



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2014

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
24	Friday, May 9, 2014	May 28, 2014
25	Wednesday, May 21, 2014	June 11, 2014
26	Friday, June 6, 2014	June 25, 2014

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, May 13, 2014, at 9 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"

Update of board address, 2.1(3) Notice **ARC 1439C** 4/30/14

AGING, DEPARTMENT ON[17]

Iowa aging program instructions; definitions, 1.2, 1.4, 1.5 Notice **ARC 1428C** 4/16/14

Department fiscal operations—removal of references to Iowa aging program instructions,

5.9(2), 5.10(2) Notice **ARC 1427C** 4/16/14

Area agencies on aging—planning and administration, 6.2, 6.3(4), 6.6(2), 6.11(3), 6.14(1)

Notice **ARC 1426C** 4/16/14

Long-term care ombudsman program, amendments to ch 8 Notice **ARC 1425C** 4/16/14

Resident advocate committees, rescind ch 9 Notice **ARC 1424C** 4/16/14

Options counselors, 23.7 Notice **ARC 1423C** 4/16/14

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Restricted use pesticide classifications, 45.30 Notice **ARC 1452C** 4/30/14

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Teach Iowa scholar program, ch 28 Notice **ARC 1419C** 4/16/14

ECONOMIC DEVELOPMENT AUTHORITY[261]

Chapters 15 and 15E economic development programs; compliance cost fees, amend chs 76,

187; rescind chs 113, 410 Notice **ARC 1430C** 4/16/14

Tax credits for investments in qualifying businesses—time frame for submittal of

documentation, 115.9(1) Filed **ARC 1429C** 4/16/14

EDUCATION DEPARTMENT[281]

Drinking drivers course, amendments to ch 21 Filed **ARC 1433C** 4/30/14

Nutritional content standards, 58.11 Filed **ARC 1432C** 4/30/14

Alternate subject assessment for teacher candidates, 79.15(7)"a" Filed **ARC 1434C** 4/30/14

Professional development for teachers, 83.6 Filed **ARC 1435C** 4/30/14

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

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Unethical or illegal conduct—business practices, 8.2(6)"a" Notice **ARC 1441C** 4/30/14

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Animal feeding operations—NPDES permits, 64.18, 65.1, 65.3, 65.4, 65.5(2), 65.6,

65.101(6) Notice **ARC 1421C** 4/16/14

HUMAN SERVICES DEPARTMENT[441]

Health insurance premium payment program, 75.21 Filed **ARC 1447C** 4/30/14

Online training for brain injury (BI) waiver providers; removal of services from monthly cost

limits for certain waivers; removal of age limit for BI waiver, 77.39, 83.2(2), 83.22(2),

83.82, 83.102(2), 83.122(6) Filed **ARC 1445C** 4/30/14

Funding for empowerment areas, rescind ch 169 Filed **ARC 1444C** 4/30/14

Child care assistance sliding fee schedule, 170.4(2)"a" Filed **ARC 1446C** 4/30/14

INTERIOR DESIGN EXAMINING BOARD[193G]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Registration fees, 2.1(4) Filed **ARC 1431C** 4/30/14

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Federal occupational safety and health standards for mechanical power presses—adoption

by reference, 10.20 Notice **ARC 1440C** 4/30/14

Boiler and pressure vessel program—fees, 90.7 Filed **ARC 1422C** 4/16/14

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Waterfowl and coot hunting seasons; special September teal season, 91.1, 91.3, 91.6

Notice **ARC 1450C** 4/30/14**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Continuing education for podiatrists, 222.3(2) Filed **ARC 1420C** 4/16/14**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Operations of grant committee; grant applications and awards, rescind chs 22, 23 Filed **ARC 1436C** 4/30/14**REGENTS BOARD[681]**Monetary sanctions for parking offenses at Iowa State University, 4.31(2) Notice **ARC 1418C** 4/16/14**REVENUE DEPARTMENT[701]**

Motor fuel—penalty for violations, administration, tax rates, distributors' and dealers' right

to blend, 10.71, 67.1, 68.2, 68.19 Filed **ARC 1442C** 4/30/14Reinvestment districts program, ch 237 Filed **ARC 1443C** 4/30/14**SOIL CONSERVATION DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Financial incentive program for soil erosion control, 10.51, 10.52, 10.60(1)"c" Filed **ARC 1448C** 4/30/14**STATE PUBLIC DEFENDER[493]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Claims for services, amendments to chs 1, 4, 7, 12 to 14 Notice **ARC 1437C** 4/30/14Attorney qualifications; contracts, 11.2, 11.3, 11.4(1), 11.5 to 11.8, 11.11(1) Notice **ARC 1438C** 4/30/14**TRANSPORTATION DEPARTMENT[761]**Keep Iowa beautiful program, rescind ch 122 Notice **ARC 1449C** 4/30/14Permitting of implements of husbandry—manual for bridge evaluation, 181.1(2) Filed **ARC 1451C** 4/30/14

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

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

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Telephone (515)281-3084
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Representative Lisa Heddens
4115 Wembley Avenue
Ames, Iowa 50010

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

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

Representative Jeff Smith
1006 Brooks North Lane
Okoboji, Iowa 51355

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

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

ACCOUNTANCY EXAMINING BOARD[193A]

Update of board address, 2.1(3) IAB 4/30/14 ARC 1439C	Bureau Offices, Suite 350 200 E. Grand Ave. Des Moines, Iowa	May 22, 2014 9 a.m.
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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Restricted use pesticide classifications, 45.30 IAB 4/30/14 ARC 1452C	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	May 20, 2014 2 p.m.
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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Unethical or illegal conduct—business practices, 8.2(6)“a” IAB 4/30/14 ARC 1441C	Bureau Offices, Suite 350 200 E. Grand Ave. Des Moines, Iowa	May 22, 2014 9 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Animal feeding operations— NPDES permits, 64.18, 65.1, 65.3, 65.4, 65.5(2), 65.6, 65.101(6) IAB 4/16/14 ARC 1421C	Lime Creek Nature Center 3501 Lime Creek Rd. Mason City, Iowa	May 6, 2014 6 p.m.
	Board Room Clay County Administration Bldg. 300 W. 4th St. Spencer, Iowa	May 7, 2014 6 p.m.
	Meeting Room Carroll County Courthouse 114 E. 6th St. Carroll, Iowa	May 8, 2014 6 p.m.
	Fourth Floor Conference Room Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	May 9, 2014 11 a.m.
	Room 115, Dairy Center Northeast Iowa Community College 1527 Highway 150 South Calmar, Iowa	May 12, 2014 6 p.m.
	Education Center, Marr Park Washington County Conservation Board 2943 Highway 92 Ainsworth, Iowa	May 13, 2014 6 p.m.

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards for mechanical power presses—adoption by reference, 10.20 IAB 4/30/14 ARC 1440C	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	May 21, 2014 9 a.m. (If requested)
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NATURAL RESOURCE COMMISSION[571]

Waterfowl and coot hunting seasons; special September teal season, 91.1, 91.3, 91.6 IAB 4/30/14 ARC 1450C	Conference Room, Fourth Floor Wallace State Office Bldg. Des Moines, Iowa	May 20, 2014 1 p.m.
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STATE PUBLIC DEFENDER[493]

Claims for services, amendments to chs 1, 4, 7, 12 to 14 IAB 4/30/14 ARC 1437C	Conference Room 424, Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	May 20, 2014 2:30 p.m.
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Attorney qualifications; contracts, 11.2, 11.3, 11.4(1), 11.5 to 11.8, 11.11(1) IAB 4/30/14 ARC 1438C	Conference Room 424, Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	May 20, 2014 1:30 p.m.
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TRANSPORTATION DEPARTMENT[761]

Keep Iowa beautiful program, rescind ch 122 IAB 4/30/14 ARC 1449C	First Floor South Conference Room DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	May 22, 2014 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 1439C**ACCOUNTANCY EXAMINING BOARD[193A]****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 542.4, the Accountancy Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Organization and Administration,” Iowa Administrative Code.

The proposed amendment to Chapter 2 updates the address of the Professional Licensing Bureau.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before May 22, 2014. Comments should be directed to Robert Lampe, Executive Officer, Iowa Accountancy Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to robert.lampe@iowa.gov.

A public hearing will be held at 9 a.m. on May 22, 2014, at the offices of the Professional Licensing Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

There is no fiscal impact. No current fees are being changed and no new fees are being imposed.

This amendment is subject to waiver or variance pursuant to 193A—Chapter 5.

The proposed amendment was approved by the Board on March 26, 2014.

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

This amendment is intended to implement Iowa Code section 542.4.

The following amendment is proposed.

Amend subrule 2.1(3) as follows:

2.1(3) All official communications, including submissions and requests, should be addressed to the board at ~~1920 S.E. Hulsizer, Ankeny~~ 200 East Grand Avenue, Suite 350, Des Moines, Iowa 52004 50309.

ARC 1452C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****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 206.19(2), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 45, “Pesticides,” Iowa Administrative Code.

The proposed amendment updates a reference for restricted use pesticide classifications.

Any interested persons may make written suggestions or comments on the proposed amendment on or before May 20, 2014. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth

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

Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to Margaret.Thomson@IowaAgriculture.gov.

A public hearing will be held in the Second Floor Conference Room, Wallace State Office Building, Des Moines, Iowa, at 2 p.m. on May 20, 2014. This hearing is being held pursuant to Iowa Code section 206.19.

This proposed amendment is subject to the Department's general waiver provisions.

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

This amendment is intended to implement Iowa Code section 206.20.

The following amendment is proposed.

Amend rule 21—45.30(206) as follows:

21—45.30(206) Restricted use pesticides classified. Pesticide products containing active ingredients classified as restricted use are limited to use by or under the direct supervision of a certified applicator. The pesticide use classification as promulgated by the United States Environmental Protection Agency in 40 CFR, Section ~~162.34~~ 152.160-175, revised as of ~~July 1, 1983~~ May 4, 1988, is hereby adopted in its entirety by this reference.

This rule is intended to implement Iowa Code section 206.20.

ARC 1441C

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

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 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 8, “Professional Conduct of Licensees,” Iowa Administrative Code.

The proposed amendment to Chapter 8 clarifies the rules on unethical or illegal conduct. Stakeholder feedback was gained via meetings of a task force comprised of five members of the engineering profession, two members of the Iowa Engineering and Land Surveying Examining Board, the assistant attorney general, and lobbyist David Scott whose clients include the Iowa Engineering Society and Society of Land Surveyors of Iowa. The task force agreed to the amendment as proposed herein. Additional stakeholder feedback was solicited from the following seven groups: Iowa League of Cities, Iowa Association of Counties, American Council of Engineering Companies of Iowa, Iowa Engineering Society, The Society of Land Surveyors of Iowa, Master Builders of Iowa, and Associated General Contractors of Iowa. Two favorable responses were received. No unfavorable responses were received.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before May 22, 2014. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to robert.lampe@iowa.gov.

A public hearing will be held at 9 a.m. on May 22, 2014, at the offices of the Professional Licensing Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The proposed amendment is subject to waiver or variance pursuant to 193—Chapter 5.

The proposed amendment was approved by the Board on March 13, 2014.

There is no fiscal impact. No current fees are being changed and no new fees are being imposed.

After analysis and review of this rule making, no adverse impact on jobs has been found. Although there should be no impact on jobs, the Board will continue to work with stakeholders to minimize any negative impact and maximize any positive impact toward jobs.

This amendment is intended to implement Iowa Code section 542B.21.

The following amendment is proposed.

Amend paragraph **8.2(6)“a”** as follows:

a. Business practices. The following guidelines regarding unethical or illegal business practices shall apply:

(1) to (3) No change.

(4) Licensees shall not solicit or accept an engineering or land surveying contract from a governmental body when a principal or officer of the licensee's organization serves as an elected, appointed, voting or nonvoting member of the same governmental body which is letting the contract. For purposes of this subparagraph, “governmental body” means a board, council, commission, or similar multimembered body. A licensee would not violate this provision, however, if the principal or officer of the licensee's organization who serves as a member of the governmental body plays no role in the solicitation or acceptance of the contract, and the contract would be legally permissible under applicable Iowa law, including but not limited to Iowa Code sections 68B.3, 279.7A, 331.342, and 362.5.

(5) and (6) No change.

~~(7) When a licensee's organization or a principal, officer, other member, or employee of the licensee's organization has review authority over the engineering or land surveying projects performed by private contractors within the jurisdiction of a governmental body, the licensee shall not solicit or accept a private engineering or land surveying contract that falls under the review services performed for that governmental body. The purpose of this paragraph is to avoid a circumstance in which a licensee may be called upon to review on behalf of a governmental body the engineering or land surveying services performed by the licensee's own organization.~~

~~However, if the licensee exercising review authority does so as a member of a multimembered body with review authority, the conflict of interest may be addressed by the disqualification or recusal of the licensee when engineering or land surveying services of the licensee's organization are under review. In that circumstance, the solicitation or acceptance of a private engineering or land surveying contract by the licensee's organization would not be in violation of this rule.~~

ARC 1440C

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 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

The proposed amendment adopts by reference changes to federal occupational safety and health standards. The changes to the federal standards revise existing language pertaining to mechanical power presses in general industry workplaces. The U.S. Occupational Safety and Health Administration found

LABOR SERVICES DIVISION[875](cont'd)

that taken as a whole, the revisions do not impose any more stringent requirements on employers than the existing language; that the revisions reduce unnecessary paperwork; and that the revisions increase employee protection.

The principal reasons for adoption of this amendment are to implement legislative intent, protect the safety and health of Iowa workers, and make Iowa's regulations current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1) and 29 CFR 1953.5, Iowa must adopt changes to the federal occupational safety and health standards.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on May 20, 2014, a public hearing will be held on May 21, 2014, at 9 a.m. in the Capitol View Room, 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than May 21, 2014, 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.

No variance procedures are included in this rule. Variances procedures are set forth in 875—Chapter 5. After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 88.5 and 29 CFR 1953.5.

The following amendment is proposed.

Amend rule **875—10.20(88)** by inserting the following at the end thereof:
78 Fed. Reg. 69549 (November 20, 2013)

ARC 1450C**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, and 481A.48, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 91, “Waterfowl and Coot Hunting Seasons,” Iowa Administrative Code.

These rules give the regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. The amendments adjust the season dates to comply with federal regulations and to ensure the seasons open on weekends and add a special September teal season for up to 16 days for all species of teal.

These zones and season dates provide different opening and closing dates for the duck season in each zone. The U.S. Fish and Wildlife Service is offering expanded teal hunting opportunities in response to continued high teal populations. The additional season will not adversely impact teal numbers and will allow Iowa hunters 16 more days of recreational hunting opportunity during the peak migration period for teal.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 20, 2014. Written comments may be directed to Wildlife Bureau Chief, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by e-mail at wildlife@dnr.iowa.gov; or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact the Wildlife Bureau by telephone at (515)281-5034 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

NATURAL RESOURCE COMMISSION[571](cont'd)

There will be a public hearing on May 20, 2014, at 1 p.m. in the conference room on the fourth floor of the Wallace State Office Building, Des Moines, Iowa. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

After analysis and review of this rule making, there will be a positive impact on jobs due to the additional days of hunting opportunity offered to waterfowl hunters.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48. The following amendments are proposed.

ITEM 1. Amend subrules 91.1(2) to 91.1(7) as follows:

91.1(2) *Season dates - north zone.* Special teal season: September 6 through September 21. For all ducks: ~~September 24~~ October 4 through ~~September 25~~ October 19 and ~~October 12~~ 25 through December ~~5~~ 7.

91.1(3) *Season dates - south zone.* Special teal season: September 6 through September 21. For all ducks: ~~September 24~~ October 4 through ~~September 25~~ October 8 and ~~October 19~~ 18 through December ~~12~~ 11.

91.1(4) *Season dates - Missouri River zone.* Special teal season: September 6 through September 21. For all ducks: ~~September 24~~ October 4 through ~~September 25~~ October 8 and ~~October 26~~ 25 through December ~~19~~ 18.

91.1(5) *Bag limit.* Special teal season: The daily bag limit is 6 teal of any species. For all ducks: The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 3 wood ducks, 2 pintails, 1 mottled duck, 2 canvasbacks, 2 redheads, and 3 scaup. The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers.

91.1(6) *Possession limit.* For the special teal season and for all ducks: Possession limit is three times the daily bag limit.

91.1(7) *Shooting hours.* For the special teal season: Shooting hours are sunrise to sunset each day. For all ducks: Shooting hours are one-half hour before sunrise to sunset each day.

ITEM 2. Amend subrules 91.3(2) to 91.3(4) as follows:

91.3(2) *Season dates - north zone.* Canada geese and brant: September ~~28~~ 27 through January ~~3,~~ 2, 2014 2, 2015. White-fronted geese: September ~~28~~ 27 through December ~~10~~ 9. Light geese (white and blue-phase snow geese and Ross' geese): September ~~28~~ 27 through January ~~12,~~ 11, 2014 11, 2015.

91.3(3) *Season dates - south zone.* Canada geese and brant: October ~~5~~ 4 through January ~~10,~~ 9, 2014 9, 2015. White-fronted geese: October ~~5~~ 4 through December ~~17~~ 16. Light geese (white and blue-phase snow geese and Ross' geese): October ~~5~~ 4 through January ~~17,~~ 16, 2014 16, 2015.

91.3(4) *Season dates - Missouri River zone.* Canada geese and brant: October ~~12~~ 11 through January ~~17,~~ 16, 2014 16, 2015. White-fronted geese: October ~~12~~ 11 through December ~~24~~ 23. Light geese (white and blue-phase snow geese and Ross' geese): October ~~12~~ 11 through January ~~17,~~ 16, 2014 16, 2015.

ITEM 3. Amend subrules 91.3(8) to 91.3(11) as follows:

91.3(8) *Light goose conservation order season.* Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from January ~~18,~~ 17, 2014 17, 2015, through April 15, 2014 2015.

a. to e. No change.

91.3(9) *Cedar Rapids/Iowa City goose hunting zone.*

a. *Season dates.* September ~~7~~ 6 through September ~~15~~ 14.

b. to d. No change.

91.3(10) *Des Moines goose hunting zone.*

a. *Season dates.* September ~~7~~ 6 through September ~~15~~ 14.

b. to d. No change.

NATURAL RESOURCE COMMISSION[571](cont'd)

91.3(11) Cedar Falls/Waterloo goose hunting zone.

a. *Season dates.* September 7 6 through September 15 14.

b. to d. No change.

ITEM 4. Amend rule 571—91.6(481A) as follows:

571—91.6(481A) Youth waterfowl hunt. A special youth waterfowl hunt will be held on ~~October 5 and 6~~ September 27 and 28 in the ~~north duck hunting zone, October 12 and 13 in the south duck hunting zone, and October 19 and 20 in the Missouri River duck hunting zone~~ north, south and Missouri River duck hunting zones. Youth hunters must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 571—91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

ARC 1437C**STATE PUBLIC DEFENDER[493]****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 13B.4(8), the State Public Defender hereby gives Notice of Intended Action to amend Chapter 1, “Administration,” Chapter 4, “Public Records and Fair Information Practices,” Chapter 7, “Definitions,” Chapter 12, “Claims for Indigent Defense Services,” Chapter 13, “Claims for Other Professional Services,” and Chapter 14, “Claims for Attorney Fees in 600A Terminations,” Iowa Administrative Code.

These proposed amendments establish a number of safeguards in response to the improper billing practices of some indigent defense contract attorneys. These safeguards include setting a maximum number of aggregate hours that an attorney can bill in a day, requiring more detailed itemized time and expense reimbursement records, establishing additional documentation requirements for claims of attorneys whose contracts were canceled for improper billing practices, and clarifying the prohibition on other improper practices, such as standardized billing, estimated billing, and duplicative mileage reimbursements. The proposed amendments also make other technical and substantive revisions to the claims-processing procedures of the State Public Defender as the result of a comprehensive review of the State Public Defender’s administrative rules and the joint Lean Kaizen event with the Department of Inspections and Appeals.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 20, 2014. Such written comments should be sent to Kurt Swaim, First Assistant State Public Defender, Fourth Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319; or by fax to (515)281-7289 or e-mail at kswaim@spd.state.ia.us.

A public hearing will be held on May 20, 2014, at 2:30 p.m. in Conference Room 424, Fourth Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

STATE PUBLIC DEFENDER[493](cont'd)

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

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

These amendments are intended to implement Iowa Code chapters 13B, 600A, and 815.

The following amendments are proposed.

ITEM 1. Amend paragraph **1.3(3)“e”** as follows:

e. Coordinating the provision of legal representation of all indigents under arrest or charged with a crime, on appeal in criminal cases, in a proceeding to obtain postconviction relief when ordered to do so by the court, against whom a contempt action is pending, in proceedings under Iowa Code chapter 229A, in juvenile cases under Iowa Code ~~chapter~~ chapters 232 and 600A, or in probation or parole violations under Iowa Code chapter 908;

ITEM 2. Amend paragraphs **4.13(2)“f”** to **“h”** as follows:

f. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. ~~422.44~~ 1.503, the rules of evidence, the Code of Professional Responsibility, and case law. ~~Attorney work product includes an itemization of work performed on an interim indigent defense fee claim form or claims resulting from a mistrial.~~

g. Criminal investigative reports. (Iowa Code section 22.7(5))

h. A claim for compensation and reimbursement for legal assistance and supporting documents submitted to the state public defender for payment of costs incurred in the legal representation of an indigent person pursuant to Iowa Code section 13B.4B, except as disclosure is authorized under that section.

~~h.~~ i. Any other records considered confidential by law.

ITEM 3. Amend subrule 4.14(1) as follows:

4.14(1) By authority of Iowa Code chapter 13B, the appellate defender division maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases. Case information is stored in a data processing system and may be compared with information in any data processing system. By authority of Iowa Code section 910A.13, the names of child victims shall not be disclosed. Confidential juvenile records under Iowa Code section 232.147 shall not be disclosed except as otherwise permitted by law. Presentence investigation reports in the possession of the appellate defender are confidential records pursuant to Iowa Code section 901.4.

ITEM 4. Adopt the following new definition of “Returned fee claim letter” in rule **493—7.1(13B,815)**:

“Returned fee claim letter” means a letter in which the state public defender returns the claim and notifies the claimant as to the reason the claim was returned.

ITEM 5. Amend rule **493—7.1(13B,815)**, definition of “Written,” as follows:

“Written” as used in these rules may include electronically transmitted communication ~~to the extent permitted by rules of the state public defender except where a statute or rule expressly requires an original signature, mailing or any other special form of delivery other than electronic transmission.~~

ITEM 6. Rescind the definitions of “Clerical activities,” “Date of service,” “Timely claim” and “Travel time” in rule **493—7.1(13B,815)**.

ITEM 7. Amend subrule 12.1(3) as follows:

12.1(3) The Iowa Code requires the state public defender to approve only those indigent defense fee claims that are reasonable and appropriate under applicable statutes. In exercising this duty, the state public defender publishes rules and makes judgments considering what is statutorily permitted, fair for claimants, fair for indigent clients (who, by law, are required to reimburse the state for the costs of their

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defense to the extent they are reasonably able to pay such costs), and consistent with good stewardship of public appropriations.

ITEM 8. Amend subrule 12.2(1) as follows:

12.2(1) *Required claim documents.* Court-appointed attorneys shall submit written indigent defense fee claims to the state public defender for review, approval and payment. These claims shall include the following:

a. A completed fee claim on a form promulgated by the state public defender. Adult fee claims, including all trial-level criminal and postconviction relief proceedings, misdemeanor appeals to district court, ~~postconviction relief~~ and applications for discretionary review or applications for interlocutory appeals to the Iowa supreme court, must be submitted on an Adult form. Juvenile fee claims, including petitions on appeal and applications for interlocutory appeals, must be submitted on a Juvenile form. Appellate fee claims, including claims for all criminal and postconviction relief appeals, work performed after the granting of an application for discretionary review or for interlocutory appeal, ~~or if and work performed after full briefing is ordered following a juvenile petition on appeal~~, must be submitted on an Appellate form. The claim forms may be downloaded from the state public defender Web site: <http://spd.iowa.gov>. ~~Claims submitted that do not comply with the instructions on the Web site may be returned to the claimant for additional information and resubmission.~~

b. A copy of all orders appointing the attorney to the case.

(1) The appointment order must be signed by the court and either dated by the court or have a legible file-stamp.

(2) If, at the time of appointment, the attorney does not have a contract to represent indigent persons in the type of case and the county in which the action is pending, the appointment order must include either a finding that no attorney with a contract to represent indigent persons in that specific type of case and that county is available or a finding that the state public defender was consulted and consented to the appointment.

(3) Claims for probation or parole violations and contempt actions are considered new cases, and the attorney must submit a copy of an appointment order for these ~~claims~~ cases. Appointment orders in parole violation cases ~~to which the attorney was appointed on or after May 5, 2005~~, must also contain the following findings:

1. The alleged parole violator requests appointment of counsel;
2. The alleged parole violator is indigent as defined in Iowa Code section 815.9;
3. The alleged parole violator, because of lack of skill or education, would have difficulty in presenting the alleged violator's version of a disputed set of facts, particularly when presentation requires the examining or cross-examining of witnesses or the offering or dissecting of complex documentary evidence; and

4. The alleged parole violator has a colorable claim that the alleged violation has not been committed, or there are substantial reasons which justify or mitigate the violation and make revocation inappropriate.

(4) If the venue is changed in a juvenile case, an order appointing the attorney in the new county must be submitted.

(5) ~~An~~ A new appointment order is not necessary for trial counsel to request or resist an interlocutory appeal or an application for discretionary review.

(6) A new appointment order is not necessary to pursue or respond to a juvenile petition on appeal if the attorney was properly appointed to represent the client in juvenile court. If the original trial counsel withdraws or is removed from the case, the new appellate counsel must attach an order appointing the attorney for the appeal.

~~(6)~~ (7) An appointment order is not necessary if the state public defender determines the appointment order is unnecessary.

c. A copy of any application and court order authorizing the attorney to exceed the attorney fee limitations.

d. A copy of any court order that affects the amount to be paid or the client's right to counsel.

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e. A copy of the dispositional order, the order granting a motion to withdraw prior to disposition, procedendo, or other court order documenting the "date of service" for the claim.

e. f. An itemization detailing all work performed on the case for which the attorney seeks compensation.

(1) The itemization must separately state the date and amount of time spent on each activity. Time ~~may must~~ be reported in ~~either tenths or hundredths of an hour on the itemization but must be recorded in tenths of an hour on the claim form.~~ Time listed in hundredths of an hour on the claim form will be reduced to the nearest tenth of an hour. Time shall be rounded to the nearest tenth of an hour. For example, an attorney spending ten minutes performing a task shall bill 0.2 hours, while an attorney spending three minutes performing a task must not bill for the task.

(2) The itemization shall separately designate time claimed for in-court time, out-of-court time, paralegal time and travel time.

(3) If another attorney performed any of the work, the itemization shall specify the name of the attorney performing each activity. It is permissible to use initials representing the name, so long as an explanation is provided as to the full name for each set of initials with the itemization.

~~(3) (4)~~ The itemization must be in chronological order.

~~(4) (5)~~ The itemization must be typed in at least 10-point type on 8½" × 11" paper.

~~(5) If the itemization does not indicate the date of the disposition of the case, a copy of the dispositional order must be attached to the claim.~~

f. g. If the attorney was privately retained to represent the client prior to appointment, a copy of any representation agreement, written notice of the dollar amount paid to the attorney, and an itemization of services performed and how any funds provided were spent during the period prior to the court appointment. The state public defender will review the amount paid and hours spent before and after the court appointment in determining the appropriate attorney compensation on the claim.

ITEM 9. Rescind subrule 12.2(2) and adopt the following **new** subrule in lieu thereof:

12.2(2) *Failure to submit required documents.* Submitted claims for which the entire claim form has not been properly completed or which do not include the documents required by subrule 12.2(1) may be returned to the attorney for additional information and resubmission within the time required by paragraph 12.2(3) "d." If the attorney fails to submit all the required documentation to support a claim, the state public defender may request additional information or may deny all or a portion of the claim.

ITEM 10. Rescind subrule 12.2(3) and adopt the following **new** subrule in lieu thereof:

12.2(3) *Timely claims required.* Claims submitted prior to the date of service shall be returned to the claimant unpaid and may be resubmitted to the state public defender after the date of service. Claims that are not submitted within 45 days of the date of service as defined in this subrule shall be denied as untimely unless the delay in submitting the claim is excused by paragraph 12.2(3) "f." Attorney fees and expenses that are submitted on a claim denied as untimely under this subrule may be resubmitted on a subsequent claim that is timely submitted with respect to a subsequent date of service in the same case. For purposes of this subrule, a probation, parole, or contempt proceeding is not the "same case" as the underlying proceeding.

a. Adult claims. For adult claims, "date of service" means the date of filing of an order indicating that the case was dismissed or the client was acquitted or sentenced, the date of mistrial, the date on which a warrant was issued for the client, or the date of a court order authorizing the attorney's withdrawal from a case prior to the date of a dismissal, acquittal, sentencing, mistrial or the issuance of a warrant. The filing of a notice of appeal is not a date of service. If a motion for reconsideration is filed, the date on which the court rules on that motion is the date of service. For interim adult claims authorized by subrule 12.3(3) or 12.3(4), the date of service is the last day on which the attorney claimed time on the itemization of services.

b. Juvenile claims. For juvenile claims, "date of service" means the date of filing of an order as a result of the dispositional hearing or most recent postdispositional hearing that occurs while the client is still an active party in the case, the date on which the client ceased to be a party, the date of a court order authorizing the attorney's withdrawal from a case prior to the filing of the final ruling with respect

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to the client, the date jurisdiction is waived to adult court, the date on which the venue is changed, the date of dismissal, or the file-stamped date of a procedendo resulting from a petition on appeal. The date of a family drug court meeting, family team meeting, staffing, or foster care review board hearing is not a date of service.

c. Appellate claims. For appellate claims, “date of service” means the date on which the case was dismissed, the date of a court order authorizing the attorney’s withdrawal prior to the filing of the proof brief, the date on which the proof brief was filed, or the date on which the procedendo was issued.

d. Notices of action and returned claims. For claims of any type that are filed as a result of a notice of action letter or a returned fee claim letter, “date of service” means the date of the notice of action letter or returned fee claim letter. But a claim that is denied as untimely does not become timely merely because it was resubmitted with 45 days of a returned fee claim letter. A timely claim returned to the attorney for additional information shall continue to be deemed timely only if resubmitted with the required information within 45 days of being returned by the state public defender.

e. Court orders. For claims of any type that are filed as a result of a court order after hearing for review of the fee claim, “date of service” means the file-stamped date of the order.

f. Exceptions to the 45-day rule. The state public defender may in the state public defender’s sole discretion approve a claim that was not submitted within 45 days of the date of service only if the delay in submitting the claim was caused by one of the following circumstances:

- (1) The death of the attorney;
- (2) The death of the spouse of the attorney, a child of the attorney, or an employee of the attorney who was responsible for assisting in the preparation of the attorney’s fee claims;
- (3) A serious illness or injury that prevents the attorney from working for more than 3 consecutive days and occurs in the last 5 days before the expiration of the 45-day period for timely claims;
- (4) The attorney’s need to care for the attorney’s spouse or child with a serious illness or injury that prevents the spouse or child from working, attending school, or performing other regular daily activities for more than 3 consecutive days and occurs in the last 5 days before the expiration of the 45-day period for timely claims.

Any claim submitted pursuant to subparagraph (1) must be submitted within 45 days of the death of the attorney. Any claim submitted pursuant to subparagraph (2) must be submitted within 30 days of the death that caused the delay. Any claim submitted pursuant to subparagraph (3) or (4) must be submitted within 15 days of the end of the illness or injury that caused the delay. An attorney claiming an exception to the 45-day rule shall submit with the claim a letter explaining the applicable exception and written documentation supporting the exception.

ITEM 11. Rescind subrule 12.2(4) and adopt the following **new** subrule in lieu thereof:

12.2(4) Valid appointment required. Claims for compensation from an attorney appointed as counsel or guardian ad litem may be denied if the attorney was appointed contrary to Iowa Code section 814.11 or 815.10. Claims for which court-appointed counsel at state expense is not statutorily authorized or which are not payable from the indigent defense fund created by Iowa Code section 815.11 will be denied.

a. Appellate appointments. Claims for compensation from an attorney whose appointment as counsel or guardian ad litem at the appellate level does not comply with Iowa Code section 814.11 shall be denied.

b. Trial-level designations. Claims by an attorney whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after July 1, 2009, shall be denied if the state public defender filed a designation effective at the time of the appointment designating a local public defender, nonprofit corporation, or attorney to represent indigent persons in that type of case in the county in which the case was filed, unless the appointment order and any supporting documentation submitted with the claim demonstrate that:

- (1) The state public defender’s designee and any successor designee have withdrawn from the case or have been offered and declined to take the case; or
- (2) The state public defender’s designee and any successor designee would have withdrawn from or would have declined to take the case had the appointment been offered.

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c. Trial-level contract attorney preference. Claims by an attorney whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after February 1, 2012, shall be denied unless:

(1) At the time of the appointment, the attorney had a contract with the state public defender to represent indigent persons in that specific type of case and that county in which the action was pending; or

(2) The appointment order includes a specific finding that no attorney with a contract to represent indigent persons in that specific type of case and that county in which the action was pending is available or a finding that the state public defender was consulted and consented to the appointment; or

(3) After the appointment, the attorney entered into a contract with the state public defender, or amended the attorney's existing contract, to represent indigent persons in the specific type of case and the county in which the action was pending, in which case only the portion of the claim for the services performed prior to the effective date of the contract shall be denied.

ITEM 12. Rescind subrule 12.2(5) and adopt the following **new** subrule in lieu thereof:

12.2(5) Scope of appointment. Claims shall only be paid for services rendered and expenses incurred within the scope of the attorney's court appointment. Any other fees or expenses claimed will be denied.

a. Services prior to appointment. Claims for services rendered or expenses incurred prior to the effective date of the attorney's appointment are not payable within the scope of the attorney's appointment and shall be denied.

b. Representation of parents after termination of parental rights. Claims for services rendered or expenses incurred by an attorney for representing a parent in a child in need of assistance case or termination of parental rights case for work performed after the date on which the termination of that parent's parental rights becomes final, either on appeal or because no appeal was taken, are not payable within the scope of the attorney's appointment and shall be denied.

c. Guardian ad litem for children over the age of 18. Claims for services rendered or expenses incurred by a guardian ad litem for a child who is aged 18 or older and involved in a juvenile court proceeding are only within the scope of appointment if the court enters an order appointing the guardian ad litem for the limited purposes of continuing a relationship with the child and to provide advice to the child relating to the child's transition plan under Iowa Code section 232.2 beyond the child's eighteenth birthday. The appointment shall end on the date a court order relieving the guardian ad litem of further duties or the date of a court order closing the juvenile case, whichever occurs first, and claims for services rendered or expenses incurred after such date shall be denied. Neither a parent nor guardian of the child in interest is entitled to court-appointed counsel during the post-age 18 transition period.

ITEM 13. Rescind subrule 12.2(6) and adopt the following **new** subrule in lieu thereof:

12.2(6) Rate of compensation. Claims for compensation in excess of the applicable rate of compensation established by rule 493—12.4(13B,815) or in the attorney's contract with the state public defender are not payable and shall be reduced to the applicable rate of compensation.

ITEM 14. Rescind subrule 12.2(7) and adopt the following **new** subrule in lieu thereof:

12.2(7) Excessive claims. The amount of a claim for services provided or expenses incurred that is excessive shall be reduced by the state public defender to an amount which is not excessive. Only reasonable and necessary compensation and expenses will be approved for payment.

ITEM 15. Rescind subrule 12.2(8) and adopt the following **new** subrule in lieu thereof:

12.2(8) Review of claims after contract termination for improper billing practices. A claim submitted by an attorney whose contract with the state public defender is terminated for improper billing practice shall be paid only to the extent that the claim is supported by authentic, independent, written documentation originating from sources other than the attorney, even if such a claim would otherwise be payable under this chapter. Any portion of a claim for a service performed or expense incurred that is not independently verified by such documentation is not payable under the contract and shall be denied.

a. Acceptable documentation. Independent, written documentation that may support a claim for services performed or expenses incurred by the attorney includes, but is not limited to:

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(1) Affidavits of clients, witnesses, prosecutors, service providers, department of human services staff, court staff, or other persons who can verify that the attorney performed a service for a specific length of time on a specific day. Affidavits from employees of the attorney or the attorney's firm, family members of the attorney, or other attorneys within the same law firm as the attorney are not independent documentation and are insufficient to confirm a claim for a service performed or expense incurred.

(2) Court orders or other documents in the court file that verify the attorney's attendance at a court proceeding, as well as the date, time, duration, and location of the proceeding.

(3) Deposition transcripts and other records of the certified shorthand reporter that verify the attorney's attendance at a deposition, as well as the date, time, duration, and location of the deposition.

(4) Records of a jail or correctional facility that document the date, time, and duration of visits, telephone calls, or videoconferencing sessions with clients or witnesses in custody in the facility.

(5) Records of a telecommunication provider that verify the length of telephone calls, long-distance expenses, or fax expenses.

(6) Records of an online legal research service that document the date, time, duration, and nature of legal research performed.

(7) Calculations from mapping software, such as MapQuest or Google Maps, of the distance traveled to a location where a verified service was provided.

(8) Original printed receipts for expenses incurred.

b. Pending claims. Any claims submitted by an attorney that have not yet been approved by the state public defender when the attorney's contract with the state public defender is terminated for improper billing practices shall be returned to the attorney. The attorney may resubmit any claim returned in its entirety, or a portion thereof, within the time required by paragraph 12.2(3) "d," with the additional documentation required by this subrule confirming all time and expenses claimed on the itemization. The resubmitted claim shall be reviewed consistent with the requirements of this subrule. Any claim not resubmitted within the time required by paragraph 12.2(3) "d" shall be denied.

c. Court review. An attorney whose claim is denied or reduced pursuant to this subrule may seek court review of the state public defender's action on that claim by filing a motion for court review as provided for by rule 493—12.9(13B,815). But if the attorney has sought review of the state public defender's decision to terminate the attorney's contract for improper billing practices, the court shall stay proceedings on the attorney's motion until the attorney has exhausted all administrative remedies, final judgment has been entered in any judicial review action under Iowa Code chapter 17A, and any appeal of such judgment is decided. The final judgment of any judicial review action under Iowa Code chapter 17A regarding the termination of the attorney's contract conclusively determines the applicability of this subrule. If the attorney fails to seek judicial review of the state public defender's decision to terminate the attorney's contract, the state public defender's notice to the attorney that the state public defender is terminating the attorney's contract for improper billing practices is conclusive evidence that this subrule applies, and the attorney may not challenge the termination decision or the applicability of this subrule in the motion for review of the state public defender's action on the fee claim under rule 493—12.9(13B,815).

ITEM 16. Rescind subrule 12.2(9) and adopt the following **new** subrule in lieu thereof:

12.2(9) Approval of claims. Claims shall be forwarded to the department for final processing and payment only after the state public defender has determined that payment of the claim is appropriate under this chapter and under Iowa law. No payments shall be made from the indigent defense fund except with the authorization of the state public defender.

ITEM 17. Rescind subrules **12.2(10)** to **12.2(14)**.

ITEM 18. Amend rule 493—12.3(13B,815) as follows:

493—12.3(13B,815) Interim claims. Claims will be paid at the earlier of the conclusion of the case unless one of the following applies: or when legal representation of the client under the original court appointment is concluded, except as provided for in subrule 12.3(1), 12.3(2), 12.3(3), or 12.3(4).

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12.3(1) *Juvenile cases.* An initial claim for services in a juvenile case may be submitted after the dispositional hearing, if any. Subsequent claims may be submitted after each court hearing held in the case. A court hearing does not include family drug court, family team meetings, staffings or foster care review board hearings.

12.3(2) *Appellate cases.* A claim for work performed ~~to date by an attorney having an appellate contract with the state public defender~~ may be submitted in appellate cases after the filing of the attorney's proof brief. A subsequent claim may be submitted ~~at the conclusion of the case~~ after the procedendo is filed.

12.3(3) *Specific cases Class A felonies.* Interim claims in Class A felony cases may be submitted once every three months, with the first claim submitted at least 90 days following the effective date of the attorney's appointment.

12.3(4) *Change of employment.* ~~If an attorney is changing law firms, the attorney may submit a claim to end billing at one firm and start billing at the new firm. If payments are to be made to someone other than the law firm which the attorney is leaving, both the attorney and the law firm must advise the state public defender in writing that the attorney is leaving the firm and where the payments should be made.~~

12.3(5) 12.3(4) *Other cases.* In all other cases, claims filed prior to the conclusion of the case will not be paid except with prior written consent of the state public defender.

12.3(5) *Change of employment.* A change of employment is not a basis for submitting an interim claim. An attorney changing firms must wait to submit a claim until the conclusion of the case unless the attorney withdraws from the case or subrule 12.3(1), 12.3(2), or 12.3(3) applies. Because indigent defense contracts are with the attorney and not with the law firm, the state public defender shall send payments to whatever person or law firm the departing attorney directs.

12.3(6) *Approval of interim claims.* Approval of any interim claims shall not affect the right of the state public defender to review subsequent claims or the aggregate amount of the claims submitted.

ITEM 19. Rescind and reserve subrule **12.4(3)**.

ITEM 20. Rescind rule 493—12.5(13B,815) and adopt the following new rule in lieu thereof:

493—12.5(13B,815) Payable attorney time.

12.5(1) *Maximum daily hours.* An attorney appointed as counsel or guardian ad litem must not perform services for indigent persons or submit claims to the state public defender for payment for such services for more than 12 hours of the attorney's time in any calendar day except as provided in this subrule.

a. An attorney may perform services for indigent persons and submit claims to the state public defender for payment for such services for more than 12 hours and less than or equal to 16 hours in a calendar day if and only if the attorney is in trial or other contested court hearing lasting more than one day or the attorney is preparing for such a trial or hearing that will be occurring within the next seven days.

b. If an attorney performs services for indigent persons and submits claims to the state public defender for payment for such services for more than 12 hours and less than or equal to 16 hours in a calendar day, the attorney shall include with each claim form submitted to the state public defender that claims time for that date, even if the amount claimed on that claim form is less than 12 hours, a letter specifying the total hours worked for indigent persons, any additional time billed to other private clients on that date or certifying that no other time was billed to any other client, and explaining the need to work more than 12 hours.

c. Any time claimed by an attorney appointed as counsel or guardian ad litem in excess of 12 hours on a calendar day, except as permitted by this subrule, and any time claimed in excess of 16 hours on a calendar day, shall not be paid. If the time is claimed on multiple claims, the most recently submitted claim claiming time on a particular calendar day shall be reduced so as not to pay more than the maximum authorized daily hours. If more than the maximum authorized amount is inadvertently paid by the state public defender, the attorney shall reimburse the state public defender upon written notice of the improper payment.

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12.5(2) *Standardized and estimated billing prohibited.* All time submitted on the itemization of services must be the actual time worked providing services to the client. Attorneys are prohibited from using standardized billing estimates for tasks, such as billing 0.1 for every page of a document reviewed or 0.2 for every e-mail sent or received, or 1.0 hour for every court proceeding. Attorneys must also not use standardized billing for cases, such as billing the same set of standard tasks in every case regardless of whether the task was actually performed.

12.5(3) *Nonbillable time.* The following activities are not reasonable and necessary legal services for the indigent client, and therefore time and expenses for such activities are not payable under the attorney's appointment and will be denied:

a. Clerical work, including but not limited to opening and closing files; making photocopies; opening or sending mail; sending cover letters; transmitting copies of documents to a client, another party or clerk of court; sending faxes; picking up or delivering documents; drafting internal file memos; giving instructions to support staff; scheduling; or billing;

b. Preparation of motions to withdraw from a case, and other time related to withdrawing from a case, when the withdrawal is made in order to retire from the practice of law, discontinue or reduce indigent defense representation, pursue another job, or is otherwise for the attorney's personal benefit;

c. Overhead, including time spent managing the operations of the attorney's law practice, office lease payments, or support staff salaries;

d. Preparation of the fee claim, itemization of services, or other time-keeping activities;

e. Preparation of an application or proposed order to exceed the fee limitations, court time obtaining such an order, or review of the order granting or denying the application;

f. Preparation of a motion for judicial review of the state public defender's action on an attorney fee claim, preparation for or attendance at a hearing on such a motion, review of an order granting or denying the motion, preparation of appellate briefs or other documents in an appeal of such a court order, preparation for or participation in oral arguments in the appeal, or review of an appellate decision regarding such a court order.

12.5(4) *Travel time.* Time spent by an attorney or guardian ad litem traveling is only payable when the travel is reasonable and necessary to represent the indigent client and the attorney or guardian ad litem is traveling:

a. To and from the scene of a crime in a criminal case or juvenile delinquency proceeding;

b. To and from the location of a pretrial hearing, trial, or posttrial hearing in a criminal case if the venue has been changed from the county in which the crime occurred or if the location of the court hearing has been changed, without changing venue, to a different county for the convenience of the court;

c. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;

d. To and from the place of detention of a client in a juvenile delinquency or criminal case if the place of detention is located outside the county in which the action is pending;

e. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute to visit the placement and the placement is located in Iowa, but outside the county in which the case is pending;

f. To and from the location of the placement of a child in a juvenile case if the guardian ad litem is required by statute and court order to visit the placement and the placement is outside the state of Iowa;

g. To and from the location of a family team meeting at which the attorney is representing a parent who is also attending the meeting, if the place of the meeting is located outside the county in which the action is pending and the court approves that the location of the meeting is appropriate;

h. To and from a court of appeals or supreme court argument;

i. To and from the location where the deposition of an expert witness is being taken; or

j. To other locations for which travel authorization is obtained from the state public defender.

12.5(5) *Substitute counsel time.* Work performed by substitute counsel on behalf of an attorney appointed as counsel or guardian ad litem is payable only as provided for under this subrule. The appointed attorney is at all times personally responsible for the representation of the client and must ensure that substitute counsel is qualified to perform the work directed and that the client is effectively

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represented at all times. The appointed attorney is responsible for compensating substitute counsel. Claims for payment directly by substitute counsel or claims for payment by the appointed attorney that are inconsistent with this subrule shall be denied.

a. Court time. An attorney appointed as counsel or guardian ad litem must handle all court appearances unless the appointed attorney has an unavoidable scheduling conflict, illness, or other personal emergency, in which case the matter may be covered by substitute counsel. Unless substitute counsel appears for the sole purpose of alerting the court of the appointed attorney's unavailability and requesting a continuance, substitute counsel may not cover for the appointed attorney at a suppression hearing, final pretrial conference, trial, or sentencing in criminal cases, or a removal hearing, adjudication hearing, dispositional hearing, permanency hearing, termination of parental rights trial, or any other contested court proceeding in juvenile cases. Substitute counsel may never cover for oral arguments in appellate cases.

b. Out-of-court time. Substitute counsel may not perform out-of-court legal services, except that in a juvenile case substitute counsel may attend a department of human services staffing or family team meeting if appointed counsel has an unavoidable scheduling conflict, illness, or other personal emergency.

c. Exceptional circumstances. Substitute counsel may be used in situations that would otherwise be impermissible if the state public defender concludes that use of such substitute counsel would be in the best interest of the client and the administration of justice and provides prior written consent to the appointed attorney.

d. Supervisory time. Time spent by the appointed attorney directing, reviewing, or correcting the work of substitute counsel is not payable.

e. Qualification of substitute counsel. Unless the state public defender has given prior written consent to use the attorney as substitute counsel, substitute counsel must have an active contract with the state public defender to perform indigent defense services, although the contract need not cover the type of case or county of the case for which the claim is submitted.

f. Inapplicability to co-counsel in Class A felonies. The previous paragraphs of this subrule do not apply to a co-counsel who is separately appointed in a Class A felony. Each separately appointed co-counsel in a Class A felony shall submit a separate indigent defense fee claim that claims only the work actually performed by the appointed attorney submitting the claim. The use of substitute counsel is not permissible in a Class A felony in which co-counsel has been separately appointed.

ITEM 21. Rescind subrule 12.6(3) and adopt the following **new** subrule in lieu thereof:

12.6(3) Appellate cases. Except as otherwise provided in this rule with respect to simple misdemeanor appeals to the district court and juvenile petitions on appeal, there is no fee limitation established for appellate cases. Nothing in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

ITEM 22. Amend subrule 12.8(1) as follows:

12.8(1) The state public defender shall reimburse the attorney for the following out-of-pocket expenses incurred by the attorney in the case to the extent that the expenses are reasonable and necessary:

a. Mileage for automobile travel at the rate of ~~35~~ 39 cents per mile. The number of miles driven ~~must be listed in the itemization of services and each day shall be separately itemized on the itemization of services, specifying the date of the travel, the origination and destination locations, the total number of miles traveled that day and, if it is not otherwise clear from the itemization, the purpose of the travel. If the travel is to perform services for multiple clients on the same trip, the mileage must be split proportionally between each client and the itemization must note the manner in which the mileage is split. The total miles traveled for the case shall also be listed on the claim form.~~ Other forms of transportation costs incurred by the attorney ~~will~~ may be reimbursed only with prior approval from the state public defender.

b. The actual cost of lodging, limited by the state-approved rate, is reimbursed only if the attorney is entitled to be paid for travel time for the travel associated with the lodging and the attorney is required

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to be away from home overnight. An itemized receipt showing the expenses incurred must be attached to the claim form.

c. The actual cost of meals, limited by the state-approved rate, is reimbursed only if the attorney is entitled to be paid for travel time for the travel associated with these meals. An itemized receipt showing the expenses incurred must be attached to the claim form.

d. Necessary photocopying at the attorney's office at the rate of 10 cents per copy. The number of copies made each day must be listed separately itemized in the itemization of services. The total number of copies must also be listed ~~or~~ on the claim form.

e. Ordinary and necessary postage, toll calls, collect calls, and parking for the actual cost of these expenses. Toll and collect calls will be reimbursed at 10 cents per minute or the actual cost. A receipt for the actual cost of the toll or collect call must be attached to the claim form. A statement from a correctional facility or jail detailing a standard rate for such calls shall constitute a receipt for purposes of this paragraph. For parking in excess of \$2, a receipt must be attached to the claim form. Claims for the cost of a parking ticket will be denied. Unless a receipt is provided, any postage, toll calls, collect calls, or parking shall be separately itemized on the itemization of services, specifying the date on which the expense was incurred and, if it is not otherwise clear from the itemization, the purpose of the expense.

f. Receiving faxes in the attorney's office at the rate of 10 cents per page. There is no direct cost reimbursement for sending a fax unless there is a toll charge associated with it. Any fax charges claimed shall be separately itemized on the itemization of services, specifying the date on which the expense was incurred and, if it is not otherwise clear from the itemization, the purpose of the expense.

g. The actual cost of photocopying or faxing for which the attorney must pay an outside vendor. A receipt for the actual cost must be attached to the claim form.

h. Other claims for expenses such as process service, medical records, DVDs, CDs, videotapes, and ~~film~~ photographic printing will be reimbursed for the actual cost. A receipt or invoice from an outside vendor must be attached to the claim form.

i. Other specific expenses for which prior approval by the state public defender is obtained.

ITEM 23. Amend subrule 12.9(1) as follows:

12.9(1) *Motions for court review.* Court review of the action of the state public defender is initiated by the filing of a motion with the trial court requesting the review. The following conditions shall apply to all such motions:

a. The motion must be filed with the court within 20 days of the action of the state public defender. This time limit is jurisdictional and will not be extended by the filing of another claim, submitting a letter or e-mail requesting reconsideration, or obtaining a court order affecting the amount of the claim.

b. The motion must set forth each and every ground on which the attorney intends to rely in challenging the action of the state public defender.

c. The motion must have attached to it a complete copy of the claim, together with the notice of action or returned fee claim letter that the attorney seeks to have reviewed.

d. A copy of all documents filed must be provided to the state public defender.

e. It is unnecessary for the state public defender to file any response to the motion.

ITEM 24. Amend paragraph **12.9(2)“f”** as follows:

f. If a ruling is entered modifying the state public defender's action on the claim, the attorney must file a new claim with the state public defender within 45 days of the date of the court's order modifying the state public defender's action on the claim. A copy of the court's ruling and the original claim form and supporting documents must be attached to the claim form. The “date of service” ~~on the claim form~~ for such a claim is the date of the court's order.

ITEM 25. Adopt the following **new** subrule 12.9(4):

12.9(4) *Other court orders.* Any court order entered after the state public defender has taken action on a claim that affects that claim is void unless the state public defender is first notified and given an opportunity to be heard.

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ITEM 26. Amend rule 493—12.10(13B,815) as follows:

493—12.10(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the attorney, by the state public defender, by the department, or otherwise, the claimant shall reimburse the indigent defense fund for the amount of the overpayment. An overpayment shall be paid by check. The check, made payable to the “Treasurer, State of Iowa,” together with a copy of the payment voucher containing the overpayment or double payment, shall be mailed to the Office of the State Public Defender, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. ~~The attorney shall notify the clerk of court of the overpayment or double payment.~~

ITEM 27. Adopt the following new paragraph **13.2(1)“d”**:

d. Timely claims required. Claims for services are timely if submitted to the state public defender for payment within 45 days of completion of services in the case. Claims that are not timely will be denied.

ITEM 28. Amend paragraph **13.2(2)“d”** as follows:

d. ~~Claims for services completed before September 1, 2007, are timely if submitted to the state public defender for payment before October 15, 2007.~~ Timely claims required. Claims for services ~~completed after August 31, 2007, are timely if submitted to the state public defender for payment within 45 days of completion of services in the case.~~ Claims that are not timely submitted will be denied.

ITEM 29. Rescind paragraph **13.2(2)“e.”**

ITEM 30. Amend subparagraph **13.2(4)“b”(3)** as follows:

(3) Itemization of services. If the transcript is for a deposition, the itemization must include the ~~including~~ date of deposition, persons deposed, arrival and departure time at the deposition, number of pages and the cost per page, travel time and listing of any other charges. If the transcript is for an audio or video recording, the itemization must include a description of the recording being transcribed, the length of the recording transcribed, the number of pages and the cost per page, and a listing of any other charges.

ITEM 31. Amend subparagraphs **13.2(4)“d”(1) to (3), (6) and (7)** as follows:

(1) Hourly rate when no transcript ordered. Fees for attending depositions when no transcript is ordered will be paid at the rate of \$45 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. If multiple witnesses are deposed in a deposition session on a single day, this hourly rate shall only apply if no transcript is ordered for any of the witnesses. If the transcript is ordered for some of the witnesses, the hourly rate when a transcript is ordered shall apply for the entire deposition session.

(2) Hourly rate when transcript ordered. Fees for attending depositions when a transcript is ordered will be paid at the rate of \$35 per hour for the actual time the certified shorthand reporter is present at the depositions including setup and takedown of equipment. Fees for performing a transcription of an audio or video recording will be paid at the rate of \$35 per hour for the actual length of the recording transcribed.

(3) Travel time. Fees for travel time will be paid at the rate of \$15 per hour for travel outside of the county of the certified shorthand reporter’s office location. Travel time within the county of the certified shorthand reporter’s office location will not be paid. No travel time is payable for the delivery of a transcript or related to the transcription of an audio or video recording.

(6) Cancellation fees. No cancellation fees will be paid as long as the certified shorthand reporter is given notice of cancellation at least 24 hours before the time scheduled for a deposition. If the deposition is canceled with less than 24 hours’ notice, a fee for two hours or the actual time that the certified shorthand reporter is present at the site of the deposition including setup and takedown of equipment, whichever is greater, is payable at the rate set forth in subparagraph 13.2(4)“d”(1). A certified shorthand reporter is deemed to have been given notice of cancellation when an attorney or representative of the attorney delivers notice of a cancellation to the e-mail address provided by the certified shorthand reporter or leaves a message on voicemail or with a representative of the certified shorthand reporter

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at the telephone number provided by the certified shorthand reporter, not when the certified shorthand reporter actually hears or reads the message. No cancellation fee will be paid related to the transcription of an audio or video recording.

(7) Minimum time. One hour minimum, exclusive of travel time, will be paid for a deposition or transcription of an audio or video recording that takes less than one hour.

ITEM 32. Amend paragraph **13.2(4)“e”** as follows:

e. Timely claims required. Claims for services are timely if submitted to the state public defender for payment within 45 days of the date on which services are completed. For depositions, services are completed on the date the deposition transcript is delivered or on the date of disposition of the case if no transcript is ordered, whichever date is earlier. For trial transcripts or transcripts of an audio or video recording, services are completed on the date the trial transcript is delivered. Claims that are not timely shall be denied.

ITEM 33. Amend rule 493—13.5(13B,815) as follows:

493—13.5(13B,815) Payment errors. If an error resulting in an overpayment or double payment of a claim is discovered by the claimant, by the state public defender, by the department, or otherwise, the claimant shall reimburse the indigent defense fund for the amount of the overpayment. An overpayment or double payment shall be repaid by check. The check, made payable to “Treasurer, State of Iowa,” together with a copy of the payment voucher containing the overpayment or double payment, shall be mailed to the Office of the State Public Defender, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083. ~~The claimant shall notify the clerk of court of the overpayment or double payment.~~

ITEM 34. Rescind the definition of “Timely claim” in rule **493—14.2(13B,600A,815).**

ITEM 35. Amend rule 493—14.5(13B,600A,815) as follows:

493—14.5(13B,600A,815) Claims for attorney fees. ~~Claims for attorney fees shall be submitted on Juvenile claim forms.~~ Except as provided in this rule chapter, claims for attorney fees for representing the respondent in proceedings for termination of parental rights cases under Iowa Code chapter 600A shall be reviewed by the state public defender in the same manner as provided in 493—Chapter 12.

14.5(1) Claim forms. Claims for services provided at the trial level shall be submitted on a Juvenile claim form. Claims for services provided on appeal shall be submitted on an Appellate claim form. ~~For cases to which the attorney was appointed on or after May 5, 2005, the order of appointment must contain the following additional findings:~~

- ~~a.—The respondent requests appointment of counsel;~~
- ~~b.—Both the petitioner, or the person on whose behalf the petition is filed, and the respondent are indigent, unless the petitioner is a private child-placing agency as defined in Iowa Code section 238.2, in which case the petitioner need not be indigent;~~
- ~~c.—The respondent, because of lack of skill or education, would have difficulty in presenting the respondent’s version of a disputed set of facts, particularly when presentation requires the examining or cross-examining of witnesses or the offering or dissecting of complex documentary evidence; and~~
- ~~d.—The respondent has a colorable defense to the termination of parental rights, or there are substantial reasons that make termination of parental rights inappropriate.~~

14.5(2) Required documents. ~~For cases to which the attorney was appointed on or after May 5, 2005, in~~ In addition to the other requirements provided in 493—Chapter 12, the attorney shall submit a copy of both the petitioner’s and respondent’s financial affidavit and any order of the juvenile court determining that the state public defender rather than the petitioner is responsible for payment of the respondent’s attorney fees must accompany the claim.

14.5(3) The provisions for review of the state public defender’s action provided in 493—Chapter 12 shall apply to claims submitted under this chapter.

14.5(4) If the petitioner or prospective parent is responsible for payment of the indigent respondent’s attorney fees and expenses, the state public defender does not receive, review, or pay the fee claim. Any

STATE PUBLIC DEFENDER[493](cont'd)

such claims submitted to the state public defender will be returned to the attorney who submitted the claim.

ARC 1438C

STATE PUBLIC DEFENDER[493]**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 13B.4(8), the State Public Defender hereby gives Notice of Intended Action to amend Chapter 11, “Attorney Fee Contracts,” Iowa Administrative Code.

These proposed amendments establish minimum qualification requirements for attorneys contracting with the State Public Defender to provide legal services to indigent persons. This change is intended to better ensure that all indigent persons are provided competent and effective counsel, while still providing new attorneys the opportunity to participate in the indigent defense system on less serious cases. The proposed amendments also update provisions regarding the termination of contracts to permit termination on less than 30 days’ notice with the mutual consent of the parties and to authorize a review procedure for terminations on the basis of improper billing practices, and make several technical corrections to the chapter.

Any interested person may make written suggestions or comments on the proposed amendments on or before May 20, 2014. Such written comments should be sent to Kurt Swaim, First Assistant State Public Defender, Fourth Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319, or by fax to (515)281-7289 or e-mail at kswaim@spd.state.ia.us.

A public hearing will be held on May 20, 2014, at 1:30 p.m. in Conference Room 424, Fourth Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

After analysis and review of this rule making, no adverse impact on jobs has been found. The amendments were developed in collaboration with stakeholder groups to minimize any adverse impact on stakeholders.

These amendments are intended to implement Iowa Code chapter 13B.

The following amendments are proposed.

ITEM 1. Amend rule 493—11.2(13B) as follows:

493—11.2(13B) Contracts. An attorney may enter into a contract with the state public defender for the provision of legal services to indigent persons ~~at either the trial level or the appellate level. Nothing in this rule is intended to imply that an attorney may not have both a contract for trial court work and a contract for appellate work.~~

11.2(1) Eligibility. To be eligible to contract with the state public defender, an attorney must be licensed to practice law in the state of Iowa and must meet the minimum qualification requirements for contracting as set forth in rule 493—11.3(13B) for the types of cases for which the attorney is contracting.

11.2(2) Contract copy. A copy of an original contract is available from the Office of the State Public Defender, Lucas State Office Building, Des Moines, Iowa 50319-0087, by telephoning (515)242-6158, or on the Web at <http://spd.iowa.gov>.

STATE PUBLIC DEFENDER[493](cont'd)

11.2(3) *Notice of contract opportunities.* The state public defender will give notice to attorneys of the availability of contracts for indigent defense legal services in a manner reasonably calculated to make attorneys aware of the availability of the contracts.

11.2(4) *Contract types.* Unless the attorney and state public defender agree in writing to a contract covering a different type of case, the contract shall cover one or more of the following categories of case types:

- a. Juvenile cases, including juvenile petitions on appeal;
- b. Appellate cases, including direct appeals of criminal cases, appeals from postconviction relief proceedings, and any other case for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level;
- c. Postconviction relief cases at the trial level;
- d. Class A and B felony cases at the trial level;
- e. Class C and D felony cases at the trial level, and Class A felony cases in which another attorney who meets the minimum requirements for such cases is also appointed as the lead counsel;
- f. Misdemeanor cases, probation and parole revocation cases, contempt proceedings, and any other adult criminal or civil cases for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level.

11.2(5) *Written approval required.* A contract can only be in force and effect when a contract acceptance form is signed by the contracting attorney and approved by the state public defender. The approved contract is only effective for those types of cases and those counties requested by the attorney and approved by the state public defender in writing on the acceptance and approval form, renewal form, or a subsequent written amendment. Nevertheless, a contract covering appellate cases is effective for all 99 counties.

11.2(6) *Independent contractor.* The contracting attorney shall be an independent contractor and shall not be an agent or employee of the state of Iowa. The attorney shall exercise the attorney's best independent professional judgment on behalf of clients to whom the attorney is assigned.

11.2(7) *Notification to clerks.* On a monthly basis, the state public defender shall notify the clerks of court in each county of those attorneys who have an approved contract for each type of case in each respective county.

11.2(8) *Contract terms.* A contract between the state public defender and an attorney shall cover, but is not limited to, the following subjects:

- a. The types of cases in which the attorney is to provide services;
- b. The counties in which the attorney is to provide services;
- c. The term of the contract and the responsibility of the attorney for provision of services in cases undertaken pursuant to the contract;
- d. Identification of the attorney who will perform legal representation under the contract;
- e. A prohibition against assignment of the obligations undertaken pursuant to the contract and a description of the manner in which temporary substitute counsel may be utilized;
- f. The qualifications of the contracting attorney to undertake legal representation pursuant to the contract;
- g. A description of the compensation to be paid and the manner of payment;
- h. A description of any expenses which may be provided under the contract;
- i. A description of the record-keeping and reporting requirements under the contract;
- j. A description of the manner in which the contract may be terminated;
- k. A description of the manner of disposition of ongoing obligations following termination of the contract.

11.2(9) *Compensation.* Unless the contract provides for a different rate or manner of payment, the attorney shall be compensated as set forth in rule 493—12.4(13B,815).

11.2(10) *Contract form.* Unless the attorney and state public defender agree in writing to vary the terms of the contract between them, the terms contained in the Indigent Defense Legal Services Contract No. 493-14 shall constitute the agreement between the parties for the provision of legal services.

STATE PUBLIC DEFENDER[493](cont'd)

11.2(11) *No guarantee of appointments.* An attorney under contract with the state public defender is not guaranteed any minimum number of court appointments. The process by which attorneys under contract with the state public defender are appointed to specific cases is governed by Iowa Code chapters 814 and 815. The state public defender shall retain sole authority to determine the length of each contract or contract renewal.

ITEM 2. Rescind rule 493—11.3(13B) and adopt the following **new** rule in lieu thereof:

493—11.3(13B) Attorney minimum qualifications. To be eligible to contract with the state public defender for a type of case after January 1, 2015, the attorney must meet the minimum qualification requirements established by this rule for the particular type of case. Prior to contracting with the state public defender, an attorney shall certify the attorney's compliance with these requirements and, prior to renewal of the contract, shall certify compliance with any ongoing requirements. Satisfying these minimum requirements does not guarantee an attorney a contract with the state public defender. The state public defender retains the discretion to deny or terminate contracts if the state public defender determines that such action is in the best interests of the state.

11.3(1) *Juvenile cases.* To be eligible to contract to represent indigent persons in juvenile cases, including juvenile petitions on appeal, an attorney must be in compliance with Rule 8.36 of the Iowa Rules of Juvenile Procedure, regardless of whether the attorney seeks to represent parents or children or serve as guardian ad litem in juvenile court. An attorney contracting to represent indigent persons in juvenile cases must:

- a. Participate in three hours of continuing legal education related to juvenile court proceedings prior to contracting with the state public defender; and
- b. Continue to participate in three hours of continuing legal education related to juvenile court proceedings each year.

11.3(2) *Appellate cases.* To be eligible to contract to represent indigent persons in appellate cases, including direct appeals of criminal cases, appeals from postconviction relief proceedings, and any other case for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level, an attorney must:

- a. Participate in the basic criminal appeals training sponsored by the state public defender within one year of entering into the contract, unless the attorney has already handled a criminal appeal in Iowa state court; and
- b. Participate in three hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract.

11.3(3) *Postconviction relief cases.* To be eligible to contract to represent indigent persons in postconviction relief cases at the trial level, an attorney must:

- a. Have practiced criminal law or served as a judicial law clerk for two years or more in any state or federal court;
- b. Have tried at least one criminal jury trial to completion as lead counsel;
- c. Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract;
- d. Participate in a postconviction relief basic training sponsored by the state public defender prior to entering into the contract, unless the attorney has previously handled at least three postconviction relief proceedings to completion; and
- e. Provide the names of at least three judges or magistrates who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in postconviction relief cases.

An attorney who has met all requirements except for the jury trial requirement set forth in paragraph 11.3(3) "b" may provide the state public defender additional detail regarding the attorney's experience and qualifications and the circumstances preventing the attorney from obtaining jury trial experience and may be approved for contracting by the state public defender at the state public defender's sole discretion.

11.3(4) *Class A and B felonies.* To be eligible to contract to represent indigent persons in Class A and Class B felony cases at the trial level, an attorney must:

STATE PUBLIC DEFENDER[493](cont'd)

- a.* Have practiced criminal law for four years or more in any state or federal court;
- b.* Have tried at least five criminal jury trials to completion as lead counsel;
- c.* Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and
- d.* Provide the names of at least three judges or magistrates, one of whom must be a judge before whom the attorney has tried a criminal jury trial, who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in Class A and Class B felony cases.

If an attorney satisfies the requirements for Class C and Class D felonies, the attorney may contract to serve as the second attorney representing an indigent person in a Class A felony in a case where the first appointed attorney meets these requirements.

11.3(5) *Class C and D felonies.* To be eligible to contract to represent indigent persons in Class C and Class D felony cases at the trial level, an attorney must:

- a.* Have practiced criminal law for two years or more in any state or federal court;
- b.* Have tried at least one criminal jury trial to completion as lead counsel;
- c.* Participate in five hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract and in the year prior to entering into the contract; and
- d.* Provide the names of at least three judges or magistrates, one of whom must be a judge before whom the attorney has tried a criminal jury trial, who can discuss the qualifications and effectiveness of the attorney to represent indigent persons in felony cases.

An attorney who has met all requirements except for the jury trial requirement set forth in paragraph 11.3(5) “*b*” may provide the state public defender additional detail regarding the attorney’s experience and qualifications and the circumstances preventing the attorney from obtaining jury trial experience and may be approved for contracting by the state public defender at the state public defender’s sole discretion.

11.3(6) *Misdemeanor and other cases.* To be eligible to contract to represent indigent persons in misdemeanor cases, probation and parole revocation cases, contempt proceedings, and any other adult criminal or civil cases for which counsel is statutorily authorized to be paid from the indigent defense fund at the trial level, an attorney must:

- a.* Participate in the basic criminal defense training sponsored by the state public defender within one year of entering into the contract, unless the attorney already has an active indigent defense contract or has practiced criminal law for more than two years; and
- b.* Participate in three hours of continuing legal education related to criminal law each calendar year in which the attorney has an active indigent defense contract.

11.3(7) *Amended charges.* An attorney who is appointed to a case that is initially within the scope of the attorney’s contract but is subsequently amended to contain more serious charges that are outside the scope of the attorney’s contract shall request that the court authorize the attorney’s withdrawal from the case and appoint an attorney with a contract that covers the amended charges in the county in which the action was pending unless the court determines that no such attorney with an applicable contract is available or the state public defender consents to the continued representation by the original attorney.

ITEM 3. Amend subrule 11.4(1) as follows:

11.4(1) The state public defender or a person designated by the state public defender may confer with judges, attorneys and others with knowledge of a potential contracting attorney’s competence, effectiveness, trustworthiness, compliance with the minimum qualification requirements set forth in rule 493—11.3(13B), and ability to provide services to eligible individuals; and may conduct such additional investigation as deemed warranted in the sole discretion of the state public defender. The information received may be taken into consideration in determining whether it would be in the best interests of the state to enter into an initial or renewal contract with the potential contracting attorney.

STATE PUBLIC DEFENDER[493](cont'd)

ITEM 4. Rescind and reserve rule **493—11.5(13B)**.

ITEM 5. Amend rule 493—11.6(13B) as follows:

493—11.6(13B) Contract renewal. Prior to renewal of any contract, the state public defender may contact judges, attorneys, court personnel, and others to determine if any existing contract is being properly fulfilled and may conduct such additional investigation as is described in rule 493—11.4(13B). If the state public defender has determined that a contract renewal is in the best interests of the state, the state public defender may offer a new contract to the contracting attorney. The contracting attorney may accept the new contract by signing the contract renewal and returning it to the state public defender within 30 days of the date on which the contract is submitted to the contracting attorney prior to the date that the existing contract expires. If the contracting attorney does not sign and return the contract renewal, the contract shall terminate on its expiration date without regard to whether the contracting attorney receives any further notice. If a contracting attorney is not offered a contract renewal, the state public defender shall give the contracting attorney written notice of this action. The attorney may seek reconsideration of this decision in the manner prescribed in rule 493—11.9(13B).

ITEM 6. Amend subrule 11.7(2) as follows:

11.7(2) Termination for cause.

a. License suspension or revocation. A contract for indigent defense shall automatically terminate without notice upon the suspension or revocation of the attorney's license to practice law in the state of Iowa.

b. Default. The state public defender may issue a notice of default based on any of the grounds described in rule 493—11.8(13B). A notice of default shall state the grounds of default and, if feasible, request that the contracting attorney remedy the default within 10 days of the date of the notice. If the events triggering the notice of default continue to be evidenced more than 10 days beyond the date of written notice, the state public defender may immediately terminate the contract without further notice by issuing a notice of termination. An attorney may seek reconsideration of the state public defender's decision to terminate a contract based on the attorney's default in the manner described in rule 493—11.9(13B).

c. Improper billing practices. The state public defender may notify the attorney that the state public defender is considering the exercise of the state public defender's contract right to terminate the contract for improper billing practices. The notification shall explain the basis for the state public defender's concern and provide the attorney at least 14 days to provide a response. After consideration of the response, the state public defender may terminate the contract for improper billing practices if the state public defender determines that the attorney has engaged in a pattern of willful, intentional, reckless, or negligent submission of false fee claims. An attorney may seek reconsideration of the state public defender's decision to terminate a contract for improper billing practices in the manner described in rule 493—11.9(13B).

ITEM 7. Adopt the following **new** subrule 11.7(3):

11.7(3) Termination by mutual consent. Upon the mutual consent, confirmed in writing, of the state public defender and the contracting attorney, the contract may be terminated on less than 30 days' notice. Such termination may affect the entire contract or may relate solely to a particular county or geographical area or to a particular type of case.

ITEM 8. Amend rule 493—11.8(13B) as follows:

493—11.8(13B) Grounds to deny or terminate a contract. In determining whether the award, renewal, or termination of a contract is in the best interests of the state, the state public defender may take into consideration factors such as, but not limited to, the following:

1. The attorney's eligibility for contracting pursuant to rule 493—11.2(13B) for the type of case in which the attorney is to provide services or the attorney's failure to comply with such requirements;

4. 2. The attorney's compliance with the terms of an existing or prior contract to represent indigent persons;

STATE PUBLIC DEFENDER[493](cont'd)

- ~~2.~~ 3. Any form of dishonesty or deception directed to judicial officials, the state public defender, indigent persons, other clients, or any other person in the practice of law;
- ~~3.~~ 4. Unprofessional or unethical conduct, or other act or omission that is or may be detrimental or harmful to indigent representation;
- ~~4.~~ 5. An attorney's failure to attend, or untimely attendance at, hearings, depositions, or other case-related proceedings;
- ~~5.~~ 6. An attorney's failure to abide by a court order, applicable statutes or administrative rules governing indigent representation, or local or state rules of procedure applicable to the cases in which the attorney has been appointed;
- ~~6.~~ 7. Repetitive, willful, deceptive, unexplained or uncorrected errors in claims for fees;
- ~~7.~~ 8. Disciplinary action against a legal or other professional license or conviction of a crime in any jurisdiction when the disciplinary action or conviction implicates an attorney's honesty, trustworthiness, or competence to practice law, or is otherwise related to the practice of indigent defense;
- ~~8.~~ 9. Use of alcohol or controlled substances during court proceedings or in a manner impairing competent performance;
- ~~9.~~ 10. Judicial orders or rulings finding that an attorney engaged in untruthful, incompetent, unprofessional, or unethical behavior in the practice of indigent defense, submission of fee claims, or otherwise in the practice of law; or
- ~~10.~~ 11. Any other behavior implicating an attorney's competence, effectiveness, or trustworthiness in the practice of indigent defense.

ITEM 9. Amend subrule 11.11(1) as follows:

11.11(1) The final decision by the state public defender to deny an attorney's request to enter into an initial or renewal contract for indigent representation, ~~or to terminate such a contract for cause following issuance of a notice of default, or to terminate such contract for improper billing practices~~ is reviewable pursuant to Iowa Code chapter 17A.

ARC 1449C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to rescind Chapter 122, "Keep Iowa Beautiful Program," Iowa Administrative Code.

2004 Iowa Acts, chapter 1175, section 436, repealed Iowa Code section 422.12A, and 2010 Iowa Acts, chapter 1193, section 160, repealed Iowa Code section 422.12G. These two repealed Iowa Code sections relate to the income tax refund check off and were the funding source for the Keep Iowa Beautiful Program. The Department's rules concerning the Keep Iowa Beautiful Program are no longer necessary since all of the funds have been used for the identified projects and there is no longer money available for cities or nonprofit organizations to beautify their communities.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.

TRANSPORTATION DEPARTMENT[761](cont'd)

4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail tracy.george@dot.iowa.gov.

5. Be received by the Office of Policy and Legislative Services no later than May 20, 2014.

A meeting to hear requested oral presentations is scheduled for Thursday, May 22, 2014, at 10 a.m. at the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

This amendment is intended to implement 2004 Iowa Acts, chapter 1175, section 436, and 2010 Iowa Acts, chapter 1193, section 160.

The following amendment is proposed.

Rescind and reserve **761—Chapter 122**.

ARC 1433C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 21, "Community Colleges," Iowa Administrative Code.

These amendments clarify expectations for courses that community colleges operate for drivers who have violated operating while intoxicated laws. The amendments include changing the length of the program day, allowing for additional locations where courses may be held, and eliminating one-day courses.

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

Notice of Intended Action was published in the February 19, 2014, Iowa Administrative Bulletin as **ARC 1340C**. Public comments were allowed until 4:30 p.m. on March 11, 2014. A public hearing was held on that date. No person appeared at the public hearing. No written or oral comments were received from the public.

These amendments are changed from those published under Notice, in that the proposed changes to out-of-state courses were not adopted. Changes were made in subrule 21.31(3) following discussion at the Administrative Rules Review Committee meeting about how out-of-state OWI credit shall be administered in Iowa.

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

These amendments are intended to implement Iowa Code section 321J.22.

These amendments shall become effective June 4, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 281—21.30(321J) as follows:

281—21.30(321J) Purpose. ~~The purpose of the~~ instructional course for drinking drivers is designed to inform the offender about drinking and driving and encourage the offender to assess the offender's own drinking and driving behavior in order to select practical alternatives.

ITEM 2. Amend rule 281—21.31(321J) as follows:

281—21.31(321J) Course.

21.31(1) A course provided in accordance with Division III of this chapter shall be offered on a regular basis at each community college or by a substance abuse treatment program licensed under Iowa Code chapter 125. However, a community college shall not be required to offer the course if a substance abuse treatment program licensed under Iowa Code chapter 125 offers the course within the merged area served by the community college. A course provided in accordance with Division III of this chapter may be offered at a state correctional facility listed in Iowa Code section 904.102.

~~21.31(2) A course provided in accordance with Division III of this chapter may be offered at a state correctional facility listed in Iowa Code section 904.102.~~ The department of education shall maintain a listing of all providers of approved courses in the state and publish this listing on the department's Web site.

~~21.31(3) A course provided in accordance with Division III of this chapter may be offered by a provider in another state when the course and its provider are approved by the department of education pursuant to 2011 Iowa Acts, Senate File 470. Individuals who reside outside the state of Iowa and who are required by the state of Iowa to take a course for drinking drivers shall have the opportunity to take the course in another state, provided:~~

a. The out-of-state course is comparable to those courses approved to be offered in the state of Iowa.

b. The course is delivered in a classroom setting and not online.

21.31(4) Enrollment in the course is not limited to persons ordered to enroll, attend, and successfully complete the course required under Iowa Code sections 321J.1 and 321J.17, subsection 2. ~~However, any~~

EDUCATION DEPARTMENT[281](cont'd)

Any person under the age of 18 who is required to attend the courses for violation of Iowa Code section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under Iowa Code chapter 125.

21.31(5) ~~Any~~ An instructional course shall be approved by the department of education in consultation with the community colleges, substance abuse treatment programs licensed under Iowa Code chapter 125, the Iowa department of public health, and the Iowa department of corrections. The course shall be delivered in a classroom setting with at least 12 hours of instructional time delivered over a minimum of a two-day period. The course may be offered in blocks not to exceed 4 hours with a minimum of a 30-minute break between blocks. Each student in the class shall receive an individual workbook, and workbooks shall not be reused. The course shall be taught by an instructor certified by the curriculum provider to teach the course. Each course of instruction shall establish the following:

a. An understanding that alcohol-related problems could happen to anyone and that a person's drinking choices matter. The course illustrates common views of society that prevent people from taking drinking choices seriously. Research is presented to challenge common views with an understanding that alcohol problems are related to lifestyle choices.

b. An understanding that specific low-risk choices will help reduce the risk of experiencing alcohol-related problems at any point in life. The course presents research-based, low-risk guidelines.

c. Methods of providing support for making low-risk choices.

d. An accurate description of the progression of drinking to the development of alcoholism to help people weigh the risk involved with high-risk drinking and to see how high-risk choices may jeopardize their lives and the lives of others.

e. Opportunities to develop a specific plan of action to follow through with low-risk choices. A list of community resources is provided for ongoing support and treatment as needed.

ITEM 3. Amend rule 281—21.32(321J) as follows:

281—21.32(321J) Tuition fee established.

~~1. 21.32(1) Each person enrolled in an instructional course for drinking drivers shall pay to the community college, or a substance abuse treatment program licensed under Iowa Code chapter 125, or a state correctional facility a tuition fee of \$85 for the approved 12-hour course, plus a reasonable book fee or \$185 for the court-ordered approved 28-hour weekend course, plus a reasonable book fee. For the court-ordered approved 28-hour weekend course, the community college or the substance abuse treatment program licensed under Iowa Code chapter 125 shall set a reasonable fee for lodging, meals, and security. The court may allow an offender to combine the required course with a program that incorporates jail time. Reasonable fees may be assessed for costs associated with lodging, meals, and security.~~

~~2. 21.32(2) A person shall not be denied enrollment in a course by reason of a person's indigency. For court-ordered placement, the court shall determine a person's indigency. In all other instances, the community college, substance abuse treatment program licensed under Iowa Code chapter 125, or state correctional facility shall determine indigence upon application.~~

ITEM 4. Amend rule 281—21.33(321J) as follows:

281—21.33(321J) Administrative fee established.

~~21.33(1) Students enrolled in Iowa. Beginning January 1, 2003, each~~ Each person enrolled in Iowa in an instructional course for drinking drivers under this chapter shall be charged an administrative fee of \$10. This fee is in addition to tuition and shall be collected by the provider of the instructional course in conjunction with the tuition fee established under 281—21.32(321J). The administrative fee shall be forwarded to the department of education on a quarterly basis as prescribed by the department. If a student has been declared by the court as indigent, no administrative fee will be charged to that student.

~~21.33(2) Students enrolled in another state. Beginning January 1, 2004, each~~ Each person enrolled outside the state of Iowa in an instructional course for drinking drivers under this chapter shall be charged an administrative fee of \$25. This fee is in addition to tuition and shall be paid directly to the

EDUCATION DEPARTMENT[281](cont'd)

department of education by the student. Upon payment of the fee, the department of education shall review the educational component of the course taken by the student and shall inform the department of transportation whether the educational component is approved by the department of education.

ITEM 5. Adopt the following new rule 281—21.34(321J):

281—21.34(321J) Advisory committee. A drinking driver education advisory committee shall be established by the department of education to serve in an advisory capacity to the department of education in matters relevant to the instructional course for drinking drivers. Membership on this committee shall include representatives from agencies currently offering the instructional course for drinking drivers and may include other stakeholders.

ITEM 6. Amend **281—Chapter 21**, Division III implementation sentence, as follows:

The rules in this division are intended to implement Iowa Code section 321J.22 ~~as amended by 2008 Iowa Acts, House File 2651, section 16.~~

[Filed 4/2/14, effective 6/4/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1432C

EDUCATION DEPARTMENT[281]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 58, "School Breakfast and Lunch Program; Nutritional Content Standards For Other Foods and Beverages," Iowa Administrative Code.

This amendment replaces the current chart and explanation concerning how Iowa schools sell food and beverage items à la carte, in vending machines and in school stores, excluding reimbursable school lunches and breakfasts and concession stands. Pursuant to the Healthy Iowa Kids Act, a group comprised of representatives of Iowa education officials and Iowa business groups gathered to conduct a five-year review of the current rules. The group's recommendations are reflected in the chart adopted herein.

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

Notice of Intended Action was published in the February 19, 2014, Iowa Administrative Bulletin as **ARC 1341C**. Public comments were allowed until 4:30 p.m. on March 11, 2014. A public hearing was held on that date, with three persons in attendance. Those in attendance did not state any opinions on the rule but were present to monitor the hearing as well as to have a few questions answered. No written comments were received. Concerns were shared at the March meeting of the Administrative Rules Review Committee, and the format of the rule adopted herein is intended to address those concerns.

The rule adopted herein has been formatted to present nutritional content standards in chart form as opposed to adoption of only a reference to standards adopted by the USDA. The Department of Education elected to adopt this rule in a format preferred by Committee members and in order to make clear the content of the material being presented.

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

This amendment is intended to implement Iowa Code chapter 283A and sections 256.7(29), 256.9(59) and 256.9(60).

This amendment shall become effective June 4, 2014.

The following amendment is adopted.

EDUCATION DEPARTMENT[281](cont'd)

Rescind rule 281—58.11(256) and adopt the following new rule in lieu thereof:

281—58.11(256) Nutritional content standards.

Foods Table		
Nutrient	Allowable à la Carte, Vending, and Regulated Fundraising Items	Exemptions
General Standards for Competitive Food	<p>To be allowable, a competitive food item must meet all of the competitive food nutrient standards AND:</p> <ol style="list-style-type: none"> 1. Be a grain product that contains 50% or more whole grains by weight or have whole grain as the first ingredient*; OR 2. Have as the first ingredient* one of the non-grain main food groups: fruits, vegetables, dairy, or protein foods (meat, beans, poultry, seafood, eggs, nuts, seeds, etc.); OR 3. Be a combination food that contains at least ¼ cup fruit and/or vegetable; OR 4. Only through July 1, 2016, the food may qualify by containing 10% of the Daily Value (DV) of a nutrient of public health concern (i.e., calcium, potassium, vitamin D, or dietary fiber). <p>*If water is the first ingredient, the second ingredient must be one of the items in 1, 2, or 3 above.</p>	<p>Any entrée item offered as part of the lunch program or the breakfast program is exempt from all competitive food standards if it is sold as a competitive food on the day of service or the day after service.</p> <p>Fresh fruits and vegetables with no added ingredients except water are exempt from all nutrient standards.</p> <p>Canned and frozen fruits with no added ingredients except water or that are packed in 100% juice, extra light syrup, or light syrup are exempt from all nutrient standards.</p> <p>Canned vegetables with no added ingredients except water or that contain a small amount of sugar for processing purposes to maintain the quality and structure of the vegetable are exempt from all nutrient standards.</p>
Calories	<p>Snack items and side dishes sold à la carte: ≤200 calories per item as served, including any added accompaniments</p> <p>Entrée items sold à la carte: ≤350 calories per item as served, including any added accompaniments</p>	<p>Entrée items served are exempt on the day of or day after service in the program meal.</p>
Sodium	<p>Snack items and side dishes sold à la carte: ≤230 mg sodium per item as served</p> <p>Effective July 1, 2016, snack items and side dishes sold à la carte must be ≤200 mg sodium per item as served, including any added accompaniments.</p> <p>Entrée items sold à la carte: ≤480 mg sodium per item as served, including any added accompaniments/condiments</p>	<p>Entrée items served are exempt on the day of or day after service in the program meal.</p>

EDUCATION DEPARTMENT[281](cont'd)

Foods Table		
Nutrient	Allowable à la Carte, Vending, and Regulated Fundraising Items	Exemptions
Saturated Fats	<10% calories from saturated fat as served	<p>Entrée items served are exempt on the day of or day after service in the program meal.</p> <p>Reduced fat cheese (including part-skim mozzarella).</p> <p>Nuts and seeds and nut/seed butters.</p> <p>Products consisting of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fats.</p> <p>Combination products when sold beyond day of service or day after service are not exempt and must meet all the nutrient standards.</p>
Trans Fat	≤0.5 g per portion	
Total Fats	≤35% calories from total fat as served	<p>Entrée items served are exempt on the day of or day after service in the program meal.</p> <p>Reduced fat cheese (including part-skim mozzarella).</p> <p>Nuts and seeds and nut/seed butters.</p> <p>Products consisting of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fats.</p> <p>Seafood with no added fat.</p> <p>Combination products when sold beyond day of service or day after service are not exempt and must meet all the nutrient standards.</p>
Sugar	≤35% of weight from total sugar as served	<p>Entrée items served are exempt on the day of or day after service in the program meal.</p> <p>Dried whole fruits or vegetables; dried whole fruit or vegetable pieces; and dehydrated fruits or vegetables with no added nutritive sweeteners.</p> <p>Dried whole fruits, or pieces, with nutritive sweeteners that are required for processing and/or palatability purposes (i.e., cranberries, tart cherries or blueberries).</p> <p>Products consisting of only exempt dried fruit with nuts and/or seeds with no added nutritive sweeteners or fats.</p>
Dietary Fiber/ Whole Grain	≥50% whole grains by weight or have whole grains as the first ingredient	
Sugar-Free Chewing Gum		Sugar-free chewing gum is exempt from all competitive food standards.
Accompaniments/ Condiments	Must be included in the nutrient profile as part of the food item served and meet all standards	

EDUCATION DEPARTMENT[281](cont'd)

Beverages Table		
Beverage	Allowable à la Carte, Vending, and Regulated Fundraising Items	Exemptions
Milk	Lowfat milk, unflavored, or nonfat milk, flavored or unflavored, including nutritionally equivalent milk alternatives as permitted by NSLP*: <ul style="list-style-type: none"> Elementary School ≤8 fl oz Middle and High School ≤12 fl oz 	
Fruit/Vegetable Juice	100% fruit/vegetable juice, or 100% fruit/vegetable juice diluted with water (with or without carbonation) and no added sweeteners: <ul style="list-style-type: none"> Elementary School ≤8 fl oz Middle and High School ≤12 fl oz 	
Water	Plain or plain carbonated water in any size	
Caffeine	<ul style="list-style-type: none"> Elementary and Middle School: Foods and beverages must be caffeine-free with the exception of trace amounts of naturally occurring caffeine substances. High School: Foods and beverages may contain caffeine. 	
Other Flavored and/or Carbonated Beverages	<ul style="list-style-type: none"> Elementary or Middle School: None allowed. High School: <ul style="list-style-type: none"> Contain ≤5 calories per 8 fl oz, or ≤10 calories per 20 fl oz in sizes ≤20 fl oz Contain ≤40 calories per 8 fl oz, or ≤60 calories per 12 fl oz in sizes ≤12 fl oz 	

*National School Lunch Program

[Filed 4/1/14, effective 6/4/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1434C**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 79, "Standards for Practitioner and Administrator Preparation Programs," Iowa Administrative Code.

This amendment allows prospective teaching candidates an alternate measure of testing to demonstrate their competence in pedagogy and content. The status quo will continue as an option, but this amendment also allows for the inclusion of a second test, chosen by the Director, for prospective teaching candidates. With passage at that level, a candidate who passes either test will be eligible for Iowa licensure.

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

Notice of Intended Action was published in the February 19, 2014, Iowa Administrative Bulletin as **ARC 1339C**. Public comments were allowed until 4:30 p.m. on March 11, 2014. A public hearing was held on that date. No person appeared at the public hearing. No written or oral comments were received.

The only change from the amendment published under Notice is the correction of the effective date in the final sentence of paragraph 79.15(7)"a."

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

EDUCATION DEPARTMENT[281](cont'd)

This amendment is intended to implement Iowa Code section 256.16.

This amendment will become effective June 4, 2014.

The following amendment is adopted.

Amend paragraph **79.15(7)“a”** as follows:

a. Content/subject matter specialization. The candidate demonstrates an understanding of the central concepts, tools of inquiry, and structure of the discipline(s) the candidate teaches and creates learning experiences that make these aspects of the subject matter meaningful for students. This is evidenced by a completion of a 30-semester-hour teaching major which must minimally include the requirements for at least one of the basic endorsement areas, special education teaching endorsements, or secondary level occupational endorsements. ~~Each~~ The candidate must achieve either meet or exceed a score above the 25th percentile nationally on subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area as approved by the director of the department of education, or the candidate must meet or exceed the equivalent of a score above the 25th percentile nationally on an alternate assessment also approved by the director. The alternate assessment must be a valid and reliable subject area-specific, performance-based assessment for preservice teacher candidates that is centered on student learning. Additionally, each elementary candidate must also complete a field of specialization in a single discipline or a formal interdisciplinary program of at least 12 semester hours.

These requirements shall become effective ~~January 2, 2013~~ June 4, 2014.

[Filed 4/2/14, effective 6/4/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1435C

EDUCATION DEPARTMENT[281]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 83, “Teacher and Administrator Quality Programs,” Iowa Administrative Code.

The intent of this rule making is to replace the current rule relating to professional development for teachers with a new rule that reflects current best practice and is clearer and better organized. The new rule contains the professional learning standards to be used moving forward.

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

Notice of Intended Action was published in the February 19, 2014, Iowa Administrative Bulletin as **ARC 1338C**. Public comments were allowed until 4:30 p.m. on March 11, 2014. A public hearing was held on that date. No person appeared at the public hearing. No written or oral comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found as the rule making produces a change in what is offered in this service but no need to change personnel or time elements to do such work.

This amendment is intended to implement Iowa Code section 284.3.

This amendment shall become effective June 4, 2014.

The following amendment is adopted.

Rescind rule 281—83.6(284) and adopt the following new rule in lieu thereof:

281—83.6(284) Professional development for teachers.

83.6(1) *Professional development for school districts, area education agencies, and attendance centers.* The following requirements shall apply to professional development for school districts, area education agencies, and attendance centers.

EDUCATION DEPARTMENT[281](cont'd)

a. Professional learning standards. Professional learning within an area education agency or local district shall be aligned with the state standards for teaching and learning and aligned to the following standards for professional development. Professional learning increases educator effectiveness and results for all students when it:

- (1) Occurs within learning communities committed to continuous improvement, collective responsibility, and goal alignment.
- (2) Requires skillful leaders to develop capacity, advocate, and create support systems for professional learning.
- (3) Prioritizes, monitors, and coordinates resources for educator learning.
- (4) Uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate effectiveness of instruction.
- (5) Integrates theories, research, and models of human learning to achieve intended outcomes.
- (6) Applies research on change and sustains support for implementation of professional learning for long-term change.
- (7) Aligns its outcomes with educator performance and student curriculum standards.

b. District or area education agency professional development plan. Each school district shall incorporate the district professional development plan into its comprehensive school improvement plan pursuant to Iowa Code subsection 284.6(3). Each area education agency shall develop a professional development plan for the agency as a whole and shall incorporate the plan into its comprehensive improvement plan pursuant to rule 281—72.9(273). The district or area education agency professional development plan shall be a long-term plan designed and implemented to increase student achievement and shall include all on-site and district or area education agency personnel responsible for instruction. The district or area education agency professional development plan shall contain, but not be limited to, the following:

- (1) Implementation of a school district's or area education agency's plan for professional learning.
- (2) Documentation that the professional development is based on student data, aligned with district or attendance center student achievement goals, and focused on instruction, curriculum, and assessment.
- (3) The study and implementation of research-based instructional strategies that improve teaching and learning.
- (4) Collaborative inquiry into the area of greatest student learning need.
- (5) Research-based training strategies (e.g., theory, demonstration, observation, practice, coaching, reflection, evaluation) that promote transfer and positive outcomes as needed for learning new practices.
- (6) Allocation of time to collectively study content, instruction, and impact so necessary adjustments can be made to ensure student success.
- (7) Accountability and an evaluation that documents improvement of practice and the impact on student learning.

c. Attendance center professional development plans. Each attendance center within a school district shall develop an attendance center professional development plan as a means of promoting group professional development. An attendance center professional development plan shall further the needs of personnel responsible for instruction in the attendance center and shall enhance the student achievement goals of the attendance center and the goals of the district.

d. Individual professional development plans. The school district and area education agency shall support the development and implementation of the individual teacher professional development plan for each teacher as outlined in subrule 83.6(2). Each individual teacher professional development plan shall align to the fullest extent possible with the district professional development plan.

e. Beginning teacher mentoring and induction. The school district shall develop and implement a beginning teacher mentoring and induction plan as outlined in subrule 83.3(3). The district beginning teacher mentoring and induction plan shall be included in the comprehensive school improvement plan submitted pursuant to Iowa Code section 256.7(21)“a” and shall align with the district professional development plan described in paragraph 83.6(1)“b.”

f. Organizational support for professional development. The school district shall provide resources and support for the district professional development plan, including opportunities for

EDUCATION DEPARTMENT[281](cont'd)

professional development, time for collaborative work of staff, budgetary support, and policies and procedures that reflect the district's commitment to professional development.

83.6(2) *Individual teacher professional development plan.* Each school district and area education agency shall support the development and implementation of individual teachers' professional development plans for teachers other than beginning teachers. The purpose of the individual plan is to promote individual and collective professional development. At a minimum, the goals for an individual teacher professional development plan must be based on the needs of the teacher and on the relevant Iowa teaching standards that support the student achievement goals of the teacher's classroom or classrooms, attendance center and school district or area education agency, as appropriate, as outlined in the comprehensive school improvement plan. The goals shall go beyond those required under the attendance center professional development plan described in paragraph 83.6(1)"c." The learning opportunities provided to meet the goals of the individual teacher plan include individual study and collaborative study of district-determined or area education agency-determined content to the extent possible. The individual plan shall be developed by the teacher in collaboration with the teacher's evaluator. An annual meeting shall be held between the teacher's evaluator and the teacher to review the goals and refine the plan.

83.6(3) *Professional development provider requirements.*

a. A provider may be a school district; an area education agency; a higher education institution; a public or private entity including a professional organization that provides long-term, ongoing support for the district's or area education agency's professional development plan; or a consortium of any of the foregoing. An educational organization or program with specific professional development accreditation or approval from the department is an approved provider.

b. Providers that are not currently accredited or approved through state accreditation procedures must follow approval procedures identified in the district's or area education agency's professional development plan. The potential provider must submit to the school district or area education agency a written application that provides the following documentation:

(1) How the provider will deliver technical assistance that meets the Iowa professional development standards provided in paragraph 83.6(1)"a."

(2) How the provider intends to assist the local district or area education agency in designing, implementing, and evaluating professional development that meets the requirements established in paragraph 83.6(1)"b."

(3) A description of the qualifications of the provider.

(4) Evidence of the provider's expertise in professional development.

(5) A budget.

(6) Procedures for evaluating the effectiveness of the technical assistance delivered by the provider.

[Filed 4/2/14, effective 6/4/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1447C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments are required in order for the Department to be in compliance with the Patient Protection and Affordable Care Act, which amends the current Health Insurance Payment Plan (HIPPP) statute at 42 U.S.C. 1396e-1. These amendments also eliminate obsolete references to the IowaCare program and Medicare supplemental policies.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1368C** on March 5, 2014. The Department received no comments on these amendments. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on April 9, 2014.

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

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

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

These amendments will become effective on July 1, 2014.

The following amendments are adopted.

ITEM 1. Rescind subrule **75.21(1)**.

ITEM 2. Renumber subrules **75.21(2)** to **75.21(17)** as **75.21(1)** to **75.21(16)**.

ITEM 3. Amend renumbered paragraph **75.21(1)“b”** as follows:

b. The health plan is cost-effective as defined in subrule ~~75.21(3)~~ 75.21(2).

ITEM 4. Amend renumbered subrule 75.21(4) as follows:

75.21(4) Exceptions to payment. Premiums shall not be paid for health insurance plans under any of the following circumstances:

a. to *f.* No change.

g. The person is eligible only for a coverage group that does not provide full Medicaid services, such as the specified low-income Medicare beneficiary (SLMB) coverage group in accordance with subrule 75.1(34) ~~or the IowaCare program in accordance with the provisions of 441—Chapter 92.~~ Members under the medically needy coverage group who must meet a spenddown are not eligible for HIPP payment.

h. and *i.* No change.

~~*j.* The insurance is a Medicare supplemental policy and the Health Insurance Premium Payment Application, Form 470-2875, was received on or after March 1, 1996.~~

~~*k.*~~ *j.* The person has health coverage through Medicare. If other Medicaid members in the household are covered by the health plan, cost-effectiveness is determined without including the Medicare-covered member.

~~*l.*~~ *k.* The health plan does not provide major medical coverage but pays only for specific situations (i.e., accident plans) or illnesses (i.e., cancer policy).

~~*m.*~~ *l.* The health plan pays secondary to another plan.

~~*n.*~~ *m.* The only Medicaid members covered by the health plan are currently in foster care.

~~*o.*~~ *n.* All Medicaid members covered by the health plan are eligible for Medicaid only under subrule 75.1(43). This coverage group requires the parent to apply for, enroll in, and pay for coverage available from the employer as a condition of Medicaid eligibility for the children.

ITEM 5. Amend renumbered subrule 75.21(10) as follows:

75.21(10) Reviews of cost-effectiveness and eligibility. Reviews of cost-effectiveness and eligibility shall be completed annually and may be conducted more frequently at the discretion of the department.

a. and *b.* No change.

c. Failure of the household to cooperate in the review process shall result in cancellation of premium payment ~~and may result in Medicaid ineligibility as provided in subrule 75.21(1).~~

d. and *e.* No change.

f. If a change in the number of members in the Medicaid household causes the health plan not to be cost-effective, lesser health plan options, as defined in paragraph ~~75.21(16)“a,”~~ 75.21(15)“a,” shall be considered if available and cost-effective.

g. No change.

ITEM 6. Amend renumbered subrule 75.21(11) as follows:

75.21(11) Time frames for determining cost-effectiveness. The department shall determine cost-effectiveness of the health plan and notify the applicant of the decision regarding payment of

HUMAN SERVICES DEPARTMENT[441](cont'd)

the premiums within 65 calendar days from the date an application or referral (as defined in subrule ~~75.21(8)~~ 75.21(7)) is received. Additional time may be taken when, for reasons beyond the control of the department or the applicant, information needed to establish cost-effectiveness cannot be obtained within the 65-day period.

ITEM 7. Amend renumbered paragraph **75.21(15)“c”** as follows:

c. For both group and individual health plans, if another household member must be covered to obtain coverage for the Medicaid members, the HIPP program shall pay the cost of covering that household member if the coverage is cost-effective as determined pursuant to subrules 75.21(2) and 75.21(3) ~~and 75.21(4)~~.

[Filed 4/9/14, effective 7/1/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1445C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments document the requirement for brain injury (BI) waiver providers and employees providing direct care to BI waiver recipients to complete the Department’s online brain injury training. These amendments also remove the cost of case management and home and vehicle modifications from the total monthly cost of services for the brain injury waiver, elderly waiver and physical disability waiver. These amendments also remove the cost of environmental modifications, adaptive devices and therapeutic resources from the total monthly cost of services for the children’s mental health waiver. Finally, these amendments remove the age limit of 65 from the BI waiver, thereby enabling members to continue to receive services through the BI waiver beyond the age of 65.

The administrative rules currently require home- and community-based BI waiver providers and each of their staff members involved in direct consumer service to have training regarding, or experience with, individuals who have a brain injury. Currently, the training content varies among providers. By providing a standardized training that is required of each person working with individuals receiving services through the waiver, the Department can ensure that providers and their employees have consistent information regarding brain injuries before the provision of care.

Exceptions have routinely been granted to allow brain injury waiver, elderly waiver, health and disability waiver, physical disability waiver and children’s mental health waiver members to exceed the monthly cap for services. As a result of the removal of the cost of case management, home and vehicle modifications, environmental modifications, adaptive devices and therapeutic resources from the total monthly cost of services for applicable waivers, members will have additional dollars available each month for direct face-to-face services per member per month.

Exceptions have routinely been granted to allow BI waiver services beyond the age of 65. The amendments allow BI waiver services to members beyond the age of 65 without the need for an exception to policy.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1366C** on March 5, 2014.

The Department received comments from one respondent. The respondent noted that the health and disability waiver was inadvertently left out of the proposed amendments. The respondent also supported the fact that the proposed amendments would remove the cost of case management, home and vehicle modifications, specialized medical equipment and environmental modifications, adaptive devices and therapeutic resources from the total monthly cost of services.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The Department agreed with the respondent that the health and disability waiver was inadvertently left out of the rule making. The Department added new Item 2 amending paragraph 83.2(3)“b” to rectify the omission of the health and disability waiver from the proposed amendments.

The Department also clarified the second sentence of rule 441—77.39(249A) in Item 1 to read as follows: “Beginning January 1, 2015, providers and each of their staff members involved in direct consumer service must have completed the department’s online brain injury training course prior to service provision, with the exception of staff members who are certified through the Academy of Certified Brain Injury Specialists (ACBIS) as a certified brain injury specialist (CBIS) or certified brain injury specialist trainer (CBIST), providers of home and vehicle modification, specialized medical equipment, transportation, personal emergency response, financial management, independent support brokerage, self-directed personal care, individual-directed goods and services, and self-directed community supports and employment.”

These amendments do not provide for waivers in specified situations because these amendments provide a benefit to elderly, BI, physical disability, health and disability, and children’s mental health waiver participants. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

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

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

These amendments will become effective July 1, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 441—77.39(249A), introductory paragraph, as follows:

441—77.39(249A) HCBS brain injury waiver service providers. Providers shall be eligible to participate in the Medicaid brain injury waiver program if they meet the requirements in this rule and the subrules applicable to the individual service. Providers Beginning January 1, 2015, providers and each of their staff members involved in direct consumer service must have training regarding or experience with consumers who have a brain injury completed the department’s online brain injury training course prior to service provision, with the exception of staff members who are certified through the Academy of Certified Brain Injury Specialists (ACBIS) as a certified brain injury specialist (CBIS) or certified brain injury specialist trainer (CBIST), providers of home and vehicle modification, specialized medical equipment, transportation, personal emergency response, financial management, independent support brokerage, self-directed personal care, individual-directed goods and services, and self-directed community supports and employment.

ITEM 2. Amend paragraph **83.2(2)“b”** as follows:

b. Except as provided below, the total monthly cost of the health and disability waiver services, excluding the cost of home and vehicle modification services, shall not exceed the established aggregate monthly cost for level of care as follows:

Skilled level of care	Nursing level of care	ICF/ID
\$2,765	\$950	\$3,365

(1) and (2) No change.

ITEM 3. Amend subparagraph **83.22(2)“c”(2)** as follows:

(2) Services must be the least costly available to meet the service needs of the member. The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs, excluding the cost of case management and home and vehicle modifications, are limited as follows:

Skilled level of care	Nursing level of care
\$2,765	\$1,339

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 4. Amend paragraph **83.82(1)“c”** as follows:

c. ~~Be aged 1 month to 64 years at least one month of age.~~

ITEM 5. Amend paragraph **83.82(2)“d”** as follows:

d. ~~The total cost of brain injury waiver services, excluding the cost of case management and home and vehicle modifications, shall not exceed \$2,954 per month. If more than \$520 is paid for home and vehicle modification services, the service worker shall encumber up to \$520 per month within the monthly dollar cap allowed for the member until the total amount of the modification is reached within a 12-month period.~~

ITEM 6. Amend paragraph **83.102(2)“b”** as follows:

b. ~~The total cost of physical disability waiver services, excluding the cost of home and vehicle modifications, shall not exceed \$692 per month. If more than \$520 is paid for home and vehicle modification services, the service worker shall encumber up to \$520 per month within the monthly dollar cap allowed for the member until the total amount of the modification is reached within a 12-month period.~~

ITEM 7. Amend paragraph **83.122(6)“b”** as follows:

b. ~~The total cost of children’s mental health waiver services needed to meet the member’s needs, excluding the cost of environmental modifications, adaptive devices and therapeutic resources, may not exceed \$1,967 per month.~~

[Filed 4/9/14, effective 7/1/14]

[Published 4/30/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1444C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services rescinds Chapter 169, “Funding for Empowerment Areas,” Iowa Administrative Code.

In 2010, the Iowa Legislature transitioned the Community Empowerment Initiative to the Early Childhood Iowa Initiative. In 2013 Iowa Acts, Senate File 446, section 16(8), the Iowa Legislature changed the funding source for the early childhood funds from federal funds to state funds. This amendment rescinds Chapter 169 because the rules are no longer relevant, based on the funding source change from federal funds to state funds in the Health and Human Services appropriation. The Early Childhood Iowa State Board rather than the Department has the authority to set policy and promulgate administrative rules for the early childhood funds that are distributed to Early Childhood Iowa areas (see 249—Chapter 1). In addition, the Early Childhood Iowa State Board currently sets policy and promulgates administrative rules for the school ready funds (state funding source) distributed to Early Childhood Iowa areas.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on February 5, 2014, as **ARC 1311C**. The Department received no comments on this amendment. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on April 9, 2014.

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

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

This amendment is intended to implement Iowa Code section 256I.11(4).

This amendment will become effective July 1, 2014.

The following amendment is adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Rescind and reserve **441—Chapter 169.**

[Filed 4/9/14, effective 7/1/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1446C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

The purpose of this amendment is to revise the child care assistance (CCA) fee chart based on new federal poverty levels (FPLs). This is an annual update that allows families that have received raises to maintain eligibility for CCA without paying increased fees.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on March 5, 2014, as **ARC 1365C**. The Department received no comments on this amendment. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted these amendments on April 9, 2014.

This amendment does not provide for waivers in specified situations because families may request a waiver of these provisions in a specified situation under the Department's general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 237A.13.

This amendment will become effective on July 1, 2014.

The following amendment is adopted.

Amend paragraph **170.4(2)"a"** as follows:

a. Sliding fee schedule.

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2013~~ 2014:

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
A	\$910	\$1,228	\$1,547	\$1,865	\$2,183	\$2,501	\$2,820	\$3,138	\$3,456	\$3,774	\$0.00	\$0.00	\$0.00
	<u>\$924</u>	<u>\$1,245</u>	<u>\$1,568</u>	<u>\$1,889</u>	<u>\$2,210</u>	<u>\$2,532</u>	<u>\$2,853</u>	<u>\$3,174</u>	<u>\$3,496</u>	<u>\$3,817</u>			
B	\$958	\$1,293	\$1,628	\$1,963	\$2,298	\$2,633	\$2,968	\$3,303	\$3,638	\$3,973	\$0.20	\$0.45	\$0.70
	<u>\$973</u>	<u>\$1,311</u>	<u>\$1,650</u>	<u>\$1,988</u>	<u>\$2,326</u>	<u>\$2,665</u>	<u>\$3,003</u>	<u>\$3,341</u>	<u>\$3,680</u>	<u>\$4,018</u>			
C	\$985	\$1,329	\$1,674	\$2,018	\$2,362	\$2,707	\$3,051	\$3,395	\$3,740	\$4,084	\$0.45	\$0.70	\$0.95
	<u>\$1,000</u>	<u>\$1,348</u>	<u>\$1,696</u>	<u>\$2,044</u>	<u>\$2,391</u>	<u>\$2,740</u>	<u>\$3,087</u>	<u>\$3,435</u>	<u>\$3,783</u>	<u>\$4,131</u>			
D	\$1,012	\$1,365	\$1,719	\$2,073	\$2,427	\$2,780	\$3,134	\$3,488	\$3,842	\$4,195	\$0.70	\$0.95	\$1.20
	<u>\$1,027</u>	<u>\$1,384</u>	<u>\$1,742</u>	<u>\$2,099</u>	<u>\$2,456</u>	<u>\$2,814</u>	<u>\$3,171</u>	<u>\$3,528</u>	<u>\$3,886</u>	<u>\$4,243</u>			
E	\$1,040	\$1,404	\$1,767	\$2,131	\$2,495	\$2,858	\$3,222	\$3,586	\$3,949	\$4,313	\$0.95	\$1.20	\$1.45
	<u>\$1,056</u>	<u>\$1,423</u>	<u>\$1,791</u>	<u>\$2,158</u>	<u>\$2,525</u>	<u>\$2,893</u>	<u>\$3,260</u>	<u>\$3,627</u>	<u>\$3,995</u>	<u>\$4,362</u>			
F	\$1,068	\$1,442	\$1,815	\$2,189	\$2,563	\$2,936	\$3,310	\$3,683	\$4,057	\$4,430	\$1.20	\$1.45	\$1.70
	<u>\$1,085</u>	<u>\$1,462</u>	<u>\$1,840</u>	<u>\$2,217</u>	<u>\$2,594</u>	<u>\$2,972</u>	<u>\$3,349</u>	<u>\$3,726</u>	<u>\$4,104</u>	<u>\$4,481</u>			
G	\$1,098	\$1,482	\$1,866	\$2,250	\$2,634	\$3,018	\$3,402	\$3,786	\$4,170	\$4,554	\$1.45	\$1.70	\$1.95
	<u>\$1,115</u>	<u>\$1,503</u>	<u>\$1,891</u>	<u>\$2,279</u>	<u>\$2,666</u>	<u>\$3,055</u>	<u>\$3,443</u>	<u>\$3,830</u>	<u>\$4,219</u>	<u>\$4,606</u>			
H	\$1,128	\$1,523	\$1,917	\$2,312	\$2,706	\$3,101	\$3,495	\$3,890	\$4,284	\$4,679	\$1.70	\$1.95	\$2.20
	<u>\$1,146</u>	<u>\$1,544</u>	<u>\$1,943</u>	<u>\$2,341</u>	<u>\$2,739</u>	<u>\$3,138</u>	<u>\$3,536</u>	<u>\$3,934</u>	<u>\$4,334</u>	<u>\$4,732</u>			

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
I	<u>\$1,160</u> <u>\$1,178</u>	<u>\$1,565</u> <u>\$1,587</u>	<u>\$1,971</u> <u>\$1,997</u>	<u>\$2,376</u> <u>\$2,407</u>	<u>\$2,782</u> <u>\$2,816</u>	<u>\$3,187</u> <u>\$3,226</u>	<u>\$3,593</u> <u>\$3,635</u>	<u>\$3,998</u> <u>\$4,044</u>	<u>\$4,404</u> <u>\$4,455</u>	<u>\$4,810</u> <u>\$4,864</u>	\$1.95	\$2.20	\$2.45
J	<u>\$1,191</u> <u>\$1,210</u>	<u>\$1,608</u> <u>\$1,630</u>	<u>\$2,024</u> <u>\$2,052</u>	<u>\$2,441</u> <u>\$2,472</u>	<u>\$2,858</u> <u>\$2,892</u>	<u>\$3,274</u> <u>\$3,314</u>	<u>\$3,691</u> <u>\$3,734</u>	<u>\$4,107</u> <u>\$4,155</u>	<u>\$4,524</u> <u>\$4,576</u>	<u>\$4,941</u> <u>\$4,996</u>	\$2.20	\$2.45	\$2.70
K	<u>\$1,225</u> <u>\$1,244</u>	<u>\$1,653</u> <u>\$1,676</u>	<u>\$2,081</u> <u>\$2,109</u>	<u>\$2,509</u> <u>\$2,541</u>	<u>\$2,938</u> <u>\$2,973</u>	<u>\$3,366</u> <u>\$3,407</u>	<u>\$3,794</u> <u>\$3,839</u>	<u>\$4,222</u> <u>\$4,271</u>	<u>\$4,651</u> <u>\$4,704</u>	<u>\$5,079</u> <u>\$5,136</u>	\$2.45	\$2.70	\$2.95
L	<u>\$1,258</u> <u>\$1,278</u>	<u>\$1,698</u> <u>\$1,722</u>	<u>\$2,138</u> <u>\$2,167</u>	<u>\$2,578</u> <u>\$2,611</u>	<u>\$3,018</u> <u>\$3,054</u>	<u>\$3,458</u> <u>\$3,500</u>	<u>\$3,897</u> <u>\$3,943</u>	<u>\$4,337</u> <u>\$4,387</u>	<u>\$4,777</u> <u>\$4,832</u>	<u>\$5,217</u> <u>\$5,276</u>	\$2.70	\$2.95	\$3.20
M	<u>\$1,293</u> <u>\$1,313</u>	<u>\$1,745</u> <u>\$1,770</u>	<u>\$2,198</u> <u>\$2,227</u>	<u>\$2,650</u> <u>\$2,684</u>	<u>\$3,102</u> <u>\$3,140</u>	<u>\$3,554</u> <u>\$3,598</u>	<u>\$4,007</u> <u>\$4,054</u>	<u>\$4,459</u> <u>\$4,510</u>	<u>\$4,911</u> <u>\$4,968</u>	<u>\$5,363</u> <u>\$5,424</u>	\$2.95	\$3.20	\$3.45
N	<u>\$1,328</u> <u>\$1,349</u>	<u>\$1,793</u> <u>\$1,818</u>	<u>\$2,258</u> <u>\$2,288</u>	<u>\$2,722</u> <u>\$2,757</u>	<u>\$3,187</u> <u>\$3,225</u>	<u>\$3,651</u> <u>\$3,696</u>	<u>\$4,116</u> <u>\$4,164</u>	<u>\$4,580</u> <u>\$4,633</u>	<u>\$5,045</u> <u>\$5,103</u>	<u>\$5,509</u> <u>\$5,572</u>	\$3.20	\$3.45	\$3.70
O	<u>\$1,366</u> <u>\$1,387</u>	<u>\$1,843</u> <u>\$1,869</u>	<u>\$2,321</u> <u>\$2,352</u>	<u>\$2,798</u> <u>\$2,834</u>	<u>\$3,276</u> <u>\$3,316</u>	<u>\$3,753</u> <u>\$3,799</u>	<u>\$4,231</u> <u>\$4,281</u>	<u>\$4,709</u> <u>\$4,763</u>	<u>\$5,186</u> <u>\$5,246</u>	<u>\$5,664</u> <u>\$5,728</u>	\$3.45	\$3.70	\$3.95
P	<u>\$1,403</u> <u>\$1,425</u>	<u>\$1,893</u> <u>\$1,920</u>	<u>\$2,384</u> <u>\$2,416</u>	<u>\$2,875</u> <u>\$2,911</u>	<u>\$3,365</u> <u>\$3,406</u>	<u>\$3,856</u> <u>\$3,903</u>	<u>\$4,346</u> <u>\$4,397</u>	<u>\$4,837</u> <u>\$4,892</u>	<u>\$5,327</u> <u>\$5,389</u>	<u>\$5,818</u> <u>\$5,884</u>	\$3.70	\$3.95	\$4.20
Q	<u>\$1,442</u> <u>\$1,465</u>	<u>\$1,946</u> <u>\$1,974</u>	<u>\$2,451</u> <u>\$2,484</u>	<u>\$2,955</u> <u>\$2,993</u>	<u>\$3,459</u> <u>\$3,501</u>	<u>\$3,964</u> <u>\$4,012</u>	<u>\$4,468</u> <u>\$4,521</u>	<u>\$4,972</u> <u>\$5,029</u>	<u>\$5,477</u> <u>\$5,540</u>	<u>\$5,981</u> <u>\$6,049</u>	\$3.95	\$4.20	\$4.45
R	<u>\$1,481</u> <u>\$1,505</u>	<u>\$1,999</u> <u>\$2,027</u>	<u>\$2,517</u> <u>\$2,551</u>	<u>\$3,036</u> <u>\$3,074</u>	<u>\$3,554</u> <u>\$3,597</u>	<u>\$4,072</u> <u>\$4,121</u>	<u>\$4,590</u> <u>\$4,644</u>	<u>\$5,108</u> <u>\$5,166</u>	<u>\$5,626</u> <u>\$5,691</u>	<u>\$6,144</u> <u>\$6,213</u>	\$4.20	\$4.45	\$4.70
S	<u>\$1,523</u> <u>\$1,547</u>	<u>\$2,055</u> <u>\$2,084</u>	<u>\$2,588</u> <u>\$2,623</u>	<u>\$3,121</u> <u>\$3,160</u>	<u>\$3,653</u> <u>\$3,698</u>	<u>\$4,186</u> <u>\$4,236</u>	<u>\$4,718</u> <u>\$4,774</u>	<u>\$5,251</u> <u>\$5,311</u>	<u>\$5,783</u> <u>\$5,850</u>	<u>\$6,316</u> <u>\$6,387</u>	\$4.45	\$4.70	\$4.95
T	<u>\$1,564</u> <u>\$1,589</u>	<u>\$2,111</u> <u>\$2,141</u>	<u>\$2,658</u> <u>\$2,694</u>	<u>\$3,205</u> <u>\$3,246</u>	<u>\$3,753</u> <u>\$3,798</u>	<u>\$4,300</u> <u>\$4,352</u>	<u>\$4,847</u> <u>\$4,904</u>	<u>\$5,394</u> <u>\$5,456</u>	<u>\$5,941</u> <u>\$6,009</u>	<u>\$6,488</u> <u>\$6,561</u>	\$4.70	\$4.95	\$5.20
U	<u>\$1,608</u> <u>\$1,633</u>	<u>\$2,171</u> <u>\$2,201</u>	<u>\$2,733</u> <u>\$2,770</u>	<u>\$3,295</u> <u>\$3,337</u>	<u>\$3,858</u> <u>\$3,905</u>	<u>\$4,420</u> <u>\$4,474</u>	<u>\$4,982</u> <u>\$5,041</u>	<u>\$5,545</u> <u>\$5,608</u>	<u>\$6,107</u> <u>\$6,178</u>	<u>\$6,669</u> <u>\$6,745</u>	\$4.95	\$5.20	\$5.45
V	<u>\$1,652</u> <u>\$1,678</u>	<u>\$2,230</u> <u>\$2,261</u>	<u>\$2,807</u> <u>\$2,845</u>	<u>\$3,385</u> <u>\$3,428</u>	<u>\$3,963</u> <u>\$4,011</u>	<u>\$4,540</u> <u>\$4,596</u>	<u>\$5,118</u> <u>\$5,178</u>	<u>\$5,696</u> <u>\$5,761</u>	<u>\$6,273</u> <u>\$6,346</u>	<u>\$6,851</u> <u>\$6,929</u>	\$5.20	\$5.45	\$5.70
W	<u>\$1,698</u> <u>\$1,725</u>	<u>\$2,292</u> <u>\$2,324</u>	<u>\$2,886</u> <u>\$2,925</u>	<u>\$3,480</u> <u>\$3,524</u>	<u>\$4,074</u> <u>\$4,123</u>	<u>\$4,667</u> <u>\$4,724</u>	<u>\$5,261</u> <u>\$5,323</u>	<u>\$5,855</u> <u>\$5,923</u>	<u>\$6,449</u> <u>\$6,523</u>	<u>\$7,043</u> <u>\$7,123</u>	\$5.45	\$5.70	\$5.95
X	<u>\$1,744</u> <u>\$1,772</u>	<u>\$2,355</u> <u>\$2,387</u>	<u>\$2,965</u> <u>\$3,005</u>	<u>\$3,575</u> <u>\$3,620</u>	<u>\$4,185</u> <u>\$4,236</u>	<u>\$4,795</u> <u>\$4,853</u>	<u>\$5,405</u> <u>\$5,468</u>	<u>\$6,015</u> <u>\$6,084</u>	<u>\$6,625</u> <u>\$6,701</u>	<u>\$7,235</u> <u>\$7,317</u>	\$5.70	\$5.95	\$6.20
Y	<u>\$1,793</u> <u>\$1,821</u>	<u>\$2,420</u> <u>\$2,454</u>	<u>\$3,048</u> <u>\$3,089</u>	<u>\$3,675</u> <u>\$3,721</u>	<u>\$4,302</u> <u>\$4,354</u>	<u>\$4,929</u> <u>\$4,989</u>	<u>\$5,556</u> <u>\$5,621</u>	<u>\$6,183</u> <u>\$6,254</u>	<u>\$6,810</u> <u>\$6,889</u>	<u>\$7,437</u> <u>\$7,522</u>	\$5.95	\$6.20	\$6.45
Z	<u>\$1,842</u> <u>\$1,871</u>	<u>\$2,486</u> <u>\$2,521</u>	<u>\$3,131</u> <u>\$3,173</u>	<u>\$3,775</u> <u>\$3,823</u>	<u>\$4,419</u> <u>\$4,473</u>	<u>\$5,063</u> <u>\$5,125</u>	<u>\$5,707</u> <u>\$5,775</u>	<u>\$6,351</u> <u>\$6,425</u>	<u>\$6,996</u> <u>\$7,076</u>	<u>\$7,640</u> <u>\$7,726</u>	\$6.20	\$6.45	\$6.70
AA	<u>\$1,894</u> <u>\$1,923</u>	<u>\$2,556</u> <u>\$2,592</u>	<u>\$3,218</u> <u>\$3,262</u>	<u>\$3,880</u> <u>\$3,930</u>	<u>\$4,543</u> <u>\$4,598</u>	<u>\$5,205</u> <u>\$5,268</u>	<u>\$5,867</u> <u>\$5,936</u>	<u>\$6,529</u> <u>\$6,604</u>	<u>\$7,192</u> <u>\$7,275</u>	<u>\$7,854</u> <u>\$7,943</u>	\$6.45	\$6.70	\$6.95
BB	<u>\$1,945</u> <u>\$1,976</u>	<u>\$2,626</u> <u>\$2,662</u>	<u>\$3,306</u> <u>\$3,351</u>	<u>\$3,986</u> <u>\$4,037</u>	<u>\$4,666</u> <u>\$4,723</u>	<u>\$5,347</u> <u>\$5,412</u>	<u>\$6,027</u> <u>\$6,098</u>	<u>\$6,707</u> <u>\$6,784</u>	<u>\$7,387</u> <u>\$7,473</u>	<u>\$8,068</u> <u>\$8,159</u>	\$6.70	\$6.95	\$7.20

(2) and (3) No change.

[Filed 4/9/14, effective 7/1/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1431C

INTERIOR DESIGN EXAMINING BOARD[193G]

Adopted and Filed

Pursuant to the authority of Iowa Code section 544C.3, the Interior Design Examining Board hereby amends Chapter 2, “Registration,” Iowa Administrative Code.

The amendment reduces the registration fee and places the fee structure in the rules.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin as **ARC 1298C** on February 5, 2014. A public hearing was held on February 25, 2014. No public comment was received. No changes were made to the amendment.

This rule is subject to waiver or variance pursuant to 193—Chapter 5.

The Interior Design Examining Board adopted this amendment on March 31, 2014.

After analysis and review of this rule making, a positive jobs impact could exist. A person may practice as an interior designer without registering with the Board; however, the amendment reduces the registration fee, which may make registration more attractive to interior designers.

This amendment is intended to implement Iowa Code chapters 17A, 272C, and 546 and section 544C.3.

This amendment will become effective June 4, 2014.

The following amendment is adopted.

Amend subrule 2.1(4) as follows:

2.1(4) Applications. Persons applying for initial or renewal registration shall submit an application on a form provided by the board and shall pay a registration fee of \$275. Certificates issued to registrants with last names beginning with A through K shall expire on June 30 of even-numbered years, and certificates issued to registrants with last names beginning with L through Z shall expire on June 30 of odd-numbered years. Registration fees and continuing education requirements shall be applied pro rata to those registrants whose certificates expire in less than two years.

<u>Type of fee</u>	<u>Amount</u>
<u>Initial registration fee</u>	<u>\$275</u>
<u>Renewal</u>	<u>\$275</u>
<u>Late renewal fee</u>	<u>\$25</u>
<u>Reinstatement of lapsed registration</u>	<u>\$100</u>

[Filed 3/31/14, effective 6/4/14]

[Published 4/30/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1436C

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby rescinds Chapter 22, “Operations of Grant Committee,” and Chapter 23, “Grant Applications and Awards,” Iowa Administrative Code.

The rules in Chapters 22 and 23 are no longer necessary due to a legislative change in 2013 Iowa Acts, chapter 93, section 3, which repealed Iowa Code section 543B.54, thus eliminating the real estate college education credit program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1347C** on February 19, 2014. No comments were received from the public concerning this amendment. This amendment is identical to the one published under Notice of Intended Action.

REAL ESTATE COMMISSION[193E](cont'd)

The amendment has no fiscal impact on the state of Iowa.
After analysis and review of this rule making, no impact on jobs has been found.
This amendment is intended to implement 2013 Iowa Acts, chapter 93, section 3.
This amendment will become effective on June 4, 2014.
The following amendment is adopted.

Rescind and reserve **193E—Chapter 22 and Chapter 23.**

[Filed 4/3/14, effective 6/4/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1442C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby amends Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Chapter 67, "Administration," and Chapter 68, "Motor Fuel and Undyed Special Fuel," Iowa Administrative Code.

Item 1 amends subrule 10.71(1) to add an explanation of how the penalty rule applies when multiple vehicles in violation of the rule are discovered during one inspection.

Item 2 adopts new subrule 10.71(8) to explain the penalty and enforcement for violations of a distributor's or dealer's right to blend certain fuel types. This subrule is necessary following the enactment of 2013 Iowa Acts, House File 640.

Item 3 amends the implementation sentence of rule 701—10.71(452A).

Item 4 amends rule 701—67.1(452A) to add definitions to reflect the enactment of 2013 Iowa Acts, House File 640. A definition of "ethanol distribution percentage" has also been added.

Item 5 amends the implementation sentence of rule 701—67.1(452A).

Item 6 amends subrules 68.2(1) and 68.2(2). These amendments are necessary to reflect the extension of the variable tax rate on gasoline following the enactment of 2013 Iowa Acts, House File 640, sections 11 and 12. Clarifications related to the ethanol distribution percentage have also been added.

Item 7 amends the implementation sentence of rule 701—68.2(452A).

Item 8 adopts new rule 701—68.19(452A). This rule is necessary following the enactment of 2013 Iowa Acts, House File 640.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1362C** on March 5, 2014. No comments were received from the public. No changes have been made to the amendments published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code sections 452A.2, 452A.3, and 452A.6A and 2013 Iowa Acts, chapter 127.

These amendments will become effective June 4, 2014.

The following amendments are adopted.

ITEM 1. Amend subrule 10.71(1) as follows:

10.71(1) *Illegal use of dyed fuel.*

a. The illegal use of dyed fuel in the supply tank of a motor vehicle shall result in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

~~a.~~ (1) A \$500 penalty for the first violation.

~~b.~~ (2) A \$1,000 penalty for a second violation within three years of the first violation.

~~c.~~ (3) A \$2,000 penalty for third and subsequent violations within three years of the first violation.

b. For the purposes of this subrule, if multiple vehicles are discovered to be in violation of this subrule during one inspection, each vehicle is considered a separate first violation. For example, if

REVENUE DEPARTMENT[701](cont'd)

three vehicles are discovered to be in violation during one inspection, the result is three \$500 penalties or \$1,500. On the other hand, if three vehicles owned by the same taxpayer are discovered to be in violation during three separate inspections, the first inspection would result in a \$500 penalty, the second inspection would result in a \$1,000 penalty, and the third inspection would result in a \$2,000 penalty. If one vehicle is discovered to be in violation during the first inspection, resulting in a \$500 penalty, but two vehicles are discovered to be in violation in a second inspection, the result of the second inspection would be two \$1,000 penalties, or \$2,000 total.

ITEM 2. Adopt the following **new** subrule 10.71(8):

10.71(8) *Violation of a distributor's and dealer's right to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel and biofuel.* A refiner, supplier, terminal operator, or terminal owner, as defined in Iowa Code section 452A.2, who violates a distributor's or dealer's right to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel and biofuel, as described in Iowa Code section 452A.6A, is subject to a civil penalty.

a. Suspected violations should be reported to the motor fuel examination section of the department. Supporting documentation should be provided.

b. The department will investigate to determine whether a violation has occurred.

c. If the department determines that a violation has occurred, a civil penalty of \$10,000 per violation will be assessed against the violator. Each day that a violation continues is a separate violation.

For more information on the blending rights of distributors and dealers, see 701—68.19(452A).

ITEM 3. Amend rule **701—10.71(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 452A.2, 452A.6A and 452A.74A as amended by 2009 Iowa Acts, Senate File 478, section 141.

ITEM 4. Adopt the following **new** definitions in rule **701—67.1(452A)**:

“Conventional blendstock for oxygenate blending” means one or more motor fuel components intended for blending with an oxygenate or oxygenates to produce gasoline.

“Diesel fuel” or *“diesel”* means diesel as defined in Iowa Code section 214A.1.

“Ethanol distribution percentage” means the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state during the determination period. The determination period is the previous calendar year.

“Nonrefiner biofuel manufacturer” means an entity that produces, manufactures, or refines biofuel and does not directly or through a related entity refine, blend, import, or produce a conventional blendstock for oxygenate blending, gasoline, or diesel fuel.

“Refiner” means a person engaged in the refining of crude oil to produce motor fuel or special fuel, and includes any affiliate of such person.

“Terminal owner” means a person who holds a legal or equitable interest in a terminal.

ITEM 5. Amend rule **701—67.1(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 452A.2 and 452A.59 as amended by 2008 Iowa Acts, Senate File 2400.

ITEM 6. Amend subrules 68.2(1) and 68.2(2) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through June 30, 2010 <u>2014</u>)
LPG	20¢ per gallon

REVENUE DEPARTMENT[701](cont'd)

Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through June 30, 2010 2014)
E-85 gasoline	17¢ per gallon beginning January 1, 2006, through June 30, 2007
	19¢ per gallon (for July 1, 2007, through June 30, 2010 2014)
Aviation gasoline	8¢ per gallon
Special fuel (<u>biodiesel</u> , diesel, LNG)	22.5¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	16¢ per 100 cu. ft.

68.2(2) Except as otherwise provided in this subrule, until June 30, ~~2013~~ 2014, this subrule shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. The rate of the excise tax shall be based on the ethanol distribution percentage. The ethanol distribution percentage is the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel, excluding aviation gasoline, distributed in this state. ~~Aviation gasoline shall not be used, beginning calendar year January 1, 2009, in determining the percentage basis for the tax rates effective July 1, 2010, and after.~~ The number of gallons of ethanol blended gasoline and motor fuel distributed in this state shall be based on the total taxable gallons of ethanol blended gasoline and motor fuel as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

Ethanol <u>Distribution</u> %	Ethanol Tax	Gasoline Tax
00/50	19.0	20.0
50+/55	19.0	20.1
55+/60	19.0	20.3
60+/65	19.0	20.5
65+/70	19.0	20.7
70+/75	19.0	21.0
75+/80	19.3	20.8
80+/85	19.5	20.7
85+/90	19.7	20.4
90+/95	19.9	20.1
95+/100	20.0	20.0

Except as otherwise provided in this subrule, after June 30, ~~2013~~ 2014, an excise tax of 20 cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

ITEM 7. Amend rule **701—68.2(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section sections 452A.3 ~~as amended by 2012 Iowa Acts, House File 2472, and sections 452A.8 and 452A.85.~~

ITEM 8. Adopt the following new rule 701—68.19(452A):

701—68.19(452A) Right of distributors and dealers to blend conventional blendstock for oxygenate blending, gasoline, or diesel fuel using a biofuel.

68.19(1) A dealer or distributor may blend a conventional blendstock for oxygenate blending, gasoline, or diesel fuel using the appropriate biofuel, or sell unblended or blended gasoline or diesel

REVENUE DEPARTMENT[701](cont'd)

fuel on any premises in this state. This subrule does not apply to the extent that the use of the premises is restricted by federal, state, or local law.

68.19(2) A refiner, supplier, terminal operator, or terminal owner who in the ordinary course of business sells or transports a conventional blendstock for oxygenate blending, gasoline unblended or blended with a biofuel, or diesel fuel unblended or blended with a biofuel shall not refuse to sell or transport to a distributor or dealer any conventional blendstock for oxygenate blending, unblended gasoline, or unblended diesel fuel that is at the terminal, based on the distributor's or dealer's intent to use the conventional blendstock for oxygenate blending, or blend the gasoline or diesel fuel with a biofuel.

68.19(3) This rule shall not be construed to do any of the following:

a. Prohibit a distributor or dealer from purchasing, selling or transporting a conventional blendstock for oxygenate blending, gasoline that has not been blended with a biofuel, or diesel fuel that has not been blended with a biofuel.

b. Affect the blender's license requirements under Iowa Code section 452A.6.

c. Prohibit a dealer or distributor from leaving a terminal with a conventional blendstock for oxygenate blending, gasoline that has not been blended with a biofuel, or diesel fuel that has not been blended with a biofuel.

d. Require a nonrefiner biofuel manufacturer to offer or sell a conventional blendstock for oxygenate blending, gasoline that has not been blended with a biofuel, or diesel fuel that has not been blended with a biofuel.

68.19(4) A refiner, supplier, terminal operator, or terminal owner who violates this rule is subject to a civil penalty of not more than \$10,000 per violation. Each day that a violation continues is deemed a separate offense. For more information on enforcement of this penalty, see 701—subrule 10.71(8).

This rule is intended to implement Iowa Code section 452A.6A.

[Filed 4/9/14, effective 6/4/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1443C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 421.17, the Department of Revenue hereby adopts new Chapter 237, "Reinvestment Districts Program," Iowa Administrative Code.

The subject matter of Chapter 237 is the administration of the state reinvestment district fund for the Reinvestment Districts Program. In 2013 Iowa Acts, House File 641, the General Assembly authorized the Economic Development Authority to establish and administer the Iowa Reinvestment Act, a program that provides certain state hotel and motel and sales tax revenues to be reinvested into designated reinvestment districts. The Department of Revenue is charged with administering the calculation of state sales tax and hotel and motel tax funding under the program and with remitting that funding to governmental entities with eligible districts.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1363C** on March 5, 2014. No comments were received from the public. One change from the Notice has been made. A subject/verb agreement error in the definition of "substantially improved" has been corrected.

After analysis and review of this rule making, it is likely that new jobs will be created as a result of the Reinvestment Districts Program.

These rules are intended to implement Iowa Code chapter 15J.

These rules will become effective June 4, 2014.

The following amendment is adopted.

REVENUE DEPARTMENT[701](cont'd)

Adopt the following new 701—Chapter 237:

CHAPTER 237
REINVESTMENT DISTRICTS PROGRAM

701—237.1(15J) Purpose. The economic development authority board is authorized by the general assembly and the governor to oversee the implementation and administration of certain provisions of a new economic development program known as the Iowa reinvestment Act, which was enacted in 2013 Iowa Acts, House File 641. The program provides for as much as \$100 million in state hotel and motel and state sales tax revenues from new revenue-generating projects in certain districts to be reinvested within those districts. In general, the economic development authority has the responsibility to evaluate projects and make funding decisions, while the department of revenue has the responsibility for collecting the tax revenues used to fund projects under the program and making payments to municipalities. This chapter sets forth the department of revenue's administration of the calculation of the state sales tax and hotel and motel tax funding and the remittance of such funding to governmental entities. The administrative rules for other aspects of the Iowa reinvestment Act may be found in the economic development authority's rules at 261—Chapter 200.

This rule is intended to implement Iowa Code chapter 15J.

701—237.2(15J) Definitions.

"Board" means the economic development authority board established pursuant to Iowa Code section 15.105.

"Commencement date" means the date established for each district by the board under Iowa Code section 15J.4, subsection 3, upon which the calculation of new state sales tax and new state hotel and motel tax revenue for deposit in the fund shall begin.

"Department" means the department of revenue.

"District" means the area within a municipality that is designated a reinvestment district pursuant to Iowa Code section 15J.4.

"Fund" means the state reinvestment district fund created in Iowa Code section 15J.6.

"Governing body" means the county board of supervisors, city council, or other body in which the legislative powers of the municipality are vested.

"Municipality" means a county or an incorporated city.

"New lessor" means a lessor, as defined in Iowa Code section 423A.2, operating a business in the district that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. "New lessor" also includes any lessor, as defined in Iowa Code section 423A.2, operating a business in the district if the place of business for that business is the subject of a project that was approved by the board.

"New retail establishment" means a business operated in the district by a retailer, as defined in Iowa Code section 423.1, that was not in operation in the area of the district before the effective date of the ordinance establishing the district, regardless of ownership. "New retail establishment" also includes any business operated in the district by a retailer, as defined in Iowa Code section 423.1, if the place of business for that retail establishment is the subject of a project that was approved by the board.

"Project" means a vertical improvement constructed or substantially improved within a district using sales tax revenues and hotel and motel tax revenues received by a municipality pursuant to this chapter. "Project" does not include any of the following:

1. A building, structure, or other facility that is in whole or in part used or intended to be used to conduct gambling games under Iowa Code chapter 99F.
2. A building, structure, or other facility that is in whole or in part used or intended to be used as a hotel or motel if such hotel or motel is connected to or operated in conjunction with a building, structure, or other facility described in paragraph "1" above.

"State hotel and motel tax" means the state-imposed tax under Iowa Code section 423A.3.

REVENUE DEPARTMENT[701](cont'd)

“State reinvestment district fund” means the fund created in Iowa Code section 15J.6, pursuant to Iowa Code section 423.2, subsection 11, paragraph “b,” and Iowa Code section 423A.6, and described in rule 701—237.4(15J).

“State sales tax” means the sales and services tax imposed pursuant to Iowa Code section 423.2.

“Substantially improved” means that the cost of the improvements is equal to or exceeds 50 percent of the assessed value of the property, excluding the land, prior to such improvements.

“Vertical improvement” means a building that is wholly or partially above grade and all appurtenant structures to the building.

This rule is intended to implement Iowa Code section 15J.2.

701—237.3(15J) New state tax revenue calculations.

237.3(1) State sales tax calculation. The department shall calculate quarterly the amount of new state sales tax revenues for each district established in the state to be deposited in the state reinvestment district fund, subject to remittance limitations established by the board.

The amount of new state sales tax revenue for purposes of this subrule shall be the product of the amount of sales subject to the state sales tax in the district during the quarter from “new retail establishments,” as defined in rule 701—237.2(15J), multiplied by 4 percent.

237.3(2) State hotel and motel tax calculation. Pursuant to Iowa Code section 423A.6, the department shall calculate quarterly the amount of new state hotel and motel tax revenues for each district established in the state to be deposited in the state reinvestment district fund created in Iowa Code section 15J.6, subject to remittance limitations established by the board pursuant to Iowa Code section 15J.4, subsection 3.

The amount of new state hotel and motel tax revenue for purposes of this subrule shall be the product of the amount of sales subject to the state hotel and motel tax in the district during the quarter from “new lessors,” as defined in rule 701—237.2(15J), multiplied by the state hotel and motel tax rate imposed under Iowa Code section 423A.3.

237.3(3) Identification of new retail establishments and new lessors. Each municipality that has established a district under this chapter shall assist the department in identifying new retail establishments in the district that are collecting state sales tax and new lessors in the district that are collecting state hotel and motel tax. This process shall be ongoing until the municipality ceases to utilize state sales tax revenue or state hotel and motel tax revenue under this chapter or the district is dissolved.

This rule is intended to implement Iowa Code sections 15J.5, 423.2(11) and 423A.6.

701—237.4(15J) State reinvestment district fund.

237.4(1) Establishment of the fund. A state reinvestment district fund is established in the state treasury under the control of the department consisting of the new state sales tax revenues collected within each district and deposited in the fund pursuant to Iowa Code section 423.2, subsection 11, paragraph “b,” and the new state hotel and motel tax revenues collected within each district and deposited in the fund pursuant to Iowa Code section 423A.6. Moneys deposited in the fund are appropriated to the department for the purposes of remittance of moneys to municipalities as set forth in subrule 237.4(3). Moneys in the fund shall only be used as set forth in economic development authority rule 261—200.8(15J).

237.4(2) District accounts. A district account is created within the fund for each district created by a municipality under Iowa Code chapter 15J.

237.4(3) Timing of deposits. The department shall deposit the moneys described in subrule 237.4(1) that were collected in a quarter beginning on or after the district’s commencement date into the appropriate district account in the fund. However, moneys shall not be deposited in the fund before the period for processing returns for the quarter is complete.

237.4(4) Late-filed returns. Moneys described in subrule 237.4(1) that are collected from late-filed returns shall be deposited in the fund. Such moneys shall be deposited following the period for processing returns for the quarter in which the late return is received, subject to the limitations of Iowa Code chapter 15J.

REVENUE DEPARTMENT[701](cont'd)

237.4(5) *Reinvestment project fund deposits.* All moneys in each district account within the fund shall be remitted quarterly by the department to the municipality that established the district for deposit in the municipality's reinvestment project fund described in rule 701—237.5(15J).

237.4(6) *Refund claims.* If the moneys described in subrule 237.4(1) are the subject of a refund claim and that claim is granted by the department, the department may offset any refund at a later date against funds remitted to the district in which the new retail establishment or new lessor that had remitted the refunded tax amount is located.

This rule is intended to implement Iowa Code section 15J.6.

701—237.5(15J) Reinvestment project fund.

237.5(1) *Reinvestment project fund deposits.* State sales tax revenue and state hotel and motel tax revenue remitted by the department to a municipality pursuant to Iowa Code section 15J.6 shall be deposited in a reinvestment project fund of the municipality and shall be used to fund projects within the district from which the revenues were collected. If the municipality determines that the revenue accruing to the reinvestment project fund exceeds the amount necessary for these purposes, the excess moneys that are remittances received under Iowa Code section 15J.6 and all interest in the fund attributable to such excess amounts shall be remitted by the municipality to the department for deposit in the general fund of the state.

237.5(2) *Other funds.* In addition to the moneys received pursuant to subrule 237.4(1), a municipality may deposit in the reinvestment project fund any other moneys lawfully at the municipality's disposal, including but not limited to local sales and services tax receipts collected under Iowa Code chapter 423B if such use is a purpose authorized for the municipality under Iowa Code chapter 423B.

237.5(3) *Use of funds.* Moneys from any source deposited into the reinvestment project fund shall not be expended for or otherwise used in connection with a project that includes the relocation of a commercial or industrial enterprise not presently located within the municipality.

For the purposes of this subrule, "relocation" means the closure or substantial reduction of an enterprise's existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. "Relocation" does not include an enterprise expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

237.5(4) *Remittance of unused funds.* Upon dissolution of a district pursuant to rule 701—237.6(15J), if moneys remitted to the municipality pursuant to subrule 237.4(1) remain in the municipality's reinvestment project fund and those moneys are not necessary to support completion of a project in the dissolved district, such amounts and all interest remaining in the fund that was earned on such amounts shall be remitted by the municipality to the department for deposit in the general fund of the state.

Upon dissolution of a district pursuant to rule 701—237.6(15J), moneys remaining in the reinvestment project fund that were deposited pursuant to subrule 237.5(2) and all interest remaining in the fund that was earned on such amounts shall be deposited in the general fund of the municipality.

237.5(5) *Audit of records.* The records of the municipality related to the district and the reinvestment project fund are subject to audit by the department or the auditor of state.

This rule is intended to implement Iowa Code section 15J.7.

701—237.6(15J) End of deposits—district dissolution.

237.6(1) *Cessation of deposits.* As of the date 20 years after the district's commencement date, the department shall cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund, unless the municipality dissolves the district by ordinance prior to that date. Once the maximum benefit amount approved by the board for the district has been reached, the department will cease to deposit new tax revenues into the district's account within the fund. If a district reaches the maximum benefit amount, the department shall notify the municipality and the board within a reasonable amount of time.

REVENUE DEPARTMENT[701](cont'd)

237.6(2) District dissolution. If the municipality dissolves the district by ordinance prior to the expiration of the 20-year period, the municipality shall notify the director of revenue of the dissolution by certified mail as soon as practicable after adoption of the ordinance, and the department shall, as of the effective date of dissolution, cease to deposit state sales tax revenues and state hotel and motel tax revenues into the district's account within the fund. If a municipality is notified that its maximum benefit amount has been reached, the municipality shall dissolve the district by ordinance as soon as practicable after notification.

This rule is intended to implement Iowa Code section 15J.8.

[Filed 4/9/14, effective 6/4/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1448C

SOIL CONSERVATION DIVISION[27]

Adopted and Filed

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation hereby amends Chapter 10, "Iowa Financial Incentive Program for Soil Erosion Control," Iowa Administrative Code.

The amendments add an additional recall of unobligated cost-share funds from districts annually on December 31 to allow for the reallocation of these funds to districts that have the immediate ability to use the funds. The amendments also allow districts more flexibility in their ability to distribute funds based upon the type of practice. Additionally, the amendments allow the use of publicly owned lake funds for management practices near designated publicly owned lakes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 5, 2014, as **ARC 1369C**. No comments were received from the public. The adopted amendments are identical to those published under Notice.

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

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

These amendments will become effective July 1, 2014.

The following amendments are adopted.

ITEM 1. Amend subrules 10.51(2) and 10.51(3) as follows:

10.51(2) Supplemental allocation. The remaining balance of the fiscal year funds plus recalled funds ~~from the mandatory program as distributed in subrule 10.41(3), and from the public lakes fund as distributed in subrule 10.41(2) that were not obligated, from the reserve fund established in subrule 10.57(1), and from districts as specified in subrule 10.51(3)~~ will be provided to the districts in a supplemental allocation. The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by September 1 and by December 31. The Factors to be considered in making a supplemental allocation to any a district will be the lesser amount of include:

a. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; ~~or and~~

b. Three Whether or not the proposed supplemental allocation exceeds three times the original allocation to the district.

10.51(3) Recall of funds. ~~Any funds allocated in the current fiscal year that the districts have not spent or obligated by June 30 may be recalled by the division. The division shall recall unobligated funds from district accounts on December 31 and on June 30. Recalled funds will be made available to qualifying districts as supplements to their initial allocation.~~

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 2. Amend subrules 10.51(5) and 10.51(6) as follows:

10.51(5) Eligibility for supplemental allocations. ~~A district must have obligated 75 percent of current fiscal year funds to qualify for a supplemental allocation.~~ In order to be considered as a pending application for the purpose of calculating supplemental need, an application must be immediately ready to proceed to layout, design and construction upon approval by the district.

a. Fall supplemental funding shall only be available to those districts that have 75 percent of their funds obligated and have demonstrated an ability to use available funds.

b. Spring supplemental funding shall be made available to practices that will be completed by June 30 of the current year.

10.51(6) Recall and reallocation of funds by division director. ~~When the unspent balance of funds allocated to a district exceeds that district's annual allocation by more than 150 percent for a period of 12 months or more, the division director may recall these unspent funds and reallocate them to a district or districts that can demonstrate a need.~~ If districts are not demonstrating an ability to use available funding, the division director may recall these funds and reallocate the funds to a district that has an immediate need for additional funding.

ITEM 3. Amend rule 27—10.52(161A), introductory paragraph, as follows:

27—10.52(161A) Publicly owned lakes. The division of soil conservation maintains the funds that are distributed to the publicly owned lakes program. These funds may be used to provide cost sharing not to exceed 75 percent of the approved cost of ~~permanent~~ soil conservation practices on watersheds above publicly owned lakes and reservoirs. The division will allocate these program funds to eligible districts in steps identified as original allocation, recall of unobligated funds, and reallocation.

ITEM 4. Amend paragraph **10.60(1)“c”** as follows:

c. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for contour farming; \$25 per acre for establishing a cover crop; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips. Not more than 30 percent of the district's original allocation and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped. The one-time only payment may apply to management practices lasting up to four consecutive years. The one-time only payment for multiple years is calculated based on the listed annual amounts. A performance agreement is required for incentive payments covering a time period of one year or longer.

[Filed 4/9/14, effective 7/1/14]

[Published 4/30/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/30/14.

ARC 1451C

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation, on April 10, 2014, adopted an amendment to Chapter 181, “Statewide Standard for Permitting Certain Implements of Husbandry,” Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the March 5, 2014, Iowa Administrative Bulletin as **ARC 1350C**.

The amendment updates the references to the most current American Association of State Highway and Transportation Officials (AASHTO) publication, the Manual for Bridge Evaluation. This publication is used by local authorities when performing bridge evaluations.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

TRANSPORTATION DEPARTMENT[761](cont'd)

This amendment is identical to the one published under Notice of Intended Action.

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

This amendment is intended to implement Iowa Code sections 321.463(4) and 321.471.

This amendment will become effective June 4, 2014.

The following amendment is adopted.

Amend subrule 181.1(2) as follows:

181.1(2) A local authority shall evaluate a bridge according to section 6 of the American Association of State and Highway and Transportation Officials (AASHTO) Manual for ~~Condition Evaluation of Bridges~~, Bridge Evaluation (MBE), Second Edition (2000 2010), as revised by the 2001 2014 Interim Revisions. The operating level shall be used for the evaluation of the bridge with only one fence-line feeder, grain cart, tank wagon or tracked implement of husbandry on the bridge at a time. The live load to be used in the analysis for permit decisions should be the actual vehicle crossing the bridge, together with ~~an impact factor~~ a dynamic load allowance in accordance with section 3 6A.4.4.3 or 6A.4.5.5 of the AASHTO ~~Standard Specifications for Highway Bridges, Sixteenth Edition (1996)~~, as revised by the ~~1997, 1998, 1999 and 2000~~ MBE Second Edition (2010) and 2014 Interim Revisions.

[Filed 4/10/14, effective 6/4/14]

[Published 4/30/14]

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