency exit(s), accessible inside and outside the vehicle.

(3) An audible warning system which sounds an alarm in the driver's compartment area when the emergency roof hatch is unlatched shall be installed as a design feature by the manufacturer.

(4) When more than one ventilation/emergency roof hatch is required, one shall be installed forward of the intersection of the horizontal and longitudinal midpoints of the bus in a low-pressure area of the roof. The second unit shall be installed on the roof in a location behind the rear axle. When only one ventilation/emergency roof hatch is required, it shall be installed in a low-pressure area of the roof at or near the longitudinal midpoint of the bus.

(5) Ventilation/emergency escape hatches may include static-type nonclosable ventilation.

c. Auxiliary fans shall be installed and shall meet the following requirements:

(1) Two adjustable fans shall be installed on Type B, C and D buses. Fans for left and right sides shall be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.

(2) Fans shall be a nominal 6-inch diameter except where noted below.

(3) Fan blades shall be covered with a protective cage. Each fan shall be controlled by a separate switch capable of two-speed operation.

(4) Type A buses shall have at least one fan that has a nominal diameter of at least 4 inches and meets the above requirements.

44.3(81) Wheelhousings.

a. The wheelhousing opening shall allow for easy tire removal and service.

b. The wheelhousing shall be attached to the floor sheets in such a manner as to prevent any dust, water or fumes from entering the bus body. Wheelhousings shall be constructed of at least 16-gauge steel or other material capable of withstanding passenger or other expected loads applied internally or externally without deformation.

c. The inside height of the wheelhousing above the floor line shall not exceed 12 inches.

d. The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels.

e. No part of a raised wheelhousing shall extend into the emergency door opening.

44.3(82) Windshield and windows.

a. All glass in windshield, windows, and doors shall be of approved safety glass consistent with American National Standard, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, ANSI/SAE Z-26.1-1990, mounted so the permanent mark is visible, and of sufficient quality to prevent distortion of view in any direction.

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b. Glass in windshields may be heat-absorbing and may contain a shaded band across the top. Location of "fade out" shall be above the upper limit for maximum visibility.

c. Each full side window, other than emergency exits designated to comply with FMVSS 217, shall be split-sash type and shall provide an unobstructed emergency opening of at least 9 inches high, but not more than 13 inches high, and 22 inches wide, obtained by lowering the window. When the driver's window consists of two sections, both sections shall be capable of being moved or opened.

d. Insulated double glass is required in both sections of the left-side driver's window and in the upper glass portion(s) of the service entrance door.

e. Window glass forward of the service door and in the driver's direct line of sight for observing exterior rearview mirrors and traffic shall be of insulated double glass. The door glass in Type A-2 vehicles equipped with a manufacturer's standard van-type, right-side service door may be of the manufacturer's standard design.

f. The school bus body manufacturer may design and install a protective device over the inside, lower window glass of a rear emergency door to protect it from being damaged or broken during normal operation. The protective device shall be securely mounted by the manufacturer, shall be free of projections which might harm passengers, and shall permit visibility through the device to the area outside and to the rear of the bus.

g. Tinted glazing capable of reducing the amount of light passing through a window may be installed consistent with rules established by the Iowa department of public safety relating to automotive window transparency standards, except that the following windows shall be of AS-II clear glass rating:

- (1) All glass to the immediate left of the driver.
- (2) All glass forward of the driver and service door.
- (3) All glass in the service entrance door.

h. The entire windshield area shall be of AS-I rating.

44.3(83) *Windshield washer system.*

a. All buses shall be equipped with electric wet-arm windshield washers which conform to the body manufacturer's recommendation as to type and size for the bus on which they are to be used. The windshield washer system on Type A vehicles may be of the manufacturer's standard design. On Type A-2 vehicles, the windshield washer system shall be of the manufacturer's standards.

b. The washer control(s) shall be located within easy reach of the driver.

44.3(84) *Windshield wiper system.*

a. For Type A vehicles, windshield wipers shall be supplied by the chassis manufacturer and shall be of the manufacturer's standard design.

b. Type B, C and D buses shall be equipped with two positive-action, two-speed or variable-speed electric or air windshield wipers. Windshield wipers shall have an intermittent wiping feature and shall be operated by a single switch.

c. The wipers shall be operated by one or more air or electric motors of sufficient power to operate wipers. If one motor is used, the wipers shall work in tandem to give a full sweep of the windshield.

d. Wiper control(s) shall be located within easy reach of the driver and shall be designed to move the blades from the driver's view when the wiper control is in the "off" position.

e. Windshield wipers shall meet the requirements of FMVSS 104.

44.3(41) 44.3(85) *Wiring.*

a. to c. No change.

d. Circuits.

(1) An appropriate identifying diagram (coded by color or number or both) for electrical circuits shall be provided to the body manufacturer for distribution to the end user.

(2) The headlight system must be wired separately from the body-controlled solenoid.

(3) Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse or circuit breaker or circuit protection device.

(4) A master wiring diagram shall be supplied for each vehicle provided by the body manufacturer. Chassis wiring diagrams, including any changes to wiring made by the body manufacturer, shall also be supplied to the end user.

EDUCATION DEPARTMENT[281](cont'd)

(5) The following body interconnecting circuits shall be color-coded as noted, and the color of cables shall correspond to SAE J1128:

<u>FUNCTION</u>	<u>COLOR</u>
<u>Left rear directional light</u>	<u>Yellow</u>
<u>Right rear directional light</u>	<u>Dark green</u>
<u>Stoplights</u>	<u>Red</u>
<u>Backup lights</u>	<u>Blue</u>
<u>Taillights</u>	<u>Brown</u>
<u>Ground</u>	<u>White</u>
<u>Ignition feed, primary feed</u>	<u>Black</u>

e. Wiring shall be arranged in at least six regular circuits as follows:

- (1) Head, tail, stop (brake) and instrument panel lamps.
- (2) Clearance and step well lamps, which shall be actuated when the service door is opened.
- (3) Dome lamp.
- (4) Ignition and emergency door signal.
- (5) Turn signal lamps.
- (6) Alternately flashing signal lamps.

f. Any of the above combination circuits may be subdivided into additional independent circuits.

g. Whenever heaters and defrosters are used, at least one additional circuit shall be installed.

h. Whenever possible, all other electrical functions, such as Sanders and electric-type windshield wipers, shall be provided with independent and properly protected circuits.

i. Each body circuit shall be coded by number or letter on a diagram of circuits which shall be attached to the body in a readily accessible location.

j. The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted.

k. All wiring shall have an amperage capacity exceeding the design load by at least 25 percent. All wiring splices are to be made at an accessible location and noted as splices on wiring diagram.

l. A body wiring diagram, of a size which can be easily read, shall be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel.

m. The body power wire shall be attached to a special terminal on the chassis.

n. Each wire passing through a metal opening shall be protected by a grommet.

o. Wires not enclosed within the body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors, which shall be water-resistant and corrosion-resistant.

ITEM 3. Rescind rule **281—44.4(285)**.

ITEM 4. Renumber rule **281—44.5(285)** as **281—44.4(285)**.

ITEM 5. Amend renumbered rule 281—44.4(285), introductory paragraph, as follows:

281—44.4(285) Construction of vehicles for children with mobility problems challenges. The following shall apply to vehicles constructed for the transportation of children with mobility ~~problems~~ challenges of such severity that the children are prohibited from utilizing the regular service door entrance. Vehicles constructed for transporting these children shall meet all FMVSS relating to school bus construction and Iowa school bus construction requirements as described in rules 281—44.1(285) and 281—44.4(285) 281—44.3(285). The following standards shall also apply:

ITEM 6. Amend renumbered paragraphs **44.4(1)“a”** and **“d”** as follows:

a. Certification of these vehicles as multipurpose passenger vehicles due to capacity rating shall not relieve the manufacturer of the responsibility to provide a completed vehicle meeting all FMVSS

EDUCATION DEPARTMENT[281](cont'd)

for school buses as well as rules 281—44.1(285) to 281—44.4(285) 281—44.3(285) relating to the construction of a school bus.

d. The actual rated seating capacity following modification of a vehicle shall be placed at locations indicated in paragraph 44.4(20)“*d.*” 44.3(36)“*e.*”

ITEM 7. Adopt the following new subparagraph **44.4(2)“b”(4)**:

(4) All crash/restraining barriers shall be the same height as the passenger seating height in the bus.

ITEM 8. Amend renumbered subparagraph **44.4(2)“f”(4)** as follows:

(4) All lift controls shall be portable and conveniently located on the inside of the bus near the special service door opening. Controls shall be easily operable from inside or outside the bus by either a platform standee or person seated in a wheelchair when the lift is in any position. A master cut-off switch controlling on/off power to the lift shall be located in the driver’s compartment. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

ITEM 9. Adopt the following new subparagraph **44.4(2)“h”(3)**:

(3) In addition to the standard handrail required in all buses, an additional handrail may be provided on all specially equipped school buses. If so equipped, this rail shall be located on the opposite side of the entrance door from the required rail and shall meet the same requirements for handrails.

ITEM 10. Adopt the following new subparagraph **44.4(2)“m”(3)**:

(3) All child safety restraint systems shall comply with the requirements of FMVSS No. 213, Child Restraint Systems.

ITEM 11. Renumber rule **281—44.6(285)** as **281—44.5(285)**.

ITEM 12. Amend renumbered rule 281—44.5(285), catchwords, as follows:

281—44.5(285) Family-type or multipurpose passenger Type III vehicles.

ITEM 13. Amend renumbered paragraph **44.5(2)“e”** as follows:

e. First-aid kit. The vehicle shall carry a minimum ten-unit first-aid kit. See 44.4(15)“*d*”(2) 44.3(22)“*d*”(2).

ITEM 14. Adopt the following new paragraph **44.5(2)“j”**:

j. Trailer hitches are allowed on Type III vehicles in accordance with the manufacturer’s rated towing capacity. Students are not allowed to be transported in the vehicle when the vehicle is being used to tow.

ITEM 15. Amend renumbered subrule 44.5(3) as follows:

44.5(3) *Applicability of standards.* The above standards apply to all vehicles (except as noted in 44.6(2)“*i*” 44.5(2)“*i*”) of this type and those currently in service used to transport students to and from school.

ITEM 16. Renumber rule **281—44.7(285)** as **281—44.6(285)**.

ITEM 17. Amend renumbered paragraph **44.6(2)“i”** as follows:

i. An evaluation of the product’s performance shall be conducted by department staff, and if the product is determined to meet the criteria listed in 44.7(2)“*a*” paragraphs 44.6(2)“*a*” to “*f*,” measures shall be taken as soon as practicable to formally approve the product.

ARC 1394C**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to amend Chapter 64, “Child Development Coordinating Council,” Iowa Administrative Code.

These proposed amendments to the rules concerning the actions of the Child Development Coordinating Council are related to the proposed amendments concerning the “Shared Visions” program in 281—Chapter 67 (published herein as **ARC 1396C**). These corresponding amendments seek to change the parameters of the grant process and update the rules to reflect the new requirements in the program for awarding and maintaining grant status for those in the program.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before April 22, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; or e-mail mike.cormack@iowa.gov.

A public hearing will be held on April 22, 2014, from 3 to 4 p.m. in the State Board Room, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, at which 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 advise the Department of Education of specific needs by calling (515)281-5295.

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

These amendments are intended to implement Iowa Code chapters 256A and 279.

The following amendments are proposed.

ITEM 1. Amend rule 281—64.6(256A,279) as follows:

281—64.6(256A,279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the council shall grant awards to child development programs for at-risk three- and four-year-old children and public school child development programs for at-risk three-, four-, and five-year-old children on a competitive basis. Competitive grants will be awarded with a renewal option for up to five years when grantees meet program requirements. If program requirements are not met, the department may discontinue grant funding at the start of the following fiscal year.

ITEM 2. Amend subrule 64.9(1) as follows:

64.9(1) Criteria points. The following information shall be provided and points shall be awarded to applicants based on the following criteria as stated in the request for proposal:

1. Provision of a comprehensive child development program.
2. Limited class size.
3. ~~Limited pupil-teacher~~ Child-teacher ratios of not less than one staff member per eight children.
4. Provision of parental involvement.
5. Demonstration of community support.
6. Utilization of services provided by other community agencies.
7. Use of qualified teachers.
8. Existence of a plan for program evaluation including, but not limited to, measurement of student outcomes.
9. Developmentally appropriate practices.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 3. Amend rule 281—64.10(256A,279) as follows:

281—64.10(256A,279) Application process. The council shall advise the department to announce through public notice the opening of an application period.

ITEM 4. Amend rule 281—64.11(256A,279) as follows:

281—64.11(256A,279) Request for proposals. Applications for the child development grants and public school grants shall be distributed by the department upon request.

~~The request for proposal for public school grants for at-risk three-, four-, and five-year-old children shall document all day, everyday kindergarten to serve at-risk five-year-old children, which may be a part-day combination of three to five-year-old at-risk children.~~

Proposals not containing the specified information or not received by the specified date may not be considered.

All applications shall be submitted in accordance with instructions in the requests for proposals. The proposals shall be submitted to the department.

ITEM 5. Amend subrule 64.12(4) as follows:

64.12(4) The council shall advise the department to notify successful applicants and ~~shall to~~ provide to each of them a contract for signature. ~~This contract shall be signed by an official with authority to bind the applicant and shall be returned to the council prior to the award of any funds under this program.~~

ITEM 6. Rescind and reserve rule **281—64.14(256A,279)**.

ITEM 7. Amend rule 281—64.15(256A,279) as follows:

281—64.15(256A,279) Grantee responsibilities.

64.15(1) The grantee shall maintain records which include but are not limited to:

- a. Information on children and families served.
- b. Direct services provided to children.
- c. Record of expenditures.
- d. Other appropriate information specified by the council necessary to the overall evaluation.

Monitoring of such records will be conducted through the submission of annual reports by the grantee and may include on-site review as determined necessary by the department.

~~**64.15(2)** Continuation programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs. Programs shall have two years from the date of initial funding to complete the self-study process. Programs shall have three years from the date of initial funding to attain accreditation. Programs unable to attain accreditation by the end of the three-year period may apply for a waiver of accreditation by March 15 of the third year. Waivers shall be awarded at the discretion of the council. Programs not attaining accreditation or not receiving a waiver of accreditation will be terminated. New/expansion programs shall participate in the accreditation process of the National Association for the Education of Young Children during the programs' first year of funding. New/expansion programs shall be granted a waiver of accreditation during their first year of funding and must attain accreditation during their second year of funding. Programs not able to attain accreditation during their second year may apply for a waiver of accreditation by March 15 of the current fiscal year. Waivers shall be granted at the discretion of the council. Programs that do not attain accreditation or that do not receive a waiver will not be funded.~~

~~**64.15(3)** New/expansion programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs during their first year of council funding. New/expansion programs shall be granted a waiver of accreditation during their first year of funding. New/expansion programs must complete self-study and attain accreditation during their second year of funding. Programs not able to attain accreditation during their second year may apply for a waiver of accreditation by March 15 of the current fiscal year. Waivers shall be granted at the discretion of the council. Programs not attaining accreditation or not receiving waivers will be terminated. Continuation programs shall participate in the renewal process and maintain accreditation with the~~

EDUCATION DEPARTMENT[281](cont'd)

National Association for the Education of Young Children. Programs unable to maintain accreditation may apply for a waiver of accreditation. Waivers shall be awarded at the discretion of the council. Programs that do not maintain accreditation or that do not receive a waiver will not be funded.

64.15(4) Grantees shall provide ~~quarterly~~ annual reports that include information detailing progress toward goals and objectives, expenditures and services provided on forms provided for those reports. Failure to submit reports by the due date shall result in suspension of financial payments to the grantee until the time that the report is received. No new awards shall be made for continuation programs ~~where~~ when there are delinquent reports from prior grants.

64.15(5) No change.

ITEM 8. Amend rule 281—64.18(256A,279) as follows:

281—64.18(256A,279) Contract revisions and budget reversions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant. The council ~~shall approve~~ may advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category. Grantees who revert 3 percent or more of their program budget at the end of the 1998 budget year, and every budget year thereafter, will have that dollar amount permanently deducted from all subsequent grant awards.

ITEM 9. Amend rule 281—64.20(256A,279) as follows:

281—64.20(256A,279) Termination for cause. The contract may be terminated in whole or in part at any time before the date of completion, whenever it is determined by the council that the grantee has failed to comply substantially with the conditions of the contract. The grantee shall be notified in writing by the department of the reasons for the termination and the effective date. The grantee shall not incur new obligations for the terminated portion after the effective date of termination and shall cancel as many outstanding obligations as possible.

The department shall administer the child development grants and public school grants contingent upon their availability. If there is a lack of funds necessary to fulfill the fiscal responsibility of the child development grants and the public school grants, the contracts shall be terminated or renegotiated. The council may terminate or renegotiate a contract upon 30 days' notice when there is a reduction of funds by executive order.

The contract may be terminated in whole or in part by June 30 of the current fiscal year in the event that the grantee has not attained accreditation by the ~~National Academy of Early Childhood Programs~~ Association for the Education of Young Children or has not been awarded a waiver of accreditation by the council.

ARC 1396C

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 67, “Educational Support Programs for Parents of At-risk Children Aged Birth Through Three Years,” Iowa Administrative Code.

These proposed amendments would revise what is known as the “Shared Visions” early education grant program, with changes in eligibility for participation in the parent support component and changes

EDUCATION DEPARTMENT[281](cont'd)

in the grant process of the entities providing this service. The proposed amendments would increase the age range of at-risk children whose parents may participate in the program from birth through age three to from birth through age five. Criteria in the grant program have been modified such that competitive grants will be awarded with a renewal option for up to five years if the program requirements are met.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before April 22, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; or e-mail mike.cormack@iowa.gov.

A public hearing will be held on April 22, 2014, from 2 to 3 p.m. in the State Board Room, Second Floor, Grimes State Office Building, 400 East 14th Street, Des Moines, Iowa, at which 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 advise the Department of Education of specific needs by calling (515)281-3399.

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

These amendments are intended to implement Iowa Code section 279.51.

The following amendments are proposed.

ITEM 1. Amend **281—Chapter 67**, title, as follows:

EDUCATIONAL SUPPORT PROGRAMS FOR PARENTS
OF AT-RISK CHILDREN AGED BIRTH THROUGH ~~THREE~~ FIVE YEARS

ITEM 2. Amend rule 281—67.1(279) as follows:

281—67.1(279) Purpose. These rules set forth procedures and conditions under which state funds shall be granted to school districts, area education agencies or other agencies which administer quality educational support services to parents of at-risk children aged birth through ~~three~~ five years.

ITEM 3. Amend rule 281—67.2(279) as follows:

281—67.2(279) Definitions.

“*Applicant*” means a public school district, area education agency or an agency which applies for the funds to provide quality educational support programs to parents of at-risk children aged birth through ~~three~~ five years.

“*At-risk children*” means children birth through age ~~three~~ five who are at risk because of physical or environmental influence.

“*Council*” means the child development coordinating council.

“*Department*” means the department of education.

“*Early intervention interagency council*” means the community early intervention interagency councils for ~~handicapped~~ infants and toddlers with disabilities and their families formed to assist with the implementation of P.L. 99-457, Part H, which amends P.L. 94-142, Education of the Handicapped Act.

“*Educational support services*” means individual or group opportunities providing information to parents which focuses on: parenting skills, child growth and development, building of self-concept, nutrition, positive guidance techniques, family resource management, parent literacy, and how to access the array of supportive services from a network of agencies that are available to families with young children who are at risk.

“*Grantee*” means the applicant designated to receive the grants for educational support services to parents of at-risk children aged birth through ~~three~~ five years.

“*Parent*” means biological, adoptive, surrogate, foster parent, or guardian.

“*Quality educational support services*” means educational support services that have a qualified or trained staff to provide a program which meets the needs of parents through the use of a validated curriculum or which is based on a model project which has proven successful in another state or location.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 4. Amend rule 281—67.3(279) as follows:

281—67.3(279) Eligibility identification procedures. In a year in which funds are made available by the Iowa legislature, the department shall grant awards to applicants for the provision of educational support services to parents of at-risk children aged birth through ~~three~~ five years. Funds shall be made available on a competitive basis to schools or nonprofit agencies demonstrating an ability to provide quality educational support services to parents of at-risk children aged birth through ~~three~~ five years. Competitive grants will be awarded with a renewal option for up to five years contingent upon the awardee's meeting program requirements. If program requirements are not met, the department may discontinue grant funding at the start of the following fiscal year.

ITEM 5. Amend rule 281—67.4(279) as follows:

281—67.4(279) Eligibility. The available funds shall be directed to serve parents of at-risk children aged birth through ~~three~~ five years in the primary eligibility category as follows:

Parents having one or more children aged birth through ~~three~~ five years who meet the current income eligibility guidelines for free and reduced price meals in a local school or whose total income is, or is projected to be, equal to or less than 125 percent of the federally established poverty guidelines.

ITEM 6. Amend rule 281—67.5(279) as follows:

281—67.5(279) Secondary eligibility. The available funds shall be directed to serve parents of at-risk children aged birth through ~~three~~ five years when children qualify in one or more of the secondary eligibility categories as follows:

1. Children who are abused.
2. Children functioning below chronological age in two or more developmental areas, one of which may be English proficiency, as determined by an appropriate professional.
3. Children born with an established biological risk factor, such as very low birth weight (under 1500 grams—approximately three pounds) or with conditions such as spina bifida, Down's syndrome or other genetic disorders.
4. Children born to a parent who was under the age of 18.
5. Children residing in a household where one or more of the parents or guardian:
 - Has not completed high school;
 - Has been identified as a substance abuser;
 - Has been identified as chronically mentally ill;
 - Is incarcerated;
 - Is illiterate;
 - Is a child abuser or spouse abuser; or
 - Has limited English proficiency.
6. Children having other special circumstances, such as foster care or being homeless.

ITEM 7. Amend rule 281—67.6(279) as follows:

281—67.6(279) Grant awards criteria.

67.6(1) Criteria points. The following information shall be provided and points shall be awarded to applicants based on the following criteria as stated in the request for proposal:

1. Identification of parents of at-risk children.
- ~~2. Parent accessibility to the project.~~
- ~~3.~~ 2. Positive family focus.
- ~~4.~~ 3. Educational support programs to provide family services.
- ~~5.~~ 4. Community and interagency coordination.
- ~~6. Use of media and materials.~~
- ~~7.~~ 5. Overall program evaluation.
- ~~8.~~ 6. Letters of community support.

EDUCATION DEPARTMENT[281](cont'd)

~~9. 7.~~ Program budget (administrative) costs not to exceed 10 percent of total award.

67.6(2) Additional grant components. The following information shall be provided and points shall be awarded to applicants based on the following additional components.

1. Documentation of a need for this project.
- ~~2. Demonstration that the concept outlined within the application has support of the community-based child development coordinating council or P. L. 99-457, Part H, early intervention interagency council, when applicable.~~
- ~~3. 2.~~ Justification of how this project will utilize services from other agencies and how this project will supplement services to the eligible population.
- ~~4. 3.~~ Identification of the curriculum to be used or the model to be replicated.
- ~~5. 4.~~ Demonstration that persons qualified to administer these educational support services to parents will be employed.

ITEM 8. Amend rule 281—67.8(279) as follows:

281—67.8(279) Request for proposals. Applications for the educational support services to parents of at-risk children aged birth through ~~three~~ five years grants shall be distributed by the department upon request.

ITEM 9. Amend subrule 67.9(1) as follows:

67.9(1) Grants for educational support services to parents of at-risk children aged birth through ~~three~~ five years shall not supplant other existing funding sources.

ITEM 10. Amend rule 281—67.10(279) as follows:

281—67.10(279) Notification of applicants. Applicants shall be notified of the department's decision to approve the proposal ~~within 45 days of the deadline for applications. Negotiations may be required. Successful applicants will be requested to have an official with vested authority sign a contract with the department.~~

ITEM 11. Amend rule 281—67.11(279) as follows:

281—67.11(279) Grantee responsibilities. The grantee shall maintain records which include, but are not limited to:

1. Demographic information on parents and children served.
2. Qualifying criteria for those parents receiving educational support services.
3. Documentation of the number of contact hours in either individual or group sessions with parents.
4. Documentation of the type of educational support service provided to parents.
5. Indication of where the services were provided, i.e., home, school or community facility.
6. Evaluation of how each project goal and objective was met, on what timeline, and with what success rate.
7. Record of expenditures and an annual audit.
8. Other information specified by the department necessary to the overall evaluation.

Grantees shall complete a year-end report on forms provided by the department documenting the information outlined in this rule. The final project report is due ~~45~~ 30 days after the completion of the project as defined in the contract with the department. ~~The payment of the final quarter of the grant award will be made by the department to the grantee upon receipt and approval of the project final report.~~ No new awards shall be made for continuation of programs where when there are delinquent reports from prior grants.

ITEM 12. Amend rule 281—67.14(279) as follows:

281—67.14(279) Contract revisions. The grantee shall immediately inform the department of any revisions in the project budget. The department and the grantee may negotiate a revision to the contract to allow for expansion or modification of services but shall not increase the total amount of the grant.

EDUCATION DEPARTMENT[281](cont'd)

The council may ~~approve~~ advise the department regarding revised contracts if the revision is in excess of 10 percent of a budget category.

ARC 1417C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

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

This amendment increases premiums for applicants and recipients under the Medicaid for Employed People with Disabilities (MEPD) program with income over 150 percent of the federal poverty level (FPL).

The Department is requesting these increases because the maximum premium payable by an individual whose income exceeds 150 percent of the official poverty guidelines shall be commensurate with the cost of state employees’ group health insurance in this state. The average cost to the state for state employees’ health insurance for a single person is \$647 effective January 1, 2014. Therefore, the maximum premium must be set at that amount.

Any interested person may make written comments on the proposed amendment on or before April 22, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

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

The following amendment is proposed.

Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$29 <u>31</u>
165% of Federal Poverty Level	\$39 <u>42</u>
180% of Federal Poverty Level	\$44 <u>50</u>
200% of Federal Poverty Level	\$51 <u>58</u>
225% of Federal Poverty Level	\$56 <u>68</u>
250% of Federal Poverty Level	\$66 <u>78</u>
300% of Federal Poverty Level	\$86 <u>99</u>
350% of Federal Poverty Level	\$106 <u>119</u>
400% of Federal Poverty Level	\$124 <u>140</u>
450% of Federal Poverty Level	\$144 <u>160</u>
550% of Federal Poverty Level	\$182 <u>201</u>
650% of Federal Poverty Level	\$221 <u>242</u>

HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
750% of Federal Poverty Level	\$ 262 <u>284</u>
850% of Federal Poverty Level	\$ 305 <u>335</u>
1000% of Federal Poverty Level	\$ 369 <u>404</u>
1150% of Federal Poverty Level	\$ 440 <u>475</u>
1300% of Federal Poverty Level	\$ 515 <u>556</u>
1480% of Federal Poverty Level	\$ 598 <u>647</u>

ARC 1415C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

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

The purpose of these amendments is to increase the statewide average cost of nursing facility services to a private-pay person. These amendments are not related to rates paid by Medicaid for nursing facility care.

The cost figure is used to determine a period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual is ineligible for Medicaid payment of long-term care services. The period of ineligibility is determined by dividing the amount transferred by the statewide average cost of nursing facility services to a private-pay person.

The Department conducted a survey of freestanding nursing facilities, hospital-based skilled facilities, and special populations facilities in Iowa to update the statewide average cost for nursing facilities. The average private-pay cost of nursing facility services per month will be increased from \$5,057.65 to \$5,103.24.

In addition, these amendments update the average charges for nursing facilities, psychiatric medical institutions for children (PMICs) and mental health institutes (MHIs). These average charges are used to determine the disposition of the income of a medical assistance income trust (MAIT).

Nursing facility amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department’s survey for statewide average private-pay charges at nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey since recipients are allowed to use the average cost of the specialized care.

The average charge to a private-pay resident of nursing facility care increased from \$4,642 per month to \$4,666.

The average charges for PMICs and MHIs are based on Medicaid rates because Medicaid is the primary payer of these services.

- The average charge for care in a PMIC increased from \$6,111 per month to \$6,297 per month.
- The average charge for care in an MHI increased from \$19,590 per month to \$20,498 per month.

The increases in these amounts will allow a few additional individuals to qualify for medical assistance with MAITs.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The maximum Medicaid rate for ICF/ID is not addressed in this rule making because the maximum rate will be decreased. This change is addressed in a separate rule making (see **ARC 1416C** herein).

Any interested person may make written comments on the proposed amendments on or before April 22, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

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

The following amendments are proposed.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2013~~ 2014, through June 30, ~~2014~~ 2015, this average statewide cost shall be ~~\$5,057.65~~ \$5,103.24 per month or ~~\$166.37~~ \$167.87 per day.

ITEM 2. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2013~~ 2014, to June 30, ~~2014~~ 2015, shall be as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,642~~ \$4,666 per month.

(2) No change.

(3) The average statewide charge to a resident of a mental health institute is ~~\$19,590~~ \$20,498 per month.

(4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$6,111~~ \$6,297 per month.

(5) No change.

ARC 1416C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

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

The purpose of this amendment is to implement the annual update of the maximum Medicaid rate for intermediate care facilities for individuals with intellectual disabilities (ICF/ID). This rate is used to determine the disposition of the income of a medical assistance income trust (MAIT).

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Iowa Department of Human Services provided the maximum charge for care in an ICF/ID. The maximum Medicaid rate for care in an ICF/ID decreased from \$25,922 per month to \$25,040 per month.

The result of this change may be that fewer individuals will qualify for medical assistance with Miller trusts. However, very few, if any, individuals in ICF/IDs will have monthly income between the current and proposed amount.

The average charges for other medical institutions are not addressed in this rule making because those average charges will be increased in a separate rule making (see **ARC 1415C** herein).

Any interested person may make written comments on the proposed amendment on or before April 22, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

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

The following amendment is proposed.

Amend subparagraph **75.24(3)“b”(2)** as follows:

(2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is ~~\$25,922~~ \$25,040 per month.

ARC 1391C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These proposed amendments remove the specific dollar amount and effective date of the pharmacy professional dispensing fee while indicating that the fee shall be set by a fee schedule determined through surveys of dispensing costs. The amendments also rescind an obsolete paragraph pertaining to the dispensing fee that is no longer in effect.

Removing the specific dollar amount and effective date of the pharmacy professional dispensing fee, while following the legislative requirement to set the dispensing fee based on a cost of dispensing survey, allows more efficient implementation of the established dispensing fee. The dispensing fee will be determined by the Department based on a survey conducted every two years beginning in SFY 2014-2015. The amendments will indicate that the fee will be set by a fee schedule determined through surveys of dispensing costs. Additionally, the fee will be posted at the Iowa Medicaid Enterprise (IME) Web site (www.ime.state.ia.us) under IME Provider Fee Schedules.

The description of the pharmacies surveyed is clarified by replacing the phrase “Iowa Medicaid retail pharmacy providers” with “Iowa Medicaid participating pharmacy providers.” The phrase “retail pharmacy providers” may be confused with “retail community pharmacies,” which are surveyed by the federal Centers for Medicare and Medicaid Services to determine the National Average Drug Acquisition Cost (NADAC), and which may not include specialty pharmacies and “closed door” pharmacies that provide drugs only for nursing facility residents. For purposes of the dispensing fee,

HUMAN SERVICES DEPARTMENT[441](cont'd)

the Iowa Medicaid program surveys all pharmacies participating in the Iowa Medicaid program as providers, in compliance with legislative requirements.

Any interested person may make written comments on the proposed amendments on or before April 22, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

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

The following amendments are proposed.

ITEM 1. Rescind and reserve paragraph **79.1(8)“i.”**

ITEM 2. Rescind paragraph **79.1(8)“j”** and adopt the following **new** paragraph in lieu thereof:

j. The professional dispensing fee shall be a fee schedule amount determined by the department based on a survey of Iowa Medicaid participating pharmacy providers' costs of dispensing drugs to Medicaid beneficiaries conducted every two years beginning in SFY 2014-2015.

ARC 1413C**INSPECTIONS AND APPEALS DEPARTMENT[481]****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 135C.14 and 135C.2(3)“b,” the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 57, “Residential Care Facilities,” Iowa Administrative Code.

Iowa Code section 135C.2(3)“b” allows the Department to establish by administrative rule special classifications within the residential care facility category for facilities intended to serve individuals who have special health care problems or conditions in common. The proposed new rule establishes a special classification for memory care within a residential care facility and sets forth the requirements for the provision of memory care in residential care facilities.

The Department does not believe that the proposed amendment imposes any financial hardship on any regulated entity, body, or individual.

Any interested person may make written suggestions or comments on the proposed amendment on or before April 22, 2014. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

This amendment is intended to implement Iowa Code sections 135C.14 and 135C.2(3)“b.”

The following amendment is proposed.

Adopt the following **new** rule 481—57.7(135C):

481—57.7(135C) Special classification—memory care.

57.7(1) Designation and application. A residential care facility may choose to care for residents who require memory care in a distinct part of the facility or designate the entire residential care facility as one that provides memory care. Residents in the memory care unit or facility shall meet the level of

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

care requirements for a residential care facility. "Memory care" in a residential care facility means the care of persons with early Alzheimer's-type dementia or other disorders causing dementia. (I, II, III)

a. Application for approval to provide this category of care shall be submitted by the licensee on a form provided by the department. (III)

b. Plans to modify the physical environment shall be submitted to the department for review based on the requirements of 481—Chapter 60. (III)

c. If the unit or facility is to be a locked unit or facility, all locking devices shall meet the Life Safety Code and any requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

57.7(2) *Résumé of care.* A résumé of the program of care shall be submitted to the department for approval at least 30 days before a separate memory care unit or facility is opened. For facilities with a memory care unit, this résumé of care is in addition to the résumé of care required by subrule 57.3(2). A new résumé of the program of care shall be submitted when services are substantially changed. The résumé of the program of care shall:

a. Describe the population to be served;

b. State the philosophy and objectives;

c. List criteria for transfer to and from the memory care unit or facility;

d. Include a copy of the floor plan;

e. List the titles of policies and procedures developed for the unit or facility;

f. Propose a staffing pattern;

g. Set out a plan for specialized staff training;

h. State visitor, volunteer, and safety policies;

i. Describe programs for activities, social services and families; and

j. Describe the interdisciplinary team and roles.

57.7(3) *Policies and procedures.* Separate written policies and procedures shall be implemented in the memory care unit or facility and shall address the following.

a. Criteria for admission and the preadmission evaluation process. The policy shall require a statement from the attending physician approving the placement before a resident may be moved into a memory care unit or facility. (II, III)

b. Safety, including a description of the actions required of staff in the event of a fire, natural disaster, or emergency medical event or catastrophic event. Safety procedures shall also explain steps to be taken when a resident is discovered to be missing from the unit or facility, when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit or facility, and the manner in which the effectiveness of the security system will be monitored. (II, III)

c. Staffing requirements, including the minimum number, types and qualifications of staff in the unit or facility in accordance with resident needs. (II, III)

d. Visitation policies, including suggested times for visitation and ensuring the residents' rights to free access to visitors unless visits are contraindicated by the interdisciplinary team. (II, III)

e. Process and criteria which will be used to monitor and to respond to risks specific to the residents, including, but not limited to, drug use, restraint use, infections, incidents and acute behavioral events. (II, III)

57.7(4) *Plans.* Plans for the unit or facility shall be submitted in accordance with 481—Chapter 60. (II, III)

57.7(5) *Assessment prior to transfer or admission.* Prior to transfer or admission to the memory care unit or facility, a complete assessment of the resident applicant's physical, mental, social and behavioral status shall be completed to determine whether the applicant meets admission criteria. This assessment shall be completed by facility staff and shall become part of the resident's permanent record upon admission. (II, III)

57.7(6) *Staff training.* All staff working in a memory care unit or facility shall have training appropriate to the needs of the residents. (I, II, III)

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

a. Upon assignment to the unit or facility, all staff working in the unit or facility shall be oriented to the needs of residents requiring memory care. Staff shall have at least six hours of special training appropriate to their job descriptions within 30 days of assignment to the unit or facility. (I, II, III)

b. Training shall include the following topics: (II, III)

(1) An explanation of Alzheimer's disease and related disorders, including symptoms, behavior and disease progression;

(2) Skills for communicating with persons with dementia;

(3) Skills for communicating with family and friends of persons with dementia;

(4) An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics;

(5) The importance of planned and spontaneous activities;

(6) Skills in providing assistance with activities of daily living;

(7) Skills in working with challenging residents;

(8) Techniques for cueing, simplifying, and redirecting;

(9) Staff support and stress reduction;

(10) Medication management and nonpharmacological interventions.

c. Nursing staff, certified medication aides, medication managers, social services personnel, housekeeping and activity personnel shall have a minimum of six hours of in-service training annually. This training shall be related to the needs of memory care residents. The six-hour initial training required in paragraph 57.7(6) "a" shall count toward the required annual in-service training. (II, III)

57.7(7) Staffing. There shall be at least one staff person on a memory care unit at all times. (I, II, III)

57.7(8) Others living in the memory care unit. Residents not requiring memory care services may live in the memory care unit if a spouse requiring memory care services lives in the unit or if no other beds are available in the facility and the resident or the resident's legal representative consents to the placement in writing. (II, III)

This rule is intended to implement Iowa Code sections 135C.14 and 135C.2(3) "b."

ARC 1399C

INSURANCE DIVISION[191]

Notice of Termination

Pursuant to the authority of Iowa Code sections 507B.12 and 510B.3, the Insurance Division terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 22, 2014, as **ARC 1295C**, amending Chapter 59, "Pharmacy Benefits Managers," Iowa Administrative Code.

The Notice proposed to amend Chapter 59 to clarify the administration by the Insurance Division of the provisions of Iowa Code chapter 510B relating to the regulation of pharmacy benefits managers.

The Insurance Division is terminating the rule making commenced in **ARC 1295C** and is renouncing proposed amendments to incorporate further changes and clarifications to requirements under this chapter. The new Notice of Intended Action is published herein as **ARC 1412C**.

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

ARC 1412C

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 507B.12 and 510B.3, the Insurance Division (the Division) hereby gives Notice of Intended Action to amend Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

These amendments are proposed to implement and administer the provisions of Iowa Code chapters 507, 510, and 510B, which regulate examinations of insurance companies, third-party administrators, and pharmacy benefits managers, respectively.

The amendments to Chapter 59 set forth and clarify duties of insurers and pharmacy benefits managers. It is the intention of the Division that these amendments shall become effective July 2, 2014, and that insurers and pharmacy benefits managers shall be in compliance on or before July 2, 2014, with the exception of the requirements of subparagraph 59.4(1)“j”(1), with which they must be in compliance on or before January 1, 2015.

Any interested person may make written suggestions or comments on these proposed amendments on or before 4:30 p.m. on April 22, 2014. Such written comments should be directed to Rosanne Mead, Iowa Securities Bureau, Iowa Insurance Division, Two Ruan Center, Fourth Floor, 601 Locust Street, Des Moines, Iowa 50319-0065; fax (515)281-3059; e-mail rosanne.mead@iid.iowa.gov.

Also, there will be a public hearing on April 22, 2014, at 10 a.m., at the offices of the Iowa Insurance Division, Two Ruan Center, Fourth Floor, 601 Locust Street, Des Moines, Iowa, at which time persons may present their views about the amendments either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record.

Any person who intends to attend the public hearing and who has special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of special needs.

The proposed amendments are subject to waiver consistent with the waiver provisions provided for in 191—Chapter 4.

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

These amendments are intended to implement Iowa Code chapters 17A, 505, 507, 510, 510B and 514L.

The following amendments are proposed.

ITEM 1. Amend rule 191—59.1(510B) as follows:

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

ITEM 2. Amend rule 191—59.2(510B) as follows:

191—59.2(510B) Definitions. The terms defined in Iowa Code ~~Supplement section~~ sections 510.11 and 510B.1 shall have the same meaning for the purposes of this chapter. The definitions contained in 191—Chapter 58, “Third-Party Administrators,” and 191—Chapter 78, “Uniform Prescription Drug Information Card,” of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

“*Clean claim*” means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the ~~pharmacist or pharmacies~~ pharmacy or the insured covered individual in order to be processed and paid by the pharmacy benefits

INSURANCE DIVISION[191](cont'd)

manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected.

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

“Corrective action plan” means an agreement entered into by a pharmacy benefits manager and a pharmacy which is intended to promote accurate submission and payment of pharmacy claims.

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

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

“Pharmacist” means “pharmacist” as defined in Iowa Code section 155A.3.

“Pharmacy” means “pharmacy” as defined in Iowa Code section 155A.3 and includes “pharmacist.”

ITEM 3. Amend rule 191—59.3(510B) as follows:

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

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

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

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

59.3(3) Pharmacy benefits managers may demonstrate the date a claim is paid by a mail record or a bank statement.

ITEM 4. Rescind rules 191—59.4(510B) and 191—59.7(510B).

ITEM 5. Renumber rules 191—59.5(510B) and 191—59.6(510B) as 191—59.7(510B) and 191—59.4(510B), respectively.

ITEM 6. Amend renumbered rule 191—59.4(510B) as follows:

191—59.4(510B) Auditing practices Audits of pharmacies by pharmacy benefits managers.

59.4(1) An audit of the pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

a. and b. No change.

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

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

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

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

g. to *i.* No change.

j. ~~The audit criteria set forth in this subrule shall apply only to audits of claims submitted for payment after December 31, 2008. If it is determined by the pharmacy benefits manager that an error in reimbursement to a pharmacy occurred, the following criteria apply:~~

(1) For each contract between the pharmacy benefits manager and the pharmacy existing on or after January 1, 2015, a pharmacy's usual and customary price for compounded medications is considered the reimbursable cost, unless the contract between the pharmacy benefits manager and the pharmacy specifically provides details for a pricing methodology for compounded medications.

(2) A finding of error in reimbursement must be based on the actual error in reimbursement and not be based on a projection of the number of patients served having a similar diagnosis or on a projection of the number of similar orders or refills for similar prescription drugs.

(3) Calculations of errors in reimbursement must not include dispensing fees unless: prescriptions were not actually dispensed, the prescriber denied authorizations, the prescriptions dispensed were medication errors by the pharmacy, or the amounts of the dispensing fees were incorrect.

(4) Any clerical or record-keeping error of the pharmacy, including but not limited to a typographical error, scrivener's error, or computer error, regarding a required document or record shall not be considered fraud by the pharmacy under paragraph 59.5(3) "a" or under a pharmacy's contract with the pharmacy benefits manager.

(5) In the case of an error that has no actual financial harm to the patient or covered entity, the pharmacy benefits manager shall not assess a charge against the pharmacy.

(6) If a pharmacy has entered into a corrective action plan with a pharmacy benefits manager, errors that are a result of the pharmacy's failure to comply with such plan may be subject to recovery.

(7) During the audit period, interest on any outstanding balance shall not accrue for the pharmacy benefits manager or the pharmacy. For purposes of this rule, the audit period begins with the notice of the audit and ends with a final determination of the audit report.

59.4(2) Notwithstanding any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the ~~recuperation~~ of recoupment or contractual penalties for audits unless required by state or federal laws or regulations. The entity may not use the accounting practice of extrapolation in a manner more stringent than that required by state or federal laws or regulations.

59.4(3) ~~Recuperation~~ ~~Recoupment~~ of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrules ~~59.6(4)~~ ~~59.4(4)~~ and ~~59.6(5)~~ ~~59.4(5)~~.

59.4(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. The pharmacy benefits manager shall conduct a review of the unfavorable preliminary audit report. The cost of the audit review shall be paid by the pharmacy benefits manager. If, following the ~~appeal~~ review, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the unsubstantiated audit report or ~~said~~ unsubstantiated portion of the audit report without the necessity of any further proceedings.

59.4(5) A pharmacy benefits manager shall establish a process for an independent third-party review of final audit findings. If, following the ~~final~~ appeal of an audit report and upon conducting an audit review, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is found to be substantiated, the pharmacy benefits manager ~~shall already have in place a process for an independent third-party review of the final audit findings.~~ As part of the final appeal process of any final adverse decision, the pharmacy benefits manager shall notify the pharmacy in writing of its right to request an independent third-party review of the final audit findings and the process used to request such a review. If a pharmacy requests an independent third-party review of the final audit findings and the audit report is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy. If a pharmacy requests an independent third-party review of the final audit findings and the audit report

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is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager. If the reviewer finds partially in favor of both parties, the reviewer shall apportion the costs accordingly and each party will bear a portion of the costs of the review.

59.4(6) Any pharmacy's appeal or request for an independent third-party review of an audit report shall be considered a complaint and shall be included in the report required by subrule 59.7(2).

59.4(6) 59.4(7) Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the ~~plan sponsor~~ covered entity.

59.4(7) 59.4(8) This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

ITEM 7. Adopt the following **new** rule 191—59.5(510B):

191—59.5(510B) Termination or suspension of contracts with pharmacies by pharmacy benefits managers.

59.5(1) A contract between a pharmacy benefits manager and a pharmacy shall include a provision describing notification procedures for contract termination. The contract shall require no less than 60 days' prior written notice by either party that wishes to terminate the contract.

59.5(2) Termination of a contract between a pharmacy benefits manager and a pharmacy or termination of a pharmacy from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy for contract-covered services rendered before the contract of the pharmacy was terminated.

59.5(3) The following apply to terminations or suspensions of contracts with pharmacies by pharmacy benefits managers:

a. If the pharmacy benefits manager has evidence that the pharmacy has engaged in fraudulent conduct or poses a significant risk to patient care or safety, the pharmacy benefits manager may immediately suspend the pharmacy from further performance under the contract only if written notice of the suspension and reasoning therefor is provided to the pharmacy, the covered entity and the commissioner.

b. A pharmacy shall not be terminated or suspended from the pharmacy benefits manager's provider network or otherwise penalized by a pharmacy benefits manager solely because the pharmacy files a complaint, grievance or appeal with any entity. A pharmacy benefits manager shall not imply or state that it may or will take action to cancel or limit a pharmacy's participation in a pharmacy benefits manager's provider network solely because the pharmacy files a complaint, grievance or appeal with any entity.

c. A pharmacy shall not be terminated from the network or suspended by a pharmacy benefits manager due to any disagreement with a decision of the pharmacy benefits manager to deny or limit benefits to covered individuals or due to any assistance provided to covered individuals by the pharmacy in obtaining reconsideration of a decision of the pharmacy benefits manager.

d. The pharmacy may request an independent third-party review of the final decision to terminate or suspend the contract between the pharmacy benefits manager and the pharmacy by filing with the pharmacy benefits manager a written request for an independent third-party review of the decision. This written request must be filed with the pharmacy benefits manager within 30 days of receipt of the final termination or suspension decision.

e. Any request by a pharmacy for an independent third-party review of a termination or suspension decision shall be considered a complaint and included in the report required by subrule 59.7(2).

f. If a pharmacy requests an independent third-party review of a termination or suspension decision and the termination is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy. If a pharmacy requests an independent third-party review of a termination or suspension decision and the termination is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager.

INSURANCE DIVISION[191](cont'd)

ITEM 8. Adopt the following new rule 191—59.6(510B):

191—59.6(510B) Price change. For purposes of Iowa Code section 510B.7(3), a pharmacy benefits manager may meet the requirements of having to adjust its payment to the pharmacy network provider consistent with a price increase within three business days of the price increase notification by a manufacturer or supplier by keeping a list of current prescription drugs and current maximum reimbursement amounts and by updating that list at least every three business days with any price increases. This list shall be made available to pharmacies and pharmacy network providers through a readily accessible and easily usable online format, or in some other readily accessible and easily usable format.

ITEM 9. Amend renumbered rule 191—59.7(510B) as follows:

191—59.7(510B) Complaints.

59.7(1) Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to the following information regarding each complaint from any pharmacy:

- ~~a.~~ The reason for the complaint and factual documentation to support the complaint;
- ~~b.~~ Contact name, address and telephone number of the pharmacy benefits manager;
- ~~c.~~ Contact name, address and telephone number of the pharmacy;
- ~~d.~~ Prescription number;
- ~~e.~~ Prescription reimbursement amount for any disputed claim(s) claim;
- ~~f.~~ Disputed Any disputed prescription claim payment date(s) date;
- ~~g.~~ Plan Covered entity benefits certificate; and
- ~~h.~~ The final determination and outcome of the complaint.

59.7(2) A summary of all complaints ~~as outlined in subrule 59.5(1)~~ received by the pharmacy benefits manager each calendar quarter shall be submitted to the commissioner on a quarterly basis within 30 days after the calendar quarter has ended. The summary shall include the following:

- a. Name, address, telephone number and e-mail address for a contact person for the pharmacy benefits manager;
- b. A summary of the information listed in paragraph 59.7(1) “a,” excluding documentation; and
- c. The information listed in paragraphs 59.7(1) “b,” “d,” “e,” and “g.”

ITEM 10. Adopt the following new rule 191—59.8(510,510B):

191—59.8(510,510B) Duty to notify commissioner of fraud. A covered entity that contracts with a pharmacy benefits manager to perform the covered entity’s services shall require the pharmacy benefits manager to follow Iowa Code section 507E.6 in notifying the commissioner of any detection of fraud, including but not limited to prescription drug diversion activity. “Prescription drug diversion activity,” for purposes of this rule, means the diversion of prescription drugs from legal and medically necessary uses to uses that are illegal and not medically authorized or necessary. A pharmacy benefits manager shall follow the fraud detection protocol developed by the covered entity or shall allow the covered entity to review and agree to the pharmacy benefits manager’s protocol.

ITEM 11. Adopt the following new rule 191—59.9(507,510,510B):

191—59.9(507,510,510B) Commissioner examinations of pharmacy benefits managers.

59.9(1) Pharmacy benefits managers shall cooperate with the commissioner for the commissioner’s administration of Iowa Code chapters 507, 510, and 510B and this chapter.

59.9(2) Pharmacy benefits managers shall maintain for five years the records necessary to demonstrate to the commissioner compliance with this chapter. Pharmacy benefits managers shall provide the commissioner easy accessibility to records for examination, audit and inspection to verify compliance with this chapter.

INSURANCE DIVISION[191](cont'd)

ITEM 12. Adopt the following new rule 191—59.10(505,507,507B,510,510B,514L):

191—59.10(505,507,507B,510,510B,514L) Failure to comply. Failure to comply with the provisions of this chapter or with Iowa Code chapters 510 and 510B, or failure to comply with 191—Chapters 58 and 78 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter or of Iowa Code chapters 510 and 510B, shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B.

ITEM 13. Amend **191—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 505, 507, 510, 510B and 514L ~~and Iowa Code Supplement chapter 510B.~~

ARC 1411C

PHARMACY BOARD[657]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendment was approved at the March 12, 2014, regular meeting of the Board of Pharmacy.

The proposed amendment requires that a pharmacist perform a final verification for the accuracy, validity, completeness, and appropriateness of a patient’s prescription or medication order prior to delivery to the patient or patient’s representative, that the verification be documented, and that the documented record be maintained by the pharmacy.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on April 22, 2014. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

This amendment is intended to implement Iowa Code sections 126.11, 155A.13, 155A.15, 155A.27 to 155A.29, 155A.33, and 155A.35.

The following amendment is proposed.

Amend subrule 8.3(3) as follows:

8.3(3) Pharmacist-documented verification. The pharmacist shall provide, ~~and document, and retain~~ a record of the final verification for the accuracy, validity, completeness, and appropriateness of the patient’s prescription or medication order prior to the delivery of the medication to the patient or the patient’s representative.

ARC 1407C

PHARMACY BOARD[657]

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 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 10, “Controlled Substances,” Iowa Administrative Code.

The amendments were approved at the March 12, 2014, regular meeting of the Board of Pharmacy.

The proposed amendments provide pharmacies with flexibility in the date on which the required annual inventory of controlled substances may be completed and clarify when a controlled substances inventory must be completed upon a change of ownership of a pharmacy. The proposed amendments also amend the implementation clause at the end of the chapter to remove references to sections of the Iowa Code that have been repealed.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on April 22, 2014. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code sections 124.301, 124.306, and 155A.13. The following amendments are proposed.

ITEM 1. Amend subrule 10.35(3) as follows:

10.35(3) Annual inventory. After the initial inventory is taken, a registrant shall take a new inventory of all stocks of controlled substances on hand at least annually. The annual inventory may be taken on any date that is within ~~one year~~ seven days before or after the date of the previous annual inventory ~~date~~.

ITEM 2. Amend subrule 10.35(4) as follows:

10.35(4) Change of ownership. Both the current owner and the prospective owner shall be responsible for ensuring that an inventory of all controlled substances is timely completed whenever there is a change of ownership of any pharmacy or drug wholesaler licensed pursuant to Iowa Code section 155A.13 or 155A.17, respectively. The inventory shall be taken following the close of business the last day under terminating ownership and prior to opening for business the first day under the new ownership. The inventory shall serve as the ending inventory for the terminating owner as well as a record of beginning inventory for the new owner.

ITEM 3. Amend **657—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 124.201, 124.301 to 124.308, 124.402, 124.403, 124.501, 126.2, 126.11, 147.88, ~~147.95, 147.99~~, 155A.13, 155A.17, 155A.26, 155A.37, and 205.3.

ARC 1414C**PUBLIC HEALTH DEPARTMENT[641]****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 136C.3, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 37, “Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material,” and to amend Chapter 38, “General Provisions for Radiation Machines and Radioactive Materials,” Chapter 39, “Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials,” and Chapter 40, “Standards for Protection Against Radiation,” Iowa Administrative Code.

The rules in new Chapter 37 reflect the new United States Nuclear Regulatory Commission (US NRC) Part 37 rules that deal with physical protection of category 1 and category 2 quantities of radioactive materials. These amendments are proposed to ensure that the Iowa Administrative Code is compatible with US NRC regulations pursuant to the stipulations of the state of Iowa’s status as a US NRC agreement state. The following paragraphs summarize the changes:

Item 1 proposes the adoption of new Chapter 37 including Appendix A.

Item 2 amends subrule 38.1(3) to reference new Chapter 37.

Item 3 amends subrule 38.8(11) to rescind references to rule 641—40.54(136C) and to adopt references to new rule 641—37.77(136C).

Item 4 amends subrule 39.1(3) to update the effective date for references to the Code of Federal Regulations to maintain compatibility with US NRC regulations.

Item 5 rescinds and reserves rule 641—40.54(136C) as the language is now included in Chapter 37.

Item 6 rescinds and reserves Chapter 40, Appendix G.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 22, 2014. Such written materials should be directed to Chief of Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or e-mail angela.leek@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 136C.

The following amendments are proposed.

ITEM 1. Adopt the following **new** 641—Chapter 37:

CHAPTER 37**PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL****GENERAL PROVISIONS****641—37.1(136C) Purpose and scope.**

37.1(1) This chapter has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to this chapter. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material,

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and transport of material are included. No provision of this chapter authorizes possession of licensed material.

37.1(2) The divisions in this chapter entitled “Background Investigations and Access Control Program” and “Physical Protection Requirements During Use,” including rules 641—37.21(136C) to 641—37.57(136C), apply to any person who, under the regulations in this chapter, possesses or uses at any site an aggregated category 1 or category 2 quantity of radioactive material.

37.1(3) The division in this chapter entitled “Physical Protection in Transit,” including rules 641—37.71(136C) to 641—37.81(136C), applies to any person who, under the rules of this chapter:

a. Transports or delivers to a carrier for transport in a single shipment a category 1 or category 2 quantity of radioactive material; or

b. Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.

37.1(4) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of July 16, 2014.

641—37.2 to 37.4 Reserved.

641—37.5(136C) Definitions.

37.5(1) For the purposes of this chapter, these terms have the definitions set forth below.

“*Access control*” means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

“*Act*” means the Atomic Energy Act of 1954 (68 Stat. 919), as amended through July 16, 2014.

“*Agency*” means the Iowa department of public health.

“*Aggregated*” means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

“*Agreement state*” means any state with which the Atomic Energy Commission or the U.S. Nuclear Regulatory Commission has entered into an effective agreement under Subsection 274b. of the Act. “*Non-agreement state*” means any other state.

“*Approved individual*” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with rules 641—37.21(136C) through 641—37.33(136C) and who has completed the training required by 37.43(3).

“*Background investigation*” means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

“*Becquerel (Bq)*” means one disintegration per second.

“*Byproduct material*” means:

1. Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or using special nuclear material;

2. The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition;

3. Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or any material that:

- Has been made radioactive by use of a particle accelerator; and
- Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and

4. Any discrete source of naturally occurring radioactive material, other than source material, that:

- The Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat

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posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

- Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

“*Carrier*” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

“*Category 1 quantity of radioactive material*” means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this chapter. This is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“*Category 2 quantity of radioactive material*” means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this chapter. This is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“*Commission*” means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

“*Curie*” means that amount of radioactive material which disintegrates at the rate of 37 billion atoms per second.

“*Diversions*” means the unauthorized movement of radioactive material subject to this chapter to a location different from the material’s authorized destination inside or outside of the site at which the material is used or stored.

“*Escorted access*” means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

“*Fingerprint orders*” means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by agreement states that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

“*Government agency*” means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

“*License*” means a license issued by the agency in accordance with the rules adopted by the agency.

“*License-issuing authority*” means the licensing agency that issued the license, i.e., the agency, the U.S. Nuclear Regulatory Commission or an agreement state.

“*Local law enforcement agency (LLEA)*” means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

“*Lost or missing licensed material*” means licensed material whose location is unknown. Lost or missing licensed material includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

“*Mobile device*” means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

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“Movement control center” means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

“No-later-than arrival time” means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than six hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

“Person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, but shall not include federal government agencies.

“Reviewing official” means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

“Sabotage” means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.

“Safe haven” means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

“Security zone” means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

“State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Telemetric position monitoring system” means a data transfer system that captures information by instrumentation or measuring devices, or both, about the location and status of a transport vehicle or package between the departure and destination locations.

“Trustworthiness and reliability” are characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

“Unescorted access” means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

“United States,” when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

641—37.6 Reserved.

641—37.7(136C) Communications. All communications and reports concerning the rules in this chapter should be addressed to the agency at its office located at the Iowa Department of Public Health, Bureau of Radiological Health, Lucas State Office Building, 5th Floor, 321 East 12th Street, Des Moines, Iowa 50319.

641—37.8 to 37.10 Reserved.

641—37.11(136C) Specific exemptions.

37.11(1) The agency may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the rules in this chapter as it determines are authorized by law

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and will not result in undue hazard to public health and safety or property and are otherwise in the public interest. Application for exemption should be made in accordance with 641—Chapter 178.

37.11(2) A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of this chapter. Except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements of this chapter. The licensee shall implement the following requirements to secure the radioactive waste:

- a. Use continuous physical barriers that allow access to the radioactive waste only through established access control points;
- b. Use a locked door or gate with monitored alarm at the access control point;
- c. Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and
- d. Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

641—37.12 to 37.20 Reserved.

BACKGROUND INVESTIGATIONS AND ACCESS CONTROL PROGRAM

641—37.21(136C) Personnel access authorization requirements for category 1 or category 2 quantities of radioactive material.

37.21(1) Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this chapter.

37.21(2) An applicant for a new license and each licensee that would become newly subject to the requirements of this chapter upon application for amendment of its license, and a licensee aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold, shall implement the requirements of this chapter and be inspected by the agency, as appropriate, before a new license or license amendment will be issued.

37.21(3) The licensee's access authorization program must ensure that the individuals specified in 37.21(4) are trustworthy and reliable.

37.21(4) Applicability.

- a. Licensees shall subject the following individuals to an access authorization program:
 - (1) Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and
 - (2) Reviewing officials.
- b. Licensees need not subject the categories of individuals listed in rule 641—37.29(136C) to the investigation elements of the access authorization program.
- c. Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.
- d. Licensees may include individuals needing access to safeguards information-modified handling under 10 CFR Part 73 in the access authorization program under these rules.

641—37.22 Reserved.

641—37.23(136C) Access authorization program requirements.

37.23(1) Granting unescorted access authorization.

- a. Licensees shall implement the requirements of these rules for granting initial or reinstated unescorted access authorization.

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b. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by 37.43(3) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

37.23(2) Reviewing officials.

a. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.

b. Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, federal or state agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. Every ten years, the licensee shall recertify that the reviewing official is deemed trustworthy and reliable in accordance with 37.25(3).

c. Reviewing officials must be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling.

d. Reviewing officials cannot approve other individuals to act as reviewing officials.

e. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

(1) The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or

(2) The individual is subject to a category listed in rule 641—37.29(136C).

37.23(3) Informed consent.

a. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of 37.25(2). A signed consent must be obtained prior to any reinvestigation.

b. The subject individual may withdraw the individual's consent at any time. Licensees shall inform the individual that:

(1) If an individual withdraws consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew consent; and

(2) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

37.23(4) Personal history disclosure. Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by these rules is sufficient cause for denial or termination of unescorted access authorization.

37.23(5) Determination basis.

a. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of these rules.

b. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of these rules and determined that the individual is trustworthy and reliable. The reviewing official may deny

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unescorted access to any individual based on information obtained at any time during the background investigation.

c. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

d. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.

e. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

37.23(6) Procedures. Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

37.23(7) Right to correct and complete information.

a. Prior to any final adverse determination, licensees shall provide each individual subject to these rules with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of one year from the date of the notification.

b. If, after reviewing the individual's criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306, as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least ten days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record is made available for the individual's review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

37.23(8) Records.

a. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

b. The licensee shall retain a copy of the current access authorization program procedures as a record for three years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

c. The licensee shall retain the list of persons approved for unescorted access authorization for three years after the list is superseded or replaced.

641—37.24 Reserved.

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641—37.25(136C) Background investigations.

37.25(1) Initial investigation. Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the seven years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation must include at a minimum:

a. Fingerprinting and an FBI identification and criminal history records check in accordance with rule 641—37.27(136C);

b. Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who the applicant claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with rule 641—37.31(136C). Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;

c. Employment history verification. Licensees shall complete employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent seven years before the date of application;

d. Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;

e. Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this rule must be limited to whether the individual has been and continues to be trustworthy and reliable;

f. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and

g. If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after ten business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation and shall attempt to obtain the information from an alternate source.

37.25(2) Grandfathering.

a. Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the fingerprint orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.

b. Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR Part 73 or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR Part 73 or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk-significant material such as special

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nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

37.25(3) Reinvestigations. Licensees shall conduct a reinvestigation every ten years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with rule 641—37.27(136C). The reinvestigations must be completed within ten years of the date on which these elements were last completed.

641—37.26 Reserved.

641—37.27(136C) Requirements for criminal history records checks of individuals granted unescorted access to category 1 or category 2 quantities of radioactive material.

37.27(1) General performance objective and requirements.

a. Except for those individuals listed in rule 641—37.29(136C) and those individuals grandfathered under 37.25(2), each licensee subject to the provisions of these rules shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the Nuclear Regulatory Commission for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.

b. The licensee shall notify each affected individual that the individual's fingerprints will be used to secure a review of the individual's criminal history record, and shall inform the individual of the procedures for revising the record or adding explanations to the record.

c. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:

(1) The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of the individual's unescorted access authorization; and

(2) The previous access was terminated under favorable conditions.

d. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under these rules, the fingerprint orders, or 10 CFR Part 73. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of 37.31(3).

e. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

37.27(2) Prohibitions.

a. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

(1) An arrest more than one year old for which there is no information of the disposition of the case; or

(2) An arrest that resulted in dismissal of the charge or an acquittal.

b. Licensees may not use information received from a criminal history records check obtained under these rules in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

37.27(3) Procedures for processing of fingerprint checks.

a. For the purpose of complying with these rules, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of

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Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, Rockville, Maryland 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by e-mail to FORMS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <http://www.nrc.gov/site-help/e-submittals.html>.

b. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 1-301-492-3531.) Combined payment for multiple applications is acceptable. The Nuclear Regulatory Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site. (To find the current fee amount, go to the Electronic Submittals page at <http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems.)

c. The Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

641—37.28 Reserved.

641—37.29(136C) Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials.

37.29(1) Fingerprinting, identification, and criminal history records checks required by Section 149 of the Atomic Energy Act of 1954, as amended through July 16, 2014, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

- a.* An employee of the Nuclear Regulatory Commission or of the executive branch of the U.S. government who has undergone fingerprinting for a prior U.S. government criminal history records check;
- b.* A member of Congress;
- c.* An employee of a member of Congress or congressional committee who has undergone fingerprinting for a prior U.S. government criminal history records check;
- d.* The governor of a state or the governor's designated state employee representative;
- e.* Federal, state, or local law enforcement personnel;
- f.* State radiation control program directors and state homeland security advisors or their designated state employee representatives;
- g.* Agreement state employees conducting security inspections on behalf of the NRC under an agreement executed under Section 274.i. of the Atomic Energy Act;
- h.* Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
- i.* Emergency response personnel who are responding to an emergency;
- j.* Commercial vehicle drivers for road shipments of category 2 quantities of radioactive material;
- k.* Package handlers at transportation facilities such as freight terminals and railroad yards;
- l.* Any individual who has an active federal security clearance, provided that the individual makes available the appropriate documentation. Written confirmation from the agency/employer that granted the federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and

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m. Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

37.29(2) Fingerprinting, and the identification and criminal history records checks required by Section 149 of the Atomic Energy Act of 1954, as amended through July 16, 2014, are not required for an individual who has had a favorably adjudicated U.S. government criminal history records check within the last five years, under a comparable U.S. government program involving fingerprinting and an FBI identification and criminal history records check provided that the individual makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

- a.* National Agency Check;
- b.* Transportation Worker Identification Credentials (TWIC) under 49 CFR Part 1572;
- c.* Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR Part 555;
- d.* Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR Part 73;
- e.* Hazardous material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR Part 1572; and
- f.* Customs and Border Protection's Free and Secure Trade (FAST) Program.

641—37.30 Reserved.

641—37.31(136C) Protection of information.

37.31(1) Each licensee who obtains background information on an individual under these rules shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

37.31(2) The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, the individual's representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.

37.31(3) The personal information obtained on an individual from a background investigation may be provided to another licensee:

- a.* Upon the individual's written request to the licensee holding the data to disseminate the information contained in the individual's file; and
- b.* If the recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.

37.31(4) The licensee shall make background investigation records obtained under these rules available for examination by an authorized representative of the agency to determine compliance with the regulations and laws.

37.31(5) The licensee shall retain all fingerprint and criminal history records on an individual (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, for three years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

641—37.32 Reserved.

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641—37.33(136C) Access authorization program review.

37.33(1) Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of these rules and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall, at 12-month intervals, review the access program content and implementation.

37.33(2) The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

37.33(3) Review records must be maintained for three years.

641—37.34 to 37.40 Reserved.

PHYSICAL PROTECTION REQUIREMENTS DURING USE

641—37.41(136C) Security program.

37.41(1) Applicability.

a. Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of rules 641—37.41(136C) to 641—37.57(136C).

b. An applicant for a new license and a licensee that would become newly subject to the requirements of this chapter upon application for amendment of its license shall implement the requirements of this chapter and be inspected by the agency, as appropriate, before a new license or license amendment will be issued.

c. Any licensee that has not previously implemented the security orders or been subject to the provisions of these rules shall provide written notification to the agency as specified in rule 641—37.3(136C) at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

37.41(2) General performance objective. Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.

37.41(3) Program features. Each licensee's security program must include the program features, as appropriate, described in this chapter.

641—37.42 Reserved.

641—37.43(136C) General security program requirements.

37.43(1) Security plan.

a. Each licensee identified in 37.41(1)“a” shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by these rules. The security plan must, at a minimum:

- (1) Describe the measures and strategies used to implement the requirements of these rules; and
- (2) Identify the security resources, equipment, and technology used to satisfy the requirements of these rules.

b. The security plan must be reviewed and approved by the individual with overall responsibility for the security program.

c. A licensee shall revise its security plan as necessary to ensure the effective implementation of agency requirements. The licensee shall ensure that:

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(1) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and

(2) The affected individuals are instructed on the revised plan before the changes are implemented.

d. The licensee shall retain a copy of the current security plan as a record for three years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for three years after the record is superseded.

37.43(2) *Implementing procedures.*

a. The licensee shall develop and maintain written procedures that document how the requirements of these rules and the security plan will be met.

b. The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.

c. The licensee shall retain a copy of the current procedure as a record for three years after the procedure is no longer needed. Superseded portions of the procedure must be retained for three years after the record is superseded.

37.43(3) *Training.*

a. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:

(1) The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;

(2) The responsibility to report promptly to the licensee any condition that causes or may cause a violation of agency requirements;

(3) The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and

(4) The appropriate response to security alarms.

b. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.

c. Refresher training must be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training must include:

(1) Review of the training requirements of rule 641—37.43(136C) and any changes made to the security program since the last training;

(2) Reports on any relevant security issues, problems, and lessons learned;

(3) Relevant results of agency inspections; and

(4) Relevant results of the licensee's program review and testing and maintenance.

d. The licensee shall maintain records of the initial and refresher training for three years from the date of the training. The training records must include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

37.43(4) *Protection of information.*

a. Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

b. Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.

c. Before granting an individual access to the security plan or implementing procedures, licensees shall:

(1) Evaluate an individual's need to know the security plan or implementing procedures; and

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(2) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in 37.25(1).

d. Licensees need not subject the following individuals to the background investigation elements for protection of information:

- (1) The categories of individuals listed in rule 641—37.29(136C); or
- (2) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in 37.25(1), has been provided by the security service provider.

e. The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.

f. Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.

g. When the security plan is not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in nonremovable electronic form must be password protected.

h. The licensee shall retain as a record for three years after the document is no longer needed:

- (1) A copy of the information protection procedures; and
- (2) The list of individuals approved for access to the security plan or implementing procedures.

641—37.44 Reserved.

641—37.45(136C) LLEA coordination.

37.45(1) A licensee subject to these rules shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include:

a. A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with these rules; and

b. A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.

37.45(2) The licensee shall notify the agency within three business days if:

a. The LLEA has not responded to the request for coordination within 60 days of the coordination request; or

b. The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

37.45(3) The licensee shall document its efforts to coordinate with the LLEA. The documentation must be kept for three years.

37.45(4) The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

641—37.46 Reserved.

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641—37.47(136C) Security zones.

37.47(1) Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.

37.47(2) Temporary security zones must be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

37.47(3) Security zones must, at a minimum, allow unescorted access only to approved individuals through:

a. Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or

b. Direct control of the security zone by approved individuals at all times; or

c. A combination of continuous physical barriers and direct control.

37.47(4) For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.

37.47(5) Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material must be escorted by an approved individual when in a security zone.

641—37.48 Reserved.

641—37.49(136C) Monitoring, detection, and assessment.**37.49(1) *Monitoring and detection.***

a. Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into their security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.

b. Monitoring and detection must be performed by:

(1) A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or

(2) Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or

(3) A monitored video surveillance system; or

(4) Direct visual surveillance by approved individuals located within the security zone; or

(5) Direct visual surveillance by a licensee-designated individual located outside the security zone.

c. A licensee subject to these rules shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:

(1) For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability must be provided by:

1. Electronic sensors linked to an alarm; or

2. Continuous monitored video surveillance; or

3. Direct visual surveillance.

(2) For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

37.49(2) *Assessment.* Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

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37.49(3) *Personnel communications and data transmission.* For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

a. Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

b. Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.

37.49(4) *Response.* Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

641—37.50 Reserved.

641—37.51(136C) Maintenance and testing.

37.51(1) Each licensee subject to these rules shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this chapter must be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing must be performed at least annually, not to exceed 12 months.

37.51(2) The licensee shall maintain records on the maintenance and testing activities for three years.

641—37.52 Reserved.

641—37.53(136C) Requirements for mobile devices. Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material must:

37.53(1) Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and

37.53(2) For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

641—37.54 Reserved.

641—37.55(136C) Security program review.

37.55(1) Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of these rules and that comprehensive actions are taken to correct any noncompliance that is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.

37.55(2) The results of the review, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective

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actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

37.55(3) The licensee shall maintain the review documentation for three years.

641—37.56 Reserved.

641—37.57(136C) Reporting of events.

37.57(1) The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays). In no case shall the notification to the agency be later than four hours after the discovery of any attempted or actual theft, sabotage, or diversion.

37.57(2) The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than four hours after notifying the LLEA, the licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays).

37.57(3) The initial telephonic notification required by 37.57(1) must be followed within a period of 30 days by a written report submitted to the agency. The report must include sufficient information for agency analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

641—37.58 to 37.70 Reserved.

PHYSICAL PROTECTION IN TRANSIT

641—37.71(136C) Additional requirements for transfer of category 1 and category 2 quantities of radioactive material. A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the agency, the Nuclear Regulatory Commission or an agreement state shall meet the license verification provisions listed in this rule instead of those listed in 641—subrule 39.4(41):

37.71(1) Any licensee transferring category 1 quantities of radioactive material to a licensee of the agency, the Nuclear Regulatory Commission or an agreement state, prior to conducting such transfer, shall verify with the agency, the NRC's license verification system or the license-issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license-issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

37.71(2) Any licensee transferring category 2 quantities of radioactive material to a licensee of the agency, the Nuclear Regulatory Commission or an agreement state, prior to conducting such transfer, shall verify with the agency, the NRC's license verification system or the license-issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license-issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

37.71(3) In an emergency where the licensee cannot reach the agency, or the license-issuing authority and the license verification system are nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision number, issuing agency, expiration date and, for a category 1 shipment, the authorized address. The licensee shall keep a copy of the certification. The certification must be confirmed by contacting the agency or by use of the

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NRC's license verification system or by contacting the license-issuing authority by the end of the next business day.

37.71(4) The transferor shall keep a copy of the verification documentation as a record for three years.

641—37.72 Reserved.

641—37.73(136C) Applicability of physical protection of category 1 and category 2 quantities of radioactive material during transit. The shipping licensee shall be responsible for meeting the requirements of this chapter unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this chapter.

641—37.74 Reserved.

641—37.75(136C) Preplanning and coordination of shipment of category 1 or category 2 quantities of radioactive material.

37.75(1) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:

- a. Preplan and coordinate shipment arrival and departure times with the receiving licensee;
- b. Preplan and coordinate shipment information with the governor or the governor's designee of any state through which the shipment will pass to:
 - (1) Discuss the state's intention to provide law enforcement escorts; and
 - (2) Identify safe havens; and
- c. Document the preplanning and coordination activities.

37.75(2) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.

37.75(3) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

37.75(4) Each licensee who transports or plans to transport a shipment of a category 2 quantity of radioactive material and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to 37.75(2) shall promptly notify the receiving licensee of the new no-later-than arrival time.

37.75(5) The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for three years.

641—37.76 Reserved.

641—37.77(136C) Advance notification of shipment of category 1 quantities of radioactive material.

37.77(1) As specified in 37.77(1) "a" and "b," each licensee shall provide advance notification to the NRC and the governor of a state, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the state, before the transport, or delivery to a carrier for transport, of the licensed material outside the confines of the licensee's facility or other place of use or storage.

a. *Procedures for submitting advance notification.*

(1) The notification must be made to the NRC and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC's Web site at <http://nrc-stp.ornl.gov/special/designee.pdf>. A list of the contact information is also available upon

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request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by e-mail to RAMQC_SHIPMENTS@nrc.gov or by fax to 1-301-816-5151.

(2) A notification delivered by mail must be postmarked at least seven days before transport of the shipment commences at the shipping facility.

(3) A notification delivered by any means other than mail must reach the NRC at least four days before the transport of the shipment commences and must reach the office of the governor or the governor's designee at least four days before transport of a shipment within or through the state.

b. Information to be furnished in advance notification of shipment. Each advance notification of shipment of category 1 quantities of radioactive material must contain the following information, if available at the time of notification:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;

(2) The license numbers of the shipper and receiver;

(3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

(4) The point of origin of the shipment and the estimated time and date that shipment will commence;

(5) The estimated time and date that the shipment is expected to enter each state along the route;

(6) The estimated time and date of arrival of the shipment at the destination; and

(7) A point of contact, with a telephone number, for current shipment information.

c. Revision notice.

(1) The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the state or the governor's designee and to the NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

(2) A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with 37.77(1) "b" and 37.77(1) "c"(1). The licensee shall also immediately notify the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, of any such changes.

d. Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each state or to the governor's designee previously notified and to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being canceled.

e. Records. The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for three years.

641—37.78 Reserved.

641—37.79(136C) Requirements for physical protection of category 1 and category 2 quantities of radioactive material during shipment.

37.79(1) Shipments by road.

a. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

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(1) Ensure that movement control centers are established that maintain position information from a remote location. These control centers must monitor shipments 24 hours a day, seven days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.

(2) Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.

(3) Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center must provide positive confirmation of the location, status, and control over the shipment. The movement control center must be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(4) Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour-duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

(5) Develop written normal and contingency procedures to address:

1. Notifications to the communication center and law enforcement agencies;
2. Communication protocols. Communication protocols must include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;

3. Loss of communications; and

4. Responses to an actual or attempted theft or diversion of a shipment.

(6) Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

b. Each licensee that transports category 2 quantities of radioactive material shall maintain constant control or surveillance, or both, during transit and have the capability for immediate communication to summon appropriate response or assistance.

c. Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

(1) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control or surveillance, or both, the package tracking system must allow the shipper or transporter to identify when and where the package was last reported and when it should arrive at the next point of control.

(2) Use carriers that maintain constant control or surveillance, or both, during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(3) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

37.79(2) Shipments by rail.

a. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:

(1) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or

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diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

(2) Ensure that periodic reports to the communications center are made at preset intervals.

b. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:

(1) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control or surveillance, or both, the package tracking system must allow the shipper or transporter to identify when and where the package was last reported and when it should arrive at the next point of control.

(2) Use carriers that maintain constant control or surveillance, or both, during transit and have the capability for immediate communication to summon appropriate response or assistance; and

(3) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

37.79(3) Investigations. Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

641—37.80 Reserved.

641—37.81(136C) Reporting of events.

37.81(1) The shipping licensee shall notify the appropriate LLEA and the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) within 1 hour of the shipping licensee's determination that a shipment of category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by 37.79(3), the shipping licensee will provide agreed-upon updates to the agency on the status of the investigation.

37.81(2) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) within 4 hours of the shipping licensee's determination that a shipment of category 2 quantities of radioactive material is lost or missing. If, after 24 hours of its determination that the shipment is lost or missing and the radioactive material has not been located and secured, the licensee shall immediately notify the agency.

37.81(3) The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of category 1 radioactive material.

37.81(4) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material.

37.81(5) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material.

37.81(6) The shipping licensee shall notify the agency at (515)281-3478 (normal hours) or (515)323-4360 (after hours and holidays) as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material.

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37.81(7) The initial telephonic notification required by 37.81(1) through 37.81(4) must be followed within a period of 30 days by a written report submitted to the agency. A written report is not required for notifications on suspicious activities required by 37.81(3) and 37.81(4). The report must set forth the following information:

- a. A description of the licensed material involved, including kind, quantity, and chemical and physical form;
- b. A description of the circumstances under which the loss or theft occurred;
- c. A statement of disposition, or probable disposition, of the licensed material involved;
- d. Actions that have been taken, or will be taken, to recover the material; and
- e. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

37.81(8) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

641—37.82 to 37.100 Reserved.

RECORDS

641—37.101(136C) Form of records. Each record required by this chapter must be legible throughout the retention period specified by each agency rule. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

641—37.102 Reserved.

641—37.103(136C) Record retention. Licensees shall maintain the records that are required by this chapter for the period specified by the appropriate rule. If a retention period is not otherwise specified, these records must be retained until the agency terminates the facility's license. All records related to this chapter may be destroyed upon agency termination of the facility license.

641—37.104 Reserved.

641—37.105(136C) Inspections.

37.105(1) Each licensee shall afford to the agency at all reasonable times opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.

37.105(2) Each licensee shall make available to the agency for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.

CHAPTER 37—APPENDIX A

CATEGORY 1 AND CATEGORY 2 RADIOACTIVE MATERIALS

Table 1—Category 1 and Category 2 Threshold

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

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Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides. The “sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this chapter.

I. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides must be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this chapter apply.

II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations must be performed in metric values (i.e., TBq) and the numerator and denominator values must be in the same units.

R_1 = total activity for radionuclide 1

R_2 = total activity for radionuclide 2

R_N = total activity for radionuclide n

AR_1 = activity threshold for radionuclide 1

AR_2 = activity threshold for radionuclide 2

AR_N = activity threshold for radionuclide n

$$\sum_1^n \left[\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \frac{R_n}{AR_n} \right] \geq 1.0$$

These rules are intended to implement Iowa Code chapter 136C.

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ITEM 2. Amend subrule 38.1(3) as follows:

38.1(3) The provisions of Chapter 38 are in addition to, and not in substitution for, any other applicable portions of 641—Chapter 37 and Chapters 39 to 45.

ITEM 3. Amend subparagraphs **38.8(11)“a”(1)** and **(2)** as follows:

(1) \$1800 per highway cask for each truck shipment of spent nuclear fuel, high-level radioactive waste, transuranic waste, or highway route controlled quantity of radioactive materials or any material shipped in accordance with ~~641—subrule 40.54(5)~~ rule 641—37.77(136C) traversing the state or any portion thereof. Single cask truck shipments are subject to a surcharge of \$20 per mile for every mile over 250 miles traveled.

(2) \$1300 for the first cask and \$125 for each additional cask for each rail shipment of spent nuclear fuel, high-level radioactive waste, transuranic waste, ~~or highway route controlled quantity of radioactive materials~~ or any material shipped in accordance with ~~641—subrule 40.54(5)~~ rule 641—37.77(136C) traversing the state or any portion thereof.

ITEM 4. Amend subrule 39.1(3) as follows:

39.1(3) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~September 15, 2010~~ July 16, 2014.

ITEM 5. Rescind and reserve rule ~~641—40.54(136C)~~.

ITEM 6. Rescind and reserve **Appendix G** in ~~641—Chapter 40~~.

ARC 1388C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Termination

Pursuant to the authority of 2013 Iowa Acts, chapter 76, the Department of Public Health terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on January 22, 2014, as **ARC 1293C**, proposing the adoption of new Chapter 52, “Vision Screening,” Iowa Administrative Code.

The 85th General Assembly, in 2013 Iowa Acts, chapter 76, established a vision screening requirement for children enrolled in a public or accredited nonpublic elementary school and directed the Department to adopt rules necessary to administer vision screening.

The Notice proposed rules that described the vision screening requirement for children enrolling in kindergarten and third grade. In addition, the Notice proposed rules that specified the procedures that constitute a vision screening, specified who can conduct a screening, and prescribed reporting requirements.

The Department is terminating the rule making commenced in **ARC 1293C** and will renote the proposed rules to further clarify the vision screening requirement.

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

ARC 1392C

PUBLIC HEALTH DEPARTMENT[641]

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 135.176(2), the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 108, “Medical Residency Training State Matching Grants Program,” Iowa Administrative Code.

These rules provide for the awarding of grants for sponsors of accredited graduate medical education residency programs to establish new programs, expand existing programs, or support medical residency programs in excess of the federal residency cap.

Any interested person may make written comments or suggestions on the proposed rules on or before April 22, 2014. Such written comments should be directed to Doreen Chamberlin, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6384 or by e-mail to doreen.chamberlin@idph.iowa.gov.

After analysis and review of this rule making, it is projected that these rules will positively impact physician employment opportunities in Iowa, as well as employment of associated health care providers and other jobs supporting the work of physicians in Iowa communities. No specific projection for employment can be made at this time.

These rules are intended to implement Iowa Code section 135.176.

The following amendment is proposed.

Adopt the following **new** 641—Chapter 108:

CHAPTER 108

MEDICAL RESIDENCY TRAINING STATE MATCHING GRANTS PROGRAM

641—108.1(135) Scope and purpose. The medical residency training state matching grants program is established to provide greater access to health care by increasing the number of practicing physicians in Iowa through the expansion of residency positions in Iowa. The department shall provide funding to sponsors of accredited graduate medical education residency programs for the establishment, expansion, or support of medical residency training programs that will increase the number of residents trained. Funding for the program may be provided through the health care workforce shortage fund, medical residency training account, and is specifically dedicated to the medical residency training state matching grants program as established in Iowa Code section 135.176. These rules shall be implemented only to the extent funding is available.

641—108.2(135) Definitions. For the purposes of these rules, the following definitions shall apply:

“*Accredited medical residency training program*” means a graduate medical education program approved by the Accreditation Council for Graduate Medical Education (ACGME) or by the American Osteopathic Association (AOA).

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*Health professional shortage areas*” means federal designations that are based on general health professional shortage area (HPSA) designation criteria, plus additional criteria and guidelines specific to each of the three types of designations from the Health Resources and Services Administration Federal

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Office of Shortage Designations. The three types of designations include primary care, dental and mental health.

“In excess of the federal residency cap” means a residency position for which no federal Medicare funding is available because the residency position is a position beyond the cap for residency positions established by the federal Balanced Budget Act of 1997, Pub. L. No. 105-33.

“New or alternative campus accredited medical residency training program” means a program that is accredited by a recognized entity approved for such purpose by the ACGME or the AOA with the exception that a new medical residency training program that, by reason of an insufficient period of operation is not eligible for accreditation on or before the date of submission of an application for a grant, may be deemed accredited if the ACGME or the AOA finds, after consultation with the appropriate accreditation entity, that there is reasonable assurance that the program will meet the accreditation standards of the entity prior to the date of graduation of the initial class in the program.

“Sponsor” means a hospital, school, or consortium located in Iowa that sponsors and maintains primary organizational and financial responsibility for a graduate medical education residency program in Iowa and is accountable to the accrediting body.

641—108.3(135) Eligibility criteria. To be eligible for a matching grant, a sponsor shall satisfy the following requirements and qualifications:

108.3(1) A sponsor shall be financially and organizationally responsible for a residency training program that is accredited by the ACGME or by the AOA.

108.3(2) A sponsor shall establish a dedicated fund to support a residency program. A sponsor funding residency positions in excess of the federal residency cap exclusive of funds provided under this program is deemed to have satisfied this requirement and shall be eligible for a matching grant equal to the amount of funds expended for such residency positions, subject to the limitation on the maximum award of grant funds specified in rule 641—108.4(135).

108.3(3) A sponsor shall demonstrate through documented financial information that funds have been reserved and will be expended by the sponsor in the amount required to provide matching funds for each residency in the request for proposal for state matching funds. A sponsor shall document this requirement by providing with its request for proposal a signed, notarized statement of the organization’s chief financial officer that such a fund exists, as well as what amounts of moneys have been set aside in this fund for purposes of supporting residency programs.

108.3(4) A sponsor shall demonstrate a need for such residency program in the state by providing with its request for proposal objective evidence of such need including:

- a. Workforce data, including state and federal workforce data and data from tracking databases;
- b. Population data, including community health needs assessments;
- c. Supply and demand data, including health professional shortage area designations; and
- d. Other related research including unique community- or state-level factors which establish a need for such residency program.

108.3(5) A sponsor shall submit with its request for proposal a recruitment and retention plan to encourage residents to enter practice in Iowa with a preference for health professional shortage areas and to demonstrate over time the impact on Iowa’s workforce.

641—108.4(135) Amount of grant.

108.4(1) The department shall award funds based upon the funds set aside in the special fund, as identified in subrule 108.3(3).

108.4(2) The total amount of a grant awarded to a sponsor shall be limited to no more than 25 percent of the amount of funds the sponsor demonstrates through documented financial information have been reserved and will be expended by the sponsor for each residency sponsored for the purpose of the residency program.

108.4(3) A sponsor, if awarded, shall enter into a contract with the department over a three-year project period to include one year (12 months) renewable contract periods. Annual contracts shall include

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annual budgets and, upon approval of annual performance measures, renewal applications for the project period. Annual contract periods shall be renewed based on the availability of funds.

108.4(4) A sponsor shall receive funds based on budgeted expenses that include but are not limited to:

- a. Stipends and fringe benefits for residents and fellows;
- b. The portion of teaching physician salaries and fringe benefits associated with teaching and supervision of residents and fellows;
- c. Other direct costs that can be attributed to medical education (e.g., clerical salaries, telephone, office supplies).

108.4(5) An individual sponsor shall not receive more than 25 percent of the state matching funds available each year to support the program. However, if less than 95 percent of the available funds have been awarded in a given year, a sponsor may receive more than 25 percent of the state matching funds available if total funds awarded do not exceed 95 percent of the available funds. If more than one sponsor meets the requirements of this rule and has established, expanded, or supported a graduate medical residency training program in excess of the sponsor's 25 percent maximum share of state matching funds, the state matching funds shall be divided proportionately among such sponsors.

641—108.5(135) Review process.

108.5(1) The department shall follow requirements for competitive selection contained in 641—Chapter 176 in awarding these funds.

108.5(2) The department shall establish a request for proposal process for sponsors eligible to receive funding. The request for proposal and review process and review criteria for preference in awarding the grants shall be described in the request for proposal, including preference in the residency specialty. This preference may be reflective of a subspecialty where particular demands for services have been demonstrated, of geographic areas of preference, or of other particular preferences that advance the objectives of the program.

108.5(3) Each request for proposal issued by the department will identify one or more of the following purposes for use of the funding:

- a. The establishment of new or alternative campus accredited medical residency training programs;
- b. The provision of new residency positions within existing accredited medical residency or fellowship training programs; or
- c. The funding of residency positions which are in excess of the federal residency cap.

108.5(4) An applicant may appeal the denial of a properly submitted request for proposal. Appeals shall be governed by rule 641—176.8(135,17A).

These rules are intended to implement Iowa Code section 135.176.

ARC 1393C**RACING AND GAMING COMMISSION[491]****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 99D.7 and 99F.4, the Racing and Gaming Commission hereby proposes to amend Chapter 1, “Organization and Operation,” and Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Iowa Administrative Code.

Item 1 modifies term limits for the chairperson.

RACING AND GAMING COMMISSION[491](cont'd)

Item 2 updates the edition of Robert's Rules of Order to the most current.

Item 3 removes the reduced fee for subsequent applications.

Item 4 modifies the catchwords of subrule 1.5(6) for consistency.

Item 5 clarifies the required fee for the manufacturers and distributors license application.

Item 6 adopts new subrules to provide specificity for applications submitted.

Item 7 clarifies required certification for first-aid personnel.

Any person may make written suggestions or comments on the proposed amendments on or before April 22, 2014. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on April 22, 2014, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

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

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend paragraph **1.2(1)“b”** as follows:

b. The racing and gaming commission consists of five members. The membership shall elect a chairperson and vice-chairperson in July of each year. No chairperson shall serve more than ~~two~~ four consecutive one-year full terms.

ITEM 2. Amend paragraph **1.2(3)“e”** as follows:

e. Cases not covered by this rule shall be governed by the ~~2000~~ most recent edition of Robert's Rules of Order Newly Revised.

ITEM 3. Amend subrule 1.5(1) as follows:

1.5(1) *Racing, gambling structure, or excursion gambling boat license application.* This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the facility, and description of proposed operation. The form may include other information the commission deems necessary to make a decision on the license application. The qualified nonprofit corporation and the boat operator, if different than the qualified nonprofit corporation, shall pay a nonrefundable application fee in the amount of \$25,000 to offset the commission's cost for processing the application ~~in the amount of \$25,000~~. ~~The fee shall be \$5,000 for each subsequent application involving the same operator and the same qualified sponsoring organization.~~ Additionally, the applicant shall remit an investigative fee of \$30,000 to the department of public safety to do background investigations as required by the commission. The department of public safety shall bill the applicant/licensee for additional fees as appropriate and refund any unused portion of the investigative fee within 90 days after the denial or operation begins.

ITEM 4. Amend subrule 1.5(6) as follows:

1.5(6) ~~Application for season~~ *Season approvals.* This form shall contain, at a minimum, a listing of the department heads and racing officials, minimum purse, purse supplements for Iowa-breds, grading system (greyhound racing only), schedule and wagering format, equipment, security plan, certification, and any other information the commission deems necessary for approval. This request must be submitted 45 days prior to the meet. Any changes to the items approved by the commission shall be requested in writing by the licensee and subject to the written approval of the administrator or commission representative before the change occurs.

ITEM 5. Amend subrule 1.5(7) as follows:

1.5(7) *Manufacturers and distributors license application.* This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the applicant, and description of proposed operation. The form may include other information

RACING AND GAMING COMMISSION[491](cont'd)

the administrator deems necessary to make a decision on the license application. A license fee of \$1,000 for a distributor's license and a license fee of \$250 for a manufacturer's license shall accompany this application. (Refer to 491—Chapter 11 for additional information.)

ITEM 6. Adopt the following **new** subrules 1.5(8) and 1.5(9):

1.5(8) *Advance deposit wagering license application.* This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the applicant, and description of proposed operation. The form may include other information the administrator deems necessary to make a decision on the license application. A license fee of \$1,000 shall accompany this application. (Refer to 491—Chapter 8 for additional information.)

1.5(9) *Asset/stock purchase form for commission approval.* This form shall contain at a minimum the full name of the applicant, all ownership interests, balance sheets and profit-and-loss statements for three fiscal years immediately preceding the application, pending legal action, location and physical plant of the applicant, and description of proposed operation. The form may include other information the administrator deems necessary to make a decision.

ITEM 7. Rescind subrule 5.4(4) and adopt the following **new** subrule in lieu thereof:

5.4(4) *First-aid room.*

a. During all hours of operation, each licensee shall equip and maintain adequate first-aid facilities and have at a minimum, one employee trained in CPR, first aid, and the use of the automated external defibrillator (AED). During live racing at racetracks and while excursion gambling boats are cruising, the licensee shall have present either a physician, a physician assistant, a registered nurse, a licensed practical nurse, a paramedic, or an emergency medical technician.

b. All individuals specified under paragraph 5.4(4) "a" must be currently licensed or certified, including active status, in accordance with the requirements of the Iowa department of public health.

c. Each licensee is required to have a properly functioning and readily accessible AED at the licensee's facility.

ARC 1410C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Administration," Iowa Administrative Code.

The proposed amendments in Items 1 to 5 update the Board's address, hours, and Board committees and remove duplicated information that is found in the rules of the Professional Licensing and Regulation Bureau[193].

The proposed new rules in Item 6 provide specific dates and deadlines for individuals who want to become certified appraisers prior to January 1, 2015, in accordance with the federal criteria. The changes in federal criteria have been posted on the Board's Web site after they were received from the federal regulatory agencies. Because the Board is charged with adopting rules to establish uniform appraisal standards and appraiser certification requirements and other rules necessary to administer and enforce this chapter and the Board's responsibilities under Iowa Code chapter 272C, these rules are proposed to provide clarity and a time line to avoid any miscommunication with any individual. An individual who

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

fails to meet these time lines will be required to meet the 2015 criteria as outlined and required by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

Proposed new rule 193F—1.18(543D) clearly informs individuals that the Board is required to maintain compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

Proposed new rule 193F—1.19(543D) provides that any individual who wishes to apply for registration as an associate appraiser or certification as a certified appraiser will be required to meet the new criteria effective January 1, 2015.

Proposed new rule 193F—1.20(543D) provides guidance to avoid any miscommunication with any person and deadlines for credential upgrading.

Proposed new rule 193F—1.21(543D) outlines the national criminal history check. The Board has statutory authority pursuant to Iowa Code section 543D.22 to perform national criminal history checks only if needed to comply with federal guidelines. The Board was recently informed that the AQB is considering changing the implementation date for the national criminal history checks. If the implementation date does change to 2017, as proposed, the Board will amend the rules when they are adopted and filed to maintain minimal compliance with the federal requirements.

Proposed new rule 193F—1.22(543D) sets forth the Board's process for determining an individual's eligibility as an associate or certified appraiser.

These rules may also need to be amended if the implementation date for national criminal history checks is extended.

Consideration will be given to all written suggestions or comments on the amendments received no later than 4:30 p.m. on April 23, 2014. Comments should be addressed to Toni Bright, Real Estate Appraiser Examining Board, 200 E. Grand, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to RealEstateAppraiserBoard@iowa.gov.

A public hearing will be held on April 23, 2014, at 9 a.m. in the Board Office, 200 E. Grand, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person's name and address for the record and to confine remarks to the subject of the proposed amendments.

These amendments have no fiscal impact to the state of Iowa.

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

After analysis and review of this rule making, no job impact exists.

These amendments are intended to implement Iowa Code chapter 543D.

The following amendments are proposed.

ITEM 1. Amend subrule 1.1(2) as follows:

1.1(2) All official communications, including submissions and requests, should be addressed to the board at its official address, ~~1920 SE Hulsizer Road, Ankeny, Iowa 50021~~ 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

ITEM 2. Amend subrule 1.2(1) as follows:

1.2(1) The board may appoint administrative committees ~~of not less than three nor more than five board members~~ for the purpose of making recommendations on matters specified by the board.

ITEM 3. Amend rule 193F—1.3(543D) as follows:

193F—1.3(543D) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson shall be elected to serve until their successors are elected. ~~The election of these officers shall be the first order of business after hearing the reports of outgoing officers. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.~~

ITEM 4. Amend rule 193F—1.4(543D) as follows:

193F—1.4(543D) Other meetings. In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the

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

chairperson of the board or by joint call of a majority of its members. ~~One week's notice shall be given for such meetings, and the notice must designate the time and place of the meeting.~~

ITEM 5. Amend subrule 1.6(1) as follows:

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours as provided in 193—Chapter 13. ~~The board maintains an office at 1920 SE Hulsizer Road, Ankeny, Iowa 50021. The office is open during regular business hours from 8 a.m. until 4:30 p.m. Monday through Friday. The office is closed Saturdays, Sundays, and official state holidays.~~

ITEM 6. Adopt the following new rules 193F—1.18(543D) to 193F—1.22(543D):

193F—1.18(543D) Qualified state appraiser certifying agency.

1.18(1) The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

1.18(2) The board must adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D.

193F—1.19(543D) January 1, 2015, criteria.

1.19(1) Effective on and after January 1, 2015, the AQB has changed the criteria for eligibility for registration as an associate appraiser and certification as a certified appraiser. No person may be registered as an associate appraiser or certified as a certified appraiser on or after January 1, 2015, unless the person is eligible under the revised criteria.

1.19(2) The January 1, 2015, criteria were adopted by the AQB in 2011 and have been widely disseminated, including on the board's Web site at: <http://www.state.ia.us/government/com/prof/appraiser/home.html>. Among other changes, the January 1, 2015, criteria require a national criminal history background check for all associate or certified appraisers.

a. For associate appraisers, the revised criteria place a five-year restriction on the time period in which qualifying education must be completed prior to the submission of an application for associate appraiser registration and require completion of supervisory appraiser/associate coursework by both the supervisory appraiser and the associate appraiser applicant.

b. For certified appraisers, the revised criteria modify the conditions under which applicants for certification are eligible to take the required examinations and require a bachelor's degree for all certified appraisers, including residential appraisers.

193F—1.20(543D) Application and work product deadlines.

1.20(1) *December 31, 2014, application deadline.* In order to be considered for registration as an associate appraiser or certification as a certified appraiser under the criteria in effect prior to January 1, 2015, an applicant must submit an original, fully completed application to the board office for the board's actual receipt no later than December 31, 2014, at 4:30 p.m.

1.20(2) *Deadline for associate appraiser applicants.* The associate appraiser and supervisory appraiser provisions are more fully set out in 193F—Chapters 4 and 15, respectively. Before submitting an application for registration with the board, a person seeking registration as an associate appraiser must complete 75 hours of appraisal education and secure a qualified supervisory appraiser. An associate appraiser applicant who submits an application to the board office after December 31, 2014, at 4:30 p.m. shall be subject to the January 1, 2015, criteria and will accordingly be subject to the mandatory national criminal history background check, the five-year restriction on qualifying education, and the supervisory appraiser/associate coursework. As provided in 1.21(2) "a," the board will include a fingerprint packet with the application for associate appraiser registration for a person submitting an application after December 31, 2014, at 4:30 p.m.

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

1.20(3) *Summary of certification requirements before January 1, 2015.* As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, 2,500 hours of qualifying experience in a minimum of 24 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of 30 months for general appraisers, and work product review. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer's submission of review reports to the board; a meeting between the applicant and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office.

1.20(4) *October 1, 2014, deadline for submission of appraisals and work files.*

a. As a result of the minimum periods of time needed to accomplish all work product review steps summarized in 1.20(3), an applicant for certification as a certified appraiser must fully submit to the board office the three appraisals and associated work files for work product review, as provided in 193F—5.6(543D) and 193F—6.6(543D), no later than October 1, 2014.

b. To allow sufficient time for board selection of three appraisals from the work product review experience log, board communication of the selected appraisals to the applicant, and applicant submission of the appraisals and work files to the board office by October 1, 2014, applicants for residential certification should submit their work product experience log to the board by September 1, 2014, and applicants for general certification should submit their work product experience log to the board by August 1, 2014.

c. Applicants for certification as residential or general certified appraisers who submit appraisals and work files for work product review on or after October 2, 2014, shall be considered for certification under the January 1, 2015, criteria and will accordingly be subject to the mandatory national criminal history background check. As provided in 1.21(2) "b," the board will provide the fingerprint packet with the application to take the examination. If an applicant submitting appraisals and work files for work product review on or after October 2, 2014, has previously passed the required examination and the examination results remain valid within the 24-month period of validity, as described in 193F—Chapter 3, the board will separately provide a fingerprint packet that the applicant can return to the board with or prior to the submission of the application for certification.

193F—1.21(543D) National criminal history check.

1.21(1) Effective January 1, 2015, all applicants for any of the classifications listed in 193F—1.17(543D) must satisfactorily complete a national criminal history check as provided in Iowa Code section 543D.22 as a condition of registration as an associate real property appraiser or certification as a residential or general real property appraiser. As provided in the January 1, 2015, criteria, certain criminal convictions shall disqualify an applicant from registration or certification for specified periods of time.

1.21(2) The board will provide a fingerprint packet for applicants to complete as follows:

a. The fingerprint packet shall be part of the application for registration as an associate real property appraiser.

b. The fingerprint packet shall be part of the application to take the examination required for certification for applicants seeking certification as residential or general real property appraisers.

1.21(3) The board shall consider a national criminal history report as current for six months following the date the report is received by the board. The board may extend the period of time in which it will consider a national criminal history report as valid for good cause shown, such as deferral

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

of approval of work product review, but in no event will such report be considered current for longer than one year from the date it is received by the board.

1.21(4) In addition to the national criminal history check, the board will also consider an applicant's history concerning certain civil judgments, arbitration awards, and actions by state, federal, or foreign financial regulatory or licensing authorities.

193F—1.22(272C,543D) Process for board review of eligibility.

1.22(1) Before applying for registration as an associate appraiser or certification as a certified appraiser, a person with a criminal history or other background matters that may impair registration or certification under the January 1, 2015, criteria may request that the board evaluate the prospective applicant's criminal history or other background matters by submitting a written request to the board. Upon receiving such a request, the board may request additional supporting materials.

1.22(2) Requests will be processed under the same standards as applications for registration or certification in order to inform the prospective applicant whether any of the disclosed information is or may be a bar to future registration or certification. In responding to a request, the board shall address only the offenses or matters listed in the request. The board's response will be based upon the laws, rules, and guidelines in effect at the time of the board's response, including the guidelines and policies promulgated by the AQB or ASC.

1.22(3) If the information supplied is not accurate or is incomplete, or if applicable laws, rules, or guidelines change or are impacted by intervening board orders or case law, the board's response shall not be binding on a future board.

1.22(4) The board has always considered criminal, regulatory, and disciplinary history when determining eligibility for associate registration or appraiser certification. Under the January 1, 2015, criteria, however, certain matters will disqualify applicants for registration or certification, and other matters may disqualify an applicant depending on factors such as the nature and circumstances of the criminal, regulatory, or disciplinary history, the time elapsed, and evidence of rehabilitation. Commencing January 1, 2015:

a. An applicant is not eligible for registration or certification at any time if the applicant has been convicted of a felony involving an act of fraud, dishonesty, breach of trust, or money laundering;

b. An applicant is not eligible for registration or certification for at least five years if the applicant has been convicted of a felony not described in 1.22(4) "a" or if the applicant's appraiser registration, license, or certificate has been revoked in any jurisdiction; and

c. An applicant may not be eligible for registration or certification based on crimes, civil judgments, arbitration awards, or actions by state, federal, or foreign financial regulatory or licensing authorities, if, in the board's determination, such matters impair the applicant's fitness and capacity to perform appraisal services with honesty and integrity in accordance with the standards of conduct described in Iowa Code section 543D.18(1).

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:

April 1, 2013 — April 30, 2013	4.00%
May 1, 2013 — May 31, 2013	4.00%
June 1, 2013 — June 30, 2013	3.75%
July 1, 2013 — July 31, 2013	4.00%
August 1, 2013 — August 31, 2013	4.25%
September 1, 2013 — September 30, 2013	4.50%
October 1, 2013 — October 31, 2013	4.75%

USURY(cont'd)

November 1, 2013 — November 30, 2013	4.75%
December 1, 2013 — December 31, 2013	4.50%
January 1, 2014 — January 31, 2014	4.75%
February 1, 2014 — February 28, 2014	5.00%
March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%

ARC 1408C

PHARMACY BOARD[657]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 124.201, the Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendments temporarily classify as Schedule I controlled substances four synthetic cannabinoids and ten synthetic cathinones in conformance with recent control of these same substances by the U.S. Department of Justice, Drug Enforcement Administration. The substances, commonly known as QUPIC, 5F-PB-22, AB-FUBINACA, ADB-PINACA, 4-MEC, 4-MEPPP, [alpha]-PVP, butylone, pentedrone, pentylone, flephedrone, 3-FMC, naphyrone, and [alpha]-PBP, have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and lack accepted safety for use under medical supervision.

The provisions of this rule are not subject to waiver or variance.

The amendments were approved during the March 12, 2014, meeting of the Board of Pharmacy.

The Board finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are unnecessary and impracticable due to the immediate need for these amendments in order to avoid an imminent hazard to the public safety. Products laced with these synthetic substances are being abused for their psychoactive properties, by smoking, snorting, or ingesting the synthetic substances or products laced with the synthetic substances. Products are being marketed as "legal" alternatives to marijuana, cocaine, methcathinone, and methamphetamine but these synthetic cannabinoids and synthetic cathinones have been shown to display higher potency in scientific studies when compared to the natural substances and abusers experience greater adverse or toxic effects from use of the synthetic substances. Smoking or ingesting mixtures of these substances for the purpose of achieving intoxication has been identified as a reason for numerous emergency room visits and calls to poison control centers. Abuse of these synthetic cannabinoids and cathinones and their combination products result in both acute and long-term public health and safety issues.

In compliance with Iowa Code section 17A.4(3), the Administrative Rules Review Committee at its March 7, 2014, meeting reviewed the Board's findings and the amendments and approved the Emergency adoption.

The Board finds, pursuant to Iowa Code subsection 17A.5(2)"b"(2), that the normal effective date of this rule making, 35 days after publication, should be waived and the amendments should be made effective upon filing with the Administrative Rules Coordinator on March 13, 2014. These amendments confer a benefit on the public health and safety by removing these substances and the products laced with these substances from the licit marketplace and ensuring the possession, distribution, manufacture, and use of these products and substances are subject to the controls and penalties applicable to Schedule I controlled substances in Iowa.

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

These amendments are intended to implement Iowa Code subsection 124.201(4) and section 124.301.

These amendments became effective March 13, 2014.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 10.38(2):

10.38(2) Amend Iowa Code subsection 124.204(4) by adding the following new paragraphs:

al. 4-methyl-N-ethylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4-MEC, 2-(ethylamino)-1-(4-methylphenyl)propan-1-one.

am. 4-methyl-alpha-pyrrolidinopropiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4-MePPP, MePPP, 4-methyl-[alpha]-pyrrolidinopropiophenone, 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)-propan-1-one.

an. Alpha-pyrrolidinopentiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: [alpha]-PVP, [alpha]-pyrrolidinovalerophenone, 1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one.

PHARMACY BOARD[657](cont'd)

ao. Butylone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: bk-MBDB, 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one.

ap. Pentedrone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: [alpha]-methylaminovalerophenone, 2-(methylamino)-1-phenylpentan-1-one.

aq. Pentylone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: bk-MBDP, 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one.

ar. 4-fluoro-N-methylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 4-FMC, flephedrone, 1-(4-fluorophenyl)-2-(methylamino)propan-1-one.

as. 3-fluoro-N-methylcathinone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 3-FMC, 1-(3-fluorophenyl)-2-(methylamino)propan-1-one.

at. Naphyrone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: naphthylpyrovalerone, 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one.

au. Alpha-pyrrolidinobutiophenone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: [alpha]-PBP, 1-phenyl-2-(pyrrolidin-1-yl)butan-1-one.

ITEM 2. Adopt the following **new** subrule 10.38(3):

10.38(3) Amend Iowa Code subsection 124.204(9) by adding the following new paragraphs:

g. Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: PB-22, QUPIC.

h. Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: 5-fluoro-PB-22, 5F-PB-22.

i. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: AB-FUBINACA.

j. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers. Other name: ADB-PINACA.

[Filed Emergency 3/13/14, effective 3/13/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1390C

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A(1), the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

This amendment prohibits campaign contributions from limited liability companies and limited liability partnerships with one or more corporate members.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 18, 2013, as **ARC 1020C**. No public comment was received. This amendment is identical to the amendment published under Notice of Intended Action.

This amendment was adopted by the Board on November 22, 2013.

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

This amendment is intended to implement Iowa Code section 68A.503.

This amendment will become effective May 7, 2014.

The following amendment is adopted.

Amend subrule 4.44(1) as follows:

4.44(1) The prohibition on corporate political activity does not apply to any of the following:

a. An LLC, LLP, or any other organization that does not file articles of incorporation and is not owned in whole or in part by a corporation.

b. Monetary or in-kind campaign contributions to a ballot issue committee.

c. Independent expenditure communications.

d. A campaign committee using a corporate entity computer to generate and file a campaign disclosure statement or report.

[Filed 3/7/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1389C

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A(1), the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 9, "Complaint, Investigation, and Resolution Procedures," Iowa Administrative Code.

This amendment allows a complainant to attach up to 20 pages of supporting documents to a complaint.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 18, 2013, as **ARC 1019C**. No public comment was received. This amendment is identical to the amendment published under Notice of Intended Action.

This amendment was adopted by the Board on November 22, 2013.

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

This amendment is intended to implement Iowa Code section 68B.32B.

This amendment will become effective May 7, 2014.

The following amendment is adopted.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Amend subrule 9.1(1) as follows:

9.1(1) Form. A complaint shall be on forms provided by the board and shall be certified under penalty of perjury. The complaint shall contain all information required by Iowa Code section 68B.32B(1). The complainant may attach up to 20 pages of supporting documents to the complaint.

[Filed 3/7/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1398C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 135C.14 and 135C.36, the Department of Inspections and Appeals hereby amends Chapter 58, "Nursing Facilities," Iowa Administrative Code.

The adopted amendments rescind outdated definitions, change the length of time for which a provisional administrator may be appointed, and provide clarification for several rules. The amendments also change the possible classification for violations of subrule 58.18(2), the content of which is moved to new paragraph 58.28(3)"f," and of paragraph 58.28(3)"e." The Department can cite numerous examples of violations of these rules that would fall within the definition of a Class I penalty as provided in Iowa Code section 135C.36(1). The amendments allow the Department greater flexibility when determining whether a violation should be classified as a Class I, II or III violation.

The State Board of Health initially reviewed the proposed amendments at its January 8, 2014, meeting, and approved the rule making at its March 12, 2014, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2014, as **ARC 1313C**. No comments were received. The adopted amendments are identical to those published under Notice of Intended Action.

The Department does not believe that the amendments impose any financial hardship on any regulated entity, body, or individual.

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

These amendments are intended to implement Iowa Code sections 135C.14 and 135C.36.

These amendments shall become effective May 7, 2014.

The following amendments are adopted.

ITEM 1. Rescind the definitions of "Alcoholic" and "Drug addiction" in rule **481—58.1(135C)**.

ITEM 2. Amend subrule 58.8(4), introductory paragraph, as follows:

58.8(4) A provisional administrator may be appointed on a temporary basis by the nursing facility licensee to assume the administrative duties when the facility, through no fault of its own, has lost its administrator and has been unable to replace the administrator provided that no facility licensed under Iowa Code chapter 135C shall be permitted to have a provisional administrator for more than 6 12 months in any 12-month period and further provided that:

ITEM 3. Amend subrule 58.8(5), introductory paragraph, as follows:

58.8(5) In the absence of the administrator, a responsible person shall be designated in writing to the department to be in charge of the facility. The administrator shall not be absent from the facility for more than 3 months without approval of the department. (III)

The person designated shall:

ITEM 4. Amend paragraph **58.8(5)"d"** as follows:

d. Be at least ~~18~~ 21 years of age; (III)

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 5. Amend subrule 58.14(8), introductory paragraph, as follows:

58.14(8) Physician delegation of tasks. Each resident, including private pay residents, shall be visited by or shall visit the resident's physician at least twice a year. The year period shall be measured from the date of admission and is not to include preadmission physicals.

ITEM 6. Rescind and reserve subrule **58.18(2)**.

ITEM 7. Amend rule 481—58.19(135C), introductory paragraph, as follows:

481—58.19(135C) Required nursing services for residents. ~~The program plan for nursing facilities shall have~~ resident shall receive and the facility shall provide, as appropriate, the following required nursing services under the 24-hour direction of qualified nurses with ancillary coverage as set forth in these rules:

ITEM 8. Amend paragraph **58.19(2)“b”** as follows:

~~b. Wound care~~ Provision of the appropriate care and treatment of wounds, including pressure sores, to promote healing, prevent infection, and prevent new sores from developing; (I, II)

ITEM 9. Amend paragraph **58.28(3)“e”** as follows:

~~e. Each resident shall receive adequate supervision to ensure~~ protect against hazard hazards from self, others, or elements in the environment. (I, II, III)

ITEM 10. Adopt the following new paragraph **58.28(3)“f”**:

~~f. Residents shall be protected against physical or environmental hazards to themselves.~~ (I, II, III)

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1400C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of 2013 Iowa Acts, chapter 100, sections 28 and 38, and Iowa Code section 16.5(1)“r,” the Iowa Finance Authority hereby adopts new Chapter 44, “Iowa Agricultural Development Division,” and rescinds Agricultural Development Authority 25—Chapters 1 to 11, Iowa Administrative Code.

The purpose of this adoption is to establish rules in new Chapter 44 for the administration of the programs of the newly created Iowa Agricultural Development Division of the Iowa Finance Authority pursuant to 2013 Iowa Acts, chapter 100, and Iowa Code chapter 175. In addition, pursuant to 2013 Iowa Acts, chapter 100, section 28, the rules of the former Iowa Agricultural Development Authority, 25—Chapters 1 to 11, are rescinded.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 16, 2013, as **ARC 1113C**. The Authority received no public comment on the proposed rules. The amendments were also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 1112C** on the same date. The Authority has made certain clarifying changes to Chapter 44 as Noticed.

The Iowa Finance Authority adopted these rules on February 5, 2014.

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

These amendments are intended to implement 2013 Iowa Acts, chapter 100, Iowa Code section 16.5(1), and Iowa Code chapter 175.

These amendments will become effective on May 7, 2014, at which time Adopted and Filed Emergency Chapter 44 is hereby rescinded.

The following amendments are adopted.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 1. Adopt the following new 265—Chapter 44:

CHAPTER 44
IOWA AGRICULTURAL DEVELOPMENT DIVISION

265—44.1(175) General.

44.1(1) *Description of Iowa agricultural development division (IADD) board.* The IADD board consists of five members appointed by the governor. The executive director of the Iowa finance authority or the executive director's designee shall serve as an ex officio nonvoting member. Members are appointed for staggered six-year terms. The appointed members shall elect a chairperson and vice chairperson annually, and other officers as the appointed members determine. The executive director of the authority may organize the division and employ necessary qualified personnel.

44.1(2) *General course and method of operations.* The IADD board generally meets on a monthly basis or at the call of the chairperson or whenever two appointed members so request. The purpose of the meetings shall be to review progress in implementation and administration of programs, to consider and act upon proposals for assistance, and take other actions as necessary and appropriate.

44.1(3) *Location where public may submit requests for assistance or obtain information.* Requests for assistance or information should be directed to the Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312; telephone (515)725-4900. Requests may be made personally, by telephone, U.S. mail or any other medium available, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Special arrangements for accessibility to the authority at other times will be provided as needed.

265—44.2(175) Definitions. For any terms not defined in this rule, refer to Iowa Code section 175.2.

“Act” means Iowa Code chapters 16 and 175.

“Agricultural asset” means agricultural land, agricultural improvements, depreciable agricultural property, crops or livestock used for farming purposes.

“Agricultural asset transfer agreement” means any commonly accepted written agreement which specifies the terms of the transfer of operation of the agricultural asset. The agreement may be made on a cash basis or a commodity share basis.

“Agricultural improvements” means any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. “Agricultural improvements” includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.

“Agricultural land” means land suitable for use in farming and which is or will be operated as a farm.

“Application” means a completed instrument on a form approved by IADD.

“BFCF” means beginning farmer custom farming tax credit program.

“BFCF eligible applicant” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 175.36A and 175.38 and the provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

“BFLP” means beginning farmer loan program.

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

“BFTC” means beginning farmer tax credit program.

“BFTC eligible applicant” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 175.36A and 175.37 and

IOWA FINANCE AUTHORITY[265](cont'd)

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

“Bond purchaser” means any lender or any person, as defined in Iowa Code section 4.1(20), who purchases an authority bond under the individual agricultural development bond program.

“Cash basis agreement” means an agreement whereby operation of the agricultural asset is transferred via a fixed cash payment per annum.

“Commodity share basis” means an agreement whereby operation of the agricultural asset is transferred via a risk-sharing mechanism, whereby the agricultural asset owner receives a portion of the production and payment for use of the agricultural asset.

“Custom farming contract” means any commonly accepted written contract which specifies the terms of the work to be performed by the beginning farmer for an Iowa landowner or tenant or livestock owner. The contract must provide for the production of crops or livestock located on agricultural land. The taxpayer will pay the BFCF eligible applicant on a cash basis, and the total amount paid must equal at least \$1,000. The contract must be in writing for a term of not more than 12 months. A contract is not allowed if the taxpayer and BFCF eligible applicant are: persons who hold a legal or equitable interest in the same agricultural land or livestock; related family members, such as spouse, child, stepchild, brother, or sister; or partners in the same partnership which holds a legal or equitable interest.

“Farm” means a farming enterprise which is generally recognized as a farm rather than a rural residence.

“Farming” means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products, or other activities designated by the authority.

“IADD” means the Iowa agricultural development division of the Iowa finance authority.

“Lender” means any regulated bank, trust company, bank holding company, mortgage company, national banking association, savings and loan association, life insurance company, state or federal governmental agency or instrumentality, or other financial institution or entity authorized and able to make mortgage loans or secured loans in this state.

“Low-income farmer” means a farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan with the authority.

“LPP” means loan participation program.

“LPP eligible applicant” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must be a low-income farmer who satisfies all of the criteria contained in the Act and the provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

“LPP loan” means the “last-in/last-out” loan participation requested by the lender from the authority.

“Maximum allowable net worth” for calendar year 2013 is \$691,172. The maximum allowable net worth for each calendar year shall be increased or decreased as of January 1 of such calendar year by an amount equal to the percentage increase or decrease (September to September) in the United States Department of Agriculture “Index of Prices Paid for Commodities and Services, Interest, Taxes, and Farm Wage Rates” reported as of October 1 of the immediately preceding calendar year.

“Net worth” means total assets minus total liabilities as determined in accordance with generally accepted accounting principles with appropriate exceptions and exemptions reasonably related to an equitable determination of the net worth of the individual, partnership, limited liability company or corporation. Assets shall be valued at fair market value.

“Participated loan” means a loan, any portion of which is participated to the authority by the lender.

“Projected gross income” means the total of all nonfarm income plus gross farm revenues which include revenue from cash sales, inventory and receivable charges, crops, livestock products, government program payments, and other farm income received by the borrower during the next calendar year.

“Term debt coverage ratio” means the total of net farm income from operations plus total nonfarm income plus depreciation/amortization expense plus interest on term debt plus interest on capital leases minus total income tax expense minus withdrawals for family living multiplied by 100 and divided by the

IOWA FINANCE AUTHORITY[265](cont'd)

sum of annual scheduled principal and interest payments on term debt and the annual scheduled principal and interest payments on capital leases. The ratio provides a measure of the ability of the borrower to cover all term debt and capital lease payments. The greater the ratio over 100 percent, the greater the margin to cover the payments.

“*Total assets*” means all assets including but not limited to cash, crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, net cash value of life insurance, machinery, equipment, cars, trucks, farm and other real estate including life estates and personal residence, value of beneficial interest in a trust, government payments or grants, and any other assets.

“Total assets” shall not include items used for personal, family or household purposes by the applicant; but in no event shall any property be excluded, to the extent a deduction for depreciation is allowable for federal income tax purposes. All assets shall be valued at fair market value by the lender. The value shall be what a willing buyer would pay a willing seller in the locality. A deduction of 10 percent may be made from fair market value of farm and other real estate.

“*Total liabilities*” means all liabilities including but not limited to accounts payable, notes or other indebtedness owed, taxes, rent, amount owed on any real estate contract or real estate mortgage, judgments, accrued interest payable, and any other liabilities. Liabilities shall be determined on the basis of generally accepted accounting principles.

In only those cases where the liabilities include an amount for deferred tax liability that causes the applicant’s net worth to change from exceeding the maximum allowable net worth to an amount no greater than the maximum allowable net worth, the applicant is required to have a certified public accountant prepare the financial statement and provide supporting calculations and documentation acceptable to the board.

“*Veteran*” means the same as defined in Iowa Code section 35.1.

265—44.3(175) General recipient eligibility.

44.3(1) *Residence.* The eligible applicant must be a resident of Iowa. The project must be located in Iowa.

44.3(2) *Training and experience.* The eligible applicant must have documented to the satisfaction of the authority sufficient education, training, and experience for the anticipated farm operations.

44.3(3) *Access to capital.* The eligible applicant must demonstrate to the satisfaction of the authority access to the following as may be needed: adequate working capital, farm machinery, livestock, and agricultural land.

265—44.4(175) Beginning farmer loan program.

44.4(1) *Individual agricultural development bond program description.* This program is intended to allow BFLP eligible applicants to obtain lower interest rate loans for qualified purposes by obtaining loan funds from the proceeds of a tax-exempt bond issued by the authority and purchased by the bond purchaser. The authority will enter into a loan agreement with the BFLP eligible applicant and assign that BFLP loan to the bond purchaser. At the same time, the authority will issue a tax-exempt bond in the amount of the BFLP loan, and the bond purchaser will purchase that bond, which is used to fund the BFLP loan assigned to the bond purchaser. The bond which is issued by the authority and purchased by the bond purchaser is a nonrecourse obligation. The only security for the bond purchaser is the underlying security on the assigned BFLP loan.

44.4(2) *Application procedures.* The BFLP eligible applicant may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of the Act and the rules of the authority.

a. If a BFLP eligible applicant meets the BFLP loan eligibility requirements, the decision on whether to enter into the loan agreement is between the BFLP eligible applicant and the bond purchaser. The BFLP eligible applicant and bond purchaser must agree on the terms of the loan, such as interest rates, length of loan, down payment, service fees, origination charges and repayment schedule. The

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terms may not be more onerous than terms charged to similar customers for similar loans, taking into account the tax-exempt nature of interest on the BFLP loan.

b. Following completion of the BFLP loan application by the BFLP eligible applicant and approval by the bond purchaser, the BFLP loan application must be submitted to the authority for its review and approval.

c. The authority's review will include, but not be limited to, whether:

- (1) The BFLP loan applicant is a BFLP eligible applicant;
- (2) The BFLP loan proceeds will be used for a qualified purpose under the Act, rules of the authority, and the Internal Revenue Code and IRS regulations relating to private activity bonds;
- (3) The terms of the BFLP loan comply with these rules; and
- (4) The bond purchaser meets the definition of a lender or bond purchaser.

d. The authority may require that the bond purchaser furnish any information which the authority deems necessary to determine whether the bond purchaser qualifies as either a lender or bond purchaser. If the authority determines that the bond purchaser does not qualify as either a lender or bond purchaser, it may deny the application.

e. Following approval and issuance of the bond, the authority will enter into a loan agreement with the BFLP eligible applicant and then assign the BFLP loan without recourse to the bond purchaser. The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.

44.4(3) Issuance of bond. All bonds issued by the authority will conform to all applicable requirements of the United States Internal Revenue Code of 1986 as amended, and its regulations.

a. Public hearings may be held by a staff member, board member of the IADD, an appointee or employee of the authority, or other qualified hearing officer.

b. Following approval of the BFLP loan by the authority, and upon completion of a public hearing and approval of the bond issuance by the governor or another elected state official designated by the governor, the authority will issue a bond, to be purchased by the bond purchaser, in the amount and fitting the terms of the BFLP loan to the BFLP eligible applicant. The principal and interest on the bond are a limited obligation payable solely out of the revenues derived from the BFLP loan to the BFLP eligible applicant and the underlying collateral or other security furnished by or on behalf of the BFLP eligible applicant. The bond purchaser shall have no other recourse against the authority. The principal and interest on the bond do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

44.4(4) Priority of applications. Applications shall be processed by the authority on a first-come, first-served basis, based upon the receipt of all completed documents by the authority.

44.4(5) Procedures following bond issuance. No bond proceeds may be used for a nonqualified purpose or by a nonqualified user. Following disbursement of the bond proceeds, the bond purchaser and BFLP eligible applicant may be required to certify to the authority that the proceeds were used by the BFLP eligible applicant for a qualified purpose.

44.4(6) Assignment of BFLP loans by bond purchasers. A bond purchaser may assign a BFLP loan in whole or in part to any person, as defined in Iowa Code section 4.1(20). Serving of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

44.4(7) Assumption of BFLP loans, substitution of collateral and transfer of property. BFLP loans may not be assumed without the prior approval of the authority, and then only if the purchaser of the property is a BFLP eligible applicant for a BFLP loan. Equipment and other depreciable property may be exchanged or traded for similar property, and other property such as breeding livestock may be added or substituted as collateral at the discretion of the bond purchaser without the prior approval of the authority.

44.4(8) Right to audit. The authority shall have at any time the right to audit the records of the bond purchaser and the BFLP eligible applicant relating to the BFLP loan and bond to ensure that bond proceeds were used for a qualified purpose by a qualified user.

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265—44.5(175) Loan participation program.

44.5(1) Program summary. The loan participation program is intended to assist lenders and LPP eligible applicants (hereinafter referred to as “borrower(s)”) by purchasing a portion of a loan made by a lender to a borrower for the purchase of agricultural property.

a. Supplement to borrower’s down payment. The LPP loan can be used to supplement the borrower’s down payment so that the borrower can more readily secure a loan (the “participated loan”) from a lender.

b. Last-in/last-out collateral position. The program enables lenders to request a “last-in/last-out” LPP loan from the authority. The lender, on behalf of the borrower, shall apply for the LPP loan on application forms provided by the authority.

c. Lender’s certification. The lender and the borrower shall certify that the information included in the application and any other documents submitted for consideration is true and correct to the best of their knowledge.

d. LPP loan in conjunction with BFLP loan. The loan participation program may be used in conjunction with the authority’s beginning farmer loan program, provided the borrower meets the criteria for both programs.

44.5(2) Underwriting criteria. Commercial underwriting criteria will be used as determined by the authority.

44.5(3) Eligible projects and activities.

a. Use of project. LPP loans must be for new purchases or new construction. Assets purchased or constructed with LPP loan funds must be used for agricultural purposes.

b. Agricultural land. The participated loan can be used for the purchase of agricultural land, which may include small acreages on which sufficient agricultural improvements are located to conduct a livestock operation. If a house is located on land for which an LPP loan is requested, an appraisal of the house will be made. If the appraised value of the house exceeds 50 percent of the appraised value of the property or total collateral, then the property will not be eligible for an LPP loan.

c. Agricultural improvements. The participated loan can be used for the construction or purchase of improvements located on agricultural land (which is suitable for use in farming). Examples of such improvements include, but are not limited to, the following: confinement systems for swine, cattle, or poultry; barns or other outbuildings; and grain storage facilities and silos.

d. Livestock used for breeding purposes. The participated loan can be used for the purchase of livestock for which an income tax deduction for depreciation is allowed in computing state and federal income taxes.

e. Machinery and equipment. The participated loan can be used for the purchase of agricultural machinery and equipment for which an income tax deduction for depreciation is allowed in computing state and federal income taxes. This machinery and equipment must be used in the borrower’s farming operation.

f. Interim financing by lender. Interim financing by the lender may be done.

44.5(4) Ineligible projects and activities. The following program activities are ineligible:

a. Refinancing of existing debt. Refinancing of existing debt or new purchases which have been incurred by the borrower more than 60 days prior to approval of the LPP loan by the authority.

b. Financing personal expenses. Financing personal or living expenses and working capital to purchase such items as feed, seed, fertilizer, fuel, and feeder livestock.

c. Down payment funds for contract sale. Down payment for a contract sale, or in connection with a loan from a nonregulated lender.

44.5(5) Program parameters.

a. Purchase price impact. Maximum LPP loan amount is the lesser of:

- (1) Thirty percent of the purchase price; or
- (2) \$150,000.

b. LPP loan terms. The authority has established the following with respect to LPP loan terms:

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(1) The maximum amortization period for the LPP loan is 7 years for depreciable agricultural property. When a participated loan is made for livestock, the length of the LPP loan is restricted to the expected useful life of the animal being purchased.

(2) LPP loan payments on participated real estate loans will be equally amortized for the term of the LPP loan, but shall not exceed a 20-year amortization, including a 10-year term with balloon payment and the balance of the LPP loan paid in full by the end of the tenth year. If utilized in conjunction with federal programs, the amortization will be consistent with federal rules.

(3) The IADD board will set the interest rate on the LPP loan.

c. LPP loans outstanding. Loans under the program may be issued more than once, provided that the outstanding LPP loan totals do not exceed \$150,000 to any single borrower.

44.5(6) LPP loan application procedures.

a. Financial statement. Lenders may use their own form of financial statement and other forms deemed necessary and appropriate to document the eligibility of the borrower and the borrower's ability to make principal and interest payments. A copy of the borrower's most current financial statement (generally prepared one month preceding application submission), the prior two years' financial statements, and a projected after-closing financial statement must be submitted with the application.

If the borrower or the borrower's spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the borrower's farming operation, a financial statement from this entity must also be submitted with the application.

b. Income statement. A copy of the borrower's prior three years' federal income tax returns (if available) shall be submitted.

c. Background letter. The application will also include a background letter on the borrower, documenting to the satisfaction of the authority sufficient training, experience and access to capital.

d. Credit evaluation. The lender will submit a credit evaluation of the project for which an LPP loan is sought. The lender will evaluate the borrower's net worth and ability to pay principal and interest and certify the sufficiency of security for the participated loan. The authority will review the application and make its own credit evaluation prior to issuance of an LPP loan. Such evaluation will center on whether:

(1) The borrower adequately demonstrates the ability to service the debt requirements of the participated loan based on cash flow, net worth, down payment, and collateral pledged for the participated loan.

(2) The borrower provides sufficient collateral to adequately secure the participated loan and keep the participated loan collateralized throughout its term.

(3) The lender certifies that all of the borrower's debts will be current at the time the participated loan is closed.

(4) The applicant is a low-income farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan with the authority.

(5) The lender certifies that no other private or state credit is available or can be obtained in a timely manner.

e. Processing LPP loan applications. Applications for the program will be taken and processed by the authority on a first-come, first-served basis. The authority reserves the right to change the program or terminate the approval of LPP loans under the program at any time. Grounds for termination/suspension of the program would include, but not be limited to, reaching the maximum allowable limit for total outstanding LPP loans as established by the authority or changing the program by order of the Iowa general assembly or by rules promulgated by the authority.

f. Security for participated loans and use of security documents. The lender shall take any security, cosignatures, guarantees or sureties that are deemed necessary for any participated loan. Any guarantee of repayment or pledge of additional collateral required by the lender to secure the participated loan shall secure the entire participated loan.

g. Recording documents and fees. Any recording or filing fees or transfer taxes associated with the participated loan will be paid by the borrower or lender and not the authority. Also, the authority will

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have no responsibility with respect to the preparation, execution, or filing of any declaration of value or groundwater hazard statements.

44.5(7) Loan administration procedures.

a. Lender's responsibilities. The lender is responsible for servicing the participated loan following accepted standards of loan servicing and for transferring LPP loan payments to the authority.

(1) At the request of IADD, the lender shall:

1. On an annual basis, provide the authority with copies of a current financial statement or a current tax return, or both.

2. Provide copies of insurance to the authority with the lender named as loss payee. The lender will apply payments to the participated loan on a pro-rata basis.

(2) The lender shall not, without prior consent of the authority:

1. Make or consent to any substantial alterations in the terms of any participated loan instrument;

2. Make or consent to releases of security or collateral unless replaced with collateral of equal value on the participated loan;

3. Use the collateral purchased with funds from the participated loan as security for any other loan without prior written consent of the authority;

4. Accelerate the maturity of the participated loan;

5. Sue upon any participated loan instrument;

6. Waive any claim against any borrower, cosignor, guarantor, obligor, or standby creditor arising out of any instruments.

b. Payment due dates. Payment due dates for the LPP loan will be the same as for the lender's share of the loan.

c. Prepayment penalty. There is no penalty for early repayment of principal or interest.

d. Repayment proceeds and collateral. Without limitation, the repayment of proceeds and collateral shall include rights of setoff and counterclaim, which the lender or the authority jointly or severally may at any time recover on any participated loan.

e. Subsequent loans. Any loan or advance made by a lender to a borrower subsequent to obtaining an LPP loan under the program and secured by collateral or security pledged for the participated loan will be subordinate to the participated loan.

f. Events of loan default.

(1) Default will occur when the participated loan payment is 30 days past due. Notice to cure will be sent to the borrower with a copy sent to the authority; and the lender will take appropriate steps to cure the default through mediation, liquidation, or foreclosure if needed.

(2) After a participated loan is in default for a period of 30 days, the lender shall file with the authority monthly reports regarding the status of the participated loan.

(3) The authority may, anytime a participated loan is in default, purchase the unpaid portion of the participated loan from the lender including the note, security agreements, additional guarantees, and other documents. The authority would become the servicer of the participated loan in such case.

g. Applying principal and interest payments. Lenders shall receive all payments of principal and interest. All payments made prior to liquidation or foreclosure shall be made on a pro-rata basis. All accrued interest must be paid to zero at least annually on the anniversary date of the note.

h. Application of proceeds of loan liquidation. Application of proceeds of loan liquidation will be determined after a written liquidation plan is approved by the authority or the authority's loan committee. All amounts recovered upon liquidation or foreclosure will be applied first to the unpaid balance of the lender's portion and then to the unpaid portion of the LPP loan's portion. All funds received from liquidation or foreclosure procedures shall be applied in the following order of priority:

First Priority: To the payment of the outstanding principal of and accrued interest on the lender's portion of the participated loan;

Second Priority: To the payment of the outstanding principal of and accrued interest on the authority's LPP loan;

Third Priority: To the payment on a pro-rata basis of all reasonable and necessary expenses incurred by the lender or the authority in connection with such liquidation or foreclosure procedures.

IOWA FINANCE AUTHORITY[265](cont'd)

44.5(8) Right to audit. The authority shall have, at any time, the right to audit records of the lender and the borrower relating to any participated loan made under the program.

265—44.6(175) Beginning farmer tax credit program.**44.6(1) General provisions.**

a. Term. The term of the credit shall be equal to the term of the agricultural assets transfer agreement, except that any unused credit may be carried forward for a period of five years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

b. Fees. The authority may charge reasonable and necessary fees to defray the costs of this program.

c. Expiration of lease. The BFTC eligible applicant will continue to be eligible for the term of the lease. Upon expiration of the lease, both the taxpayer and BFTC eligible applicant must reapply to continue the tax credit.

44.6(2) Application procedures.

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the BFTC eligible applicant.

b. Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name and address, e-mail address if available, social security number, length of the lease, type of lease, and location of the agricultural asset to be leased. In addition, the application shall have attached to it a copy of the lease agreement between the parties.

(2) BFTC eligible applicant information: name and address, e-mail address if available, social security number, and location of the asset to be leased. In addition, the application shall have attached to it a copy of the BFTC eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFTC eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital. This letter may be submitted by one or more of the following: the BFTC eligible applicant, the taxpayer or another third party.

c. Complete applications shall be processed in the order they are received by the authority.

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

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

265—44.7(16) Beginning farmer custom farming tax credit program.**44.7(1) General provisions.**

a. Term. The term of the credit shall not exceed one year, except that any unused credit may be carried forward for a period of five years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

b. Fees. The authority may charge reasonable and necessary fees to defray the costs of this program.

c. Expiration of custom hire contract. The BFCF eligible applicant will continue to be eligible during the year of the custom farming contract. Upon expiration of the contract, both the taxpayer and BFCF eligible applicant must reapply to qualify for subsequent tax credits.

44.7(2) Application procedures.

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the BFCF eligible applicant.

b. Each application shall include, but not be limited to, the following:

IOWA FINANCE AUTHORITY[265](cont'd)

(1) Taxpayer information: name and address, e-mail address if available, social security number, and description and location of the custom hire work completed. In addition, the application shall have attached to it a copy of the custom hire contract between the parties.

(2) BFCF eligible applicant information: name and address, e-mail address if available, social security number, and location of where custom hire work was completed. In addition, the application shall have attached to it a copy of the BFCF eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFCF eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital. This letter may be submitted by one or more of the following: the BFCF eligible applicant, the taxpayer or another third party.

c. Complete applications shall be processed in the order they are received by the authority.

44.7(3) *Execution of custom farming contract.* In addition to the requirements set forth in rule 265—44.7(16), both the taxpayer and the BFCF eligible applicant shall execute a custom farming contract. This form shall be in a format provided by the authority or other commonly accepted forms and signed by all parties.

44.7(4) *Calculation of custom hire tax credit.* The taxpayer and BFCF eligible applicant will submit a completed application to the authority, including a list of all custom work completed by the BFCF eligible applicant. The application will also include verification of all payments made to the BFCF eligible applicant for work completed.

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

These rules are intended to implement Iowa Code chapters 16 and 175 and 2013 Iowa Acts, chapter 100.

ITEM 2. Rescind **25—Chapter 1 to Chapter 11.**

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1406C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6, the Board of Pharmacy hereby amends Chapter 4, "Pharmacist-Interns," Iowa Administrative Code.

The amendments revise the requirements for pharmacist-intern registration, the number of hours required, and reporting of completed internship training. The Board has determined that the college-based training included in the college curriculum provides adequate prelicensure training and that requiring a pharmacist-intern to obtain additional training and credit outside the school year is not necessary. A student, prior to commencing internship training and experience, is required to register as a pharmacist-intern, and the Board and the Iowa colleges of pharmacy have agreed that, to ensure timely registration, a student must register at the beginning of the first professional year in the college of pharmacy. The amendments eliminate the requirements for completion and submission of the "internship booklet" certifying the competencies of the pharmacist-intern under the supervision of each pharmacist and, except for specific circumstances, eliminate the requirements relating to affidavits of internship training. The amendments also reorganize and clarify the internship requirements for foreign pharmacy graduate licensure candidates.

PHARMACY BOARD[657](cont'd)

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the December 11, 2013, Iowa Administrative Bulletin as **ARC 1237C**. The Board received written comments regarding the proposed amendments from the state's colleges of pharmacy and the Iowa Pharmacy Association (IPA). The adopted amendments differ from those published under Notice. In Item 2, the term "Christmas break" has been changed to read "winter break."

IPA cautioned the Board to be mindful of the accreditation status of colleges of pharmacy not located in Iowa. The Board appreciates this cautionary note and responds that the Board annually reviews the status and accreditation of all colleges of pharmacy, accepting degrees only from those colleges that maintain accreditation standards and guidelines set by the Accreditation Council for Pharmacy Education (ACPE). Comments from the colleges questioned the circumstances and time frame prompting the termination of a pharmacist-intern registration if the student temporarily suspends active enrollment and pursuit of the pharmacy degree and what processes would be required if and when the student reenters the degree program; the expected turnaround time for notification from the colleges of certification of eligibility for internship and the pharmacist-intern registration processes; concerns regarding the use of the terms "preceptor" and "commencement" as these terms may have differing meanings in academia; and a suggestion that references to "pharmacy student" be changed to read "student pharmacist." Comments also suggested using the terminology used in the ACPE standards to describe the "college-based clinical program" required rotations and experiences. Other comments and questions related to procedural issues, including how completion of credit will be certified by the colleges and how certification of eligibility or cancellation of eligibility will be communicated by the colleges to the Board.

The amendments were approved during the March 12, 2014, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code section 155A.6.

These amendments will become effective on May 7, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 657—4.1(155A) as follows:

657—4.1(155A) Definitions.

"Board" means the Iowa board of pharmacy examiners.

~~*"Internship booklet"* means a set of documents and forms to be completed by one or more pharmacist preceptors during the course of an individual pharmacist intern's internship training. The booklet includes the intern's registration certificate, instructions for the intern and the preceptor, the competencies to be attained by the intern and certified by each preceptor, and one or more affidavits on which each preceptor shall certify the hours of nonconcurrent internship completed under that preceptor's supervision.~~

~~*"Nontraditional internship booklet"* means that internship booklet comprised of competencies and affidavits relating exclusively to that nontraditional internship segment and approved by the board for the individual pharmacist-intern pursuant to subrule 4.6(6).~~

"Pharmacist-intern" or *"intern"* means a person enrolled in a college of pharmacy or actively pursuing a pharmacy degree, or as otherwise provided by the board, who is registered with the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor pursuant to Iowa Code section 155A.6. "Pharmacist-intern" includes a graduate of an approved college of pharmacy, or a foreign graduate who has established educational equivalency pursuant to the requirements of rule 657—4.7(155A), who is registered with the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist in Iowa. "Pharmacist-intern" may include an individual participating in a residency or fellowship program in Iowa, whether or not the individual is licensed as a pharmacist in another state.

"Pharmacist preceptor" or *"preceptor"* means a pharmacist licensed to practice pharmacy whose license is current and in good standing. Preceptors shall meet the conditions and requirements of rule

PHARMACY BOARD[657](cont'd)

657—4.9(155A). No pharmacist shall serve as a preceptor while the pharmacist's license to practice pharmacy is the subject of disciplinary sanction by a pharmacist licensing authority.

ITEM 2. Amend rule 657—4.3(155A) as follows:

657—4.3(155A) 1500-hour requirements. Internship credit may be obtained only after internship registration with the board and ~~successful completion of one semester~~ commencement of the first professional year in a college of pharmacy. Internship shall consist of a minimum of 1500 hours, ~~1250 hours~~ all of which may be a college-based clinical program approved or accepted by the board. Programs shall be structured to provide experience in community, institutional, and clinical pharmacy practices. ~~The remaining 250~~ A pharmacist-intern may acquire additional hours shall be acquired under the supervision of one or more preceptors in a traditional licensed general or hospital pharmacy, at a rate of no more than 48 hours per week, where the goal and objectives of internship in rule 657—4.2(155A) apply. Credit toward ~~the 250~~ any additional hours will be allowed, at a rate not to exceed 10 hours per week, for an internship served concurrent with academic training and outside a college-based clinical program. "Concurrent time" means internship experience acquired while the person is a full-time student carrying, in a given school term, at least 75 percent of the average number of credit hours per term needed to graduate and receive an entry-level degree in pharmacy. Recognized academic holiday periods, such as spring break and ~~Christmas~~ winter break, shall not be considered "concurrent time." The competencies in subrule 4.2(2) and the concurrent time limitations of this rule shall not apply to college-based clinical programs.

ITEM 3. Amend rule 657—4.6(155A) as follows:

657—4.6(155A) Registration, reporting, and authorized functions. Every person shall register with the board before beginning the person's internship experience, whether or not for the purpose of fulfilling the requirements of rule 657—4.3(155A). Registration is required of all students enrolled in Iowa colleges of pharmacy ~~after they have successfully completed one semester upon commencement of the first professional year~~ in the college of pharmacy. Colleges of pharmacy located in Iowa shall, ~~at least annually,~~ certify to the board the names of students who ~~have successfully completed one semester~~ are enrolled in the first professional year in the college of pharmacy. ~~or~~ Colleges of pharmacy located in Iowa shall, within two weeks of any change, certify to the board the names of students who have withdrawn from the college of pharmacy.

4.6(1) No change.

4.6(2) Supervision and authorized functions. A licensed pharmacist shall be on duty in the pharmacy and shall be responsible for the actions of a pharmacist-intern during all periods of internship training. ~~The~~ At the discretion of the supervising pharmacist, the following judgmental functions, usually restricted to a pharmacist, may be delegated to pharmacist-interns registered by the board:

a. to c. No change.

4.6(3) Term of registration. Registration shall remain in effect as long as the board is satisfied that the intern is pursuing a degree in pharmacy in good faith and with reasonable diligence. A pharmacist-intern may request that the intern's registration be extended beyond the automatic termination of the registration pursuant to the procedures and requirements of 657—Chapter 34. Except as provided by the definition of pharmacist-intern in rule 657—4.1(155A), registration shall automatically terminate upon the earliest of any of the following:

a. No change.

b. Lapse, ~~exceeding one year,~~ in the pursuit of a degree in pharmacy; or

c. No change.

4.6(4) Identification, reports, and notifications. Credit for internship time will not be granted unless registration and other required records ~~and~~ or affidavits are completed.

a. and b. No change.

c. Notarized affidavits of experience in non-college-sponsored programs shall be filed with the board office after the successful completion of the ~~appropriate internship booklet and completion of all~~

PHARMACY BOARD[657](cont'd)

~~required internships~~ internship. These affidavits shall ~~include certification of competencies and shall~~ certify only the number of hours and dates of training obtained outside a college-based clinical program as provided in rule 657—4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience ~~or to submit certification of competencies~~.

4.6(5) *No credit prior to registration.* Credit will not be given for internship experience obtained prior to the individual's registration as a pharmacist-intern. Credit for Iowa college-based clinical programs (~~1250 hours~~) will not be granted unless registration is issued before the student begins the program.

4.6(6) No change.

ITEM 4. Amend rule 657—4.7(155A) as follows:

657—4.7(155A) Foreign pharmacy graduates. Foreign pharmacy graduates who are candidates for licensure in Iowa will be required to obtain a minimum of 1500 hours of internship in a licensed pharmacy or other board-approved location.

4.7(1) *Registration.* ~~These candidates~~ Candidates shall register with the board as provided in rule 657—4.6(155A). Internship credit will not be granted until the candidate has been issued an intern registration. Applications for registration shall be accompanied by certification from the Foreign Pharmacy Graduate Examination Committee (FPGEC) as provided in 657—subrule 2.10(1).

4.7(2) *Certification of hours.* Following completion of any period of internship, internship hours shall be certified to the board by submission of notarized affidavits of experience as provided in paragraph 4.6(4) "c."

4.7(3) *Credit for foreign pharmacy practice.* The board may grant credit to a foreign pharmacy graduate, based on the candidate's experience in the practice of pharmacy, for all or any portion of the required 1500 hours of internship training. The candidate shall provide detailed information regarding the candidate's experience in the practice of pharmacy. The board shall determine, on a case-by-case basis, whether and to what extent the candidate's experience meets the goals and objectives established in rule 657—4.2(155A).

ITEM 5. Amend subrule 4.9(2) as follows:

4.9(2) *Competencies and affidavits* *Affidavits.* A preceptor shall be responsible for ~~initialing and dating those competencies the intern attained under the supervision of the preceptor and for completing the affidavit certifying the number of hours and the dates of each internship training period under the supervision of the preceptor~~ for any period of internship completed outside a college-based clinical program.

[Filed 3/13/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1397C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Speech Pathology and Audiology hereby amends Chapter 300, "Licensure of Speech Pathologists and Audiologists," and Chapter 303, "Continuing Education for Speech Pathologists and Audiologists," Iowa Administrative Code.

The amendments remove outdated language addressing examination requirements and update and clarify the continuing education requirements for renewal.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 5, 2014, as **ARC 1314C**. A public hearing was held on February 25, 2014, from 8 to 8:30 a.m. in the Fifth Floor

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Board Conference Room 526, Lucas State Office Building, Des Moines, Iowa. No public comment was received on the proposed amendments. These amendments are identical to those published under Notice.

These amendments were adopted by the Iowa Board of Speech Pathology and Audiology on March 12, 2014.

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

These amendments are intended to implement Iowa Code sections 147.34, 154F.3, and 22C.2.

These amendments will become effective on May 7, 2014.

The following amendments are adopted.

ITEM 1. Amend subparagraph **300.3(4)“b”(3)** as follows:

(3) Results of the ~~National Teacher Praxis~~ Examination.

ITEM 2. Amend rule 645—300.5(147) as follows:

645—300.5(147) Examination requirements. The examination required by the board shall be the ~~National Teacher Praxis~~ Examination in speech pathology or audiology. This examination is administered by the Educational Testing Service. ~~The applicant should contact the nearest accredited college or university for the time and place of the examination.~~

300.5(1) The applicant has full responsibility for making arrangements to take the ~~National Teacher Praxis~~ Examination in speech pathology or audiology and for bearing all expenses associated with taking the examination. The applicant also has the responsibility for having the examination scores sent directly to the board from the Educational Testing Service.

300.5(2) No change.

ITEM 3. Amend paragraph **300.6(1)“f”** as follows:

f. Results of the ~~National Teacher Praxis~~ Examination.

ITEM 4. Amend paragraph **300.6(2)“f”** as follows:

f. Results of the ~~National Teacher Praxis~~ Examination.

ITEM 5. Amend rule **645—300.9(147)**, numbered paragraph **“4,”** as follows:

4. Shows evidence that the ~~National Teacher Praxis~~ Examination scores have been sent directly from the examination service to the board;

ITEM 6. Amend subparagraph **300.17(3)“b”(3)** as follows:

(3) Verification of passing the ~~National Teacher Praxis~~ Examination (NTE) for ~~Speech Pathology or Audiology~~ in speech pathology or audiology within the last two years prior to application for reactivation.

ITEM 7. Rescind the definition of “Continuing education” in rule **645—303.1(147)** and adopt the following **new** definition in lieu thereof:

“*Continuing education*” means a planned individual learning experience or activity that is directly related to the sciences or contemporary clinical practice of audiology, speech-language pathology and speech-language-hearing science and whose content and focus are beyond the basic preparation required for entry into the professions. These activities result in improving, adding to, or positively changing the knowledge and skills of the licensee to improve the safety and welfare of the public.

ITEM 8. Rescind the definition of “Independent study” in rule **645—303.1(147)**.

ITEM 9. Amend subrule 303.2(3) as follows:

303.2(3) Hours of continuing education credit may be obtained by ~~attending and participating~~ participation in a continuing education program or activity. ~~These hours must be in accordance with these rules.~~ Such programs and activities may take place individually or in group settings including in-person conferences, journal readings, teleconferences, videoconferences and online programs or activities as long as such programs and activities meet the criteria specified in the definition of continuing education in rule 645—303.1(147).

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 10. Rescind subrule 303.3(1) and adopt the following **new** subrule in lieu thereof:

303.3(1) General criteria. A continuing education program or activity that meets all of the following criteria is appropriate for continuing education credit if the continuing education program or activity:

a. Meets the definition of continuing education as defined in rule 645—303.1(147);
b. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program.

At the time of audit, the board may request the qualifications of presenters;

c. Fulfills state program goals, objectives, or both; and

d. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

ITEM 11. Amend subparagraph **303.3(2)“a”(1)** as follows:

(1) Basic communication processes. Information (beyond the basic licensure requirements) applicable to the normal development and use of speech, language, and hearing, i.e., anatomic and physiologic bases for the normal development and use of speech, language, and hearing; physical bases and processes of the production and perception of speech, language, and hearing; linguistic and psycholinguistic variables related to normal development and use of speech, language, and hearing; and technological, biomedical, engineering, and instrumentation information which would enable expansion of knowledge in the basic communication processes. ~~Any computer course used for continuing education must involve the actual application to the communicatively impaired population.~~

ITEM 12. Amend subparagraph **303.3(2)“a”(3)** as follows:

(3) Related areas. Study pertaining to the understanding of human behavior, both normal and abnormal, as well as services available from related professions which apply to the contemporary practice of speech-language pathology/audiology, e.g., theories of learning and behavior; services available from related professions that also deal with persons who have disorders of communication; information from these professions about the sensory, physical, emotional, social or intellectual states of child or adult; ~~and other areas such as general principles of program management, professional ethics, clinical supervision, counseling; and interviewing.~~

Unacceptable subject matter includes personal development, human relations, collective bargaining, and tours. While desirable, these subjects are not applicable to the licensees' skill, knowledge and competence as expressed in Iowa Code section 272C.2, paragraph "g." Such courses will receive no credit toward the minimum 30 hours required for license renewal.

ITEM 13. Amend paragraph **303.3(2)“b”** as follows:

b. A licensee may elect to take the ~~National Teacher Praxis~~ Examination in speech pathology or audiology in lieu of earning continuing education credits. The licensee shall have the results of the examination sent to the board by the agency administering the examination.

ITEM 14. Rescind paragraph **303.3(2)“c”** and adopt the following **new** paragraph in lieu thereof:

c. A licensee may present professional programs which meet the criteria in this rule. Two hours of credit will be allowed for each hour of newly developed presentation material. A course schedule or brochure must be maintained for audit.

ITEM 15. Adopt the following **new** paragraph **303.3(2)“f”**:

f. A maximum of 16 hours of continuing education credit may be earned per biennium by participation in continuing education programs and activities which meet the criteria in this rule and which are completed through journal readings, teleconference or videoconference participation, and

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

online program participation. In addition, such programs and activities must include a posttest that the participant must pass in order to receive continuing education credit.

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1401C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," Iowa Administrative Code.

These amendments expand soft copy review workstations requirements to allow for the use of workstations that meet an additional criterion option of being cleared by the United States Food and Drug Administration 510K process with an intended use for digital mammography; expand the initial new modality training requirements for physicians to allow the use of training provided by a vendor manufacturing new modality equipment; adjust wording from "full field digital mammography" to "new mammographic modality" to be consistent with the multiple modalities for which physicians may need to obtain training; remove the reference to outdated film screen technology; and add a reference to require adherence to quality control procedures outlined by new stereotactic breast biopsy equipment manufacturers. The amendments will better match industry practices for training, equipment requirements and quality control tests. These changes will maintain the protection of public health while reducing the burden on the regulated community.

Notice of Intended Action was published in the February 5, 2014, Iowa Administrative Bulletin as **ARC 1317C**. No comments were received. These amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on March 12, 2014.

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

These amendments are intended to implement Iowa Code section 136C.15.

These amendments will become effective on May 7, 2014.

The following amendments are adopted.

ITEM 1. Rescind the definition of "Soft copy review workstation" in subrule **41.6(1)**.

ITEM 2. Amend paragraph **41.6(2)"i"** as follows:

i. Soft copy review workstation requirements.

(1) Soft copy review workstations used for final interpretation of mammogram images must be a configuration of two 5 megapixel monitors that meet one of the following criteria:

1. Have 5 megapixel resolution; or

2. Be approved by the United States Food and Drug Administration 510K process and be intended for digital mammography use.

(2) The workstation must have a quality control program substantially the same as that outlined by the image receptor manufacturer's quality control manual or that outlined by the image receptor manufacturer's designated soft copy review workstation quality control manual.

ITEM 3. Amend subparagraph **41.6(3)"a"(1)**, numbered paragraph "**5**," as follows:

5. Before an interpreting physician may begin independently interpreting mammograms produced by a new mammographic modality other than the modality in which the initial training was received, the interpreting physician shall have at least 8 hours of Category 1 continuing medical education credits in the new mammographic modality or at least 8 hours of training in the new mammographic modality provided by a vendor manufacturing the new mammographic modality equipment. An interpreting

PUBLIC HEALTH DEPARTMENT[641](cont'd)

physician previously qualified to interpret ~~full field digital mammography~~ a new mammographic modality in another state will have six months to complete this requirement. The six-month time frame begins when the interpreting physician commences Iowa ~~full field digital mammography~~ new mammographic modality interpretation.

ITEM 4. Rescind subparagraph **41.7(7)“e”(3)** and adopt the following new subparagraph in lieu thereof:

(3) Phantom image (weekly). Phantom image must meet the criteria of 5 fibers, 4 speck groups and 3 masses for the ACR accreditation phantom or 3 fibers, 3 speck groups and 2.5 masses for the mini phantom unless otherwise stated by the phantom manufacturer. Failures must be corrected before further procedures are performed.

ITEM 5. Rescind subparagraph **41.7(7)“e”(5)** and adopt the following new subparagraph in lieu thereof:

(5) Any additional quality control testing indicated by the stereotactic breast biopsy unit manufacturer must be completed as outlined in the quality control manual applicable to the unit.

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1402C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 144.3 and 144.46, the Department of Public Health amends Chapter 95, “Vital Records: General Administration,” Iowa Administrative Code.

The rules in Chapter 95 describe the general administration of vital records, including definitions, fees, the handling of records, access to records, issuance of certified copies, and confidentiality.

Adopted and Filed amendments to Chapter 95 were published in the October 2, 2013, Iowa Administrative Bulletin as **ARC 1074C**, with an effective date of January 1, 2014. The Administrative Rules Review Committee voted a 70-day delay of subrule 95.6(2) at the Committee's October 2013 meeting. This amendment addresses the Committee's concerns that precipitated the vote to delay. This amendment reduces the overpayment amount to be retained by the Department to \$5 or less.

Notice of Intended Action was published in the January 22, 2014, Iowa Administrative Bulletin as **ARC 1294C**. No comments were received. A clarification change has been made to the Noticed amendment. The Noticed amendment read “of less than \$5.” The change was made to match the language in the preamble which read “\$5 or less.”

The State Board of Health adopted this amendment on March 12, 2014.

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

This amendment is intended to implement Iowa Code sections 144.46 and 144.46A.

This amendment will become effective on May 7, 2014.

The following amendment is adopted.

Rescind subrule 95.6(2) and adopt the following new subrule in lieu thereof:

95.6(2) Overpayments. Any overpayment of \$5 or less received by the state registrar for the copying of or search for vital records or for the preparation or amending of a certificate shall not be refunded and shall be retained by the department.

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1403C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 691.6, the Department of Public Health hereby amends Chapter 127, “County Medical Examiners,” Iowa Administrative Code.

The Department does not have funding to reimburse Iowa counties for county medical examiner expenses for autopsies ordered on decedents who were brought into Iowa for emergency medical treatment. These amendments direct counties to submit such requests for reimbursement directly to the state appeal board for review and processing. This will make processing of such claims more efficient, streamlined and customer-friendly. Also, no funding has been allocated to the Department for reimbursement for autopsies in cases in which SIDS was the cause of death. Therefore, the amendments rescind the paragraph indicating reimbursement is available.

Notice of Intended Action was published in the February 5, 2014, Iowa Administrative Bulletin as **ARC 1316C**. No comments were received. These amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on March 12, 2014.

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

These amendments are intended to implement Iowa Code sections 331.802(2)“c,” 331.802(4) and 691.6.

These amendments will become effective on May 7, 2014.

The following amendments are adopted.

ITEM 1. Amend paragraph **127.4(2)“c”** as follows:

c. Out-of-state resident—law enforcement involvement. The fee and expenses of a county medical examiner who performs an investigation or autopsy of a person who dies after being brought into the state for emergency medical treatment by or at the direction of an out-of-state law enforcement officer or public authority shall be paid by the state. A claim for payment shall be filed with the department state appeal board.

ITEM 2. Rescind and reserve paragraph **127.4(2)“e.”**

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1404C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 131, “Emergency Medical Services—Provider Education/Training/Certification,” and Chapter 132, “Emergency Medical Service—Service Program Authorization,” Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical care providers and establish a standard of conduct for training programs, students, and providers. The rules in Chapter 132 describe the standards for the authorization of EMS services. These amendments update the reference to the Iowa EMS Scope of Practice document to the most recent edition, April 2013.

Notice of Intended Action was published in the January 22, 2014, Iowa Administrative Bulletin as **ARC 1292C**. No comments were received. These amendments are identical to those published under Notice.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The State Board of Health adopted these amendments on March 12, 2014.
 After analysis and review of this rule making, no impact on jobs has been found.
 These amendments are intended to implement Iowa Code section 147A.8.
 These amendments will become effective on May 7, 2014.
 The following amendments are adopted.

ITEM 1. Amend paragraph **131.3(3)“b”** as follows:

b. Scope of Practice for Iowa EMS Providers (April ~~2012~~ 2013) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

ITEM 2. Amend paragraph **132.2(4)“b”** as follows:

b. Scope of Practice for Iowa EMS Providers (April ~~2012~~ 2013) is hereby incorporated and adopted by reference for EMS emergency medical care providers. For any differences that may occur between the Scope of Practice adopted ~~referencees~~ by reference and these administrative rules, the administrative rules shall prevail.

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1405C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.156B, the Department of Public Health hereby adopts new Chapter 206, “Iowa Health Information Network,” Iowa Administrative Code.

This new chapter accomplishes the following:

- Identifies the procedure by which the Iowa Health Information Network (IHIN) policies and procedures are developed and approved with the input from workgroup members and oversight of the Executive Committee and approval of the State Board of Health.
- Provides the policies and procedures for monitoring participant usage and the enforcement of compliance standards.
- Provides the means and the process by which patients may choose to opt out of participation in the IHIN as well as the process by which patients may choose to opt back in.
- Provides procedures for patients to receive notice of violation of confidentiality.
- Provides procedures for patients to request and receive an audit report.

Notice of Intended Action was published in the February 5, 2014, Iowa Administrative Bulletin as **ARC 1315C**. No comments were received. The adopted rules are identical to those published under Notice.

The State Board of Health adopted these rules on March 12, 2014.
 After analysis and review of this rule making, no impact on jobs has been found.
 These rules are intended to implement Iowa Code sections 135.156E(2) and 135.156E(9).
 These rules will become effective on May 7, 2014.
 The following amendment is adopted.

Adopt the following new 641—Chapter 206:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

CHAPTER 206
IOWA HEALTH INFORMATION NETWORK

641—206.1(135) Scope and applicability. This chapter describes how the department will address issues regarding the Iowa health information network, including: the development of policies and procedures for auditing participants' usage of the Iowa health information network and enforcing compliance with applicable standards, requirements, rules and procedures; the process by which individuals can decline to have their health information shared through the Iowa health information network; and the process by which the department will notify individuals if there has been unauthorized access to or disclosure of their protected health information through the Iowa health information network.

641—206.2(135) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Advisory council" means the electronic health information advisory council established in Iowa Code section 135.156(2) "a."

"Board" means the state board of health established in Iowa Code chapter 136.

"Breach" means breach as such term is defined in the HIPAA Privacy Rule.

"Department" means the Iowa department of public health.

"Executive committee" means the executive committee of the electronic health information advisory council established in Iowa Code section 135.156(2) "b."

"HIPAA" means the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as amended by the HITECH Act, and the regulations promulgated thereunder, including the Privacy Rule, the Security Rule and the Omnibus Final Rule.

"Individual" means a patient or client of a participant.

"Iowa health information network" means the health information exchange operated by the department pursuant to Iowa Code section 135.155.

"Opt out" means to decline to have one's health information exchanged through the Iowa health information network.

"Participant" means an authorized organization or individual that has voluntarily agreed to enter into a participation agreement to access or use the Iowa health information network.

"Participation agreement" means the agreement that is entered into between the department and a participant and prescribes the terms and conditions for access and use of the Iowa health information network.

"Privacy policies and security policies" means the department's rules, regulations, policies and procedures for access to and use of the Iowa health information network, as approved and amended by the executive committee and advisory council and the board, that are posted electronically on the Iowa health information network Web site or otherwise furnished to participants.

"Protected health information" means protected health information as defined in HIPAA that is created, transmitted or received by an authorized participant.

"Provider" means a person or organization that is a health care provider under HIPAA and is licensed or otherwise permitted to provide health care items and services under applicable state law.

"Security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information available through the Iowa health information network or interference with Iowa health information network operations, including attempted and successful privacy breaches.

641—206.3(135) Policy development and governance. The department is required to develop and implement the privacy policies and security policies to protect protected health information exchanged through the Iowa health information network. The policies must be reviewed by the executive committee and advisory council and approved by the board prior to implementation. Any changes to the policies must go through the same review and approval process.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

641—206.4(135) Monitoring and audit. The department shall monitor and audit participant usage of the Iowa health information network in a manner consistent with the privacy policies and security policies.

206.4(1) The department shall enforce the privacy policies and security policies, which shall include audit and monitoring requirements for participants.

206.4(2) Participant monitoring and audit activity requirements shall be included in the participation agreement. Participants unwilling or unable to abide by the requirements and participants that violate the policies or terms of the participation agreement may face sanctions up to and including suspension or termination of the participation agreement.

641—206.5(135) Consumer participation in the Iowa health information network. Pursuant to Iowa Code section 135.156E(2), consumers have the opportunity to opt out of participation in the Iowa health information network.

206.5(1) The department shall explain the process and provide forms for patients to complete in order to opt out of participation in the Iowa health information network. The information shall be made available in places including, but not limited to, provider offices and on the Iowa health information network Web site.

206.5(2) Patients who decline to have their health information shared through the Iowa health information network may later choose to have their information shared by providing verification of identity.

641—206.6(135) Security incidents, breaches.

206.6(1) The department and all participants shall promptly investigate, respond to and report privacy breaches related to the Iowa health information network in compliance with applicable federal and state law.

206.6(2) The department shall include in the privacy policies and security policies more detailed requirements regarding security incidents and shall develop a security incident response plan identifying the responsible parties and action steps to be taken in the event of a security incident.

641—206.7(135) Health information audit. The department shall make available upon request and on the Iowa health information network Web site a form for individuals to request an audit report showing who or what system has accessed their health information through the Iowa health information network.

206.7(1) Individuals may request an audit report by contacting the department by:

Mail: Office of Health IT

Iowa Department of Public Health

Lucas State Office Building

321 E. 12th Street

Des Moines, Iowa 50319

Fax: (515)281-4958

E-mail: ehealth@idph.state.ia.us

The department may require proof of legal authority to view health information records.

206.7(2) The department shall process the health information audit request and provide a response to the individual within 30 days of receipt of the request.

These rules are intended to implement Iowa Code sections 135.156E(2) and 135.156E(9).

[Filed 3/12/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.

ARC 1395C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation, on March 11, 2014, rescinded Chapter 162, "Bridge Safety Fund," Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the January 22, 2014, Iowa Administrative Bulletin as **ARC 1288C**.

2010 Iowa Acts, chapter 1184, section 95, rescinded Iowa Code section 313.68, which created the bridge safety fund. The Department's rules concerning the bridge safety fund are no longer necessary since all of the funds have been used for the identified projects. These bridge projects were designed, constructed and paid for within the prescribed time period.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

This amendment is identical to the one published under Notice of Intended Action.

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

This amendment is intended to implement 2010 Iowa Acts, chapter 1184, section 95.

This amendment will become effective May 7, 2014.

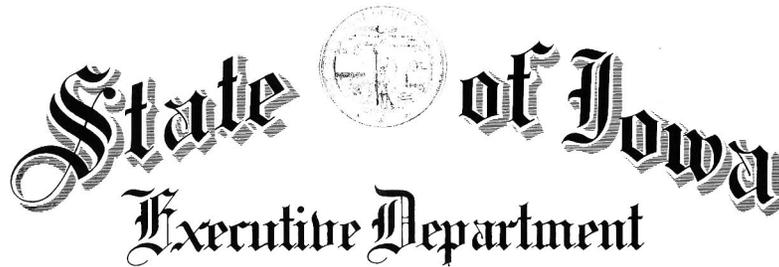
The following amendment is adopted.

Rescind and reserve **761—Chapter 162**.

[Filed 3/11/14, effective 5/7/14]

[Published 4/2/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/2/14.



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA
EXECUTIVE ORDER NUMBER EIGHTY-FIVE

- WHEREAS,** Transparency provides Iowans the necessary access to information to hold our government accountable; and
- WHEREAS,** Our Open Records Act is essential to ensuring openness, including settlement agreements (Iowa Code section 22.13); and
- WHEREAS,** Our administration has maintained a steadfast commitment to transparent government, and the use of confidentiality agreements within employee settlements is troubling and runs contrary to our priority of operating state government in an open manner.

NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare that accountability, openness and transparency are essential to the efficient operation of state government and in the best interest of taxpayers. I hereby order and direct that:

1. **Accountability:** No state agency may enter into a personnel settlement agreement on behalf of the state unless the personnel settlement agreement is reviewed by the Attorney General, or his or her designee; and
 - a. For an agency not governed by the Board of Regents: the director of the Department of Management, director of the Department of Administrative Services and the head of the agency involved with the matter at issue each approve the personnel settlement agreement in writing; or
 - b. For an institution governed by the Board of Regents: the executive director of the Board of Regents and the head of the institution involved with the matter at issue each approve the personnel settlement agreement in writing.
 - c. In the event that subsection 1(a) or (b) is not consistent with a collective bargaining agreement, the relevant head of agency or institution, director, executive director and attorney general designee will be provided with regular reports of personnel settlement agreements.
2. **Openness:** No personnel settlement agreement shall contain any confidentiality provision that attempts to prevent disclosure of the agreement itself.
3. **Transparency:** Every personnel settlement agreement shall be posted to the Department of Administrative Services or Board of Regents website in a location easily accessible to the public.
4. For purpose of this Order, the following definitions shall apply:
 - a. "Agency" means a unit of state government, which is an authority, board, commission, committee, council, department, or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5 and the office of the governor. However, "agency" does not mean any of the following:
 - i. The office of an elective constitutional or statutory officer, other than the office of the governor.
 - ii. The general assembly, or any office or unit under its administrative authority.
 - iii. The judicial branch, as provided in section 602.1102.
 - iv. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.
 - b. "Personnel Settlement Agreement" means an agreement with the State of Iowa, subject to Iowa Code section 22.13, to resolve a personnel dispute including but not limited to settlement of grievances (excluding those resolved at step one).

- 5. This Order shall apply prospectively as of the date of the signing of this Order. This Order shall be interpreted in accordance with all applicable laws. It is not intended to supersede any law or collective bargaining agreement.
- 6. If any provision of this Order, or the application of such provision to any person or circumstance, is held to be invalid, the remaining provisions, as applied to any person or circumstance, shall not be affected thereby.
- 7. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the State of Iowa, its Departments, Agencies, or Political Subdivisions, or its officers, employees, or agents, or any other person.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 24th day of March, in the year of our Lord two thousand fourteen.

TERRY E. BRANSTAD
GOVERNOR

ATTEST:

MATT SCHULTZ
SECRETARY OF STATE