



IOWA ADMINISTRATIVE BULLETIN

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Pages 2399 to 2446

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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.

KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Deputy Editor		(515)281-8157
	Fax:	(515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2010

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 23 '09	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	***May 26***	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	***June 23***	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 26	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
June 23	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	***Sep. 1***	Sep. 22	Oct. 27	Jan. 24 '11
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '11
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '11
Aug. 20	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '11
Sep. 1	Sep. 22	Oct. 12	Oct. 27	***Oct. 27***	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	***Nov. 10***	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	***Nov. 24***	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	***Dec. 8***	Dec. 29	Feb. 2 '11	May 2 '11
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Nov. 10	Dec. 1	Dec. 21	Jan. 5 '11	Jan. 7 '11	Jan. 26 '11	Mar. 2 '11	May 30 '11
Nov. 24	Dec. 15	Jan. 4 '11	Jan. 19 '11	Jan. 21 '11	Feb. 9 '11	Mar. 16 '11	June 13 '11
Dec. 8	Dec. 29	Jan. 18 '11	Feb. 2 '11	Feb. 4 '11	Feb. 23 '11	Mar. 30 '11	June 27 '11
Dec. 22	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
24	Friday, April 30, 2010	May 19, 2010
25	Friday, May 14, 2010	June 2, 2010
26	Wednesday, May 26, 2010	June 16, 2010

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, monthly meeting on Monday, May 10, 2010, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

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

Delay in effective date of annual license renewals 5.2, 5.3 Filed Emergency **ARC 8691B** 4/21/10

ADMINISTRATIVE SERVICES DEPARTMENT[11]

State employee retirement incentive program—fiscal year 2010, 60.1(7) Filed Emergency **ARC 8692B** 4/21/10

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Nonchemical pest control devices, 45.1, 45.19 Filed **ARC 8704B** 4/21/10

Greyhound breeder or farm fee, 67.13 Filed Emergency **ARC 8636B** 4/7/10

Dairy—updates of references to inspection handbooks and milk truck approaches, 68.1,
68.11(1), 68.13, 68.15, 68.37(1) Filed **ARC 8699B** 4/21/10

ARCHITECTURAL EXAMINING BOARD[193B]

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

Rolling five-year period for valid examination scores, 2.3(4) Filed **ARC 8638B** 4/7/10

COMMUNITY ACTION AGENCIES DIVISION[427]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Family development and self-sufficiency program, ch 15 Notice **ARC 8637B** 4/7/10

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Extension of teacher intern license, 13.9(8) Filed **ARC 8688B** 4/7/10

Class A license requirements, 13.10(5) Notice **ARC 8686B** 4/7/10

Administrator licenses for applicants with standard and professional service licenses, 18.4
Notice **ARC 8687B** 4/7/10

Specific requirements for Class B license, 27.6 Notice **ARC 8689B** 4/7/10

EDUCATION DEPARTMENT[281]

Community colleges, amendments to ch 21 Filed **ARC 8646B** 4/7/10

Adult education, 23.1, 23.2 Filed **ARC 8645B** 4/7/10

Community college accreditation, 24.1, 24.3 to 24.6 Filed **ARC 8644B** 4/7/10

Iowa vocational rehabilitation services, amendments to ch 56 Notice **ARC 8641B** 4/7/10

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Cross-media electronic reporting, ch 15 Filed **ARC 8678B** 4/7/10

Water quality standards—lake criteria, 61.3(4) Notice of Termination **ARC 8677B** 4/7/10

Cathode ray tube device recycling, 122.2 to 122.28 Filed **ARC 8679B** 4/7/10

Underground storage tanks—technical standards and corrective actions, amendments to ch
135 Notice **ARC 8676B** 4/7/10

HUMAN SERVICES DEPARTMENT[441]

Family investment program—emergency assistance, rescind ch 58 div II Filed **ARC 8640B** 4/7/10

Medical assistance for employed persons with disabilities—eligibility, 75.1(39)"b," "c"
Notice **ARC 8705B** 4/21/10

Medicaid express lane eligibility, 75.11(2)"b," 76.1, 76.5(1)"d" Filed **ARC 8642B** 4/7/10

Medicaid—mandated reductions in reimbursement, 78.10(1), 78.13(5), 79.1(8), 79.16,
81.6(16), 81.10(4) Filed Emergency After Notice **ARC 8643B** 4/7/10

Reimbursement rate for family planning clinics, 79.1(2)
Notice **ARC 8648B**, also Filed Emergency **ARC 8647B** 4/7/10

Medicaid—reimbursement for psychiatric medical institutions for children, 79.1(2)
Filed Emergency **ARC 8649B** 4/7/10

Child care centers—record checks, licensing fees, 109.1, 109.2, 109.4(2), 109.6, 109.7(2),
109.9(1), 109.10(16) Filed **ARC 8650B** 4/7/10

Reimbursement rate decrease for supervised apartment living, 150.3(5)"p" Filed **ARC 8651B** 4/7/10

Reimbursement rate decrease for foster group care, 152.3(1)"h"(2) Filed **ARC 8652B** 4/7/10

Reimbursement rate reductions for foster family care and adoption and guardianship
subsidies, 156.8(1), 156.12(1), 187.12(2), 201.6(1)"a" Filed **ARC 8653B** 4/7/10

Child care resource and referral services, ch 159 Filed **ARC 8654B** 4/7/10

Family development and self-sufficiency program, rescind ch 165 Notice **ARC 8655B**..... 4/7/10
 In-home health related care—health assessment, 177.5(2) Notice **ARC 8690B** 4/21/10
 Termination of subsidized guardianship program, amendments to ch 204 Notice **ARC 8701B**..... 4/21/10

INSPECTIONS AND APPEALS DEPARTMENT[481]

Food establishments—inspection of wild morel mushrooms, 31.1(12)
Notice **ARC 8697B**, also Filed Emergency **ARC 8696B** 4/21/10
 Psychiatric medical institutions for children—provisions concerning physical restraint, 41.17
Notice **ARC 8657B** 4/7/10
 Public assistance debt recovery unit, rescind ch 71; adopt ch 90 Filed **ARC 8656B** 4/7/10

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Clarification of board procedures and actions, amendments to chs 80 to 85, 90 Notice **ARC 8694B** 4/21/10

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Wildlife habitat funding, 23.1, 23.5 to 23.7, 23.14 Notice **ARC 8680B** 4/7/10
 Controlled hunting program on Lake Odessa, 53.3 Notice **ARC 8681B** 4/7/10
 Waterfowl and coot hunting seasons, 91.1, 91.3, 91.6 Notice **ARC 8682B** 4/7/10
 Nonresident deer hunting, 94.7(5), 94.8(3), 94.8(4) Notice **ARC 8683B** 4/7/10
 Antlerless-deer-only licenses, 106.1(5), 106.6(6) Notice **ARC 8684B** 4/7/10
 Areas open for taking bobcat; quotas, 108.7 Notice **ARC 8685B**..... 4/7/10

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Licensure by examination and endorsement, 3.4(4), 3.5 Notice **ARC 8675B** 4/7/10
 Application for reinstatement of suspended or revoked license, 4.11 Notice **ARC 8674B** 4/7/10

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Pharmacy support persons, amend chs 1, 3, 6 to 8, 14, 16, 18, 25, 31, 32, 36; adopt ch 5
Filed **ARC 8673B**..... 4/7/10
 Continuing education for pharmacists, 2.12 Filed **ARC 8672B** 4/7/10
 Prohibition of animals within a licensed pharmacy, 8.5(4) Filed **ARC 8671B**..... 4/7/10
 Dispensing products containing ephedrine, pseudoephedrine, or phenylpropranolamine,
 10.32(5) to 10.32(7) Notice **ARC 8667B** 4/7/10
 Correctional pharmacy practice, ch 15 Filed **ARC 8670B** 4/7/10
 Annual inventory and record of controlled substances, 17.16(2) Filed **ARC 8669B** 4/7/10
 Iowa real-time electronic pseudoephedrine tracking system, ch 100 Notice **ARC 8666B**..... 4/7/10

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Noncompliance rules regarding child support, loan repayment and nonpayment of state debt,
 4.16; rescind chs 14, 15 Filed **ARC 8706B** 4/21/10
 Speech pathology and audiology, 300.6(3), 300.10, 300.14 to 300.16, 303.4 to 303.7,
 304.2(11) Notice **ARC 8639B**..... 4/7/10

PUBLIC HEALTH DEPARTMENT[641]

Immunizations, 7.4(1), 7.11(2) Filed **ARC 8658B**..... 4/7/10
 State plumbing code, 25.1 to 25.5 Notice **ARC 8703B**..... 4/21/10
 Supervision of fluoroscopy by CRNAs, 41.1(5) Filed **ARC 8659B**..... 4/7/10
 EMS provider education/training/certification, 131.4, 131.7(2) Filed **ARC 8660B** 4/7/10
 EMS—service program authorization, 132.1, 132.7, 132.8, 132.10 Filed **ARC 8661B**..... 4/7/10
 Emergency medical services—air medical service program authorization, ch 144 Filed **ARC 8662B**..... 4/7/10
 Organization of the department, ch 170 Filed **ARC 8663B** 4/7/10
 Petitions for rule making, ch 171 implementation Filed **ARC 8664B** 4/7/10
 Declaratory orders, 172.8(1), 172.9(1) Filed **ARC 8665B**..... 4/7/10

PUBLIC SAFETY DEPARTMENT[661]

Weather safe rooms, ch 315 Filed **ARC 8695B** 4/21/10

REGENTS BOARD[681]

Traffic and parking at ISU—electric bicycles, 4.26 Notice **ARC 8693B**..... 4/21/10

REVENUE DEPARTMENT[701]

Adjustments to computed tax and tax credits, amend 38.17(3), 40.16(5), 40.70(1), 41.5, ch 52 title, 52.7, ch 58 title, 89.8(11)“b”; adopt ch 42 Filed **ARC 8702B**..... 4/21/10

SECRETARY OF STATE[721]

Form of primary and general election ballots; counting absentee ballots, 21.202, 21.203, 22.343 Filed **ARC 8698B**..... 4/21/10

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Elimination of organic nutrient management, levee construction and repair, and soil practices loan programs, rescind chs 13 to 15 Filed **ARC 8700B**..... 4/21/10

TRANSPORTATION DEPARTMENT[761]

Update of reference to federal motor carrier safety regulations, 529.1 Notice **ARC 8668B**..... 4/7/10

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

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

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

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

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

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

Joseph A. Royce
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-8451

James Larew
Administrative Rules Coordinator
Governor’s Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319
Telephone (515)281-0208

COMMUNITY ACTION AGENCIES DIVISION[427]

Family development and self-sufficiency program, ch 15 IAB 4/7/10 ARC 8637B	Room 208, Second Floor Lucas State Office Bldg. Des Moines, Iowa	April 27, 2010 1 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Class A license requirements, 13.10(5) IAB 4/7/10 ARC 8686B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 28, 2010 1 p.m.
Administrator licenses for applicants with standard and professional service licenses, 18.4 IAB 4/7/10 ARC 8687B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 28, 2010 1 p.m.
Specific requirements for Class B license, 27.6 IAB 4/7/10 ARC 8689B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 28, 2010 1 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Underground storage tanks—technical standards and corrective actions, amendments to ch 135 IAB 4/7/10 ARC 8676B	Community Meeting Room City Hall Clerk's Office 111 N. Main St. Denison, Iowa	April 28, 2010 1 to 3 p.m.
	Schwab Auditorium Public Library 1401 5th St. Coralville, Iowa	April 29, 2010 1 to 3 p.m.
	Fifth Floor Conference Rooms Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	April 30, 2010 1 to 3 p.m.

LABOR SERVICES DIVISION[875]

Clarification of board procedures and actions, amendments to chs 80 to 85, 90 IAB 4/21/10 ARC 8694B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	May 12, 2010 8:30 a.m. (If requested)
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NATURAL RESOURCE COMMISSION[571]

Wildlife habitat funding, 23.1, 23.5 to 23.7, 23.14 IAB 4/7/10 ARC 8680B (ICN Network)	Contact (515)281-5034 or visit the Department's Web site at www.iowadnr.com for a list of ICN hearing locations	April 27, 2010 6 to 9 p.m.
Controlled hunting program on Lake Odessa, 53.3 IAB 4/7/10 ARC 8681B (ICN Network)	Contact (515)281-5034 or visit the Department's Web site at www.iowadnr.com for a list of ICN hearing locations	April 27, 2010 6 to 9 p.m.

NATURAL RESOURCE COMMISSION[571] (Cont'd)

Waterfowl and coot hunting seasons, 91.1, 91.3, 91.6 IAB 4/7/10 ARC 8682B (ICN Network)	Contact (515)281-5034 or visit the Department's Web site at www.iowadnr.com for a list of ICN hearing locations	April 27, 2010 6 to 9 p.m.
Nonresident deer hunting, 94.7(5), 94.8(3), 94.8(4) IAB 4/7/10 ARC 8683B (ICN Network)	Contact (515)281-5034 or visit the Department's Web site at www.iowadnr.com for a list of ICN hearing locations	April 27, 2010 6 to 9 p.m.
Antlerless-deer-only licenses, 106.1(5), 106.6(6) IAB 4/7/10 ARC 8684B (ICN Network)	Contact (515)281-5034 or visit the Department's Web site at www.iowadnr.com for a list of ICN hearing locations	April 27, 2010 6 to 9 p.m.
Areas open for taking bobcat; quotas, 108.7 IAB 4/7/10 ARC 8685B (ICN Network)	Contact (515)281-5034 or visit the Department's Web site at www.iowadnr.com for a list of ICN hearing locations	April 27, 2010 6 to 9 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Speech pathology and audiology, amendments to chs 300, 303, 304 IAB 4/7/10 ARC 8639B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	April 27, 2010 8 to 8:30 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

State plumbing code, 25.1 to 25.5 IAB 4/21/10 ARC 8703B (ICN Network)	Sixth Floor, Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	Kelison Room Public Library Information Center 2950 Learning Campus Dr. Bettendorf, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	Public Library 400 Willow Ave. Council Bluffs, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	Room 45, Crestwood High School 1000 4th Ave. East Cresco, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	Room B111, Archdiocesan Pastoral Center 1229 Mount Loretta Dubuque, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	Room 113, Trinity Hospital 802 Kenyon Rd. Fort Dodge, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	University of Iowa 1 2222 Old Highway 218S Iowa City, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	Room 266, Burlington AEA 1200 University Place Burlington, Iowa	May 11, 2010 11 a.m. to 1 p.m.
	Clarinda Center Iowa Western Community College 2923 Washington Clarinda, Iowa	May 11, 2010 11 a.m. to 1 p.m.

PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**(ICN Network)**

National Guard Armory 1160 19th St., S.W. Mason City, Iowa	May 11, 2010 11 a.m. to 1 p.m.
Great Prairie AEA 1 2814 N. Court St. Ottumwa, Iowa	May 11, 2010 11 a.m. to 1 p.m.
Meeting Room C, Public Library 415 Commercial St. Waterloo, Iowa	May 11, 2010 11 a.m. to 1 p.m.
Room 780, Morningside College 1501 Morningside Ave. Sioux City, Iowa	May 11, 2010 11 a.m. to 1 p.m.
Distance Learning Center Spirit Lake High School 2701 Hill Ave. Spirit Lake, Iowa	May 11, 2010 11 a.m. to 1 p.m.

TRANSPORTATION DEPARTMENT[761]

Update of reference to federal motor carrier safety regulations, 529.1 IAB 4/7/10 ARC 8668B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	April 29, 2010 10 a.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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ARC 8705B

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 proposed amendments make two changes to policy for Medicaid eligibility for employed persons with disabilities:

- Substitution of the phrase “before the next eligibility review” for the phrase “the 12-month period” in the discussion of when and how the monthly premium amount is set. This text change is intended to clarify that the premium may not be increased due to an increase in the member’s income before the next annual review of the member’s eligibility.

- Addition of a requirement for a member to submit a specific form when the member has reported that employment has stopped. The form will provide a standard procedure for informing the member of the responsibility to seek new employment and of the six-month limit on continued benefits when a member’s employment has stopped. Quality control reviews have identified this area as error-prone.

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

Any interested person may make written comments on the proposed amendments on or before May 11, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.3(2)(a).

The following amendments are proposed.

ITEM 1. Amend subparagraph **75.1(39)“b”(1)** as follows:

(1) Beginning with the month of application, the monthly premium amount shall be established ~~for a 12-month period~~ based on projected average monthly income ~~for the 12-month period~~. The monthly premium established shall not be increased for any reason ~~during the 12-month period~~ before the next eligibility review. The premium shall not be reduced due to a change in the federal poverty level but may be reduced or eliminated prospectively ~~during the 12-month period~~ before the next eligibility review if a reduction in projected average monthly income is verified.

ITEM 2. Amend paragraph **75.1(39)“c”** as follows:

~~c. Persons receiving assistance under~~ Members in this coverage group who become unable to work due to a change in their medical condition or who lose employment shall remain eligible for a period of six months from the month of the change in their medical condition or loss of employment as long as they intend to return to work and continue to meet all other eligibility criteria under this subrule. Members shall submit Form 470-4856, MEPD Intent to Return to Work, to report on the end of their employment and their intent to return to employment.

ARC 8690B**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 217.6, the Department of Human Services proposes to amend Chapter 177, “In-Home Health Related Care,” Iowa Administrative Code.

The proposed amendment provides that a physician assistant or an advanced registered nurse practitioner working under the direction of a physician may certify a prospective care provider’s ability to provide services under the State Supplementary Assistance in-home health related care program. Currently, the rules provide that the certification must be made by a physician. To prevent a conflict of interest, the amendment also provides that if the provider is working for an agency, the health practitioner who provides the certification may not be in the employ of the same agency.

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

Any interested person may make written comments on the proposed amendment on or before May 11, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249.3(2)“a”(2).

The following amendment is proposed.

Amend subrule 177.5(2) as follows:

177.5(2) *Physician’s report Health assessment.* ~~The provider shall obtain a physician’s report at the time service is initiated and annually thereafter. The report shall be on Form 470-0672, Provider Health Assessment.~~ The provider shall obtain certification that the provider is physically and emotionally capable of providing assistance to another person who may have physical and emotional limitations.

a. The certification shall be based on an examination performed by a physician or by a physician assistant or advanced registered nurse practitioner who is working under the direction of a physician. If the provider works for an agency, the practitioner performing the examination may not be employed by the same agency.

b. The practitioner conducting the examination shall indicate the certification by signing Form 470-0672, Provider Health Assessment.

c. The certification shall be submitted to the department service worker:

(1) Before the provider agreement is signed, and

(2) Annually thereafter.

ARC 8701B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 204, “Subsidized Guardianship Program,” Iowa Administrative Code.

The proposed amendments end the subsidized guardianship program currently administered under a federal waiver demonstration project. Public Law 110-351, the Fostering Connections to Success and Increasing Adoptions Act of 2008, makes federal funding available under Title IV-E of the Social Security Act for an ongoing guardianship subsidy program. The Act also states that guardianship subsidy agreements entered into after September 28, 2008, under a demonstration project are no longer eligible for federal IV-E matching funds.

The Department proposed rule amendments to switch from the demonstration waiver to an ongoing program and notified the federal government that Iowa’s demonstration project would end on February 1, 2010. (Notice of Intended Action on those amendments was published in the Iowa Administrative Bulletin on September 23, 2009, as **ARC 8183B**.) Subsequently, the Department determined that it has insufficient resources to implement a subsidized guardianship program under the federal Act. Rule-making proceedings were terminated in a Notice of Termination published on March 10, 2010, as **ARC 8613B**.

These amendments will end a permanency option available to children in foster care who were randomized into the experimental group under the demonstration project. Guardianship subsidy agreements in place based on a valid application signed before August 31, 2010, will be honored until grounds for termination of the subsidy exist, as specified in Chapter 204.

These amendments do not provide for waivers in specified situations because no federal funding is available to the Department to continue this program. The Department’s authorization to implement the program (contained in 2006 Iowa Acts, chapter 1184, section 17, subsection 10) was conditional on the availability of federal funds.

Any interested person may make written comments on the proposed amendments on or before May 11, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend **441—Chapter 204**, Preamble, as follows:

PREAMBLE

~~This chapter implements implemented a five-year demonstration waiver project for a subsidized guardianship program to provide financial assistance to guardians of eligible children who are not able to be adopted and who are not able to return home. The purpose of the project is to test new approaches to service delivery for improving outcomes for children and families and to allow children a more permanent placement than they have in foster care. Notification has been given to the United States Department of Health and Human Services that the demonstration project will end effective September 1, 2010. A subsidized guardianship agreement authorized under this chapter will remain in effect until the agreement is terminated under the terms of this chapter.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~Eligible children will be randomly assigned to a control group or to an experimental group. Children assigned to the control group will not be eligible to receive subsidized guardianship. Children assigned to the experimental group will be eligible to receive subsidized guardianship if all other conditions are met. This waiver project may be extended or renewed after the five years through reauthorization by the federal government.~~

ITEM 2. Rescind rule 441—204.3(234) and adopt the following new rule in lieu thereof:

441—204.3(234) Application. Applications for the subsidized guardianship program shall not be accepted after August 31, 2010.

ITEM 3. Amend rule 441—204.6(234), introductory paragraph, as follows:

441—204.6(234) Termination of subsidy. A guardianship subsidy agreement negotiated based on an application signed on or before August 31, 2010, shall remain in effect until the subsidy is terminated based on one of the grounds listed in this rule. The subsidy shall terminate when any of the following occur, and a notice shall be sent which states the reason for the termination:

ARC 8697B

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 section 137F.2, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 31, “Food Establishment and Food Processing Plant Inspections,” Iowa Administrative Code.

The Department proposes to adopt an amendment to the requirement that all wild mushrooms be inspected by an approved mushroom identification expert prior to their sale at food establishments. The amendment clarifies the requirement for a morel mushroom identification expert only. The amendment allows an individual who has successfully completed a three-hour morel mushroom identification expert course (every three years) to procure or sell wild morel mushrooms to a food establishment.

Any interested person may make written suggestions or comments on this proposed amendment by May 11, 2010. Such written materials should be sent to Steven Mandernach, Administrative Rules Coordinator, Department of Inspections and Appeals, 321 E. 12th Street, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6863 or by E-mail to steven.mandernach@dia.iowa.gov.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 8696B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 137F.2.

ARC 8694B

LABOR SERVICES DIVISION[875]

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 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 80, “Boiler and Pressure Vessel Board Administrative and Regulatory Authority,” Chapter 81, “Waivers or Variances from Administrative Rules by the Boiler and Pressure Vessel Board,” Chapter 82, “Boiler and Pressure Vessel Board Petitions for Rule Making,” Chapter 83, “Declaratory Orders by the Boiler and Pressure Vessel Board,” Chapter 84, “Contested Cases Before the Boiler and Pressure Vessel Board,” Chapter 85, “Public Records and Fair Information Practices of the Boiler and Pressure Vessel Board,” and Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” Iowa Administrative Code.

These amendments make editorial and technical changes; require that a petitioner use the appropriate Board form to petition for Board action; change the language concerning public comment during Board meetings; clarify procedures for informal review of inspection reports; require that all fluids be removed from a boiler prior to inspection; and clarify procedures for issuance of a subpoena during a contested case.

The purposes of these amendments are to protect the health and safety of the public, make the rules more clear, align the language with the authority of Iowa Code chapters 17A and 89, and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on May 11, 2010, a public hearing will be held on May 12, 2010, at 8:30 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Interested persons shall submit written data, views, or arguments to be considered in adoption no later than May 12, 2010, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

These amendments are intended to implement Iowa Code chapter 89.

The following amendments are proposed.

ITEM 1. Amend rule 875—80.1(89) as follows:

875—80.1(89) Definitions. The definitions contained in this rule apply to 875—Chapters 80 to 96.

“*Board*” means the boiler and pressure vessel board.

“*Board office*” means the offices of the division of labor services of the department of workforce development.

“*Commissioner*” means the labor commissioner of the state of Iowa.

ITEM 2. Rescind rule 875—80.2(21,89) and adopt the following **new** rule in lieu thereof:

875—80.2(89) Purpose and authority of board. The purpose of the board is to perform the statutory duties described in Iowa Code chapter 89. The board’s mission is to protect the public health, safety and welfare by improving the installation, repair, maintenance, alteration, use, and operation of boilers and pressure vessels in the state. The authority and responsibilities of the board include, but are not limited to:

LABOR SERVICES DIVISION[875](cont'd)

80.2(1) Adopting rules necessary to protect public safety and health and to administer the duties of the board.

80.2(2) Hearing and deciding appeals concerning boiler and pressure vessel inspection reports.

80.2(3) Establishing fees.

80.2(4) Establishing committees of the board, the members and chairpersons of which shall be appointed by the board chairperson.

80.2(5) Performing any other function authorized by law.

ITEM 3. Rescind subrule **80.3(4)**.

ITEM 4. Amend subrules 80.4(5) and 80.4(6) as follows:

80.4(5) Members of the public may be present during board meetings unless the board votes to hold a closed session in accordance with Iowa Code chapter 21. The dates and locations of board meetings may be obtained from the division of labor's board's Web site or ~~directly from~~ the board office.

80.4(6) At every regularly scheduled board meeting, time will be designated for public comment. During the public comment period, any person may speak for up to two minutes. Requests to speak for two minutes per person ~~later in the meeting~~ when a particular topic comes before the board ~~should be made at the time of the public comment period and will~~ may be granted at the discretion of the chairperson. ~~No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise. Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson. The chairperson may limit total public comment time to ten minutes.~~

ITEM 5. Amend rule 875—81.3(17A,89), introductory paragraph, as follows:

875—81.3(17A,89) Criteria for waiver or variance. In response to a petition completed pursuant to this chapter, the board may, in its sole discretion, issue an order waiving, in whole or in part, the requirements of a rule as applied to an identified person on the basis of the particular circumstances of that person if the board finds, based on clear and convincing evidence, all of the following:

ITEM 6. Amend subrule 81.4(3) as follows:

81.4(3) Filing petition. A petition is deemed filed when it is received in the board's office. A petition should be sent to the Boiler and Pressure Vessel Board, Department of Workforce Development, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. The petitioner shall submit the petition and all related materials for consideration at least three weeks prior to a scheduled board meeting for board review of the petition at the meeting.

ITEM 7. Amend rule 875—81.5(17A,89), introductory paragraph, as follows:

875—81.5(17A,89) Content of petition. The required form for a petition for waiver or variance is available on the board's Web site at <http://www.iowaworkforce.org/labor/boilerboard.htm>. A petition for waiver shall include the following information where applicable and known to the ~~requester~~ petitioner:

ITEM 8. Amend subrules 81.5(6) and 81.5(10) as follows:

81.5(6) ~~Any information known to the requester~~ Information regarding the board's action in similar cases.

81.5(10) Signed releases of information authorizing persons with knowledge regarding the ~~request~~ petition to furnish the board with information relevant to the petition for waiver.

ITEM 9. Amend rule 875—81.6(17A,89) as follows:

875—81.6(17A,89) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and a

LABOR SERVICES DIVISION[875](cont'd)

representative or representatives of the board related to the waiver request. ~~The petitioner must submit all materials for consideration at least three weeks prior to board review.~~

ITEM 10. Amend rule 875—82.1(17A,89), introductory paragraph, as follows:

875—82.1(17A,89) Petitions for rule making. Any person or agency may file a petition for rule making with the board requesting the adoption, amendment or repeal of a rule. The required form for a petition for rule making is available on the board's Web site at <http://www.iowaworkforce.org/labor/boilerboard.htm>. The petition shall be filed at the location specified in rule 875—80.5(89). A petition is deemed filed when it is received by the board office. The board office shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be in writing and provide the following information where applicable and known to the ~~requester~~ petitioner:

ITEM 11. Amend subrule 82.1(7) as follows:

82.1(7) The board may deny a petition because it does not provide the required information. The petitioner may file a new petition on the same subject that seeks to eliminate the grounds for the board's rejection.

ITEM 12. Amend subrule 83.1(1), introductory paragraph, as follows:

83.1(1) The required form for a petition for declaratory order is available on the board's Web site at <http://www.iowaworkforce.org/labor/boilerboard.htm>. The petition must be in writing and provide the following information where applicable and known to the ~~requester~~ petitioner:

ITEM 13. Amend paragraph **83.1(1)“c”** as follows:

c. ~~The Clear and concise questions the petitioner wants answered, stated clearly and concisely the board to answer.~~

ITEM 14. Amend subrules 83.3(1) and 83.3(2) as follows:

83.3(1) ~~Persons~~ A person who qualify ~~qualifies~~ qualifies under any applicable provision of law as an intervenor and who ~~file~~ files a petition for intervention within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

83.3(2) ~~Any~~ At the board's discretion, a person who qualifies under any applicable provision of law as an intervenor and who files a petition for intervention at any time more than 20 days after the filing of a petition for declaratory order but prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the board.

ITEM 15. Rescind rule 875—83.7(17A,89) and adopt the following new rule in lieu thereof:

875—83.7(17A,89) Board review procedures.

83.7(1) Within 30 days after receipt of a petition for a declaratory order, the board shall issue a document that does one of the following:

- a. Declares the applicability of the statute, rule or order to the specified circumstances,
- b. Sets the matter for specific proceedings,
- c. Agrees to issue a declaratory order by a specified time, or
- d. Declines to issue a declaratory order and sets forth the reasons for its actions as provided in subrule 83.9(1).

83.7(2) The board may request that the petitioner submit additional information or argument concerning the petition. The board may also solicit comments on the substance of the petition from any person. Also, comments on the substance of the petition may be submitted to the board by any person.

83.7(3) The petitioner and all intervenors shall be provided a reasonable opportunity to make a presentation to the board. The length of time allotted for presentation shall be reasonable in light of the complexity and number of issues involved.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 16. Rescind and reserve rule **875—83.8(17A,89)**.

ITEM 17. Rescind and reserve paragraph **83.9(1)“b.”**

ITEM 18. Amend rule 875—84.1(17A,89), introductory paragraph, as follows:

875—84.1(17A,89) Reconsideration of inspection report. The owner or operator of a piece of equipment subject to a written inspection report may, ~~within 30 days of the issuance of the report,~~ petition the commissioner for reconsideration of the report within 30 days of the issuance of the report. Failure to seek timely reconsideration of the inspection report from the commissioner shall be deemed a waiver of all appeal rights under Iowa Code ~~section~~ subsection 89.14(6). The burden of demonstrating compliance with all applicable statutory provisions, administrative rules, and ASME code sections rests upon the petitioning owner or operator.

ITEM 19. Amend subrule 84.1(1), introductory paragraph, as follows:

84.1(1) A petition for reconsideration shall be in writing and must be signed by the requesting party or a representative of that party. The required form for a petition for reconsideration is available on the board's Web site at <http://www.iowaworkforce.org/labor/boilerboard.htm>. A petition for reconsideration shall specify:

ITEM 20. Amend subrule 84.1(2) as follows:

84.1(2) A copy of the challenged inspection report shall be attached to the petition for reconsideration. The petitioning party shall also include all relevant documents ~~relevant to the petition for reconsideration~~ that the petitioning party desires the commissioner to consider when evaluating the petition.

ITEM 21. Amend rule 875—84.2(17A,89) as follows:

875—84.2(17A,89) Appeal to the board. The commissioner's ruling on a petition for reconsideration or the commissioner's deemed denial of a petition for reconsideration may be appealed to the board. An appeal must be filed in writing with the board within 30 calendar days of the earlier of either the issuance of the commissioner's written ruling on a petition for reconsideration or the commissioner's deemed denial of a petition for reconsideration. At a minimum, an appeal shall include a short and concise statement of the basis for the appeal. The required form for an appeal is available on the board's Web site at <http://www.iowaworkforce.org/labor/boilerboard.htm>. Consideration of an appeal of a ruling on a petition for reconsideration shall be a contested case proceeding subject to the provisions of Iowa Code chapter 17A. The commissioner shall have an automatic right of intervention in any appeal of the ruling on petition for reconsideration and shall defend the ruling in a contested case proceeding.

ITEM 22. Amend rule 875—84.3(17A,89), introductory paragraph, as follows:

875—84.3(17A,89) Informal review. ~~If the board considers it appropriate, and if requested and consented to by all parties, the board may grant a voluntary informal review of the facts and circumstances regarding the inspection report at issue, subject to the provisions of this rule. If the appellant requests an informal review and the commissioner does not object, the board may conduct an informal review of the facts and circumstances subject to the provisions of this rule.~~

ITEM 23. Adopt the following **new** subrule 84.3(3):

84.3(3) Rules 875—84.4(17A,89) through 875—84.31(17A,89) do not apply during informal review.

ITEM 24. Amend subrules 84.17(1), 84.17(2) and 84.17(4) as follows:

84.17(1) ~~The~~ Upon the written request of a party, the presiding officer shall, upon the written request of the appellant or the state, issue a subpoena to compel the attendance of witnesses or to obtain evidence which is deemed necessary in connection with a contested case. A command to produce evidence may be joined with a command to appear at deposition or hearing or may be issued separately.

LABOR SERVICES DIVISION[875](cont'd)

84.17(2) A request for a subpoena shall include the following information, as applicable, ~~unless the subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes:~~

a. to f. No change.

84.17(4) ~~Unless a subpoena is requested to compel testimony or documents for rebuttal or impeachment purposes, the~~ The presiding officer shall mail or otherwise provide copies of all subpoenas to the parties to the contested case. The person who requested the subpoena is responsible for serving the subpoena upon the subject of the subpoena.

ITEM 25. Amend subrule 84.23(10) as follows:

84.23(10) Oral proceedings shall be electronically recorded. Upon request, the board shall provide a copy of the whole or any portion of the audio recording at a reasonable cost. A certified shorthand reporter may be engaged to record the proceeding at the request of a party and at the expense of the party making the request. A transcription of the record of the hearing shall be made at the request of either party at the expense of the party making the request. The parties may agree to divide the cost of the transcription. A record of the proceedings, which may be either the original recording, a copy, or a transcript, shall be retained by the ~~secretary board~~ for five years after the resolution of the case.

ITEM 26. Amend paragraphs **84.23(11)** “a” and “c” as follows:

a. If no continuance was granted and a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, ~~if no adjournment is granted,~~ enter a default decision or proceed with the hearing and render a decision in the absence of the party.

c. Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by subrule 84.27(3). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party’s failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one attached, sworn affidavit of a person with personal knowledge of ~~each such~~ the fact, ~~which affidavit(s) must be attached to the motion.~~

ITEM 27. Amend paragraph **84.25(6)** “a” as follows:

a. If the presiding officer determines that disqualification is warranted, the following shall be submitted for inclusion in the record under each seal by protective order:

- (1) a ~~A~~ copy of any prohibited written communication,
- (2) ~~all~~ All written responses to the communication,
- (3) a ~~A~~ written summary stating the substance of any prohibited oral or other communication not available in written form ~~for disclosure,~~ and all responses made, and
- (4) ~~the~~ The identity of each person from whom the presiding officer received a prohibited ex parte communication ~~shall be submitted for inclusion in the record under seal by protective order, or,~~

ITEM 28. Rescind the definition of “Agency” in rule **875—85.1(22,89)**.

ITEM 29. Amend rule **875—85.1(22,89)**, definitions of “Confidential record,” “Record” and “Record system,” as follows:

“*Confidential record*” in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records or information contained in records that the ~~agency board~~ is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7, or other provision of law, but that may be disclosed upon order of a court, by the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

“*Record*” in these rules means the whole or a part of a “public record,” as defined in Iowa Code section 22.1, that is owned by or in the physical possession of ~~this agency~~ the board.

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“*Record system*” in these rules means any group of records under the control of the agency board from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

ITEM 30. Amend rule 875—85.2(22,89) as follows:

875—85.2(22,89) Statement of policy. The purpose of this chapter is to facilitate broad public access to open records and sound agency board determinations with respect to the handling of confidential records and the implementation of the fair information practices Act. ~~This agency~~ The board is committed to the policies set forth in Iowa Code chapter 22; the agency board shall cooperate with members of the public in implementing the provisions of that chapter.

ITEM 31. Amend subrules 85.3(1) and 85.3(5) to 85.3(7) as follows:

85.3(1) Location of record. A request for access to a record should be directed to the board at the Department of Workforce Development, Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319. ~~If a request for access to a record is misdirected, the request will be promptly forwarded to the appropriate person within the agency.~~

85.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency board files. Examination and copying of agency board records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

85.3(6) Copying. A reasonable number of copies of an open record may be made in the agency's board's office. If photocopy equipment is not available in the agency board office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

85.3(7) Fees.

a. When charged. The agency board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the agency board shall be prominently posted in agency board offices. Copies of records may be made by or for members of the public on agency board photocopy machines or from electronic storage systems at cost as determined and posted in agency board offices by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for actual agency board expenses in supervising the examination and copying of requested records when the supervision time required is in excess of 15 minutes. The custodian shall prominently post in agency board offices the hourly fees to be charged for supervision of records during examination and copying. The hourly fee shall be based upon the pay scale of the employee involved and other actual costs incurred. To the extent permitted by law, a search fee may be charged at the same rate as and under the same conditions as are applicable to supervisory fees.

d. No change.

ITEM 32. Strike “agency” wherever it appears in rules **875—85.5(22,89)** and **875—85.6(22,89)** and insert “board” in lieu thereof.

ITEM 33. Amend rule 875—85.7(22,89) as follows:

875—85.7(22,89) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed and, where applicable, the time period during which the record may be disclosed. The person who is the subject of

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the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. Additional requirements may be necessary for special classes of records. Appearance of ~~counsel~~ an attorney before the agency board on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency board to disclose records about that person to the person's attorney.

ITEM 34. Amend paragraphs **85.8(2)“b”** and **“c”** as follows:

b. To a recipient who has provided the agency board with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of ~~such~~ the government agency or instrumentality has submitted a written request to the agency board specifying the record desired and the law enforcement activity for which the record is sought.

ITEM 35. Strike “agency” wherever it appears in rules **875—85.9(17A,89)**, **875—85.11(22,89)** and **875—85.12(21,22,89)** and insert “board” in lieu thereof.

ITEM 36. Amend rule 875—85.13(22,89) as follows:

875—85.13(22,89) Applicability. This chapter does not:

85.13(1) Require the agency board to index or retrieve records that contain information about individuals by a person's name or other personal identifier.

85.13(2) No change.

85.13(3) Govern the maintenance or disclosure of, notification of, or access to records in the possession of the agency board that are governed by the regulations of another agency.

85.13(4) No change.

85.13(5) Make available records compiled by the agency board in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable rules of the agency board.

ITEM 37. Strike “agency” wherever it appears in rule **875—85.14(17A,22,89)** and insert “board” in lieu thereof.

ITEM 38. Amend rule 875—85.15(17A,22,89), introductory paragraph, as follows:

875—85.15(17A,22,89) Other groups of records. This rule describes groups of records maintained by the agency board other than record systems. These records are routinely available to the public. However, the agency's board's files of these records may contain confidential information. These records may contain information about individuals. These records include:

ITEM 39. Amend paragraph **90.5(4)“a”** as follows:

a. ~~Water~~ Fluid shall be drawn off and the boiler washed thoroughly.

ARC 8703B**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 105.4, the Plumbing and Mechanical Systems Board hereby gives Notice of Intended Action to amend Chapter 25, “State Plumbing Code,” Iowa Administrative Code.

The rules in Chapter 25 describe the minimum standards for plumbing materials and plumbing methods in buildings and on premises in Iowa.

A committee of the Plumbing and Mechanical Systems Board was formed to revise the rules. The committee solicited input from stakeholders starting in August 2009, including representatives of the national model codes, architects, building and plumbing officials, developers and building contractors, plumbing contractors, the organized plumbing trade, and individual tradespersons.

Following is a summary of the major changes from the existing rules:

Current rule 641—25.1(135) references the Uniform Plumbing Code, 2000 Edition. Proposed new rule 641—25.1(105) references the Uniform Plumbing Code, 2009 Edition. The chapter and section references adopted by reference in the rule have changed. The code will include storm drainage provisions and standards for nonpotable water reuse systems. The fuel piping provisions of the Uniform Plumbing Code will also be included subject to the requirements of the State Fire Marshal.

New rule 641—25.2(105) applies the provisions of the code to all buildings and premises in Iowa.

New rule 641—25.3(105) references Uniform Plumbing Code, 2009 Edition, Chapter 12, as the standard for fuel gas piping but establishes the primacy of 661—Chapter 226, Iowa Administrative Code, as promulgated by the State Fire Marshal Division, Iowa Department of Public Safety.

In new rule 641—25.4(105), several of the previously adopted amendments to the Uniform Plumbing Code have been eliminated because of changes in the 2009 Edition and a desire on the part of the committee and stakeholders to limit the number of amendments to the extent practical.

New subrule 25.4(1) replaces the section and table in the Uniform Plumbing Code specifying required plumbing fixtures with the equivalent section and table from the International Plumbing Code, 2009 Edition.

Any interested person may make written suggestions or comments on these amendments on or before May 11, 2010. Written materials should be directed to Michael Magnant, Iowa Department of Public Health, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-4529; E-mail mmagnant@idph.state.ia.us.

Also, there will be a public hearing on May 11, 2010, from 11 a.m. to 1 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. This hearing will originate from the Iowa Communications Network (ICN) and will be accessible over the ICN from the following locations:

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Lucas State Office Building
6th Floor, 321 E. 12th Street
Des Moines

Bettendorf Public Library Information Ctr.
2950 Learning Campus Dr., Kelison Room
Bettendorf

Council Bluffs Public Library
400 Willow Avenue
Council Bluffs

Crestwood High School
1000 4th Avenue East, Room 45
Cresco

Dubuque Archdiocesan Pastoral Center
1229 Mount Loretta, Room B111
Dubuque

Fort Dodge Trinity Hospital
802 Kenyon Road, Room 113
Fort Dodge

University of Iowa 1
2222 Old Highway 218S
Iowa City

Burlington AEA
1200 University Place, Room 266
Burlington

Iowa Western Community College
2923 Washington, Clarinda Center
Clarinda

Mason City National Guard Armory
1160 19th St., S.W.
Mason City

Ottumwa Great Prairie AEA 1
2814 N. Court Street
Ottumwa

Waterloo Public Library
415 Commercial Street, Meeting Room C
Waterloo

Morningside College, Room 780
1501 Morningside Avenue
Sioux City

Spirit Lake High School
2701 Hill Avenue, Distance Learning Center
Spirit Lake

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

These amendments are intended to implement Iowa Code chapter 105.

The following amendments are proposed.

ITEM 1. Rescind rules 641—25.1(135) to 641—25.4(135) and adopt the following **new** rules in lieu thereof:

641—25.1(105) Adoption. Section 101 except as noted below and Chapters 2 to 16 of the Uniform Plumbing Code, 2009 Edition, as published by the International Association of Plumbing and Mechanical Officials, 20001 South Walnut Drive, Walnut, California 91789-2825, are hereby adopted by reference with amendments as the state plumbing code authorized by Iowa Code section 105.4.

Exception to Section 101: Delete “, except as provided for in Section 103.5.5.2” from the end of subsection 101.5.6.

641—25.2(105) Applicability. The provisions of this code are applicable to the plumbing in buildings or on premises in Iowa.

641—25.3(105) Fuel gas piping. Fuel gas piping shall comply with the requirements of Chapter 12 of the Uniform Plumbing Code, 2009 Edition, unless the provisions conflict with 661—Chapter 226, Liquefied Petroleum Gas, Iowa Administrative Code. Where Chapter 12 conflicts with 661—Chapter 226, the provisions of 661—Chapter 226 shall be followed.

641—25.4(105) Amendments to the Uniform Plumbing Code.

25.4(1) Section 412. Delete the section and Table 4-1 and insert the following text and table. Reprinted from the 2009 International Plumbing Code with permission of the International Code Council. All rights reserved.

IPC 403.1 Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number shown in Table IPC 403.1. Types of occupancies not shown in Table IPC 403.1 shall be considered individually by the code official. The number of occupants shall be determined by the International Building Code. Occupancy classification shall be determined in accordance with the International Building Code.

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1	Assembly	A-1 ^d	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
		A-2 ^d	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—	1 per 500	1 service sink
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—	1 per 500	1 service sink
		A-3 ^d	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—	1 per 500	1 service sink
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—	1 per 1,000	1 service sink
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—	1 per 1,000	1 service sink

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
1 (cont'd)	Assembly (cont'd)	A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
		A-5	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for the first 1,500 and 1 per 120 for the remainder exceeding 1,500	1 per 40 for the first 1,520 and 1 per 60 for the remainder exceeding 1,520	1 per 200	1 per 150	—	1 per 1,000	1 service sink
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80		—	1 per 100	1 service sink
3	Educational	E	Educational facilities	1 per 50		1 per 50		—	1 per 100	1 service sink

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		See Section 411	1 per 400	1 service sink
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		I-2	Hospitals, ambulatory nursing home patients ^b	1 per room ^c		1 per room ^c		1 per 15	1 per 100	1 service sink per floor
			Employees, other than residential care ^b	1 per 25		1 per 35		—	1 per 100	—
			Visitors, other than residential care	1 per 75		1 per 100		—	1 per 500	—
		I-3	Prisons ^b	1 per cell		1 per cell		1 per 15	1 per 100	1 service sink
			Reformatories, detention centers, and correctional centers ^b	1 per 15		1 per 15		1 per 15	1 per 100	1 service sink
			Employees ^b	1 per 25		1 per 35		—	1 per 100	—
I-4	Adult day care and child care	1 per 15		1 per 15		1	1 per 100	1 service sink		
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—	1 per 1,000	1 service sink

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES ^a (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit	—	1 service sink
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-2	Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
		R-3	One- and two-family dwellings	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit	—	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit

TABLE IPC 403.1 MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES^a (See Sections IPC 403.2 and IPC 403.3)										
NO.	CLASSIFICATION	OCCUPANCY	DESCRIPTION	WATER CLOSETS (Urinals, See Section 419.2)		LAVATORIES		BATHTUBS/ SHOWERS	DRINKING FOUNTAIN ^{e, f} (See Section 410.1)	OTHER
				MALE	FEMALE	MALE	FEMALE			
7 (cont'd)	Residential (cont'd)	R-3	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
		R-4	Residential care/assisted living facilities	1 per 10		1 per 10		1 per 8	1 per 100	1 service sink
8	Storage	S-1 S-2	Structures for the storage of goods, warehouses, storehouses and freight depots. Low and Moderate Hazard.	1 per 100		1 per 100		See Section 411	1 per 1,000	1 service sink

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- a The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.
- b Toilet facilities for employees shall be separate from facilities for inmates or patients.
- c A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy.
- d The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e The minimum number of required drinking fountains shall comply with Table IPC 403.1 and Chapter 11 of the International Building Code.
- f Drinking fountains are not required for an occupant load of 15 or fewer.

IPC 403.1.1 Fixture calculations. To determine the occupant load of each sex, the total occupant load shall be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type shall be applied to the occupant load of each sex in accordance with Table IPC 403.1. Fractional numbers resulting from applying the fixture ratios of Table IPC 403.1 shall be rounded up to the next whole number. For calculations involving multiple occupancies, such fractional numbers for each occupancy shall first be summed and then rounded up to the next whole number.

Exception: The total occupant load shall not be required to be divided in half where approved statistical data indicates a distribution of the sexes of other than 50 percent of each sex.

IPC 403.1.2 Family or assisted-use toilet and bath fixtures. Fixtures located within family or assisted-use toilet and bathing rooms required by Section 1109.2.1 of the International Building Code are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.

IPC 403.2 Separate facilities. Where plumbing fixtures are required, separate facilities shall be provided for each sex.

Exceptions:

1. Separate facilities shall not be required for dwelling units and sleeping units.
2. Separate facilities shall not be required in structures or tenant spaces with a total occupant load, including both employees and customers, of 15 or less.
3. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 50 or less.

IPC 403.3 Required public toilet facilities. Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces intended for public utilization. The number of plumbing fixtures located within the required toilet facilities shall be provided in accordance with Section 403 for all users. Employees shall be provided with toilet facilities in all occupancies. Employee toilet facilities shall be either separate or combined employee and public toilet facilities.

IPC 403.3.1 Access. The route to the public toilet facilities required by Section IPC 403.3 shall not pass through kitchens, storage rooms or closets. Access to the required facilities shall be from within the building or from the exterior of the building. All routes shall comply with the accessibility requirements of the International Building Code. The public shall have access to the required toilet facilities at all times that the building is occupied.

IPC 403.3.2 Location of toilet facilities in occupancies other than covered malls. In occupancies other than covered mall buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

Exception: The location and maximum travel distances to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum travel distance are approved.

IPC 403.3.3 Location of toilet facilities in covered malls. In covered mall buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 300 feet (91 m). In covered mall buildings, the required facilities shall be based on total

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square footage, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum travel distance to central toilet facilities in covered mall buildings shall be measured from the main entrance of any store or tenant space. In covered mall buildings, where employees' toilet facilities are not provided in the individual store, the maximum travel distance shall be measured from the employees' work area of the store or tenant space.

IPC 403.3.4 Pay facilities. Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge.

IPC 403.4 Signage. Required public facilities shall be designated by a legible sign for each sex. Signs shall be readily visible and located near the entrance to each toilet facility.

IPC 410.1 Approval. Drinking fountains shall conform to ASME A112.19.1M, ASME A112.19.2M or ASME A112.19.9M and water coolers shall conform to ARI 1010. Drinking fountains and water coolers shall conform to NSF 61, Section 9. Where water is served in restaurants, drinking fountains shall not be required. In other occupancies, where drinking fountains are required, water coolers or bottled water dispensers shall be permitted to be substituted for not more than 50 percent of the required drinking fountains.

IPC 410.2 Prohibited location. Drinking fountains, water coolers and bottled water dispensers shall not be installed in public restrooms.

IPC 411.1 Approval. Emergency showers and eyewash stations shall conform to ISEA Z358.1.

IPC 411.2 Waste connection. Waste connections shall not be required for emergency showers and eyewash stations.

IPC 419.2 Substitution for water closets. In each bathroom or toilet room, urinals shall not be substituted for more than 67 percent of the required water closets in assembly and educational occupancies. Urinals shall not be substituted for more than 50 percent of the required water closets in all other occupancies.

25.4(2) Section 503.0. Delete the section.

25.4(3) Section 710.1. Add the following sentences to the end of the section:

The requirement for the installation of a backwater valve shall apply only when determined necessary by the authority having jurisdiction based on local conditions. When a valve is required by the authority having jurisdiction, it shall be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed but is not required.

25.4(4) Section 807.4. Delete the section and insert in lieu thereof the following:

807.4 No domestic dishwashing machine shall be directly connected to a drainage system or food waste disposer without the use of an approved dishwasher air gap fitting on the discharge side of the dishwashing machine, or by looping the discharge line of the dishwasher as high as possible near the flood level of the kitchen sink where the waste disposer is connected. Listed air gap fittings shall be installed with the flood level (FL) marking at or above the flood level of the sink or drainboard, whichever is higher.

25.4(5) Section 906.7. Change "two (2) inches (50.8 mm)" to "three (3) inches (76.2 mm)".

25.4(6) Section 1002.2. Delete Table 10-1 and insert in lieu thereof the following:

TABLE 10-1

Horizontal Distance of Trap Arms

Trap Arm Size		Distance Trap to Vent			
Inches	Millimeters	Minimum		Maximum	
		Inches	Millimeters	Feet	Meters
1¼	32	2½	64	5	1.5
1½	40	3	76	6	1.8
2	50	4	102	8	2.4
3	80	6	152	12	3.7
4	100	8	203	12	3.7
> 4	> 100	2 × Diameter		12	3.7

Slope one-fourth (¼) inch per foot (20.9 mm/m)

25.4(7) Chapter 16. Delete Part I and insert in lieu thereof the following:

Wastewater intended for use in underground irrigation systems shall be treated in accordance with 567—Chapter 69, Private Sewage Disposal Systems. The irrigation system shall comply with 567—69.12(455B).

ITEM 2. Amend rule 641—25.5(135), introductory paragraph, as follows:

641—25.5(135 105) Backflow prevention with containment. Cities with populations of 15,000 or greater as determined by the 1990 census or any subsequent regular or special census shall ~~enact~~ have a backflow prevention program with containment ~~by January 1, 1996.~~ The minimum requirements for a program are given in subrules 25.5(1) through 25.5(5). These requirements are in addition to the applicable requirements of Section 603 of the Uniform Plumbing Code, ~~2000~~ 2009 Edition.

ITEM 3. Amend subrule 25.5(1), introductory paragraph, as follows:

25.5(1) Definitions. The following definitions are added to those in Chapter 2 and Section 603 of the Uniform Plumbing Code, ~~2000~~ 2009 Edition, or are modified from those definitions for the purposes of rule 641—25.5(~~135~~ 105) only.

ITEM 4. Amend paragraph **25.5(1)“b”** as follows:

b. Approved backflow prevention assembly for containment. Approved backflow prevention assembly for containment means a backflow prevention assembly which is approved by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. The approval listing shall include the limitations of use based on the degree of hazard. The backflow prevention assembly shall also be listed by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitary Engineering (ASSE) as having met the requirements of one of the standards listed below.

Standard	Product Covered
ANSI [□] /ASSE* 1013- 1999 <u>2009</u>	Reduced Pressure Principle Backflow Preventers
ANSI [□] /ASSE* 1015- 1999 <u>2009</u>	Double Check Backflow Prevention Assembly
ANSI [□] /ASSE* 1047- 1999 <u>2009</u>	Reduced Pressure Detector Backflow Preventer
ANSI [□] /ASSE* 1048- 1999 <u>2009</u>	Double Check Detector Assembly Backflow Preventer
ANSI [□] /AWWA [†] C510- 97 <u>07</u>	Double Check Valve Backflow Prevention Assembly
ANSI [□] /AWWA [†] C511- 97 <u>07</u>	Reduced-Pressure Principle Backflow Prevention Assembly

[□]American National Standards Institute, 1819 L Street NW, Washington, DC 20036

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*American Society of Sanitary Engineering, ~~28901 Clemens Road, Suite 100~~ 901 Canterbury Road, Suite A, Westlake, OH 44145

†American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235

ITEM 5. Amend **641—Chapter 25**, implementation sentence, as follows:
These rules are intended to implement Iowa Code chapter ~~435~~ 105.

ARC 8693B

REGENTS BOARD[681]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 4, “Traffic and Parking at Universities,” Iowa Administrative Code.

The proposed amendment revises rule 681—4.26(262) to amend the definitions of “bicycle” and “motorcycle” at Iowa State University. Iowa State University reports that electric bicycles are increasingly being brought to campus, and the rule should be clarified to recognize this mode of transportation.

Any interested person may make written comments on this amendment on or before May 11, 2010, addressed to Andrea Anania, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6420; or E-mail at anania@iastate.edu.

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

This amendment is intended to implement Iowa Code section 262.69.

The following amendment is proposed.

Amend rule **681—4.26(262)**, definitions of “Bicycle” and “Motorcycle,” as follows:

~~“Bicycle” means any vehicle which is not self-propelled and which is designed to be pedaled by the rider. Any bicycle equipped with a motor is considered a motorcycle and subject to the traffic and parking regulations for motorcycles having two or three wheels and fully operable pedals which is either a traditional bicycle designed solely to be pedaled by the rider or an electric bicycle designed not only to be pedaled by the rider but also propelled by an electric motor of less than 750 watts (one horsepower).~~

~~“Motorcycle” or “moped” or “motorized bicycle” means any vehicle which is self-propelled and has less fewer than four wheels in contact with the ground and is not a bicycle or an electric bicycle. For purposes of these rules, a moped or motorized bicycle is considered a motorcycle.~~

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for April is 5.75%.

TREASURER OF STATE(cont'd)

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective April 9, 2010, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 0.05%
32-89 days	Minimum 0.05%
90-179 days	Minimum 0.05%
180-364 days	Minimum 0.20%
One year to 397 days	Minimum 0.50%
More than 397 days	Minimum 1.05%

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

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

ARC 8691B

ACCOUNTANCY EXAMINING BOARD[193A]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board hereby amends Chapter 5, "Licensure Status and Renewal of Certificates and Licenses," Iowa Administrative Code.

These amendments to Chapter 5 delay the effective date for the move to annual renewals from June 30, 2010, to June 30, 2011. This delay is necessary as the database program has not been properly updated to allow for the accurate and effective tracking of the change from biennial to annual renewal nor has a fee study by the Board been completed. If the delay were not implemented, the financial impact based on the current biennial renewal fee would be a \$154,000 decline in renewal revenues to the general fund and a \$28,575 decline to the Professional Licensing Bureau's 85 percent money.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because there is an immediate need to delay the move to annual renewal as the database program has not been properly updated to allow for the proper tracking of the change from biennial to annual renewal and the Bureau cannot sustain the financial decline in fee revenue. The public interest in the ability of the Bureau to properly track certificate and license expiration dates and to continue financial functions outweighs the benefit of a comment period.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments be made effective upon filing with the Administrative Rules Coordinator on March 26, 2010. These amendments confer a benefit on the public by allowing the Bureau time to prepare the database program to accurately and effectively track the change of renewal expiration dates.

The Accountancy Examining Board adopted these amendments on March 26, 2010.

These amendments became effective on March 26, 2010.

These amendments are intended to implement Iowa Code chapters 17A, 272C, 542, and 546.

The following amendments are adopted.

ITEM 1. Amend rule 193A—5.2(542), catchwords, as follows:

193A—5.2(542) Renewal of license that expires on or before June 30, ~~2009~~ 2010.

ITEM 2. Amend rule 193A—5.3(542) as follows:

193A—5.3(542) Renewal of license that expires on or after June 30, ~~2010~~ 2011.

5.3(1) Licenses issued pursuant to Iowa Code section 542.6, 542.8, or 542.19 that expire on June 30, ~~2010~~ 2011, and thereafter shall be renewed on an annual basis, and shall expire on June 30 of each year. Licenses shall be renewed through electronic on-line renewal, except that licensees who are ineligible to renew on line because they must disclose a criminal conviction or disciplinary order, or for other cause, shall renew upon forms that may be obtained from the board office or on the board's Web site. An annual renewal fee will be charged.

5.3(2) Licensees whose last names begin with A through K shall first renew on an annual basis when their licenses are scheduled to expire on June 30, ~~2010~~ 2012.

5.3(3) Licensees whose last names begin with L through Z shall first renew on an annual basis when their licenses are scheduled to expire on June 30, 2011.

5.3(4) After all individual licenses have been transitioned to annual renewal cycles, the board plans to develop a renewal process in which a firm permit to practice and the individual licenses associated with the firm may be renewed together. The board shall adopt rules governing the combined renewal

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

process when further details are known and the technological means to implement the process are in place.

[Filed Emergency 3/26/10, effective 3/26/10]

[Published 4/21/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/10.

ARC 8692B**ADMINISTRATIVE SERVICES DEPARTMENT[11]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 8A.104 and 8A.413, the Department of Administrative Services hereby amends Chapter 60, "Separations, Disciplinary Actions and Reduction in Force," Iowa Administrative Code.

The purpose of this amendment is to comply with 2010 Iowa Acts, Senate File 2062, enacted by the second session of the Eighty-Third General Assembly and signed by the Governor on February 10, 2010. 2010 Iowa Acts, Senate File 2062, establishes a state employee retirement incentive program for eligible executive branch employees, requires the adoption of administrative rules, and provides that such rules may be adopted on an emergency basis pursuant to Iowa Code sections 17A.4(3) and 17A.5(2)"b."

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable due to the immediate need for rule making to administer the aspects of the program approved by the Legislature.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on March 29, 2010, as it confers a benefit upon the executive branch agencies and their employees.

The Department adopted this amendment on March 29, 2010.

This amendment is intended to implement 2010 Iowa Acts, Senate File 2062, and Iowa Code section 8A.413.

This amendment became effective on March 29, 2010.

The following amendment is adopted.

Adopt the following **new** subrule 60.1(7):

60.1(7) *State employee retirement incentive program—Fiscal Year 2010.*

a. This state employee retirement incentive program is provided for in 2010 Iowa Acts, Senate File 2062.

b. To become a program participant, an employee must complete and file a program application form on or before April 15, 2010, and must terminate employment no later than June 24, 2010.

c. For purposes of this program, the following definitions shall apply:

"*Eligible employee*" means an employee who is employed on February 10, 2010, who is 55 years of age or older on July 31, 2010, and who has submitted an application by the employee's last day of employment to the Iowa public employees' retirement system to begin monthly retirement benefits by July 2010. "Eligible employee" shall include an employee who began receiving IPERS monthly benefits prior to February 2010 if the employee is employed on February 10, 2010, and terminates employment on or before June 24, 2010. "Eligible employee" shall not include an employee who is eligible for the sick leave conversion program as described in Iowa Code section 70A.23, subsection 4, or a former employee who withdraws the application for monthly retirement benefits from the Iowa public employees' retirement system before receiving the first month of benefits.

"*Employee*" means an employee of the executive branch of this state, including an employee of a judicial district of the department of correctional services, an employee of the fair board, an employee of the state board of regents if the board elects to participate in the program, and an employee of the department of justice. However, "employee" does not mean an elected official.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

“Participant” means an eligible employee who, on or before April 15, 2010, submits an application to participate and does participate in the state employee retirement incentive program established by this subrule. For the purposes of this program, a person remains a participant after all benefits under this program have been made.

“Program” means the state employee retirement incentive program established in 2010 Iowa Acts, Senate File 2062.

“State” means the state of Iowa and all of its branches, departments, agencies, boards, or commissions, including a judicial district department of correctional services and the state board of regents.

d. A participant who elects to remain in the state’s retiree health insurance group plan may receive a health insurance contribution benefit. The health insurance contribution benefit consists of up to 5 years of contributions toward retiree health insurance. The contributions shall be used to pay the employer’s portion of the health insurance premiums. The department shall determine the contribution rate based on the employer’s contribution to an existing state plan.

A participant shall begin receiving the health insurance contribution benefit once payments, if any, under Iowa Code section 70A.23 cease, and shall continue to receive such benefits for 5 years after termination of employment. If a participant is not eligible for payments under Iowa Code section 70A.23, the participant will begin receiving health insurance contribution benefits the month following termination of employment and shall continue to receive such benefits for 5 years after termination of employment.

e. All existing rules and policies regarding continuation of health insurance and changing health insurance plans shall apply to participants and surviving spouses covered by the program.

f. A participant will receive a years of service incentive payment for 5 years after termination of employment. The payments shall include the entire value of the participant’s accrued but unused vacation leave and, for participants with at least 10 years of state employment, \$1000 for each year of state employment, up to 25 years of employment. State employment shall include all past and present employment with the state, regardless of whether the employee took a refund of the contributions made to IPERS for a prior period of service, if the employee provides adequate documentation of prior periods of employment. The payment shall be paid in five equal installments beginning in September 2010 and ending in 2014.

g. If a participant dies within 5 years of termination of employment, the participant’s beneficiary will receive any remaining years of service incentive benefits. If the participant’s surviving spouse is covered on the participant’s state retiree health insurance plan, the surviving spouse may elect to continue health insurance coverage and will receive any remaining health insurance contribution benefits under this program. If the surviving spouse was not covered by the participant’s health insurance plan, or if there is no surviving spouse, any remaining health insurance contribution benefits are forfeited.

h. A participating employee, as a condition of participation in this program, shall waive any and all rights to receive payment for accrued vacation pursuant to Iowa Code section 91A.4 and shall waive all rights to file suit against the state of Iowa, including all of its departments, agencies, and other subdivisions, based on state or federal claims arising out of the employment relationship.

i. The administrative head, manager, supervisor, or any employee of a department, agency, board, or commission of the state of Iowa shall not coerce or otherwise influence any state employee to participate or not participate in this program.

j. A participant is not eligible to accept any further employment with the state, other than as an elected official or a member of a board or commission, from the date of termination from employment. A participant may not enter into a contract to provide services to the state as an independent contractor or a consultant.

[Filed Emergency 3/29/10, effective 3/29/10]

[Published 4/21/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/10.

ARC 8696B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 137F.2, the Department of Inspections and Appeals amends Chapter 31, "Food Establishment and Food Processing Plant Inspections," Iowa Administrative Code.

The Department is adopting an amendment to the requirement that all wild mushrooms be inspected by an approved mushroom identification expert prior to their sale at food establishments. The amendment clarifies the requirement for a morel mushroom identification expert only. The amendment allows an individual who has successfully completed a three-hour morel mushroom identification expert course (every three years) to procure or sell wild morel mushrooms to a food establishment.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because public sentiment expressed during the adoption of the 2005 FDA Food Code expressed support for continuing to allow wild morel mushrooms to be sold at food establishments, with the exception of specialists who have now revised their advice. During the adoption of the 2005 FDA Food Code, the Department relied upon specialists from Iowa State University who, at that time, advised against continuing to allow wild morel mushrooms to be sold to food establishments. Since then, however, these same specialists have reconsidered their previous opinions and advised the Department that a limited amendment to the 2005 FDA Food Code should be adopted, which would allow wild morel mushrooms that have been identified by a certified morel mushroom identification expert to be sold at food establishments. These specialists have reviewed the amendment, which is also being considered by other states.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective on April 1, 2010, as it removes a restriction.

This amendment is also published herein under Notice of Intended Action as **ARC 8697B** to allow public comment.

This amendment is intended to implement Iowa Code section 137F.2.

This amendment became effective on April 1, 2010.

The following amendment is adopted.

Adopt the following **new** subrule 31.1(12):

31.1(12) Section 3-201.16, paragraph (A), is amended by the adding the following:

"A food service establishment may serve or sell morel mushrooms if procured from an individual who has completed a morel mushroom identification expert course. Every morel mushroom shall be identified and found to be safe by a certified morel mushroom identification expert whose competence has been verified and approved by the department through the expert's successful completion of a morel mushroom identification expert course provided by either an accredited college or university or a mycological society. The certified morel mushroom identification expert shall personally inspect each mushroom and determine it to be a morel mushroom. A morel mushroom identification expert course shall be at least three hours in length. To maintain status as a morel mushroom identification expert, the individual shall have successfully completed a morel mushroom identification expert course described above within the past three years. A person who wishes to offer a morel mushroom identification expert course must submit the course curriculum to the department for review and approval. Food establishments offering morel mushrooms shall maintain the following information for a period of 90 days from the date the morel mushrooms were obtained:

"1. The name, address, and telephone number of the morel mushroom identification expert;

"2. A copy of the morel mushroom identification expert's certificate of successful completion of the course, containing the date of completion; and

"3. The quantity of morel mushrooms purchased and the date(s) purchased.

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

“Furthermore, a consumer advisory shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means that wild mushrooms should be thoroughly cooked and may cause allergic reactions or other effects.”

[Filed Emergency 3/31/10, effective 4/1/10]

[Published 4/21/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/10.

ARC 8704B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 206.21, the Department of Agriculture and Land Stewardship hereby amends Chapter 45, "Pesticides," Iowa Administrative Code.

These amendments require that the efficacy and safety data on a nonchemical pest control device be submitted to the Department prior to sale or lease. The Department may examine or test the devices.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8523B** on February 10, 2010.

A public hearing was held on March 2, 2010, and comments were supportive. Concern was expressed in a written comment about the potential scope of the proposed rule. A definition of "nonchemical pest control device" has been added to clarify the focus of the rule.

These amendments are intended to implement Iowa Code section 206.16.

These amendments will become effective May 26, 2010.

The following amendments are adopted.

ITEM 1. Adopt the following new definition of "Nonchemical pest control device" in subrule **45.1(1)**:

"Nonchemical pest control device" means any instrument or contrivance, other than a firearm or trap, intended or purported to be a primary pest control device or a pest control aid for repelling insects or rodents without the use of chemicals through utilization of electromagnetic, sound, ultrasonic, subsonic, cosmic, geotechnical or other similar wave technology.

ITEM 2. Amend rule 21—45.19(206) as follows:

21—45.19(206) Enforcement.

45.19(1) Collection of samples. Samples of pesticides and devices shall be collected by an official investigator or by any employee of the state who has been duly designated by the secretary, by entry into any place during reasonable business hours.

45.19(2) Nonchemical pest control devices. Manufacturers or their representatives intending to sell or lease a nonchemical pest control device in the state shall submit efficacy and safety data to the department of agriculture and land stewardship prior to the sale or lease. This requirement may include the furnishing of specimen devices or samples. The department or the department's designee shall examine or test the device as may be necessary to ascertain the reliability, efficacy and safety data of the device and actual or potential adverse effects of the device upon human health and safety. The costs of conducting the examination or test shall be borne by the manufacturer or the manufacturer's representative.

45.19(2) **45.19(3)** Notice of apparent violation. If from an examination or analysis a pesticide appears to be in noncompliance with the pesticide Act, a written stop sale, use or removal notice will be initiated by the secretary or the secretary's duly appointed authority. The notice shall state the manner in which the product fails to meet the requirements of the Act and the regulations and that the recipient shall be given an opportunity to offer such written explanation as the recipient may desire.

45.19(3) **45.19(4)** Any person may obtain an opportunity to present relevant arguments or comments by submitting a written request within 20 days from the date of mailing of the notice.

45.19(4) **45.19(5)** The secretary may suspend an applicator's license, permit or certification pending inquiry and, after opportunity for a hearing, may deny, suspend, revoke or modify any provision of any license, permit or certification issued under ~~this~~ the Act, upon receipt of information from the

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

environmental protection agency that the applicator has been convicted under the criminal provision of Section 14(b) of FIFRA or has been assessed a civil penalty under Section 14(a) of FIFRA.

[Filed 4/2/10, effective 5/26/10]

[Published 4/21/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/10.

ARC 8699B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 194.2, the Department of Agriculture and Land Stewardship hereby amends Chapter 68, "Dairy," Iowa Administrative Code.

The amendments update the reference to the handbooks used for dairy inspections. An obsolete grandfathering provision on milk truck approaches is deleted.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8432B** on December 30, 2009. No comments were received from the public and no changes were made to the Noticed amendments.

These amendments are intended to implement Iowa Code section 192.102.

These amendments will become effective May 26, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [68.1, 68.11(1), 68.13, 68.15, 68.37(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 8432B**, IAB 12/30/09.

[Filed 4/1/10, effective 5/26/10]

[Published 4/21/10]

[For replacement pages for IAC, see IAC Supplement 4/21/10.]

ARC 8706B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.53, the Professional Licensure Division hereby amends Chapter 4, "Board Administrative Processes," and rescinds Chapter 14, "Child Support Noncompliance," and Chapter 15, "Noncompliance of Loan Repayment," Iowa Administrative Code.

The amendments incorporate into Chapter 4 the adoption by reference of Department of Public Health administrative rules relating to child support noncompliance, noncompliance of loan repayment and nonpayment of state debt. The amendments also rescind and reserve Chapters 14 and 15.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 2, 2009, as **ARC 8334B**. A public hearing was held on December 22, 2009, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. No public comments were received.

The amendments were adopted by the 19 professional boards during the months of January through March 2010. The adopted amendments are identical to those published under Notice.

These amendments will become effective May 26, 2010.

These amendments are intended to implement Iowa Code chapters 147, 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 155, 157, 156, 154A, 154, 154B, 154C, 154D, 154E, 154F, 158, 252J, 261, 272D and 272C.

The following amendments are adopted.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 1. Adopt the following new rule 645—4.16(252J,261,272D):

645—4.16(252J,261,272D) Noncompliance rules regarding child support, loan repayment and nonpayment of state debt.

4.16(1) *Child support noncompliance.* The board hereby adopts by reference 641—Chapter 192, “Child Support Noncompliance,” Iowa Administrative Code.

4.16(2) *Noncompliance of loan repayment.* The board hereby adopts by reference 641—Chapter 195, “Student Loan Default/Noncompliance with Agreement for Payment of Obligation,” Iowa Administrative Code.

4.16(3) *Nonpayment of state debt.* The board hereby adopts by reference 641—Chapter 194, “Nonpayment of State Debt,” Iowa Administrative Code.

ITEM 2. Amend **645—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, 261, and 272C and 272D.

ITEM 3. Rescind and reserve **645—Chapter 14 and Chapter 15.**

[Filed 4/2/10, effective 5/26/10]

[Published 4/21/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/10.

ARC 8695B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 103A.7 as amended by 2009 Iowa Acts, chapter 142, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby adopts new Chapter 315, “Weather Safe Rooms,” Iowa Administrative Code.

With the enactment of 2009 Iowa Acts, chapter 142 (House File 705), the Building Code Commissioner was directed to establish requirements for the design and construction of safe rooms and storm shelters. The rules adopted herein establish requirements for “weather safe rooms” built for safety from the hazards of tornadoes. Such standards exist for other weather events, particularly hurricanes; however, tornadoes are the primary concern for safety from weather events in Iowa, so the standards adopted herein reflect this. There is a nationally accepted standard for the design and construction of such facilities, published jointly by the International Code Council and the National Storm Shelter Association, and that standard is used as the basis for the rules adopted herein. The standard is integrated with the family of building codes published by the International Code Council, several of which have been adopted by the Building Code Commissioner.

The statute requires that the Building Code Commissioner consult with the Iowa Department of Public Defense, the Iowa Department of Natural Resources, and the Rebuild Iowa Office prior to commencing with this rule making. Each of these agencies was consulted, as were a number of other state agencies, including the Board of Regents, the Department of Education, the Department of Corrections, the Department of Human Services, the Department of Agriculture and Land Stewardship, the Department of Inspections and Appeals, the Department of Transportation, and the Department of Administrative Services.

It should be noted that the rules adopted herein are a part of the State Building Code. However, neither these rules nor the underlying statute requires the construction of weather safe rooms. Rather, the standards will apply if a weather safe room is being constructed, whether it is required as part of the construction by another provision of law or is being included in a project voluntarily.

These rules were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on February 10, 2010, as **ARC 8521B**. A public hearing regarding the proposed rules was held

PUBLIC SAFETY DEPARTMENT[661](cont'd)

on March 2, 2010. No comments on the proposed rules were received at the public hearing or otherwise. The rules adopted herein are identical to those proposed in the Notice of Intended Action.

Provisions of the State Building Code are subject to provisions for consideration of alternate materials or methods of construction as specified in Iowa Code section 103A.13.

These rules are intended to implement 2009 Iowa Acts, chapter 142.

These rules will become effective on July 1, 2010.

The following amendment is adopted.

Adopt the following new 661—Chapter 315:

CHAPTER 315
WEATHER SAFE ROOMS

661—315.1(83GA,ch142) Scope. The standards adopted in this chapter shall apply to the design and construction of weather safe rooms constructed on or after January 1, 2011. The rules in this chapter do not require the construction of a weather safe room or rooms for any construction project but establish standards for design and construction of weather safe rooms when their construction is required by another provision of law or is incorporated voluntarily in a construction project.

661—315.2(83GA,ch142) Definition. The following definition shall apply to this chapter:

“Weather safe room” means a building, structure, or portion of a building or structure built in accordance with the requirements established in this chapter and designated for use during a severe windstorm event.

661—315.3(83GA,ch142) Requirements. Any weather safe room constructed on or after January 1, 2011, shall be designed and constructed in compliance with the provisions of ICC 500-2008, ICC/NSSA Standard for the Design and Construction of Storm Shelters, published by the International Code Council, 500 New Jersey Avenue NW, 6th Floor, Washington, D.C. 20001. Any provision which would apply to a hurricane safe structure but not to a tornado safe structure shall not apply. For any provision for which a distinction is made between a tornado safe structure and a hurricane safe structure, the requirement for a tornado safe structure shall apply.

These rules are intended to implement 2009 Iowa Acts, chapter 142.

[Filed 3/30/10, effective 7/1/10]

[Published 4/21/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/10.

ARC 8702B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby amends Chapter 38, “Administration,” Chapter 40, “Determination of Net Income,” and Chapter 41, “Determination of Taxable Income”; rescinds Chapter 42, “Adjustments to Computed Tax,” and adopts a new Chapter 42, “Adjustments to Computed Tax and Tax Credits”; and amends Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues,” and Chapter 89, “Fiduciary Income Tax,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXII, No. 17, p. 1907, on February 10, 2010, as **ARC 8512B**.

New Chapter 42 reorganizes the rules by providing a separate rule for each tax credit. In addition, the following changes are adopted:

REVENUE DEPARTMENT[701](cont'd)

- Subrule 42.11(3) includes federal revisions made in 2008 to the research activities credit for individual income tax and provides for additional research activities credits for companies eligible under the enterprise zone program for expenses related to the development and deployment of innovative renewable energy generation.
- Subrule 42.11(4) provides for an annual report of certain research activities claims, which report is due by February 15 of each year.
- Rule 701—42.18(422) provides for the repeal of the assistive device credit for individual income tax.
- Rule 701—42.19(422) provides for changes to the historic preservation and cultural and entertainment district tax credit for individual income tax.
- Rule 701—42.24(15E) provides for changes to the endow Iowa tax credit for individual income tax.
- Rule 701—42.27(422,476B) provides for changes to the wind energy production tax credit for individual income tax.
- Rule 701—42.28(422,476C) provides for changes to the renewable energy tax credit for individual income tax, including new subrule 42.28(4), which provides that owners of small wind energy systems operating within a small wind innovation zone are eligible for the renewable energy tax credit.
- Rule 701—42.29(15) provides, for individual income tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.
- Rule 701—42.36(175,422) provides for a cap in the agricultural assets transfer tax credit effective with the fiscal year beginning July 1, 2009.
- Rule 701—42.37(15,422) provides for changes to the film qualified expenditure tax credit for individual income tax.
- Rule 701—42.38(15,422) provides for changes to the film investment tax credit for individual income tax.
- New individual income tax rules are adopted as follows: 701—42.41(15,422) for the redevelopment tax credit, 701—42.42(15) for credits related to the high quality jobs program, 701—42.43(16,422) for the disaster recovery housing project tax credit, 701—42.44(422) for the sequence of deducting tax credits, and 701—42.45(15) for the aggregate tax credit limit on certain economic development program tax credits.
- Amendments to subrules 38.17(3), 40.16(5), 41.5(14), 41.5(15), 52.7(4), 52.7(5) and 89.8(1) correct cross references related to the reorganization of Chapter 42.
- The titles of Chapters 42, 52 and 58 are changed to reflect that tax credits are an integral part of the content of these chapters.

These amendments are identical to those published under Notice of Intended Action with one exception. Subrule 40.70(1) is amended to correct cross references related to the reorganization of Chapter 42. Subrule 40.70(1) now reads as follows:

“40.70(1) *Projects registered on or after January 1, 2007, but before July 1, 2009.* For tax years beginning on or after January 1, 2007, a taxpayer who is a resident of Iowa may exclude, to the extent included in federal adjusted gross income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

“Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—42.37(15,422). See rule 701—38.17(422) for the determination of Iowa residency.

“However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—42.37(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

“Example: A production company which registers with the film office for a project is a limited liability company with three members, all of whom are Iowa residents. If any of the three members receives

REVENUE DEPARTMENT[701](cont'd)

income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, such member(s) cannot exclude this income on the Iowa income tax return because the member(s) has an equity interest in the business which received the credit.”

These amendments will become effective May 26, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapter 422.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend 38.17(3), 40.16(5), 40.70(1), 41.5, Ch 52 title, 52.7, Ch 58 title, 89.8(11)“b”; adopt Ch 42] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8512B**, IAB 2/10/10.

[Filed 4/2/10, effective 5/26/10]

[Published 4/21/10]

[For replacement pages for IAC, see IAC Supplement 4/21/10.]

ARC 8698B

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby amends Chapter 21, “Election Forms and Instructions,” and Chapter 22, “Voting Systems,” Iowa Administrative Code.

These amendments are necessary due to legislative changes made to Iowa’s election laws during the 2009 legislative session. These amendments provide security procedures for general elections in which county commissioners are required to or decide to count absentee ballots on the day before the election as now permitted by Iowa Code section 53.23, subsection 3, paragraph “c,” as amended by 2009 Iowa Acts, House File 670. In addition, these amendments prescribe the form of the official ballot as required by 2009 Iowa Code Supplement sections 43.31 and 49.57A [2009 Iowa Acts, House File 475, sections 6 and 32].

These amendments were published under Notice of Intended Action on February 24, 2010, in the Iowa Administrative Bulletin as **ARC 8541B**. The only public comments received were related to use of the phrase “voted ballot envelope” in new rule 721—22.343(39A,53). All references to “voted ballot envelope” have been changed in these adopted amendments to read “voted ballot envelope or other container.” This revision is consistent with the statutory requirement in Iowa Code section 50.12 to securely seal voted ballots in an envelope or other container. Subrule 22.343(1) now reads as follows:

“22.343(1) Seal and label voted ballot envelopes or other containers with date of tabulation. The precinct election officials shall seal all ballots tabulated on the day before the election in a voted ballot envelope or other container labeled with the date of tabulation. The precinct election officials shall seal and sign the envelope or other container in a manner that will make it evident if the envelope or other container is opened.”

These amendments will become effective on June 15, 2010.

SECRETARY OF STATE[721](cont'd)

These amendments are intended to implement Iowa Code chapters 39A, 43, 49 and 53 as amended by 2009 Iowa Acts, House Files 475 and 670.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [21.202, 21.203, 22.343] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8541B**, IAB 2/24/10.

[Filed 3/31/10, effective 6/15/10]

[Published 4/21/10]

[For replacement pages for IAC, see IAC Supplement 4/21/10.]

ARC 8700B

SOIL CONSERVATION DIVISION[27]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 161A.73(3)"d" and 161C.2(4), the Division of Soil Conservation hereby rescinds Chapter 13, "Organic Nutrient Management Program," Chapter 14, "Levee Reconstruction and Repair Program," and Chapter 15, "Soil Practices Loan Program," Iowa Administrative Code.

The amendments eliminate programs which have not been funded or used by the Division for several years.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8367B** on December 16, 2009. No comments were received from the public, and no changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 161A.73(3)"d" and 161C.2(4).

These amendments will become effective May 26, 2010.

The following amendments are adopted.

ITEM 1. Rescind and reserve **27—Chapter 13**.

ITEM 2. Rescind and reserve **27—Chapter 14**.

ITEM 3. Rescind and reserve **27—Chapter 15**.

[Filed 4/1/10, effective 5/26/10]

[Published 4/21/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/21/10.