



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.

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2009

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. 24 '08	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09
Jan. 9	Jan. 28	Feb. 17	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	***May 13***	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	***June 24***	July 15	Aug. 19	Nov. 16
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
June 24	July 15	Aug. 4	Aug. 19	***Aug. 19***	Sep. 9	Oct. 14	Jan. 11 '10
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '10
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '10
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '10
Aug. 19	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '10
Sep. 4	Sep. 23	Oct. 13	Oct. 28	***Oct. 28***	Nov. 18	Dec. 23	Mar. 22 '10
Sep. 18	Oct. 7	Oct. 27	Nov. 11	***Nov. 12***	Dec. 2	Jan. 6 '10	Apr. 5 '10
Oct. 2	Oct. 21	Nov. 10	Nov. 25	***Nov. 25***	Dec. 16	Jan. 20 '10	Apr. 19 '10
Oct. 16	Nov. 4	Nov. 24	Dec. 9	***Dec. 9***	Dec. 30	Feb. 3 '10	May 3 '10
Oct. 28	Nov. 18	Dec. 8	Dec. 23	***Dec. 23***	Jan. 13 '10	Feb. 17 '10	May 17 '10
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Dec. 9	Dec. 30	Jan. 19 '10	Feb. 3 '10	Feb. 5 '10	Feb. 24 '10	Mar. 31 '10	June 28 '10
Dec. 23	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
25	Wednesday, May 13, 2009	June 3, 2009
26	Friday, May 29, 2009	June 17, 2009
1	Friday, June 12, 2009	July 1, 2009

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*****

AGENCY	HEARING LOCATION	DATE AND TIME
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Community microenterprise development organization grant program, ch 113 IAB 5/6/09 ARC 7765B (See also ARC 7764B herein)	ICN Room 200 E. Grand Ave. Des Moines, Iowa	May 27, 2009 3 to 4:30 p.m.
Renewable fuel infrastructure program, 314.5(2)“e” IAB 5/6/09 ARC 7763B	ICN/Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	May 26, 2009 2:30 to 4 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Teacher licenses and endorsements—classes of licenses, 13.10(5), 13.11 to 13.14 IAB 5/6/09 ARC 7751B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
Licenses, endorsements, and authorizations, rescind 13.28(26), 13.28(27), 15.7(1) to 15.7(5), 15.8 IAB 5/6/09 ARC 7744B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
Renewal of substitute license, 20.7 IAB 5/6/09 ARC 7748B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
Definition of “practitioner,” 25.2 IAB 5/6/09 ARC 7747B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
Issuance of professional service licenses, ch 27 IAB 5/6/09 ARC 7743B	Room 3 Southwest, Third Floor Grimes State Office Building Des Moines, Iowa	May 27, 2009 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Air emissions reduction assistance program, ch 35 IAB 4/8/09 ARC 7678B (See also ARC 7679B)	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	May 11, 2009 10 a.m.
Solid waste comprehensive management requirements, amendments to ch 101 IAB 4/22/09 ARC 7728B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	May 12, 2009 1 p.m.
HUMAN SERVICES DEPARTMENT[441]		
Case management services, 78.27, 78.37, 78.43, 79.1, 79.3, 83.22(2), 90.1 to 90.8 IAB 4/22/09 ARC 7732B	Medicaid Enterprise Room 128 100 Army Post Rd. Des Moines, Iowa	May 13, 2009 10 to 11 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]		
Additional employer contributions from employer-mandated reduction in hours, 4.6(4), 4.8, 6.3, 6.4 15.5(1) IAB 5/6/09 ARC 7760B (See also ARC 7759B herein)	7401 Register Dr. Des Moines, Iowa	May 26, 2009 9 a.m.
NURSING BOARD[655]		
ARNP supervision of fluoroscopy, 7.2 IAB 4/22/09 ARC 7714B	Des Moines West Room, Holiday Inn 1050 6th Ave. Des Moines, Iowa	June 3, 2009 6 p.m.
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Continuing education for optometrists, 181.3(2)"c"(1) IAB 5/6/09 ARC 7762B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	May 27, 2009 8:30 to 9 a.m.
RACING AND GAMING COMMISSION[491]		
Organization; contested cases; licensure; gambling games; accounting and cash control, amendments to chs 1, 4 to 6, 11, 12 IAB 5/6/09 ARC 7758B	Suite B 717 E. Court Ave. Des Moines, Iowa	May 26, 2009 9:30 a.m.
TRANSPORTATION DEPARTMENT[761]		
Motor carrier regulations—update CFR reference, 529.1 IAB 4/22/09 ARC 7716B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	May 14, 2009 10 a.m. (If requested)
Driver's licenses, amendments to chs 601, 602, 604, 605, 607, 610, 611, 615, 640 IAB 4/22/09 ARC 7721B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	May 14, 2009 2 p.m. (If requested)
UTILITIES DIVISION[199]		
Emergency outage reporting requirements for certificated local exchange carriers, 22.2(9) IAB 4/8/09 ARC 7674B	Board Hearing Room 350 Maple St. Des Moines, Iowa	May 20, 2009 10 a.m.
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]		
Iowa Veterans Home—exempt income for incentive therapy or other programs, 10.19(2)"a"(9) IAB 5/6/09 ARC 7746B	Ford Memorial Conference Room Iowa Veterans Home 1301 Summit Marshalltown, Iowa	May 27, 2009 10 a.m. (If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“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 which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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ARC 7765B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 15.102, the Iowa Department of Economic Development proposes to adopt new Chapter 113, "Community Microenterprise Development Organization Grant Program," Iowa Administrative Code.

These proposed rules are intended to support microenterprise development through community microenterprise development organization grants authorized by Iowa Code section 15.240. This financial assistance will help build the capacity of community microenterprise development organizations to provide technical assistance to microenterprises, entrepreneurs and small businesses.

The proposed rules describe the purpose of the program; provide program definitions; establish eligibility requirements; describe application submittal, review and approval procedures; and explain contract administration provisions.

Public comments concerning the proposed new chapter will be accepted until 4:30 p.m. on May 27, 2009. Interested persons may submit written or oral comments by contacting Gail Kotval, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4731.

The Department will hold a public hearing on May 27, 2009, from 3 to 4:30 p.m. to receive comments on these rules. The public hearing will be held in the ICN Room, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 7764B**. The content of that submission is incorporated by reference.

These rules are intended to implement Iowa Code section 15.240.

ARC 7763B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development proposes to amend Chapter 314, "Renewable Fuel Infrastructure Program Administration," Iowa Administrative Code.

This amendment is intended to address the situation in which a project is already completed when an award is made. The proposed amendment changes the starting date for calculating the three- or five-year period during which the grant recipient must continue to dispense renewable fuel.

The current rules provide that a grant recipient must continue to dispense renewable fuel for a period of three or five years (duration varies by program component) from project completion. The three- or five-year period will have passed for projects already completed when the award is made. In such cases, the day the grant recipient signs the contract with IDED, the recipient will have met the three- or five-year

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

“continued use of renewable fuel” requirement because the requirement is tied to project completion (a date that has already occurred), not to a date stated in the contract.

The proposed amendment provides that, for completed projects, the three- or five-year continued-use obligation begins on the date of the first disbursement of grant funds by IDEED, not on the date of project completion. For projects under construction or not yet begun, the three- or five-year continued-use obligation begins on the date the project is completed.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on May 26, 2009. Interested persons may submit written comments to Dick Vegors, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4796.

A public hearing will be held Tuesday, May 26, 2009, from 2:30 until 4 p.m. in the ICN/Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

This amendment is intended to implement Iowa Code sections 15G.201 to 15G.206.

The following amendment is proposed.

Amend paragraph **314.5(2)“e”** as follows:

~~e. Recite the penalty for the storage or dispensing, within the stated time frame of three years or five years from submission of verified documentation of project completion, of motor fuel other than the type of renewable fuel for which the grant was awarded.~~

(1) Awards for projects under construction or not yet started. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the project is completed.

(2) Awards for projects already completed. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the department issues the first disbursement of grant funds, not on the date of project completion.

ARC 7751B

EDUCATIONAL EXAMINERS BOARD[282]

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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

These proposed amendments change the different classes of licenses issued by the Board. The amendments seek to make application for licensure more user friendly by combining several classes of licenses. The amendments combine Class B, C, and D licenses into one license, Class B, and rescind separate rules for Class C and D licenses.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 27, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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 proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, May 29, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

ITEM 1. Amend subrule 13.10(5) as follows:

13.10(5) *Based on an expired Iowa certificate or license, exclusive of a Class A, or Class B, ~~Class C, or Class D~~ license.* The holder of an expired license, exclusive of a Class A, or Class B, ~~Class C, or Class D~~ license, shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

ITEM 2. Amend rule 282—13.11(272) as follows:

282—13.11(272) Specific requirements for a Class B license. A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

13.11(1) Endorsement in progress. The individual has a valid license and one or more endorsements, but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking this to obtain some other endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for ~~that~~ the endorsement.

13.11(2) Program of study for special education endorsement. The college or university must outline the program of study necessary to meet the special education endorsement requirements. This program of study must be attached to the application.

~~13.11(2)~~ **13.11(3) Request for exception.** A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

13.11(4) Provisional occupational license. If an individual is eligible for a provisional occupational license but has not met all of the experience requirements, a Class B license may be issued while the individual earns the necessary experience.

ITEM 3. Rescind and reserve rules **282—13.12(272)** and **282—13.13(272)**.

ITEM 4. Amend subrules 13.14(1) and 13.14(2) as follows:

13.14(1) Expired license. Based on an expired Class A, Class B, ~~Class C, Class D~~ or teacher exchange license, the holder of the expired license shall be eligible to receive a Class E license upon application and submission of all required materials.

13.14(2) Application. The application process will require transcripts of coursework completed during the term of the expired license, a program of study indicating the coursework necessary to obtain full licensure, and registration for coursework to be completed during the term of the Class E license. The Class E license will be denied if the applicant has not completed any coursework during the term of the Class A, or Class B, ~~Class C, or Class D~~ license unless extenuating circumstances are verified.

ARC 7744B**EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, "Issuance of Teacher Licenses and Endorsements," and Chapter 15, "Special Education Support Personnel Authorizations," Iowa Administrative Code.

These amendments rescind provisions that are included in proposed new Chapter 27, "Issuance of Professional Service Licenses" [see **ARC 7743B** herein].

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 27, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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 proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, May 29, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code chapter 272.

The following amendments are proposed.

- ITEM 1. Rescind and reserve subrules **13.28(26)** and **13.28(27)**.
- ITEM 2. Rescind and reserve subrules **15.7(1)** to **15.7(5)**.
- ITEM 3. Rescind and reserve rule **282—15.8(272)**.

ARC 7748B**EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 20, "Renewals," Iowa Administrative Code.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

A teacher who retires and wishes to substitute teach may apply for renewal of a substitute license acquired prior to or during the term of the standard license. The renewal requirements for a substitute license state that a person must have completed a recent one-hour class or spent at least 30 days substitute teaching during the term of the substitute license. The person may be unable to provide evidence of substitute teaching during the term of the person's original substitute license but may have taught recently. This amendment allows a recent year of teaching experience to fulfill the requirement for renewal of a substitute license. The intent of the rule is that, since the person has experience in the classroom, teaching experience will be considered acceptable as substitute teaching experience for renewal of a substitute license.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 27, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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 proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 29, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—20.7(272) as follows:

282—20.7(272) Specific renewal requirements for a substitute license. In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272). An applicant for renewal of a substitute license shall meet one of the requirements listed below:

1. Verification of at least 30 days of substitute teaching during the term of the license or one year of teaching experience within the last five years completed during the term of a valid Iowa teaching license.

2. Completion of a local education agency or area education agency course approved through licensure renewal guidelines established by the board of educational examiners.

3. Completion of one semester hour of credit taken from a community college, college, or university.

ARC 7747B**EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 25, "Code of Professional Conduct and Ethics," Iowa Administrative Code.

The definition of "practitioner" in Iowa Code section 272.1(7) was amended by 2008 Iowa Acts, chapter 1008, section 1. This amendment conforms the definition in rule 282—25.2(272) to that definition.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 27, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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 proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, May 29, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule **282—25.2(272)**, definition of "Practitioner," as follows:

"Practitioner" means an administrator, teacher, or other school personnel, who provides educational assistance to students and who holds a license, certificate, or other authorization issued by the board-licensed professional, including an individual who holds a statement of professional recognition, who provides educational assistance to students.

ARC 7743B**EDUCATIONAL EXAMINERS BOARD[282]****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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to adopt Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

The creation of a professional service license will reduce confusion in the field. Issuance of Initial and Standard Licenses to service professionals creates confusion about what these individuals are authorized to do. A separate license would clarify what they are allowed to do.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, May 27, 2009, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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 proposed rules. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed rules before 4 p.m. on Friday, May 29, 2009. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Adopt the following **new** 282—Chapter 27:

CHAPTER 27**ISSUANCE OF PROFESSIONAL SERVICE LICENSES**

282—27.1(272) Professional service license. A professional service licensee is an individual prepared to provide professional services in Iowa schools but whose preparation has not required completion of the professional education core as described in 282—subrule 13.18(4). The professional service license may be issued in the following areas:

1. School audiologist.
2. School psychologist.
3. School social worker.
4. Speech-language pathologist.
5. Supervisor of special education (support).
6. Director of special education of an area education agency.
7. School counselor.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

282—27.2(272) Requirements for a professional service license.

27.2(1) Initial professional service license. An initial professional service license valid for two years may be issued to an applicant for licensure to serve as a school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support), director of special education of an area education agency, or school counselor who:

- a. Has a master's degree in a recognized professional educational service area from a regionally accredited institution.
- b. Has completed a state-approved program which meets the requirements for an endorsement in a professional educational service area.
- c. Has completed the requirements for one of the professional educational service area endorsements.
- d. Meets the recency requirement of 282—subrule 13.10(3).

27.2(2) Standard professional service license. A standard professional service license valid for five years may be issued to an applicant who:

- a. Completes requirements listed under 27.2(1) "a" to "d."
- b. Shows evidence of successful completion of a state-approved mentoring and induction program by meeting the Iowa standards as determined by a comprehensive evaluation and two years' successful service experience in an Iowa public school. In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of three years' successful service area experience in an Iowa nonpublic school or three years' successful service area experience in an out-of-state K-12 educational setting.
- c. Meets the recency requirement of 282—subrule 13.10(3).

27.2(3) Renewal. Renewal requirements for this license are set out in 282—Chapter 20.

282—27.3(272) Specific requirements for professional service license endorsements.**27.3(1) Elementary counselor.**

a. *Authorization.* The holder of this endorsement has not completed the professional education core (282—subrule 13.18(4)) but is authorized to serve as a school guidance counselor in kindergarten and grades one through eight.

b. *Program requirements.*

- (1) Master's degree from an accredited institution of higher education.
- (2) Completion of an approved human relations component.
- (3) Completion of an approved exceptional learner component.

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

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4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.
 5. Implement developmentally appropriate counseling interventions with children and adolescents.
 6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.
 7. Refer students for specialized help when appropriate.
 8. Value the well-being of the students as paramount in the counseling relationship.
- (4) Group work.
1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.
 2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.
- (5) Career development, education, and postsecondary planning.
1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.
 2. Apply knowledge of career assessment and career choice programs.
 3. Implement occupational and educational placement, follow-up and evaluation.
 4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.
- (6) Assessment and evaluation.
1. Demonstrate individual and group approaches to assessment and evaluation.
 2. Demonstrate an understanding of the proper administration and uses of standardized tests.
 3. Apply knowledge of test administration, scoring, and measurement concerns.
 4. Apply evaluation procedures for monitoring student achievement.
 5. Apply assessment information in program design and program modifications to address students' needs.
 6. Apply knowledge of legal and ethical issues related to assessment and student records.
- (7) Professional orientation.
1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.
 2. Maintain a high level of professional knowledge and skills.
 3. Apply knowledge of professional and ethical standards to the practice of school counseling.
 4. Articulate the counselor role to school personnel, parents, community, and students.
- (8) School counseling skills.
1. Design, implement, and evaluate a comprehensive, developmental school guidance program.
 2. Implement and evaluate specific strategies designed to meet program goals and objectives.
 3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.
 4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.
 5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.
 6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.
 7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.
 8. Assist in the process of identifying and addressing the needs of the exceptional student.
 9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.

11. Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.

(9) Classroom management.

1. Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.

2. Consult with teachers and parents about effective classroom management and behavior management strategies.

(10) Curriculum.

1. Write classroom lessons including objectives, learning activities, and discussion questions.

2. Utilize various methods of evaluating what students have learned in classroom lessons.

3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.

4. Design a classroom unit of developmentally appropriate learning experiences.

5. Demonstrate knowledge in writing standards and benchmarks for curriculum.

(11) Learning theory.

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation.

27.3(2) Secondary counselor.

a. Authorization. The holder of this endorsement has not completed the professional education core (282—subrule 13.18(4)) but is authorized to serve as a school guidance counselor in grades five through twelve.

b. Program requirements.

(1) Master's degree from an accredited institution of higher education.

(2) Completion of an approved human relations component.

(3) Completion of an approved exceptional learner component.

c. Content. Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) Nature and needs of individuals at all developmental levels.

1. Develop strategies for facilitating development through the transition from childhood to adolescence and from adolescence to young adulthood.

2. Apply knowledge of learning and personality development to assist students in developing their full potential.

(2) Social and cultural foundations.

1. Demonstrate awareness of and sensitivity to the unique social, cultural, and economic circumstances of students and their racial/ethnic, gender, age, physical, and learning differences.

2. Demonstrate sensitivity to the nature and the functioning of the student within the family, school and community contexts.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

3. Demonstrate the counseling and consultation skills needed to facilitate informed and appropriate action in response to the needs of students.

(3) Fostering of relationships.

1. Employ effective counseling and consultation skills with students, parents, colleagues, administrators, and others.

2. Communicate effectively with parents, colleagues, students and administrators.

3. Counsel students in the areas of personal, social, academic, and career development.

4. Assist families in helping their children address the personal, social, and emotional concerns and problems that may impede educational progress.

5. Implement developmentally appropriate counseling interventions with children and adolescents.

6. Demonstrate the ability to negotiate and move individuals and groups toward consensus or conflict resolution or both.

7. Refer students for specialized help when appropriate.

8. Value the well-being of the students as paramount in the counseling relationship.

(4) Group work.

1. Implement developmentally appropriate interventions involving group dynamics, counseling theories, group counseling methods and skills, and other group work approaches.

2. Apply knowledge of group counseling in implementing appropriate group processes for elementary, middle school, and secondary students.

(5) Career development, education, and postsecondary planning.

1. Assist students in the assessment of their individual strengths, weaknesses, and differences, including those that relate to academic achievement and future plans.

2. Apply knowledge of career assessment and career choice programs.

3. Implement occupational and educational placement, follow-up and evaluation.

4. Develop a counseling network and provide resources for use by students in personalizing the exploration of postsecondary educational opportunities.

(6) Assessment and evaluation.

1. Demonstrate individual and group approaches to assessment and evaluation.

2. Demonstrate an understanding of the proper administration and uses of standardized tests.

3. Apply knowledge of test administration, scoring, and measurement concerns.

4. Apply evaluation procedures for monitoring student achievement.

5. Apply assessment information in program design and program modifications to address students' needs.

6. Apply knowledge of legal and ethical issues related to assessment and student records.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

2. Maintain a high level of professional knowledge and skills.

3. Apply knowledge of professional and ethical standards to the practice of school counseling.

4. Articulate the counselor role to school personnel, parents, community, and students.

(8) School counseling skills.

1. Design, implement, and evaluate a comprehensive, developmental school guidance program.

2. Implement and evaluate specific strategies designed to meet program goals and objectives.

3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.

4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.

5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.

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6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.

7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.

8. Assist in the process of identifying and addressing the needs of the exceptional student.

9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.

10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.

11. Promote use of counseling and guidance activities and programs involving the total school community to provide a positive school climate.

(9) Classroom management.

1. Apply effective classroom management strategies as demonstrated in classroom guidance and large group guidance lessons.

2. Consult with teachers and parents about effective classroom management and behavior management strategies.

(10) Curriculum.

1. Write classroom lessons including objectives, learning activities, and discussion questions.

2. Utilize various methods of evaluating what students have learned in classroom lessons.

3. Demonstrate competency in conducting classroom and other large group activities, utilizing an effective lesson plan design, engaging students in the learning process, and employing age-appropriate classroom management strategies.

4. Design a classroom unit of developmentally appropriate learning experiences.

5. Demonstrate knowledge in writing standards and benchmarks for curriculum.

(11) Learning theory.

1. Identify and consult with teachers about how to create a positive learning environment utilizing such factors as effective classroom management strategies, building a sense of community in the classroom, and cooperative learning experiences.

2. Identify and consult with teachers regarding teaching strategies designed to motivate students using small group learning activities, experiential learning activities, student mentoring programs, and shared decision-making opportunities.

3. Demonstrate knowledge of child and adolescent development and identify developmentally appropriate teaching and learning strategies.

(12) Teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance and consultation.

27.3(3) School psychologist.

a. *Authorization.* The holder of this endorsement is authorized to serve as a school psychologist with pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

b. *Program requirements.*

(1) An applicant shall have completed a program of graduate study that is currently approved (or that was approved at the time of graduation) by the National Association of School Psychologists or the American Psychological Association, or be certified as a Nationally Certified School Psychologist by the National Association of School Psychologists, in preparation for service as a school psychologist through one of the following options:

1. Completion of a master's degree with sufficient graduate semester hours beyond a baccalaureate degree to total 60; or

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2. Completion of a specialist's degree of at least 60 graduate semester hours with or without completion of a terminal master's degree program; or

3. Completion of a doctoral degree program of at least 60 graduate semester hours with or without completion of a terminal master's degree program or specialist's degree program.

(2) The program shall include an approved human relations component.

(3) The program must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

c. School psychologist one-year Class A license.

(1) Requirements for a one-year Class A license. A nonrenewable Class A license valid for one year may be issued to an individual who must complete an internship or thesis as an aspect of an approved program in preparation for the school psychologist endorsement. The one-year Class A license may be issued under the following limited conditions:

1. Verification from the institution that the internship or thesis is a requirement for successful completion of the program.

2. Verification that the employment situation will be satisfactory for the internship experience.

3. Verification from the institution of the length of the approved and planned internship or the anticipated completion date of the thesis.

4. Verification of the evaluation processes for successful completion of the internship or thesis.

5. Verification that the internship or thesis is the only requirement remaining for successful completion of the approved program.

(2) Written documentation of the above requirements must be provided by the official at the institution where the individual is completing the approved school psychologist program and forwarded to the board of educational examiners with the application form for licensure.

27.3(4) *Speech-language pathologist.* A person who meets the requirements set forth below may be issued an endorsement. Alternatively, a person may meet the requirements for a statement of professional recognition (SPR) issued by the board of educational examiners in this area as set forth in 282—Chapter 16.

a. Authorization. The holder of this endorsement is authorized to serve as a speech-language pathologist to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

b. Program requirements.

(1) An applicant must hold a master's degree in speech pathology.

(2) Content. An applicant must have completed the requirements in speech pathology and in the professional education sequence, i.e., 20 semester hours including student teaching/internship as a school speech-language pathologist. Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

1. Curriculum courses (e.g., reading, methods, curriculum development).

2. Foundations (e.g., philosophy of education, foundations of education).

3. Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).

4. Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).

5. Courses in special education (e.g., introduction to special education, learning disabilities).

6. Child development courses (e.g., human growth and development, principles and theories of child development, history and theories of early childhood education).

NOTE: General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

(3) The applicant must complete an approved human relations component.

(4) The program must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

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27.3(5) Supervisor of special education (support).

a. Authorization. The holder of this endorsement is authorized to serve as a supervisor of special education support programs. However, an individual holding a statement of professional recognition is not eligible for the supervisor of special education (support) endorsement.

b. Program requirements.

(1) An applicant must hold a master's degree in preparation for school psychology, speech/language pathology, audiology (or education of the hearing impaired), or social work.

(2) Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:

1. Consultation process in special or regular education.
2. Current issues in special education administration.
3. Program evaluation.
4. Educational leadership.
5. Administration and supervision of special education.

6. Practicum: Special education administration. NOTE: This requirement may be waived based on two years of experience as a special education administrator.

7. School personnel administration.
8. Evaluator approval component.

c. Other. The applicant must:

(1) Have four years of support service in a school setting with special education students in the specific discipline area desired.

(2) Meet the practitioner licensure requirements of one of the following endorsements:

1. School audiologist (or hearing impaired at K-8 and 5-12).
2. School psychologist.
3. School social worker.
4. Speech-language pathologist.

27.3(6) Director of special education of an area education agency.

a. Authorization. The holder of this endorsement is authorized to serve as a director of special education of an area education agency. Assistant directors are also required to hold this endorsement. However, an individual holding a statement of professional recognition is not eligible for the director of special education of an area education agency endorsement.

b. Program requirements.

(1) Degree—specialist or its equivalent. An applicant must hold a master's degree plus at least 32 semester hours of planned graduate study in administration or special education beyond the master's degree.

(2) Endorsement. An applicant must hold or meet the requirements for one of the following:

1. PK-12 principal and PK-12 supervisor of special education (see rule 282—18.9(272));
2. Supervisor of special education—instructional (see rule 282—15.5(272));
3. Supervisor of special education—support (see rule 282—15.8(272)); or
4. A letter of authorization for special education supervisor issued prior to October 1, 1988.

(3) Content. An applicant must have completed a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements to include the following:

1. Knowledge of federal, state and local fiscal policies related to education.
2. Knowledge of school plant/facility planning.
3. Knowledge of human resources management, including recruitment, personnel assistance and development, evaluations, and negotiations.
4. Knowledge of models, theories and philosophies that provide the basis for educational systems.
5. Knowledge of current issues in special education.
6. Knowledge of special education school law and legislative and public policy issues affecting children and families.

7. Knowledge of the powers and duties of the director of special education of an area education agency as delineated in Iowa Code section 273.5.

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8. Practicum in administration and supervision of special education programs.
 - (4) Experience. An applicant must have three years of administrative experience as a PK-12 principal or PK-12 supervisor of special education.
 - (5) Competencies. Through completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements, the director of special education accomplishes the following:
 1. Facilitates the development, articulation, implementation and stewardship of a vision of learning that is shared and supported by the school community.
 2. Advocates, nurtures and sustains a school culture and instructional program conducive to student learning and staff professional growth.
 3. Ensures management of the organization, operations and resources for a safe, efficient and effective learning environment.
 4. Collaborates with educational staff, families and community members; responds to diverse community interests and needs; and mobilizes community resources.
 5. Acts with integrity and fairness and in an ethical manner.
 6. Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.
 7. Collaborates and assists in supporting integrated work of the entire agency.
 - c. *Other.*
 - (1) Option 1: Instructional. An applicant must meet the requirements for one special education teaching endorsement and have three years of teaching experience in special education.
 - (2) Option 2: Support. An applicant must meet the practitioner licensure requirements for one of the following endorsements and have three years of teaching experience as a:
 1. School audiologist;
 2. School psychologist;
 3. School social worker; or
 4. Speech-language pathologist.
- 27.3(7) School social worker.** A person who meets the requirements set forth below may be issued an endorsement. Alternatively, a person may meet the requirements for a statement of professional recognition (SPR) issued by the board of educational examiners in this area as set forth in 282—Chapter 16.
- a. *Authorization.* An individual who meets the requirements of 282—paragraph 15.7(5) “b” or 282—subrule 16.6(2) is authorized to serve as a school social worker to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).
 - b. *Endorsement requirements.* An applicant must hold a master’s degree in social work from an accredited school of social work to include a minimum of 20 semester hours of coursework (including practicum experience) which demonstrates skills, knowledge, and competencies in the following areas:
 - (1) Social work.
 1. Assessment (e.g., social, emotional, behavioral, and familial).
 2. Intervention (e.g., individual, group, and family counseling).
 3. Related studies (e.g., community resource coordination, multidiscipline teaming, organizational behavior, and research).
 - (2) Education.
 1. General education (e.g., school law, foundations of education, methods, psychoeducational measurement, behavior management, child development).
 2. Special education (e.g., exceptional children, psychoeducational measurement, behavior management, special education regulations, counseling school-age children).
 - (3) Practicum experience. A practicum experience in a school setting under the supervision of an experienced school social work practitioner is required. The practicum shall include experiences that lead to the development of professional identity and the disciplined use of self. These experiences will include: assessment, direct services to children and families, consultation, staffing, community liaison

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and documentation. If a person has served two years as a school social worker, the practicum experience can be waived.

(4) Completion of an approved human relations component is required.

(5) The program must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

27.3(8) School audiologist. A person who meets the requirements set forth below may be issued an endorsement. Alternatively, a person may meet the requirements for a statement of professional recognition (SPR) issued by the board of educational examiners in this area as set forth in 282—Chapter 16.

a. Authorization. The holder of this endorsement is authorized to serve as a school audiologist to pupils from birth to age 21 who have hearing impairments (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

b. Program requirements.

(1) An applicant must hold a master's degree in audiology.

(2) Content. An applicant must complete the requirements in audiology and in the professional education sequence, i.e., 20 semester hours including student teaching/internship as a school audiologist. Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

1. Curriculum courses (e.g., reading, methods, curriculum development).
2. Foundations (e.g., philosophy of education, foundations of education).
3. Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).

4. Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).

5. Courses in special education (e.g., introduction to special education, learning disabilities).

6. Child development courses (e.g., human growth and development, principles and theories of child development, history of early childhood education).

NOTE: General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

(3) An applicant must complete an approved human relations component.

(4) The program must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

ARC 7738B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby extends until May 12, 2009, the public comment period for the Notice of Intended Action to amend Chapter 23, "Emission Standards for Contaminants," Chapter 25, "Measurement of Emissions," and Chapter 34, "Provisions for Air Quality Emissions Trading Programs," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7622B**. The purpose of the proposed amendments is to remove from the state air quality rules the U.S. Environmental Protection Agency (EPA) Clean Air Mercury Rule (CAMR) provisions that were vacated by the United States Court of Appeals for the District of Columbia Circuit (the D.C. Court). The D.C. Court found the regulations to be unauthorized under the federal Clean Air Act (CAA) or otherwise deficient. The Department is also proposing to amend the CAMR monitoring and reporting provisions that were adopted by reference in order to remove the vacated federal regulations and to add new mercury monitoring provisions.

EPA Region VII requested that the public comment period be extended. The Department is responding to this request and is extending the public comment period to May 12, 2009.

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No other changes have been made to the original Notice of Intended Action. Pursuant to the original Notice of Intended Action, a public hearing was held on April 13, 2009. No additional public hearings are scheduled.

Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to christine.paulson@dnr.iowa.gov. All comments must be received on or before May 12, 2009.

ARC 7760B**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****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 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 4, "Employers," Chapter 6, "Covered Wages," and Chapter 15, "Dividends," Iowa Administrative Code.

IPERS proposes the following amendments as a result of 2009 Iowa Acts, House File 414, section 51, which authorizes an IPERS program for restoring a member's three-year average covered wages when that amount has been decreased by an employer-mandated reduction in hours. The amendments also remove citations to 2008 Iowa Acts now codified in the 2009 Code of Iowa.

None of these amendments are subject to requests for waivers; however, the amendments are subject to IPERS' normal appeal process.

Any person may make written suggestions or comments on the proposed amendments on or before May 26, 2009. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator, IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045 or by E-mail to adminrule@ipers.org.

A public hearing will be held on May 26, 2009, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Persons who attend the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 7759B**. The content of that submission is incorporated by reference.

These amendments were prepared after consultation with IPERS administration, legal, and benefits staff.

These amendments are intended to implement 2009 Iowa Acts, House File 414, section 51, and Iowa Code sections 97B.4 and 97B.15.

ARC 7762B**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry hereby gives Notice of Intended Action to amend Chapter 181, "Continuing Education for Optometrists," Iowa Administrative Code.

The proposed amendment would update continuing education requirements for optometry licensure.

Any interested person may make written comments on the proposed amendment no later than May 27, 2009, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail jmanning@idph.state.ia.us.

A public hearing will be held on May 27, 2009, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, 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 proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 154 and 272C.

The following amendment is proposed.

Amend subparagraph **181.3(2)"c"(1)** as follows:

(1) Current certification in CPR offered in person by the American Heart Association, ~~or~~ the American Red Cross or an equivalent organization. At least two hours per biennium is required but credit will be granted for four hours; and

ARC 7758B**RACING AND GAMING COMMISSION[491]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," and Chapter 11, "Gambling Games," and to rescind Chapter 12, "Accounting and Cash Control," Iowa Administrative Code, and adopt a new Chapter 12 with the same title.

Item 1 brings rule 1.7(99D,99F) up to date with the current trend of the industry.

Items 2 and 3 add language regarding applicants who pose an immediate danger to the public health, safety, or welfare in order for the commission representative to summarily suspend the occupational license.

Item 4 requires the licensee to adopt policies and procedures regarding gambling setoff to comply with the Iowa Code.

Item 5 requires fingerprinting of all applicants applying for an occupational license.

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Item 6 removes redundancies in subrule 6.5(1) and allows more discretion to the commission representative on issuing occupational licenses.

Item 7 removes the definition for “EPROM.”

Item 8 amends the definition of “slot machine” to conform to industry standards.

Item 9 adds definitions for “currency” and “storage media.”

Items 10 to 13, 15, 16 and 18 combine current rules to eliminate redundancies and update the language to conform with current industry standards.

Item 14 requires proposals for gambling game-based tournaments to be submitted 14 days in advance.

Item 17 requires licensees to first look for similar progressive games prior to transferring the jackpot.

Item 19 rewrites Chapter 12 to eliminate redundancies and update the chapter to conform with current industry standards.

Any person may make written suggestions or comments on the proposed amendments on or before May 26, 2009. Written material should be directed to the Racing and Gaming Commission, 717 E. Court Avenue, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on May 26, 2009, at 9:30 a.m. in the office of the Racing and Gaming Commission, 717 E. Court Avenue, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Rescind rule 491—1.7(99D,99F) and adopt the following **new** rule in lieu thereof:

491—1.7(99D,99F) Criteria for granting licenses, renewing licenses, and determining race dates. The commission sets forth the following criteria which the commission will consider when deciding whether to issue a license to conduct racing or gaming in Iowa. The various criteria may not have the same importance in each instance, and other factors may present themselves in the consideration of an application for a license. The criteria are not listed in order of priority. After the initial consideration for issuing a license, applicable criteria need only be considered when an applicant has demonstrated a deficiency.

1.7(1) Compliance. The commission will consider whether or not the applicant is and has been in compliance with the terms and conditions specified in Iowa Code section 99D.9 or 99F.4. The commission will also consider whether the proposed facility is in compliance with applicable state and local laws regarding fire, health, construction, zoning, and other similar matters.

1.7(2) Gaming integrity. The commission will consider whether the proposed operation would ensure that gaming is conducted with a high degree of integrity in Iowa and that the officers, directors, partners, or shareholders of the operation are of good repute and moral character. The commission shall decide what weight and effect evidence about an officer, director, partner, or shareholder should have in the determination of whether there is substantial evidence that the individual is not of good reputation and character.

1.7(3) Economic impact and development. The commission will consider:

a. The amount of revenue to be provided by the proposed facility to the state and local communities through direct taxation on the facility’s operation and indirect revenues from tourism, ancillary businesses, creation of new industry, and taxes on employees and patrons. The commission may engage an independent firm proficient in market feasibility studies in the industry for specific analysis of any application to determine the potential market of any proposed facility as well as the impact on existing licensees.

b. The level of financial and other support the proposed operation will provide to the community in order to improve the quality of life of the residents of the community.

c. The viability and overall net benefit of the proposed operation to the state gaming industry taking into consideration:

(1) Investment versus projected adjusted gross revenue.

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(2) Impact on existing operators' adjusted gross revenue versus existing operators' ratio of adjusted gross revenue to investment.

(3) Ratio of equity to total investment and whether the proposed project is adequately and properly financed.

(4) Percent of projected adjusted gross revenue from underserved markets.

(5) Percent of projected adjusted gross revenue from existing Iowa operators.

(6) Stability and reliability of out-of-state market(s).

d. The benefits to Iowa tourism.

e. The number and quality of employment opportunities for Iowans.

f. The development and sale of Iowa products.

g. The number and types of developments and amenities associated with the proposed operation in addition to the gaming floor.

1.7(4) *Efficient and safe operation.* The commission will consider whether the proposed facility is planned in a manner that promotes efficient and safe operation of all aspects of the facility including providing adequate security for employees and patrons. Adequate employment to serve patrons' needs, facility scope and design, parking facilities, access to cashier windows, concessions, and restrooms will be considered.

1.7(5) *Community support.* The commission will consider support for the proposed project within the community in which a proposed facility is to be located.

1.7(6) *Nurture of the racing industry.* The commission will consider whether the proposed racetrack operation would serve to nurture, promote, develop, and improve the racing industry in Iowa and provide high-quality racing in Iowa. Purses and breeding programs will be considered.

1.7(7) *Other factors.* The commission will consider such other factors as may arise in the circumstances presented by a particular application.

ITEM 2. Amend subrule 4.4(3) as follows:

4.4(3) A gaming representative shall summarily suspend an occupational license when a licensee has been formally arrested or charged with a crime that would disqualify the ~~person~~ licensee, if convicted, from holding a license ~~if convicted~~ and the gaming representative determines that the licensee poses an immediate danger to the public health, safety, or welfare of the patrons, participants, or animals associated with a facility licensed under Iowa Code chapter 99D or 99F. Upon proof of resolution of a disqualifying criminal charge or formal arrest, regardless of summary suspension of a license, the gaming representative shall take one of the following courses of action:

a. If the license was summarily suspended and the charges are dismissed or the licensee is acquitted of the charges, the gaming representative shall reinstate the license.

b. If the licensee is convicted of the charges, the gaming representative shall deny the license.

c. If the licensee is convicted of a lesser charge, it is at the discretion of the gaming representative whether to reinstate or deny the license pursuant to 491—Chapter 6.

d. —Rescinded IAB 6/25/03, effective 7/30/03.

ITEM 3. Amend subrule 4.6(3) as follows:

4.6(3) A steward shall summarily suspend an occupational license when a licensee has been formally arrested or charged with a crime that would disqualify the ~~person~~ licensee, if convicted, from holding a license ~~if convicted~~ and the steward determines that the licensee poses an immediate danger to the public health, safety, or welfare of the patrons, participants, or animals associated with a facility licensed under Iowa Code chapter 99D or 99F. Upon proof of resolution of a disqualifying criminal charge or formal arrest, regardless of summary suspension of a license, the stewards shall take one the following courses of action:

a. If the license was summarily suspended and the charges are dismissed or the licensee is acquitted of the charges, the stewards shall reinstate the license.

b. If the licensee is convicted of the charges, the stewards shall deny the license.

c. If the licensee is convicted of a lesser charge, it is at the discretion of the stewards whether to reinstate or deny the license pursuant to 491—Chapter 6.

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~~d. — If the licensee receives a deferred judgment, the stewards shall evaluate the qualifications of the individual to hold an occupational license pursuant to 491—Chapter 6.~~

ITEM 4. Adopt the following **new** subrule 5.4(19):

5.4(19) Gambling setoff. Each licensee shall adopt and implement policies and procedures designed to set off winnings of patrons who have a valid lien established under Iowa Code chapters 99D and 99F.

ITEM 5. Amend paragraph **6.2(1)“a”** as follows:

a. License applicants ~~under 70 years of age~~ may be required to furnish to the commission a set of fingerprints and may be required to be refingerprinted or rephotographed periodically.

ITEM 6. Rescind subrule 6.5(1) and adopt the following **new** subrule in lieu thereof:

6.5(1) Does not qualify under the following screening policy:

a. Applicants must be at least 18 years of age to work in areas where gaming or wagering is conducted.

b. Applicants must be at least 16 years of age to be eligible to be licensed to work for a trainer of racing animals.

c. A license shall be denied if, within the last five years, an applicant has had:

(1) A felony conviction;

(2) A conviction for an offense involving theft or fraudulent practice in excess of \$500;

(3) A conviction for an offense involving the use of an alias in connection with fraud; or

(4) A conviction for an offense involving ownership, operation, or an interest in any bookmaking or other illegal enterprise or if the applicant is or has been connected with or associated with any illegal enterprise.

If the conviction occurred more than five years before application, a license shall not be issued unless the commission representative determines that sufficient evidence of rehabilitation exists.

d. Unless sufficient evidence of rehabilitation exists, a license shall be denied if any applicant has had:

(1) A conviction of a serious or aggravated misdemeanor or the equivalent; or

(2) Multiple convictions of simple misdemeanors.

e. A license shall be temporarily denied or suspended until the outcome of any pending charges is known if conviction would disqualify the applicant and the commission representative determines that the applicant poses an immediate danger to the public health, safety, or welfare of the patrons, participants, or animals associated with a facility licensed under Iowa Code chapter 99D or 99F.

f. A license shall be denied if the applicant has an addiction to alcohol or a controlled substance without sufficient evidence of rehabilitation, has a history of mental illness without demonstrating successful treatment by a licensed medical physician, or has a history of repeated acts of violence without sufficient evidence of rehabilitation.

g. A license may be temporarily denied or a probationary license may be issued until outstanding, overdue court-ordered obligations are satisfied. These obligations include, but are not limited to, criminal or civil fines, state or federal taxes, or conditions imposed upon the applicant by a court of law that the applicant has failed to meet in a timely manner.

h. A license may be denied if an applicant is ineligible to participate in gaming in another state and it would not be in the best interest of racing or gaming to license the applicant in Iowa. A license shall be denied if an applicant is ineligible to participate in racing in another state whose regulatory agency is recognized by and reciprocates in the actions of this state.

i. A license shall be denied and not reinstated if an applicant has been denied patron privileges by order of the commission.

j. A license shall be denied if the applicant falsifies the application form and would be ineligible for licensure under one or more of the provisions set forth in paragraphs “a” through “i” above. In other cases of falsification, a license may be issued and the applicant shall be subject to a suspension, fine, or both.

k. A license shall be denied if an applicant is not of good repute and moral character. Any evidence concerning a licensee’s current or past conduct, dealings, habits, or associations relevant to

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that individual's character and reputation may be considered. The commission representative shall decide what weight and effect evidence shall have in the determination of whether there is substantial evidence that the individual is not of good reputation and character. Applicants who hold positions of higher responsibility may be held to a more stringent standard of conduct and reputation than others with a less significant interest or role.

ITEM 7. Rescind the definition of "EPROM" in rule **491—11.1(99F)**.

ITEM 8. Amend rule **491—11.1(99F)**, definition of "Slot machine," as follows:

"*Slot machine*" means a mechanical or electronic gambling game device into which a player may deposit ~~coins, currency, or other form~~ forms of cashless wagering and from which certain numbers of credits are ~~paid out~~ awarded when a particular configuration of symbols or events is displayed on the machine.

ITEM 9. Adopt the following new definitions in rule **491—11.1(99F)**:

"*Currency*" means any coin or paper money of legal tender and paper forms of cashless wagering.

"*Storage media*" means EPROMs, ROMs, flash-ROMs, DVDs, CD-ROMs, compact flashes, hard drives and any other type of program storage device.

ITEM 10. Amend paragraph **11.2(4)"b"** as follows:

b. In the form of chips, coins, or other cashless wagering ~~system~~.

ITEM 11. Amend rule 491—11.4(99F), catchwords, as follows:

491—11.4(99F) Approval for distribution, ~~or operation,~~ or movement of gambling games and implements of gambling.

ITEM 12. Adopt the following new subrule 11.4(6):

11.4(6) Distribution, movement and disposal.

a. Any entity providing slot machines, gambling games or implements of gambling to a licensed facility must file written notice with the commission at least five calendar days prior to receipt by the facility. A licensed facility selling or an owner removing slot machines, gambling games or implements of gambling from the facility must file written notice with the commission at least one day prior to removal. All methods of disposal for slot machines, gambling games or implements of gambling are subject to administrator approval. Notification by facsimile or electronic mail shall be considered written notice.

b. The administrator may approve licensee transfers of slot machines, gambling games, or implements of gambling among subsidiaries of the licensee's parent company.

ITEM 13. Amend subrules 11.5(1) and 11.5(2) as follows:

11.5(1) Dice, craps, roulette, twenty-one (blackjack), big six—roulette, red dog, baccarat, and poker are authorized as table games. The administrator is authorized to approve multiplayer electronic devices simulating these games, subject to the requirements of rule 11.4(99F) and subrule 11.5(3).

11.5(2) Slot machines, video poker, and ~~all~~ other video games of chance, both progressive and nonprogressive, shall be allowed as slot machine games, subject to the administrator's approval of individual slot machine prototypes and game variations. For racetrack enclosures without a table games license, video machines which simulate table games of chance shall not be allowed.

ITEM 14. Amend subrule 11.6(1) as follows:

11.6(1) Proposals. Proposals for terms, game rules, entry fees, prizes, dates, and procedures must be submitted in writing and approved by a commission representative before a facility conducts any tournament. Any changes to approved tournaments must be submitted to the commission representative for review and approval prior to being implemented. The written proposal or change shall be submitted to a commission representative at least 14 days in advance of the planned activity. Rules, fees, and a schedule of prizes must be made available to the player prior to entry.

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ITEM 15. Rescind rules 491—11.9(99F) and 491—11.10(99F) and adopt the following **new** rules in lieu thereof:

491—11.9(99F) Slot machine requirements.

11.9(1) Payout percentage. A slot machine game must meet the following maximum and minimum theoretical percentage payouts during the expected lifetime of the game.

a. A slot machine game's theoretical payout must be at least 80 percent and no more than 100 percent of the amount wagered. The theoretical payout percentage is determined using standard methods of probability theory.

b. A slot machine game shall have a probability of obtaining the highest single advertised payout, which must statistically occur at least once in 50 million games.

11.9(2) Features. Unless otherwise authorized by the administrator, each slot machine in a casino shall have the following features:

a. A casino number at least two inches in height permanently imprinted, affixed, or impressed on the outside of the machine so that the number may be observed by the surveillance camera.

b. A clear description displayed on the slot machine of any merchandise or thing of value offered as a payout including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the facility establishes a time limit upon initially offering the merchandise or thing of value, and the availability or unavailability to the patron of the optional cash equivalent value. A cash equivalent value shall be at least 75 percent of the fair market value of the merchandise or thing of value offered.

c. Devices, equipment, features, and capabilities, as may be required by the commission, that are specific to each slot machine after the prototype model is approved by the commission.

11.9(3) Storage media. Hardware media devices which contain game functions or characteristics, including but not limited to pay tables and random number generators, shall be verified and sealed with evidence tape by a commission representative prior to being placed in operation, as determined by the administrator.

11.9(4) Posting of the actual aggregate payout percentage. The actual aggregate payout percentage to the nearest one-tenth of 1 percent (0.1%) of all slot machine games in operation during the preceding three calendar months shall be posted at the main casino entrance, cashier cages, and slot booths by the fifteenth day of each calendar month. For the purpose of this calculation, the actual aggregate payout percentage shall be the slot revenue reported to the commission during the preceding three calendar months divided by the slot coin-in reported to the commission during the preceding three calendar months subtracted from 100 percent.

11.9(5) Communication equipment. Equipment must be installed in each slot machine that allows for communication to an online monitoring and control system accessible to the commission representatives using a communications protocol provided to each licensed manufacturer by the commission for the information and control programs approved by the administrator.

11.9(6) Meter clears. Prior to the clearing of electronic accounting meters detailed in paragraph 11.10(2)“c,” a licensee must notify a commission representative. All meters must be recorded before and after being cleared.

491—11.10(99F) Slot machine hardware and software specifications.**11.10(1) Hardware specifications.**

a. Electrical and mechanical parts and design principles shall not subject players to physical hazards.

b. The battery backup, or an equivalent, for the electronic meters must be capable of maintaining accuracy of all required information for 30 days after power is discontinued from a slot machine. The backup shall be kept within the locked logic board compartment.

c. An identification badge permanently affixed by the manufacturer to the exterior of the cabinet shall include the following information:

(1) The manufacturer;

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- (2) A unique serial number;
- (3) The gaming device model number; and
- (4) The date of manufacture.

d. The operations and outcomes of each slot machine must not be adversely affected by influences from outside the device.

e. The internal space of a slot machine shall not be readily accessible when the front door is both closed and locked.

f. Logic boards and software storage media which significantly influence the operation of the game must be in a locked compartment within the slot machine.

g. The currency drop container must be in a locked compartment within or attached to the slot machine. Access to the currency storage areas shall be secured by separate locks which shall be fitted with sensors that indicate door open/close or stacker removed.

h. No hardware switches may be installed that alter the pay tables or payout percentages in the operation of a slot machine. Hardware switches may be installed to control graphic routines, speed of play, and sound.

i. A display which automatically illuminates when a player has won a jackpot or other award not paid automatically and totally by the slot machine and which advises players that they will be paid by an attendant shall be located conspicuously on the slot machine.

j. A payglass/video display shall be clearly identified and shall accurately state the rules of the game and the award that will be paid to the player when the player obtains a specific combination of symbols or other criteria. All information required in this paragraph must be available and readable at all times the slot machine is in service.

k. A light shall be located conspicuously on top of the gaming device that automatically illuminates when a player has won an amount or is redeeming credits that the machine cannot automatically pay, an error condition has occurred, or a "Call attendant" condition has been initiated by the player. At the discretion of the administrator, tower lights may be shared among certain machines or substituted by an audible alarm.

l. If credits are collected and the total credit value is unable to be paid automatically by the gaming device, the device shall lock up until the credits have been paid and the amount collected has been cleared by an attendant handpay or normal operation has been restored.

11.10(2) Software specifications.

a. *Random number generator.* Each slot machine must have a random number generator to determine the results of the game symbol selections or production of game outcomes. The selection shall:

- (1) Be statistically independent.
- (2) Conform to the desired random distribution.
- (3) Pass various recognized statistical tests.
- (4) Be unpredictable.
- (5) Have a testing confidence level of 99 percent.

b. *Continuation of game after malfunction is cleared.* Each slot machine must be capable of continuing the current game with all current game features after a malfunction is cleared. This paragraph does not apply if a slot machine is rendered totally inoperable; however, the current wager and all credits appearing on the screen prior to the malfunction must be returned to the player.

c. *Electronic accounting meters.* Each slot machine must maintain electronic accounting meters at all times, regardless of whether the slot machine is being supplied with power. For each meter recording values, the slot machine must be capable of maintaining no fewer than ten digits. For each meter recording occurrences, the slot machine must be capable of maintaining no fewer than eight digits. No slot machine may have a mechanism that will cause the electronic accounting meters to automatically clear due to an error. The electronic meters must record, at a minimum, the following:

- (1) Coin-in.
- (2) Coin-out.
- (3) Drop.

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- (4) Attendant-paid jackpots.
- (5) Currency in.
- (6) Currency out.
- (7) External door.
- (8) Bill validator door.
- (9) Machine-paid external bonus payout.
- (10) Attendant-paid external bonus payout.
- (11) Attendant-paid progressive payout.
- (12) Machine-paid progressive payout.

d. Error conditions. Each slot machine shall display and report error conditions to the online monitoring system. For machines that display only a code, definitions for all codes must be permanently affixed to the interior of the slot machine. Error conditions that must be displayed and reported include but are not limited to:

- (1) Currency in.
- (2) Currency out.
- (3) Door open.
- (4) RAM.
- (5) Low battery.
- (6) Program authentication.
- (7) Reel spin.
- (8) Power reset.

11.10(3) Previous slot machine models. Subject to administrator approval of specific gaming devices, slot machines may be used that do not meet the requirements of subrules 11.10(1) and 11.10(2) but have been certified under previously approved specifications by a commission-designated independent testing facility and maintain a current certification.

ITEM 16. Rescind and reserve rule **491—11.11(99F)**.

ITEM 17. Amend subrule 11.12(4) as follows:

11.12(4) Transfer of jackpots. In the event of malfunction, replacement, or other reason approved by the commission, a progressive jackpot that is removed shall be transferred, less the reset value, to ~~another~~ other progressive slot machine jackpots of similar progressive wager and probability at the same facility within 30 days from the removal date. In the event a similar progressive jackpot at the same facility is unavailable, other transfers shall be allowed. A commission representative shall be notified in writing prior to a removal or transfer.

ITEM 18. Amend paragraph **11.12(8)“i,”** introductory paragraph, as follows:

i. When a system jackpot is won, a person authorized to provide the multilink shall have the opportunity to inspect the machine, ~~EPRM,~~ storage media, the error events received by the central system, and any other data which could reasonably be used to ascertain the validity of the jackpot.

ITEM 19. Rescind 491—Chapter 12 and adopt the following new chapter in lieu thereof:

CHAPTER 12
ACCOUNTING AND CASH CONTROL

491—12.1(99F) Definitions.

“*Casino*” means all areas of a facility where gaming is conducted.

“*Coin*” means tokens, nickels, and quarters of legal tender.

“*Commission*” means the racing and gaming commission.

“*Container*” means:

1. A box attached to a gaming table in which shall be deposited all currency in exchange for gaming chips, fill and credit slips, requests for fill forms, and table inventory forms.

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2. A canister in a slot machine cabinet in which currency is retained by slot machines and not used to make change or automatic jackpot payouts.

“*Count room*” means an area in the facility where contents of containers are counted and recorded.

“*Currency*” means any coin or paper money of legal tender and paper forms of cashless wagering.

“*Drop*” means removing the containers from the casino to the count room.

“*Facility*” means an entity licensed by the commission to conduct gaming operations in Iowa.

“*Hopper*” means a payout reserve container in which coins are retained by a slot machine to automatically pay jackpots.

“*Internal controls*” means the facility’s system of internal controls.

“*Request*” means a request for credit slip, request for fill slip, or request for jackpot payout slip.

“*Slip*” means a credit slip, fill slip, or jackpot payout slip.

“*Slot machine*” means a mechanical or electronic gambling game device into which a player may deposit currency or other forms of cashless wagering and from which certain numbers of credits are awarded when a particular configuration of symbols or events is displayed on the machine.

491—12.2(99F) Accounting records.

12.2(1) Each facility shall maintain complete and accurate records of all transactions pertaining to revenues and costs.

12.2(2) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis.

12.2(3) Detailed, supporting, and subsidiary records shall be maintained. The records shall include, but are not limited to:

- a. Statistical game records by gaming day to reflect drop and win amounts by table for each game.
- b. Records of all investments, advances, loans, and receivable balances due the facility.
- c. Records related to investments in property and equipment.
- d. Records which identify the handle, payout, win amounts and percentages, theoretical win amounts and percentages; and differences between theoretical and actual win amounts and percentages for each slot machine on a week-to-date, month-to-date, and year-to-date basis.
- e. Records of all loans and other amounts payable by the facility.
- f. Records that identify the purchase, receipt, and disposal of gaming chips and tokens. All methods of disposal are subject to administrator approval.

12.2(4) Whenever forms or serial numbers are required to be accounted for or copies of forms are required to be compared for agreement and exceptions are noted, such exceptions shall be reported immediately and in writing to the commission.

491—12.3(99F) Facility internal controls.

12.3(1) Each facility shall submit a description of internal controls to the commission. The submission shall be made at least 90 days before gaming operations are to commence unless otherwise directed by the administrator. The submission shall include and provide for the following:

a. Administrative control that includes, but is not limited to, the plan of organization and the procedures and records that are concerned with the decision processes leading to management’s levels of authorization of transactions.

b. Accounting control that includes the plan of organization and the procedures and records that are concerned with the safeguarding of assets and the reliability of financial records. The accounting control shall be designed to provide reasonable assurance that:

- (1) Transactions are executed in accordance with management’s general and specific authorization, which shall be consistent with the requirements of this chapter.
- (2) Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets.
- (3) Access to assets is permitted only in accordance with management authorization, which shall be consistent with the requirements of this chapter.

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(4) The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

c. Competent personnel with integrity and an understanding of prescribed internal controls.

d. The segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of the employee's duties.

e. Surveillance control governing the administration of the network for the purpose of utilizing and transmitting live or recorded views or images of a video surveillance system for asset protection, loss prevention, investigation of tort/liability claims, game protection, employee oversight, resolution of patron disputes, corporate governance, management analysis, or other use consistent with a licensee's statutory responsibilities as approved by the administrator. Capabilities within the surveillance system for video recording of other areas of a facility and grounds may be included provided that commission and DCI access is unrestricted.

12.3(2) A commission representative shall review each submission required by subrule 12.3(1) and determine whether it conforms to the requirements of Iowa Code chapter 99F and is consistent with the intent of this chapter and whether the internal controls submitted provide adequate and effective control for the operations of the facility. If the commission representative finds any insufficiencies, the insufficiencies shall be specified in writing to the facility, which shall make appropriate alterations. No facility shall commence gaming operations unless and until the internal controls are approved.

12.3(3) Each facility shall submit to the commission any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by a commission representative. The proposed changes shall be submitted to the commission and the changes may be approved or disapproved by the commission representative. No facility shall alter its internal controls until the changes are approved.

12.3(4) It shall be the affirmative responsibility and continuing duty of each occupational licensee to follow and comply with all internal controls.

491—12.4(99F) Accounting controls within the cashier's cage.

12.4(1) The assets for which the cashiers are responsible shall be maintained on an impress basis. At the end of each shift, the cashiers assigned to the outgoing shift shall record on a cashier's count sheet the face value of each cage inventory item counted and the total of the opening and closing cage inventories and shall reconcile the total closing inventory with the total opening inventory.

12.4(2) At the conclusion of gaming activity each gaming day, a copy of the cashiers' count sheets and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories; agreement of amounts thereon to other forms, records, and documents required by this chapter; and the recording of all transactions.

12.4(3) Each facility shall place on file with the commission the names of all persons authorized to enter the cashier's cage, persons who possess the combination or keys to the locks securing the entrance to the cage, and persons who possess the ability to operate alarm systems.

491—12.5(99F) Gaming table container. Each gaming table in a casino shall have attached to it a container.

12.5(1) Each container shall have:

a. A lock securing the contents of the container, the key to which shall be checked out by the drop team.

b. A separate lock securing the container to the gaming table, the key to which shall be different from each of the keys to locks securing the contents of the container.

c. A slot opening through which currency, forms, records, and documents can be inserted.

d. A mechanical device that will close and lock the slot opening upon removal of the container from the gaming table.

12.5(2) Keys referred to in this rule shall be maintained and controlled in a secured area by the security department. The facility shall establish a sign-out procedure for all keys removed from the secured area.

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491—12.6(99F) Accepting currency at gaming tables. Whenever currency is presented by a patron at a gaming table in exchange for gaming chips, the following procedures and requirements shall be observed:

12.6(1) The dealer or boxperson accepting the currency shall spread the currency on the top of the gaming table.

12.6(2) The dealer or boxperson shall verbalize the currency value in a tone of voice necessary to be heard by the patron and the casino supervisor assigned to the gaming table.

12.6(3) The dealer or boxperson shall take the currency from the top of the gaming table and place it into the container immediately after verbalizing the amount.

491—12.7(99F) Procedures for the movement of gaming chips to and from gaming tables.

12.7(1) Slips. Each slip shall be sequentially numbered, shall be simultaneously printed in two or three copies, and shall discharge in the cashier's cage. Casino supervisors or casino clerks shall input data for each slip, and each prepared copy shall contain the following information:

- a. The type of transfer.
- b. The sequentially ordered slip number.
- c. The date and time of preparation.
- d. The total amount of each denomination.
- e. The total amount of all denominations.
- f. The game and table number.

12.7(2) Distribution of chips to a gaming table. On receipt of a slip in the cashier's cage for distribution of gaming chips to a table, the following procedures shall apply:

a. A cashier shall prepare the gaming chips and sign all copies of the slip attesting to the accuracy of the totals.

b. A security employee, or other employee authorized by the internal controls, shall compare the slip to the gaming chips prepared and sign all copies of the slip attesting to the accuracy. One copy of the slip shall remain with the cashier, if applicable, while two copies are transported with the gaming chips to the gaming table.

c. The dealer or boxperson assigned to the gaming table and the casino supervisor assigned to the gaming table shall sign all copies of the slip attesting to the accuracy of the fill.

d. Upon verification and placement of the gaming chips, the employee responsible for transporting the chips to the gaming table shall observe as the dealer or boxperson places one copy of the slip in the container of the gaming table. The employee shall then transport the remaining copy of the slip to the cashier's cage to be maintained and controlled by a cashier.

12.7(3) Removal of chips from a gaming table. On receipt of a slip in the cashier's cage for removal of gaming chips from a table, the following procedures shall apply:

a. A security employee, or other employee authorized by the internal controls, shall transfer all copies of the slip to the gaming table.

b. The dealer or boxperson assigned to the gaming table and the casino supervisor assigned to the gaming table shall prepare the removal and sign all copies of the slip attesting to the accuracy.

c. The security employee, or other employee authorized by internal controls, shall compare the slip to the gaming chips prepared and sign all copies of the slip attesting to the accuracy.

d. When using three copies, one copy of the slip shall be placed in public view on the gaming table from which the gaming chips were removed. The copy shall not be removed until a slip is returned from the cashier.

e. The security employee, or other employee authorized by internal controls, shall transport the chips and the remaining two copies of the slip to the cashier's cage.

f. The cashier shall compare the slip to the gaming chips received and shall sign both remaining copies attesting to the accuracy. One slip shall be maintained and controlled by the cashier.

g. The security employee, or other employee authorized by internal controls, shall transport the slip to the gaming table and shall observe as the dealer or boxperson places both this copy and the copy required by paragraph 12.7(3) "d" into the container of the gaming table.

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12.7(4) Slip reconciliation. At the end of each gaming day, copies of each of the slips maintained by the cashier's cage shall be forwarded to the accounting department for agreement with the copies of the slips obtained by the count team from the gaming table containers. Copies shall also be compared for agreement with the stored data.

12.7(5) Stored data. All information required by subrule 12.7(1) shall be stored in machine-readable format. The stored data shall not be susceptible to change or removal by any personnel after preparation of a slip.

12.7(6) Manual process. In the event the online monitoring and control system is unavailable, the facility staff shall perform transfers of gaming chips to and from gaming tables using manual requests and slips.

a. Requests shall be prepared by the casino supervisor or casino clerk. For the distribution of chips to the gaming table, the request shall be signed by the security employee, or other employee authorized by the internal controls, and shall be left with the cashier prior to the transfer of gaming chips and slips required by paragraph 12.7(6) "b." For the removal of chips from the gaming table, the request shall be signed at the gaming table by the security employee, or other employee authorized by the internal controls, prior to the transfer of gaming chips and slips required by paragraph 12.7(6) "b" and shall be placed in the container when the slip signed by the cashier has been returned to the gaming table.

b. Slips shall be prepared by cashiers in the cage using a three-part serially prenumbered form in a locked dispenser. The dispenser shall discharge two copies of the slip that have been filled out and signed by the cashier and shall retain the third copy in a continuous form in the dispenser. The same procedures shall be followed and the same set of signatures shall be utilized as required by subrules 12.7(2) and 12.7(3).

c. The copies remaining in the dispenser shall be removed each gaming day where a manual process had to be performed for gaming chip movements and to replace the stored data used pursuant to subrule 12.7(4). Access to the locked dispenser shall be maintained and controlled by independent employees responsible for accounting for the unused slips, placing slips in the dispensers, and removing slips from the dispensers.

12.7(7) Modifications. Modifications to the procedures described in subrules 12.7(2), 12.7(3), and 12.7(4) may be substituted as internal controls, subject to the approval process of subrule 12.3(2), if the procedures comply with the intent of this rule.

12.7(8) Voided transactions. Whenever it becomes necessary to void a slip, all copies shall be clearly marked "void" and shall require the signature of the preparer. All void slips shall be maintained and controlled in conformity with subrules 12.7(2), 12.7(3), and 12.7(5).

491—12.8(99F) Dropping or opening a gaming table.

12.8(1) The table inventory slips shall be a two-part form, a "closer" and an "opener," containing the following:

- a.* The date and time of preparation.
- b.* The game and table number.
- c.* The total value of each denomination of gaming chips.
- d.* The total value of all denominations of gaming chips.

12.8(2) Whenever a gaming table is dropped or upon initial opening after a drop, the gaming chips at the gaming table shall be counted by the dealer or boxperson assigned to the gaming table while observed by a casino supervisor assigned to the gaming table.

12.8(3) Signatures attesting to the accuracy of the information recorded on the table inventory slips at the time of dropping or opening of the gaming tables shall be of the dealer or boxperson and the casino supervisor assigned to the gaming table who observed the dealer or boxperson count the contents of the table inventory.

12.8(4) Upon meeting the signature requirements described in subrule 12.8(3):

a. The closer, at dropping, shall be deposited in the container immediately prior to the closing of the table. The opener and the gaming chips remaining at the table shall be placed in a secured, locked area on the table.

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b. The opener, at opening, shall be immediately deposited in the container.

12.8(5) Upon opening a gaming table, if the totals on the gaming inventory form vary from the opening count, the casino supervisor shall fill out an error notification slip. The casino supervisor and dealer or boxperson shall sign the error notification slip and deposit the slip in the container.

491—12.9(99F) Slot machines—keys.

12.9(1) Each slot machine shall have a container(s) that is housed in a locked compartment(s) separate from any other compartment of the slot machine. Facilities shall ensure:

a. Keys to each compartment securing a container are maintained and controlled in a secured area by the security department. The facility shall establish a sign-out procedure for all keys removed from the secured area.

b. Each container is identified at time of removal by a number corresponding to the casino number of the slot machine from which the container is removed.

12.9(2) With the exception of the keys to the compartment housing the container, keys to each slot machine or any device connected thereto which may affect the operation of the slot machine shall be maintained in a secure place and controlled by the slot department.

491—12.10(99F) Procedures for hopper fills and attendant payouts.

12.10(1) Slips. Each slip shall be sequentially numbered, and two copies shall be simultaneously printed. An employee authorized by the internal controls shall input data for each slip, and each prepared copy shall contain the following information:

a. The type of transaction.

b. The sequentially ordered slip number.

c. The date and time of preparation.

d. For attendant payouts, the amount to be paid and the cage location from which the amount is to be paid.

e. For jackpots, the winning combination to be paid.

f. For hopper fills, the denomination and amount of currency to be distributed.

12.10(2) Hopper fills. A slip shall be prepared by a person authorized by the internal controls whenever a slot machine fill is required. On receipt or preparation of a slip in the cashier's cage, the following procedures shall apply:

a. The cashier, upon providing the coins to an employee authorized by the internal controls, shall sign all copies of the slip attesting to the accuracy of the amount provided and the information contained on the slip.

b. The employee authorized by the internal controls, upon receipt of the coins, shall sign all copies of the slip and transport the coins and one copy of the slip to the slot machine. The remaining copy shall remain with the cashier.

c. An additional employee authorized by the internal controls, other than the employees listed in paragraphs 12.10(2) "a" and 12.10(2) "b," shall observe the deposit of the coins into the slot machine hopper and the closing and locking of the slot machine door. This employee shall then sign the copy of the slip at the slot machine.

d. Upon completion of the fill, the copy of the slip at the slot machine shall be deposited in a secure area controlled by the accounting department.

12.10(3) Attendant payouts. Whenever a patron wins a jackpot or has accumulated credits not totally and automatically paid directly from a slot machine, a slip shall be prepared by a person authorized by the internal controls. On receipt or preparation of a slip for an attendant payout in the cashier's cage, the following procedures shall apply:

a. The cashier, upon providing the payment to an employee authorized by the internal controls, shall sign all copies of the slip attesting to the accuracy of the amount provided and the information contained on the slip.

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b. The employee authorized by the internal controls, upon receipt of the payment, shall sign all copies of the slip and transport the payment and one copy of the slip to the slot machine. The remaining copy of the slip shall remain with the cashier.

c. An additional employee authorized by the internal controls, other than the employees listed in paragraphs 12.10(3)“a” and 12.10(3)“b,” shall observe the payment of the patron. For jackpots, the employee shall verify the symbols on the slot machine. For jackpots in excess of \$10,000, the employee shall be a supervisor or higher authority. In either case, the employee shall then sign the copy of the slip at the slot machine.

d. Upon completion of the payout, the copy of the slip at the slot machine shall be deposited in a secure area controlled by the accounting department.

e. For a slot machine jackpot in excess of \$100,000, a facility shall notify a commission representative in accordance with the immediate notification process established by 491—subrule 5.4(5).

12.10(4) Overrides. System overrides shall be authorized by a slot supervisor or an employee authorized by the internal controls. This employee shall not perform the duties and signature requirements of subrules 12.10(2) and 12.10(3) in any transaction where the employee authorizes a system override. In addition to the signature requirements of subrules 12.10(2) and 12.10(3), the signature of the authorizing employee shall be on all copies of the slip.

12.10(5) Slip reconciliation. At the end of each gaming day, copies of the slip retained by the cashier’s cage shall be forwarded to the accounting department for agreement with the copies of the slips deposited in the area controlled by the accounting department and for recording on the slot win sheet. Copies shall also be compared for agreement with the stored data.

12.10(6) Stored data. All information required by subrule 12.10(1) shall be stored in the online monitoring and control system in machine-readable format. The stored data shall not be susceptible to change or removal by any personnel after preparation of the slip.

12.10(7) Modifications. Modifications to the procedures described in subrules 12.10(2) to 12.10(5) may be substituted as internal controls, subject to the approval process of subrule 12.3(2), if the procedures comply with the intent of this rule.

12.10(8) Manual process. In the event the online monitoring and control system is unavailable, the facility staff shall perform hopper fills and manual payouts using manual slips. Manual slips shall be three-part serially prenumbered forms. For use of manual slips, the following shall apply:

a. Slips shall be placed in a locked dispenser. Once prepared, the dispenser shall discharge two copies of the slip, while retaining the third copy in a continuous form. They shall be prepared in the cashier’s cage at the request of an employee authorized by the internal controls. Procedures for the two dispensed copies shall follow subrules 12.10(2) and 12.10(3).

b. The copies remaining in the dispenser shall be removed each gaming day where a manual process had to be performed for hopper fills or manual payouts and to replace the stored data used pursuant to subrule 12.10(5). Access to the locked dispenser shall be maintained and controlled by independent employees responsible for accounting for the unused slips, placing slips in the dispensers, and removing slips from the dispensers.

12.10(9) Voided transactions. Whenever it becomes necessary to void a slip, all the copies shall be clearly marked “void” and shall require the signature of the preparer. All void slips shall be maintained and controlled in conformity with subrules 12.10(2) to 12.10(5).

491—12.11(99F) Attendant and ticket payout accounting.

12.11(1) Attendant payouts. Under this rule, unless otherwise subject to Iowa Code chapter 556, jackpots and accumulated credits paid by a slip that are unpaid or unclaimed at the close of a facility’s fiscal year shall be disallowed as a deduction from gross receipts for the calculation of adjusted gross revenue for the wagering tax. A facility shall make this adjustment to revenue within 90 days of the close of the facility’s fiscal year.

12.11(2) Ticket payouts. Payouts dispensed by a ticket issued directly from a gaming device must have a minimum payout redemption period of 90 days from the date of issuance.

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a. Notwithstanding 491—subrule 5.4(14), an issued ticket redeemed for cash or deposited in a slot machine for machine credits shall be retained for a minimum of 90 days from the redemption date. The ticket may be subsequently destroyed if record of the transaction is retrievable by other means.

b. At the close of the facility's fiscal year, tickets issued in previous fiscal years and tickets with expired redemption periods that remain outstanding and unredeemed are subject to the requirements of subrule 12.11(1).

491—12.12(99F) Computer recording requirements and monitoring of slot machines.

12.12(1) A facility shall have an online monitoring and control system connected to each slot machine in the casino to record and monitor the slot machine's activities.

12.12(2) The online monitoring and control system shall be designed and operated to automatically perform the functions relating to slot machine meters in the casino as follows:

a. Record the number and total of currency placed in the slot machine for the purpose of activating play.

b. Record the number and total of currency in the container(s).

c. Record the number and total of currency to be paid manually as the result of a jackpot.

d. Record the electronic meter information required by 491—paragraph 11.10(2)“c.”

12.12(3) The online monitoring and control system shall monitor and detect machine exception codes and error messages as required by 491—paragraph 11.10(2)“d.”

12.12(4) The online monitoring and control system shall store in machine-readable form all information required by subrules 12.12(2) and 12.12(3), and the stored data shall not be susceptible to change or removal.

12.12(5) The licensee shall maintain a current log, accessible to commission representatives, of all changes and updates made to the online monitoring and control system. All changes and updates shall be approved as required by 491—subrule 11.4(1).

491—12.13(99F) Transportation of containers.

12.13(1) Each facility shall place on file with a commission representative a schedule setting forth the specific times at which the containers will be brought to or removed from the gaming tables or slot machines.

12.13(2) A security employee shall accompany and observe the drop team. For table games, all containers removed from the gaming tables shall be transported by a security employee and a table game supervisor.

12.13(3) All containers removed from slot machine cabinets shall:

a. Be removed by a drop team who shall wear outer garments as required by subrule 12.15(2).

b. Be replaced immediately with an empty container that shall be secured in the cabinet.

12.13(4) All containers removed shall be transported directly to, and secured in, the count room or in a secure area within the facility until the containers can be transferred to the count room.

12.13(5) Empty containers not secured to the gaming tables or slot machine cabinets shall be stored in the count room or an approved secured location.

491—12.14(99F) Count room—characteristics.

12.14(1) Each facility shall have a count room that shall:

a. Be designed and constructed to provide maximum security for materials housed within and the activities conducted therein.

b. Have an alarm device connected to the entrance of the room that causes a signaling to the monitors of the closed circuit surveillance system and to the commission representative's office whenever the door to the room is opened.

c. Have, if currency is counted within the count room, a count table constructed of clear glass or similar material for the emptying, counting, and recording of the contents of containers.

12.14(2) All room keys shall be maintained and controlled in a secured area by the security department. The facility shall establish a sign-out procedure for all keys removed from the secured area.

RACING AND GAMING COMMISSION[491](cont'd)

491—12.15(99F) Opening, counting, and recording contents of containers in the count room.

12.15(1) Each facility shall file with a commission representative the specific times and procedures for opening, counting, and recording the contents of containers.

12.15(2) All persons present in the count room during the counting process, unless expressly exempted by a commission representative, shall wear a full-length, one-piece, pocketless outer garment with openings only for the arms, feet, and neck that extends over any other garments and covers the tops of any footwear.

12.15(3) Persons shall not:

a. Carry a pocketbook or other container into the count room, unless it is transparent.

b. Remove their hands from or return them to a position on or above the count table unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and the closed circuit surveillance camera.

12.15(4) Requirements for conducting the count.

a. Immediately prior to the commencement of the count, the count team shall notify the person assigned to the surveillance room that the count is about to begin, after which the surveillance department shall make a video recording with the time and date inserted thereon of the entire counting process.

b. Prior to counting the contents of the containers, the doors to the count room shall be locked and no person shall be permitted to enter or leave the count room, except during an emergency or on scheduled breaks, until the entire counting, recording, and verification process is completed. During this time, a commission representative shall have unrestricted access.

c. When a container is placed on a count table or coin scale, the count team shall ensure that the table or machine number associated with a container is identified to the surveillance department.

d. A machine may be used to automatically count the contents of a container.

e. The contents of each container shall be emptied on the count table or coin scale and either manually counted separately on the count table or counted in an approved currency counting machine located in a conspicuous location on, near, or adjacent to the count table or coin scale. These procedures shall at all times be conducted in full view of the closed circuit surveillance cameras located in the count room.

f. Immediately after the contents of a container are emptied onto the count table or coin scale, the inside of the container shall be held up to the full view of a closed circuit surveillance camera and shall be shown to at least one other count team member to ensure all contents of the container have been removed and, if applicable, the container shall then be locked. Empty containers shall be secured in an area separate from uncounted containers.

g. If the original count is being performed by a machine that automatically counts and records the amounts of the contents of each individual container, an aggregate count may be permitted in substitution of a second container count.

h. For manually counted containers:

(1) The count team members shall place the contents of each container into separate stacks on the count table by denomination of currency and by type of form, record, or document, except that a machine may be used to automatically sort currency by denomination.

(2) Each denomination of currency shall be counted separately by one count team member who shall group currency of the same denomination on the count table in full view of a closed circuit surveillance camera. The currency shall then be counted by a second count team member who is unaware of the result of the original count. The second count team member, after completing this count, shall confirm the accuracy of the total, either orally or in writing, with that reached by the first count team member.

12.15(5) Table games.

a. As the contents of each container from a table game are counted, one count team member shall record the following information by game, table number, date, and time on a master game report or supporting documents:

- (1) The amount of each denomination of currency.
- (2) The amount of all denominations of currency.

RACING AND GAMING COMMISSION[491](cont'd)

- (3) The total amounts of currency.
- (4) The total amount of gaming chips.
- (5) The amount of the opener.
- (6) The amount of the closer.
- (7) The serial number and amount of each fill.
- (8) The amount of all fills.
- (9) The serial number and amount of each credit.
- (10) The amount of all credits.
- (11) The win or loss.

b. After the contents of each container are counted and recorded, one member of the count team shall record by game on the master game report the total amounts of currency, table inventory slips, fills, credits, and win or loss together with any other required information.

c. Notwithstanding the requirements of paragraphs 12.15(5) “*a*” and “*b*,” if the internal controls allow for the recording of fills, credits, and table inventory slips on the master game report or supporting documents prior to commencement of the count, a count team member shall compare for agreement the totals of the amounts recorded thereon to the fills, credits, and table inventory slips removed from the containers.

d. After preparation of the master game report, each count team member shall sign the report attesting to the accuracy of the information contained thereon.

e. Currency and gaming chips shall not be removed from the count room after commencement of the count until the total has been verified and accepted by a cashier. At the conclusion of the count, all currency and gaming chips removed from the containers shall be counted by a cashier in the presence of a count team member prior to having access to the information recorded on the master game report. The cashier shall attest to the accuracy of the amount received from the gaming tables by signature on the master game report, after which a count team member shall sign the master game report evidencing the fact that both the cashier and count team have agreed on the total counted. The verified funds shall then remain in the custody of the cashier.

f. After the master game report has been signed, the requests, slips, and table inventory slips removed from the containers shall be attached. The report, with attachments, shall then be transported directly to the accounting department or shall be maintained in locked storage until the master game report can be delivered to the accounting department. Upon meeting the signature requirements described in paragraph 12.15(5) “*e*,” the report shall not be available to any cashier’s cage personnel.

g. Unless the internal controls provide for the forwarding of the original requests and original slips from the cashier’s cage directly to the accounting department, the original requests and original slips recorded or to be recorded on the master game report shall be transported from the count room directly to the accounting department.

h. The originals and copies of the master game report, requests, slips, table inventory slips, and the test receipts from the currency counting equipment shall, on a daily basis in the accounting department, be:

- (1) Compared for agreement with each other on a test basis if the originals are received from the count room by persons with no recording responsibilities and, if applicable, to copies remaining in the dispenser or stored data.
- (2) Reviewed for the appropriate number and propriety of signatures on a test basis.
- (3) Accounted for by series numbers, if applicable.
- (4) Verified for proper calculation, summarization, and recording.
- (5) Recorded.
- (6) Maintained and controlled by the accounting department as a permanent accounting record.

12.15(6) Slot machines.

a. Currency shall not be removed from the count room after commencement of the count until the currency total has been verified and accepted by a cashier. At the conclusion of the count, all currency removed from the containers shall be counted by a cashier in the presence of a count team member prior to the recording of information on the slot drop sheet. The cashier shall attest to the accuracy of the

RACING AND GAMING COMMISSION[491](cont'd)

amount of currency received from the slot machines by signature on the slot drop sheet, after which a count team member shall sign the slot drop sheet evidencing the fact that both the cashier and count team have agreed on the total amount of currency counted. The verified funds shall remain in the custody of the cashier.

b. The slot drop sheet and supporting documents shall be transported directly to the accounting department and shall not be available, except for signing, to any cashier's cage or slot personnel or shall be maintained in locked storage until they can be delivered to the accounting department.

c. The preparation of the slot drop sheet shall be completed by accounting employees as follows:

(1) Compare the amount of currency counted and the drop meter reading for agreement for each slot machine.

(2) Record the hopper fills for each slot machine.

(3) Record for each slot machine the payouts and compare for agreement the payouts to the manual jackpot meter reading recorded on the slot meter sheet.

(4) Calculate and record the win or loss for each slot machine.

(5) Explain and report for corrections of apparent meter malfunctions to the slot department all significant differences between meter readings and amounts recorded.

(6) Calculate statistics by slot machine.

d. The slot drop sheet, the slot meter sheet, payouts, and hopper fills shall be:

(1) Compared for agreement with each other and to copies or stored data on a test basis.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers, if applicable.

(4) Verified for proper calculation, summarization, and recording.

(5) Recorded.

(6) Maintained and controlled by accounting department employees.

These rules are intended to implement Iowa Code chapter 99F.

USURY

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

May 1, 2008 — May 31, 2008	5.50%
June 1, 2008 — June 30, 2008	5.75%
July 1, 2008 — July 31, 2008	6.00%
August 1, 2008 — August 31, 2008	6.00%
September 1, 2008 — September 30, 2008	6.00%
October 1, 2008 — October 31, 2008	6.00%
November 1, 2008 — November 30, 2008	5.75%
December 1, 2008 — December 31, 2008	5.75%
January 1, 2009 — January 31, 2009	5.50%
February 1, 2009 — February 28, 2009	4.50%
March 1, 2009 — March 31, 2009	4.50%
April 1, 2009 — April 30, 2009	5.00%
May 1, 2009 — May 31, 2009	4.75%

ARC 7749B**UTILITIES DIVISION[199]****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 17A.4 and chapters 476, 478, and 479, the Utilities Board (Board) gives notice that on April 15, 2009, the Board issued an order in Docket No. RMU 2009-0003, In re: Updates and Corrections to Natural Gas and Electric Technical Standards [199 IAC Chapters 10, 19, 20, and 25], "Order Commencing Rule Making," that proposes amendments to the technical standards incorporated by reference in the Board rules regarding safety standards for natural gas and electrical installations. The Board has jurisdiction over the safe operation of natural gas facilities and electric facilities under the provisions of Iowa Code chapters 476, 478, and 479. The Board also acts as an agent of the U.S. Department of Transportation, Office of Pipeline Safety (OPS), pursuant to 49 U.S.C.A. Section 60105, to ensure compliance with federal pipeline safety standards.

The Board has adopted rules that establish standards to ensure the safe operation of natural gas and electric facilities, and included in those rules are technical standards from federal regulations and industry publications that are incorporated by reference. Periodically, the Board is required to update the references as new and revised standards are developed. The Board is commencing this rule making to update its safety standards and to make any corrections to those standards that are necessary.

Of particular importance is the renewal of the adoption date of the federal pipeline safety standards. Timely adoption of amendments to the federal standards is required to fulfill the Board's role as an agent for OPS. The Board is proposing to adopt any revisions to federal regulations through the effective date of these amendments. This will ensure that the Board adopts the most current amendments to federal standards. The Board is also proposing to amend paragraph 25.2(5)"a" to recognize recently implemented standards for certain electrical installations prescribed by the State Fire Marshal in 661 IAC 504.1(103). The order commencing rule making can be found using the Board's electronic filing system (EFS) Web site at <http://efs.iowa.gov>.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before May 26, 2009. The statement should be filed electronically through the EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2), clearly state the author's name and address, and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled for this rule making.

These amendments are intended to implement Iowa Code section 17A.4 and chapters 476, 478, and 479.

The following amendments are proposed.

ITEM 1. Amend subrule 10.12(1) as follows:

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through ~~June 27, 2007~~ the effective date of this amendment.

UTILITIES DIVISION[199](cont'd)

b. 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through ~~June 27, 2007~~ the effective date of this amendment.

c. 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~June 27, 2007~~ the effective date of this amendment.

d. ASME B31.8 - ~~2003~~ 2007, "Gas Transmission and Distribution Piping Systems."

e. and f. No change.

Conflicts between the standards established in paragraphs 10.12(1) "a" through "f" or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 2. Amend rule 199—10.17(479) as follows:

199—10.17(479) Accidents and incidents. Any pipeline incident or accident which is reportable to the U.S. Department of Transportation under 49 CFR Part 191 as amended through ~~June 27, 2007~~, the effective date of this amendment shall also be reported to the board, except that the minimum economic threshold of damage required for reporting to the board is \$15,000. Duplicate copies of any written accident reports and safety-related condition reports submitted to the U.S. Department of Transportation shall be provided to the board.

ITEM 3. Amend paragraph **19.2(5)"g"** as follows:

g. *Reports to federal agencies.* Copies of reports submitted pursuant to 49 CFR Part 191 as amended through ~~June 27, 2007~~ the effective date of this amendment, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 4. Amend subrule 19.5(2) as follows:

19.5(2) Standards incorporated by reference.

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through ~~June 27, 2007~~ the effective date of this amendment.

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through ~~June 27, 2007~~ the effective date of this amendment.

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards," as amended through ~~June 27, 2007~~ the effective date of this amendment.

(4) 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~June 27, 2007~~ the effective date of this amendment.

(5) ASME B31.8 - ~~2003~~ 2007, "Gas Transmission and Distribution Piping Systems."

(6) NFPA No. 59-~~2004~~ 2008, "Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants."

(7) No change.

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-~~2006~~ 2009, "National Fuel Gas Code."

(2) NFPA 501A-~~2005~~ 2009, "Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities."

ITEM 5. Amend paragraph **19.6(3)"d"** as follows:

d. Measurement of Gas Flow by Turbine Meters, ANSI/ASME MFC-4M-1986 (~~R1997~~) (Reaffirmed 2008).

ITEM 6. Amend subrule 19.8(3) as follows:

19.8(3) Turning on gas. Each utility upon the installation of a meter and turning on gas or the act of turning on gas alone shall take the necessary steps to assure itself that there exists no flow of gas through

UTILITIES DIVISION[199](cont'd)

the meter which is a warning that the customer's piping or appliances are not safe for gas turn on (Ref: Sec. 4.2 and Appendix D, ANSI Z223.1/NFPA 54-~~2006~~ 2009).

ITEM 7. Amend subrule 20.5(2) as follows:

20.5(2) Standards incorporated by reference. The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

- a. Iowa Electrical Safety Code, as defined in 199 IAC [199], Chapter 25.
- b. National Electrical Code, ANSI/NFPA 70-~~2005~~ 2008.
- c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-~~1981 (R1999)~~ 2006; and C57.13.3-~~1983 (R1991)~~ 2006.
- d. American National Standard For Electric Power Systems and Equipment Voltage Ratings (60Hertz), ANSI C84.1-2006.
- e. Grounding of Industrial and Commercial Power Systems, IEEE 142-~~1991~~ 2007.
- f. to h. No change.

ITEM 8. Amend paragraph **25.2(5)“a”** as follows:

- a. The “National Electrical Code,” ANSI/NFPA 70-~~2005~~ 2008, is adopted as a standard of accepted good practice for customer-owned electrical facilities beyond the utility point of delivery, except for installations subject to the provisions of the state fire marshal standards in 661 IAC 504.1(103).

ARC 7739B

UTILITIES DIVISION[199]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 17A.4, 476.1, and 476.2, the Utilities Board (Board) gives notice that the oral presentation scheduled for May 11, 2009, in Docket No. RMU-2009-0002, In re: Notification Requirements for Certificated Local Exchange Companies [199 IAC 22.2(9)], is rescheduled for May 20, 2009, at 10 a.m. in the Board's hearing room located at 350 Maple Street, Des Moines, Iowa. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

The rule making involves a proposed new subrule, 199 IAC 22.2(9), that establishes outage notification requirements for certificated local exchange carriers. The oral presentation is being rescheduled because of conflicts with other meetings for some of the telephone utilities interested in the proposed subrule. The oral presentation will allow interested persons the opportunity to make oral comments on the proposed new subrule. The proposed new subrule was published in IAB Vol. XXXI, No. 21 (4/8/09) p. 2253, as **ARC 7674B**.

ARC 7746B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

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 35A.3(2), the Commission of Veterans Affairs hereby gives Notice of Intended Action to amend Chapter 10, “Iowa Veterans Home,” Iowa Administrative Code.

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

The proposed amendment reflects changes in the amount of money received by a member in a month for participation in the incentive therapy or other programs.

Any interested person may make written suggestions or comments on the proposed amendment on or before May 26, 2009. Such written materials should be directed to Doug Freeman, Director of Admissions, Iowa Veterans Home, 1301 Summit, Marshalltown, Iowa 50158-5485, or faxed to (641)753-4278. E-mail may be sent to douglas.freeman@ivh.state.ia.us. Persons who wish to convey their views orally should contact the Commandant's office at (641)753-4309 at the Iowa Veterans Home.

If requested in writing, a public hearing on the proposed amendment will be held on May 27, 2009, at 10 a.m. in the Ford Memorial Conference Room at the Iowa Veterans Home, 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. Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Iowa Veterans Home to advise of specific needs. If no written or oral requests for a public hearing are received, the public hearing will be canceled without further notice.

This amendment is not subject to waiver.

This amendment is intended to implement Iowa Code chapter 35D.

The following amendment is proposed.

Amend subparagraph **10.19(2)“a”(9)** as follows:

(9) The first ~~\$125~~ \$150 received by a member in a month for participation in the incentive therapy or other programs as described at rule 10.30(35D), for members in the domiciliary level of care. For members in the nursing level of care, the first ~~\$65~~ \$75 shall be exempted.

ARC 7764B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 15.102, the Iowa Department of Economic Development adopts new Chapter 113, "Community Microenterprise Development Organization Grant Program," Iowa Administrative Code.

These rules are intended to support microenterprise development through community microenterprise development organization grants authorized by Iowa Code section 15.240. This financial assistance will help build the capacity of community microenterprise development organizations to provide technical assistance to microenterprises, entrepreneurs and small businesses.

The rules describe the purpose of the program; provide program definitions; establish eligibility requirements; describe application submittal, review and approval procedures; and explain contract administration provisions.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because applicants must submit grant applications in a short time frame. The Department must make awards and contract with successful applicants by June 30, 2009, because funding for this program reverts after this date.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules should be waived and these rules should be made effective upon filing with the Administrative Rules Coordinator on April 17, 2009. These rules confer a benefit to the public by allowing community microenterprise development organizations to submit applications immediately for departmental review.

These rules are also published herein under Notice of Intended Action as **ARC 7765B** to allow for public comment.

The Iowa Economic Development Board adopted these rules on April 16, 2009.

These rules became effective on April 17, 2009.

These rules are intended to implement Iowa Code section 15.240.

The following amendment is adopted.

Adopt the following new 261—Chapter 113:

CHAPTER 113
COMMUNITY MICROENTERPRISE DEVELOPMENT ORGANIZATION
GRANT PROGRAM

261—113.1(15) Purpose. The purpose of the community microenterprise development organization grant program is to support microenterprise development through community microenterprise development organizations. Financial assistance will be in the form of grants to eligible community microenterprise development organizations not to exceed the maximum amount of \$80,000 per organization. A match of at least 20 percent is required. The community microenterprise development organization shall use the funds to develop the capacity to provide technical assistance and business training to microentrepreneurs.

261—113.2(15) Definitions.

"Board" means the Iowa economic development board established in Iowa Code section 15.103.

"Community microenterprise development organization" means a community development, economic development, social service, or nonprofit organization that provides training, access to financing, and technical assistance to microenterprises as established in Iowa Code section 15.102(2).

"Department" means the Iowa department of economic development as established in Iowa Code chapter 15.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

“*Microenterprise*” means any business with five or fewer employees that generally lacks collateral and has difficulty securing financing from conventional business lending sources. “Microenterprise” includes start-up, home-based, and self-employed businesses as established in Iowa Code section 15.102(5).

“*Organization*,” for the purpose of this program, means the community microenterprise development organization.

261—113.3(15) Program funding.

113.3(1) The department shall award competitive grants to eligible community microenterprise development organizations. The maximum award shall not exceed \$80,000 for any one community microenterprise development organization.

113.3(2) The department shall award grants to at least three community microenterprise development organizations in rural areas of the state that show an economic growth rate lower than the average economic growth rate of the state.

113.3(3) The department shall award grants to at least two community microenterprise development organizations in neighborhoods in urban areas of the state that show high rates of poverty and signs of economic distress.

113.3(4) The form of financial assistance shall be a grant.

261—113.4(15) Matching funds requirement. A grant shall not be awarded unless the community microenterprise development organization can match at least 20 percent of the funds to be awarded. The matching funds may be from private foundations, federal or local government funds, financial institutions, or individuals.

261—113.5(15) Eligible applicants. An eligible applicant must be a community microenterprise development organization serving a rural or an urban community. The organization must provide services to low-income and moderate-income individuals and underserved communities.

261—113.6(15) Application and review process.

113.6(1) To apply for a grant, a community microenterprise development organization shall submit an application for financial assistance, in the form specified by the department, to the Iowa Department of Economic Development, Innovation and Commercialization Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or on the department’s Web site at www.iowalifechanging.com.

113.6(2) The application for financial assistance will be reviewed by department staff. Department staff will make a recommendation to the board regarding an application. The board has final decision-making authority regarding applications for financial assistance. The board may approve, defer or deny an application.

113.6(3) An application for financial assistance shall contain all information required by the department, including but not limited to the following:

a. Geographic service area. A description clearly defining the geographic area the community microenterprise development organization serves. For rural organizations, the description shall include the service area’s economic growth rate in relation to the average growth rate of the state. For organizations located in urban neighborhoods of the state, the description shall include the poverty rate and the unemployment rate of the service area.

b. Ability to provide services. To help the department determine the ability of a community microenterprise development organization to provide services to low-income, moderate-income and underserved communities, all of the following shall be described in the application for financial assistance:

- (1) The ability to identify potential microentrepreneurs within a community.
- (2) The capacity to perform client assessment and screening.
- (3) The ability to provide business training and technical assistance.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

(4) The capacity to provide assistance in securing financing.

c. Scope of services. A description of the scope of services offered and methods used to ensure the efficient delivery of such services, especially to low-income, moderate-income, and minority individuals.

d. Ability to monitor progress. A description of the organization's ability to monitor the progress of clients and to identify those clients in need of additional technical and financial assistance.

e. Ability to coordinate resources. A description of the organization's ability to build relationships and coordinate resources with other entities supporting microentrepreneurs. These entities may include but are not limited to community colleges, cooperative extension services, small business development centers, business accelerators, targeted small business advocate services, chambers of commerce, community economic development organizations, workforce centers, and community nonprofit service providers that serve low-income and moderate-income individuals.

f. Reporting. A plan to report project outcomes, including: results from client assessments and screening; strategies developed to respond to results; new training and technical assistance capacity developed; the amount of financing secured by targeted populations; the amount of funding secured through for-profit entities; and the benefits to the geographic service area.

g. Financial resources. A statement providing information on the amount and sufficiency of operating funds available.

261—113.7(15) Application selection criteria. Applications for community microenterprise development organization grants shall be selected based upon the following criteria:

113.7(1) Geographic service area. The overall geographic diversity of the applicants for grants, including both urban and rural communities.

113.7(2) Ability to provide services. The organization's ability to provide services to low-income and moderate-income individuals and underserved communities.

113.7(3) Services offered. The scope of services offered and the ability to efficiently deliver such services to low-income, moderate-income, and minority individuals.

113.7(4) Ability to monitor progress. The organization's ability to monitor the progress of clients and provide additional technical assistance.

113.7(5) Ability to coordinate resources. The organization's ability to build relationships and coordinate resources with other entities supporting microentrepreneurs.

113.7(6) Reporting. The organization's plan to report and evaluate outcomes.

113.7(7) Financial resources. The amount and sufficiency of operating funds available.

261—113.8(15) Contract and reporting.

113.8(1) Notice of award. Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the approval.

113.8(2) Contract required. The department shall prepare a contract, which includes but is not limited to a description of the activities to be completed by the community microenterprise development organization(s); conditions of disbursement; required reports; and the repayment requirements imposed in the event the community microenterprise development organization(s) does not fulfill its obligations described in the contract and other specific repayment provisions ("clawback" provisions) to be established on a project-by-project basis.

113.8(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare reports deemed necessary by the department, the board, the general assembly or the governor's office.

These rules are intended to implement Iowa Code section 15.240.

[Filed Emergency 4/17/09, effective 4/17/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7759B

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 6, "Covered Wages," and Chapter 15, "Dividends," Iowa Administrative Code.

IPERS adopts the following amendments as a result of 2009 Iowa Acts, House File 414, section 51, which authorizes an IPERS program for restoring a member's three-year average covered wages when that amount has been decreased by an employer-mandated reduction in hours. The amendments also remove citations to 2008 Iowa Acts now codified in the 2009 Code of Iowa.

In compliance with legislative action pursuant to 2009 Iowa Acts, House File 414, section 51, IPERS adopts these rules as a double-barreled action with an Adopted and Filed Emergency filing at the same time as the Notice of Intended Action. IPERS finds that, pursuant to Iowa Code section 17A.4(3), because these amendments are beneficial to members and necessary to the current and ongoing administration of the system, additional notice and public participation prior to implementation are impracticable, unnecessary, and contrary to the public interest.

IPERS also finds, pursuant to Iowa Code section 17A.5(2)"b"(1) and (2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on April 17, 2009, because these amendments confer benefits and are required to implement the system's governing statutes.

Notice of Intended Action regarding these amendments is also published herein as **ARC 7760B** to give interested persons adequate notice of the changes and an opportunity to respond.

None of these amendments are subject to requests for waivers; however, the amendments are subject to IPERS' normal appeal process.

These amendments are intended to implement 2009 Iowa Acts, House File 414, section 51, and Iowa Code sections 97B.4 and 97B.15.

IPERS adopted these amendments on April 17, 2009.

These amendments became effective April 17, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraphs **4.6(4)"j"** to **"m"** as follows:

j. Effective July 1, 2008, county jailers and detention officers working as jailers ~~as provided by 2008 Iowa Acts, Senate File 2424, section 31.~~

k. Effective July 1, 2008, National Guard installation security officers ~~as provided by 2008 Iowa Acts, Senate File 2424, section 31.~~

l. Effective July 1, 2008, emergency medical care providers ~~as provided by 2008 Iowa Acts, Senate File 2424, section 31.~~

m. Effective July 1, 2008, special investigators who are employed by county attorneys ~~as provided by 2008 Iowa Acts, Senate File 2424, section 31.~~

ITEM 2. Adopt the following **new** rule 495—4.8(97B):

495—4.8(97B) Additional employer contributions from employer-mandated reduction in hours. This rule applies only to the restoration of covered wages reduced by an employer-mandated reduction in hours (EMRH). It does not apply to reductions in base wages, reduced overtime wages, reduced wages due to position changes, permanent layoffs or other termination of employment situations.

4.8(1) A member may restore the member's three-year average covered wage to the amount that it would have been but for an EMRH by completing the IPERS EMRH application form and related payroll deduction authorization and by filing the application and payroll deduction authorization forms with the employer. By so doing, the member agrees to pay the employee and employer contributions for all EMRH wages retroactive to January 1, 2009, and all future EMRH wages through June 30, 2010.

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4.8(2) A member cannot pay the EMRH contributions described under this rule in any manner except through payroll deductions.

4.8(3) The payroll deduction authorization described under this rule shall be irrevocable, except upon death, retirement or termination of employment. If revoked by the member's death, retirement, or termination of employment, all amounts held by an employer in the member's name shall be forwarded to the member along with the member's final wages.

4.8(4) A member may obtain a refund of EMRH contributions collected under this rule as part of a refund of the member's entire account balance or an actuarial equivalent (AE) payment, but a member who commences a monthly retirement allowance shall not receive a refund of any amounts contributed, even if the covered wages being restored are not used in the member's three-year average covered wage.

4.8(5) A covered employer must cooperate with an eligible member's request for payroll deductions using the applicable IPERS forms. Employers shall be required to complete and submit wage certifications showing the covered wages that would have been reported but for the EMRH.

4.8(6) After IPERS has received and processed wage certification forms, the employer will be billed for the applicable EMRH contributions on the next employer monthly statement. If contributions are not paid by the employer statement's due date, the employer will be assessed late fees and interest in accordance with rule 495—4.3(97B).

4.8(7) In completing the federal and state wage reporting forms to be filed with the federal and state tax authorities, an employer shall treat the EMRH contributions collected and forwarded to IPERS the same as pretax IPERS employee contributions.

4.8(8) Upon receipt of the contributions pursuant to this rule, IPERS shall apply them to the member's account as pretax employee contributions.

4.8(9) This rule applies to reductions in wages caused by an EMRH through June 30, 2010. An employer's collection of contributions from such wages shall terminate as of midnight, July 31, 2010. All completed EMRH forms and contributions collected under this rule must be forwarded to IPERS by a covered employer no later than August 15, 2010.

ITEM 3. Amend **495—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, 97B.65 and 97B.70 and 2009 Iowa Acts, House File 414, section 51.

ITEM 4. Renumber subrules **6.3(11)** to **6.3(14)** as **6.3(12)** to **6.3(15)**.

ITEM 5. Adopt the following **new** subrule 6.3(11):

6.3(11) *Wages restored following an employer-mandated reduction in hours.* Notwithstanding rule 495—6.4(97B), wages restored following the receipt of contributions forwarded pursuant to 495—4.8(97B) shall be credited to quarters in which the wages would have been received but for the employer-mandated reduction in hours (EMRH).

ITEM 6. Amend rule 495—6.4(97B), introductory paragraph, as follows:

495—6.4(97B) Month for which wages are to be reported. Wages are reportable for the month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, receive lump sum payments of extra duty pay, or request wage restorations following EMRH, and similar situations involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages. The employer shall file wage adjustment reporting forms with IPERS allocating the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

ITEM 7. Amend subrule 15.1(1) as follows:

15.1(1) November dividend adjustment. Effective July 1, 2008, in order to determine whether the adjustment to dividend payments is payable under Iowa Code section 97B.49F(1) "b₂" ~~as amended by 2008 Iowa Acts, Senate File 2424, section 34,~~ an IPERS actuary shall compare the actuarially required contribution rate for the fiscal year of the dividend adjustment to the statutory contribution rate for that

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same fiscal year and certify the results to IPERS. If the actuarially required contribution rate exceeds the statutory contribution rate for that same fiscal year, the applicable percentage used to calculate dividend adjustments shall be zero.

[Filed Emergency 4/17/09, effective 4/17/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7735B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 100.18, the State Fire Marshal hereby amends Chapter 210, "Smoke Detectors," Iowa Administrative Code.

Iowa Code section 100.18 authorizes the State Fire Marshal to establish requirements for smoke detectors in single-family and multifamily residential buildings. These requirements were amended effective October 1, 2008, to establish that smoke detectors installed to meet the requirements are to be of dual sensor design. The effective date of that change was delayed until April 1, 2009, and is now being delayed again until October 1, 2009. Prior to the adoption of the amendments requiring the use of dual sensor smoke detectors, the Fire Marshal had received assurances that the available supply of dual sensor detectors would be sufficient for those installing new or replacement detectors; however, it now appears that there continue to be shortages of the dual sensor detectors. In addition, the Fire Marshal is considering possible exceptions to the dual sensor requirement for certain commercial smoke detector systems. Consequently, this emergency rule making has been adopted to delay for an additional six months the effective date of the requirement to use dual sensor detectors in order to ensure that an adequate supply of dual sensor detectors is available when the requirement takes effect and to allow for further consideration of possible exceptions to the requirement.

Generally, when amendments are adopted on an emergency basis, the Department of Public Safety files an accompanying Notice of Intended Action, which allows for public input through the normal rule-making process. However, in view of the nature of this emergency rule making, which is limited to delaying the effective date of the new requirement, and in view of the fact that the Fire Marshal intends to file a Notice of Intended Action in the near future proposing an amendment to the rule which would provide for certain limited exceptions to the dual sensor requirement, an accompanying Notice of Intended Action is not being filed with this rule making.

Pursuant to Iowa Code section 17A.4(3), the Fire Marshal finds that notice and public participation prior to the adoption of these amendments are impracticable. Postponing the effective date of the requirement when compliance may be impracticable for those subject to it calls for the emergency adoption of these amendments as early as practical.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Fire Marshal further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments be made effective April 7, 2009, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by postponing the implementation of a requirement in order to address the shortage of dual sensor smoke detectors.

These amendments are intended to implement Iowa Code section 100.18.

These amendments became effective April 7, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 210.2(1) as follows:

210.2(1) Approved single station smoke detectors shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205. Any single station smoke detector installed on or after ~~April 1, 2009~~ October 1, 2009, in compliance with this subrule, including a replacement of an existing detector, shall be a dual

PUBLIC SAFETY DEPARTMENT[661](cont'd)

sensor smoke detector. If sufficient dual sensor smoke detectors have been installed to comply with the requirements of this chapter, additional smoke detectors which may be other than dual sensor detectors may be installed.

ITEM 2. Amend subrule 210.2(3) as follows:

210.2(3) All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended. Any smoke detector installed on or after ~~April 1, 2009~~ October 1, 2009, in compliance with this chapter, including a replacement of an existing detector, shall be a dual sensor smoke detector. If sufficient dual sensor smoke detectors have been installed to comply with the requirements of this chapter, additional smoke detectors which may be other than dual sensor detectors may be installed.

[Filed Emergency 4/6/09, effective 4/7/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7737B

ARCHITECTURAL EXAMINING BOARD[193B]

Adopted and Filed

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 2, "Registration," Iowa Administrative Code.

The amendment to Chapter 2 reflects a statutory change which came about through enactment of 2008 Iowa Acts, chapter 1059, effective July 1, 2008. The amendment provides that a person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being registered if the person seeking the commission provides certain information to the Board. The amendment is subject to waiver or variance pursuant to 193—Chapter 5.

Notice of Intended Action was published in Iowa Administrative Bulletin on February 11, 2009, as **ARC 7545B**. No written or oral comments were received. One grammatical change has been made to the amendment in subparagraph 2.2(2)"c"(3) since the Notice of Intended Action was published.

The Board adopted this amendment on April 1, 2009.

This amendment is intended to implement Iowa Code chapter 544A as amended by 2008 Iowa Acts, chapter 1059.

This amendment will become effective June 10, 2009.

The following amendment is adopted.

Rescind rule 193B—2.2(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—2.2(544A,17A) Application by reciprocity. Applicants for registration are required to make application to the National Council of Architectural Registration Boards (NCARB) for a certificate. A completed state application form (available on the board's Web site) and a completed NCARB certificate shall be filed in the board office before an application will be considered by the board.

2.2(1) Registration requirements. The board or its executive officer may waive examination requirements for applicants who, at the time of application, are registered as architects in a different jurisdiction, where the applicant's qualifications for registration are substantially equivalent to those required of applicants for initial registration in this state. All such applicants who hold an active NCARB certificate shall be deemed to possess qualifications that are substantially equivalent to those required of applicants for initial registration in this state.

2.2(2) Applicants seeking architectural commission in Iowa. A person seeking an architectural commission in this state may be admitted to this state for the purpose of offering to provide architectural services, and for that purpose only, without first being registered in this state if:

- a. The person holds an NCARB certificate; and
- b. The person holds a current and valid registration issued by a registration authority recognized by this state; and
- c. The person notifies the board in writing on a form provided by the board that the person:
 - (1) Holds an NCARB certificate and a current and valid registration issued by a registration authority recognized by this state,
 - (2) Is not currently registered in this state but will be present in this state for the purpose of offering to provide architectural services on a temporary basis, and
 - (3) Has no previous or pending disciplinary action by any registration authority; and
- d. The person delivers a copy of the notice referred to in paragraph "c" to every potential client to whom the person offers to provide architectural services; and
- e. The person provides the board with a sworn statement of intent to apply immediately to the board for registration if selected as the architect for a project in this state.

The person is prohibited from actually providing architectural services until the person has been issued a valid registration in this state.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

2.2(3) Board refusal to issue registration. The board may refuse to issue a certificate of registration to any person otherwise qualified upon any of the grounds for which a certificate of registration may be revoked or suspended or may otherwise discipline a registrant based upon a suspension, revocation, or other disciplinary action taken by a licensing authority in this or another jurisdiction. For purposes of this subrule, “disciplinary action” includes the voluntary surrender of a registration to resolve a pending disciplinary investigation or proceeding. A certified copy of the record or order of suspension, revocation, voluntary surrender, or other disciplinary action is prima facie evidence of such fact.

[Filed 4/8/09, effective 6/10/09]

[Published 5/6/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7733B**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 9, “All Iowa Opportunity Foster Care Grant Program,” Iowa Administrative Code.

The adopted amendment expands the definition of “Iowa resident” to include individuals for whom the Iowa Department of Human Services had placement and care responsibilities as mandated by the Iowa juvenile court system.

Notice of Intended Action was published in the February 11, 2009, Iowa Administrative Bulletin as **ARC 7574B**. No comments were received from the public, and the adopted amendment is identical to that published under Notice.

This amendment was adopted during the April 3, 2009, meeting of the Iowa College Student Aid Commission.

This amendment will become effective on June 10, 2009.

This amendment is intended to implement Iowa Code chapter 261.

The following amendment is adopted.

Amend rule **283—9.2(261)**, definition of “Iowa resident,” as follows:

“Iowa resident” means an individual who meets the criteria used by the state board of regents to determine residency for tuition purposes as described in 681—1.4(262) or an individual for whom the Iowa department of human services had placement and care responsibilities as mandated by the Iowa juvenile court system.

[Filed 4/6/09, effective 6/10/09]

[Published 5/6/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7734B**CULTURAL AFFAIRS DEPARTMENT[221]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 303.1 and 303.1A, the Department of Cultural Affairs hereby amends Chapter 6, “Iowa Community Cultural Grants (ICCG) Program,” Iowa Administrative Code.

This amendment to Chapter 6 removes language which requires applicants that apply through a fiscal agent to be in the process of applying for their own federal tax exemption and to already be registered Iowa nonprofit organizations.

CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on February 25, 2009, as **ARC 7589B**. A public hearing was held on March 17, 2009, at 10 a.m. No public comment was received. The adopted amendment is identical to that published under Notice.

This amendment was approved and adopted by the Director on April 6, 2009.

This amendment will become effective on June 10, 2009.

This amendment is intended to implement Iowa Code section 303.3(1).

The following amendment is adopted.

Amend rule **221—6.3(303)**, definition of “Eligible applicant,” as follows:

“*Eligible applicant*” means an incorporated city in Iowa, county government, tribal council, or an Iowa community group which is federally tax-exempt under United States Internal Revenue Code Section 501(c)(3) and incorporated under the Iowa nonprofit corporation Act. Iowa ~~nonprofit~~ community groups ~~which have applied for and are awaiting determination of federal tax-exempt status~~ may apply for ICCG funds through a fiscal agent which is federally tax-exempt and otherwise eligible to apply.

[Filed 4/6/09, effective 6/10/09]

[Published 5/6/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7745B

EDUCATIONAL EXAMINERS BOARD[282]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 22, “Authorizations,” Iowa Administrative Code.

The substitute authorization rule currently authorizes a paraeducator who serves in an elementary special education classroom to serve as a short-term substitute for the teacher in that elementary special education classroom. Due to the preschool legislation, there have been questions about the authority to substitute in a preschool setting. The substitute authorization rule is being revised in this amendment to include the paraeducator who serves in a preschool special education classroom so that the paraeducator may serve as a short-term substitute for the preschool special education teacher. This change will not include the program for four-year-olds.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7329B**. A public hearing on the amendment was held on Wednesday, December 3, 2008. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice except that rule 282—22.2(272) was 282—14.143(272) at the time of the Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective June 10, 2009.

The following amendment is adopted.

Amend rule 282—22.2(272), introductory paragraph, as follows:

282—22.2(272) Substitute authorization. A substitute authorization allows an individual to substitute in a middle school, junior high school, or high school for no more than five consecutive days in one job assignment. An individual who holds a paraeducator certificate and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

individual paraeducator is employed. This special education classroom may be on the preschool or elementary school level as well as the middle school, junior high school or high school level.

[Filed 4/13/09, effective 6/10/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7754B

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

Adopted and Filed

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 3, "Application and Renewal Process," Iowa Administrative Code.

Item 1 of these amendments clarifies the components and due dates for the Principles and Practice examination applications. Item 2 of these amendments clarifies the components of a complete application for licensure by comity and clearly states that comity applications will not be reviewed until all components have been received. This amendment also clarifies that comity applicants will be notified of the results of the application review in writing and further clarifies the Board's position with regard to temporary permits.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 17, 2008, as **ARC 7433B**. These amendments are identical to those published under Notice of Intended Action.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

These amendments were adopted by the Board on March 24, 2009.

These amendments shall become effective June 10, 2009.

These amendments are intended to implement Iowa Code sections 542B.2, 542B.6, 542B.13, 542B.14, 542B.15, 542B.20, 542B.30, 272C.2 and 272C.3.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [3.2(3), 3.3] is being omitted. These amendments are identical to those published under Notice as **ARC 7433B**, IAB 12/17/08.

[Filed 4/16/09, effective 6/10/09]

[Published 5/6/09]

[For replacement pages for IAC, see IAC Supplement 5/6/09.]

ARC 7753B

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

Adopted and Filed

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 4, "Engineering Licensure," Iowa Administrative Code.

Item 1 of these amendments clarifies the components of the work project statement and indicates that the Board will only approve work project statements that include all of the components listed in the rule. Item 2 of these amendments removes the requirement that all applicants for licensure by comity must submit three references and allows the applicant to submit one or more references that verify at least four years of satisfactory experience after the receipt of the qualifying degree.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 17, 2008, as **ARC 7434B**. These amendments are identical to those published under Notice of Intended Action.

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

Waiver of these amendments may be sought pursuant to 193—Chapter 5.

These amendments were adopted by the Board on March 24, 2009.

These amendments will become effective June 10, 2009.

These amendments are intended to implement Iowa Codes sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17, and 542B.20.

The following amendments are adopted.

ITEM 1. Amend subrule 4.1(4) as follows:

4.1(4) Work project description. An applicant for initial licensure as a professional engineer must include with the application a work project statement of approximately 200 words describing a significant project on which the applicant worked closely during the previous 12 months. The board will review all work project statements and will only approve those that include all of the components listed below in paragraphs “a” through “d” and meet the criteria listed in paragraph “e.”

a. The statement shall describe the applicant’s degree of responsibility for the project ~~and~~.

b. The statement shall identify the project’s owner and its location.

c. The statement shall include the name of the supervisor in charge of the project and, if the supervisor is a professional engineer, the license number of the supervisor.

d. The statement shall be signed and dated.

e. Criteria the board shall use in evaluating the acceptability of the project as qualifying experience for the applicant shall include, but not be limited to, the following:

~~a-~~ (1) The degree to which the project and the experience described have progressed from assignments typical of initial assignments to those more nearly expected of a licensed professional;

~~b-~~ (2) The scope and quality of the professional tutelage experienced by the applicant;

~~c-~~ (3) The technical decisions required of the applicant in the project; and

~~d-~~ (4) The professional decisions required of the applicant.

The board reserves the right to contact the employer and the person providing tutelage on the project for information about the project experience presented to the applicant.

ITEM 2. Amend subrule 4.2(1) as follows:

4.2(1) *References.* ~~An applicant for licensure by comity shall submit three references on forms provided by the board, at least two of which shall be from licensed professional engineers. An applicant for licensure by comity shall submit references to verify at least four years of satisfactory experience after the receipt of the qualifying degree. This experience must be under the supervision of a licensed professional engineer, or the applicant must provide unlicensed tutelage references verifying at least four years of satisfactory engineering experience.~~ The board reserves the right to contact employers for information about the applicant’s professional experience and competence.

[Filed 4/16/09, effective 6/10/09]

[Published 5/6/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7755B

HISTORICAL DIVISION[223]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 303.1 and 303.1A, the Department of Cultural Affairs hereby amends Chapter 21, “Membership in the Society,” Iowa Administrative Code.

The amendment revises language in subrule 21.3(2) to reflect the actual number of award programs, which had been increased from four to seven in a previous rule making.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7602B**. Public comments were solicited and none were received. Due to the

HISTORICAL DIVISION[223](cont'd)

nature of the amendment, no public hearing was warranted. The adopted amendment is identical to that published under Notice.

This amendment was approved and adopted by the Director on April 15, 2009.

This amendment will become effective on June 10, 2009.

This amendment is intended to implement Iowa Code chapter 303.

The following amendment is adopted.

Amend subrule 21.3(2), introductory paragraph, as follows:

21.3(2) *Award programs.* Awards shall be made in ~~four~~ seven programs.

[Filed 4/16/09, effective 6/10/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7752B

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Adopted and Filed

Pursuant to the authority of 2009 Iowa Acts, House File 64, division III, section 8, the Homeland Security and Emergency Management Division adopts Chapter 13, "Community Disaster Grants," Iowa Administrative Code.

New Chapter 13 is intended to implement 2009 Iowa Acts, House File 64, which creates the Community Disaster Grant Program and provides an appropriation. Chapter 13 is intended to specify how the Homeland Security and Emergency Management Division will administer the grant program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 25, 2009, as **ARC 7581B**. The Division received no public comments on the rules. These rules were also Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on February 25, 2009, as **ARC 7580B**. These rules are identical to those published under Notice and Adopted and Filed Emergency.

These rules will become effective on June 10, 2009, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement 2009 Iowa Acts, House File 64, division III.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 13] is being omitted. These rules are identical to those published under Notice as **ARC 7581B** and Adopted and Filed Emergency as **ARC 7580B**, IAB 2/25/09.

[Filed 4/16/09, effective 6/10/09]

[Published 5/6/09]

[For replacement pages for IAC, see IAC Supplement 5/6/09.]

ARC 7740B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 234.6, 239B.4(6), and 249A.4, the Department of Human Services amends Chapter 40, "Application for Aid," Chapter 76, "Application and Investigation," and Chapter 170, "Child Care Services," Iowa Administrative Code.

These amendments clarify that the applicant or participant for Family Investment Program assistance, medical assistance, or child care assistance has the primary responsibility for providing information and verification needed for the Department to establish eligibility and benefits. If the applicant or participant

HUMAN SERVICES DEPARTMENT[441](cont'd)

fails to supply the information or verification requested and does not request assistance and authorize the Department to obtain the specific information or verification, that failure is a basis for denial or cancellation of assistance.

The Department has recently added a general release of information to applications and review documents used for these programs. If the applicant or participant signs the optional general release of information, the Department may be able to use the release to help obtain information from third parties to determine eligibility and benefits. In some instances, the use of a general release of information will allow the Department to assist the client in obtaining the necessary information more quickly.

The reason for these amendments is to clarify that signing the optional general release does not absolve the applicant or participant from all responsibility for providing requested information or verification. Use of the general release is not appropriate in all instances, and, due to the general nature of the form, it will not always be honored by collateral contacts. When the Department needs specific information, the Department will notify the client. If the client is not able to provide the information, the client is responsible for asking the Department worker for help and for giving a specific authorization for the Department to obtain the requested information.

These amendments also include a change to subrule 76.7(4) inadvertently omitted from the amendments adding Medicaid coverage for children in subsidized guardianship that were published in the Iowa Administrative Bulletin on December 3, 2008, as **ARC 7386B**.

Clients are not required to sign the general release of information. A client who is not able to provide the requested information or verification may ask the Department for assistance.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on February 25, 2009, as **ARC 7590B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on April 8, 2009.

These amendments are intended to implement Iowa Code chapters 239B and 249A and section 237A.13.

These amendments shall become effective on June 10, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [40.24(1), 40.27(4), 76.2, 76.7, 170.5] is being omitted. These amendments are identical to those published under Notice as **ARC 7590B**, IAB 2/25/09.

[Filed 4/10/09, effective 6/10/09]

[Published 5/6/09]

[For replacement pages for IAC, see IAC Supplement 5/6/09.]

ARC 7741B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 234.6 and 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 83, "Medicaid Waiver Services," Chapter 133, "IV-A Emergency Assistance Program," and Chapter 150, "Purchase of Service"; rescinds Chapter 152, "Contracting," and adopts new Chapter 152, "Foster Group Care Contracting"; amends Chapter 156, "Payments for Foster Care and Foster Parent Training"; and rescinds Chapter 157, "Purchase of Adoption Services," Chapter 182, "Family-Centered Services," Chapter 183, "Adult Support Services," and Chapter 185, "Rehabilitative Treatment Services," Iowa Administrative Code.

In a rule making published in the Iowa Administrative Bulletin on August 1, 2007, as **ARC 6098B**, the Department eliminated Medicaid coverage for rehabilitative treatment services, which previously funded most family-centered services, family preservation services, foster family care services, and foster group

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care services for children. Some of these services were subsumed into new Medicaid coverage for remedial services, which was adopted in a rule making published in the Iowa Administrative Bulletin on November 8, 2006, as **ARC 5514B**.

The Department adopted interim child welfare amendments that were published in the Iowa Administrative Bulletin on January 3, 2007, as **ARC 5651B**. In a rule making published in the Iowa Administrative Bulletin on April 11, 2007, as **ARC 5819B**, the Department removed references to rehabilitative and nonrehabilitative family-centered, family preservation, foster family care, and group care services except as necessary to maintain the interim contracting arrangements.

In a rule making published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5937B**, the Department adopted a new chapter of rules for family-centered child welfare services and established that rehabilitative and nonrehabilitative services under Chapter 182 would end by December 31, 2007. Providers for the new services were selected through competitive bidding.

In a rule making published in the Iowa Administrative Bulletin on January 2, 2008, as **ARC 6515B**, the Department extended the transition period for family-centered services until March 31, 2008, for the Council Bluffs service area only due to a delay in contracting for the new services. Because the transition to the new family-centered child welfare services has been completed, these amendments rescind Chapter 182 and remove references to Chapter 182 from other chapters.

The Department no longer purchases foster family care supervision. Based on the case plan, a child in foster family care may get support from the contractor for family, safety, risk, and permanency services (one of the family-centered child welfare services). The foster family may receive support through the Department's retention and recruitment contractor, the contractor for support for resource families, or the contractor for family, safety, risk, and permanency services. Department service workers are responsible for monthly visits and development of the family case plan, as addressed in Chapter 202.

Interim contracting arrangements for foster group care services continue. These amendments move the rules necessary to develop and enforce these contracts from Chapter 185 into the new Chapter 152, rescind Chapter 185, and remove the remaining references to Chapter 185 in other chapters.

Chapter 157, "Purchase of Adoption Services," is being rescinded because the Department no longer purchases these services. Home studies for adoptive parents are purchased through the statewide contractor for retention and recruitment. Prospective adoptive parents take the same training as prospective foster parents. Services to the child are provided in a variety of ways, as described above for foster family care.

Chapter 183, "Adult Support Services," is being rescinded because the Department no longer purchases these services. Most services to adults are now provided through the county central points of coordination, through Medicaid targeted case management services provided under Chapter 90, or through Medicaid home- and community-based services waivers. The remaining direct services provided to adults by Department service workers are covered under Chapter 131, "Social Casework."

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on January 28, 2009, as **ARC 7526B**. The Department held a public hearing on these amendments, which was attended by seven persons. The Department received written comments on the Notice of Intended Action from seven persons. In response to these comments, the Department has made the following changes to the rules as published under Notice of Intended Action:

- Amended subparagraph 77.46(4)"a"(2) to read "Mental health professionals licensed pursuant to 645—Chapter 31, 240, or 280 or possessing an equivalent license in another state" to reflect qualifications necessary to provide therapy and counseling.

- Made minor changes to the preamble of Chapter 152, including removal of the reference to the date of November 1, 2006. This reference was intended to clarify the date when group care contracting was actually "de-linked" from rehabilitative treatment services, but was interpreted to mean that the Department was making these rules effective on a retroactive basis. November 1, 2006, is still mentioned in rule 441—152.3(234) as the starting point for the current rate structure.

- In the definition of "level of care" in rule 441—152.1(234), added a range of staffing requirements for enhanced comprehensive-level group care to match provisions that were previously in paragraph 185.83(3)"b."

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- Eliminated a reference to daily logs in paragraph 152.2(6)“a” to avoid the implication that they are the only acceptable type of service documentation.
- Added new subparagraphs (3) and (4) to paragraph 152.2(6)“a” to reference daily documentation of billed per diem services and weekly notes on the child’s progress.
- Added a new paragraph “b” to subrule 152.2(6) to define requirements for daily documentation and relettered subsequent paragraphs accordingly.
- Added the phrase “for which the provider has documentation of the billed per diem services as described in subrule 152.2(6)” to the first sentence in rule 441—152.7(234).

These amendments do not provide for waivers in specified situations. No contracts currently exist for purchasing services under Chapter 182 or Chapter 185. Requests for waiver of the other rules in this filing may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on April 8, 2009.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective on July 1, 2009.

The following amendments are adopted.

ITEM 1. Rescind subparagraph **75.1(35)“h”(4)**.

ITEM 2. Amend rule 441—77.12(249A) as follows:

441—77.12(249A) Remedial services providers. A provider of remedial services is eligible to participate in the medical assistance program when:

1. The provider is accredited by the mental health, mental retardation, developmental disabilities, and brain injury commission pursuant to 441—Chapter 24; or
2. The provider ~~is~~ was certified by the department as a provider of rehabilitative treatment services pursuant to 441—185.10(234) ~~as of August 31, before September 1, 2006; or~~
3. The provider can demonstrate to the Iowa Medicaid enterprise that the provider has the skills and resources necessary to implement a member’s treatment plan and remedial services implementation plan.

This rule is intended to implement Iowa Code section 249A.4 ~~and 2006 Iowa Acts, House File 2734, section 10, subsection 11.~~

ITEM 3. Amend subparagraph **77.46(3)“a”(1)** as follows:

(1) ~~Rehabilitative treatment~~ Remedial services skill development providers ~~certified in good standing~~ qualified under 441—185.10(234) 77.12(249A).

ITEM 4. Amend subparagraph **77.46(4)“a”(2)** as follows:

(2) ~~Rehabilitative treatment services therapy and counseling providers certified in good standing under 441—185.10(234)~~ Mental health professionals licensed pursuant to 645—Chapter 31, 240, or 280 or possessing an equivalent license in another state.

ITEM 5. Rescind and reserve paragraph **83.62(3)“g.”**

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

d. A consumer may not receive children’s mental health waiver services and ~~any of the following foster family care services under 441—Chapter 202~~ at the same time:

- (1) ~~Rehabilitative treatment services under 441—Chapter 185; or~~
- (2) ~~Family foster care under 441—Chapter 202.~~

ITEM 7. Rescind the definitions of “Adolescent monitoring and outreach services,” “Family assistance fund,” “Family-centered services,” “Family-centered supportive services,” “Family preservation services,” “Foster care,” “Protective day care,” and “Wrap-around services or support funds” in rule **441—133.1(235)**.

ITEM 8. Amend rule **441—133.1(235)**, definition of “Emergency assistance,” as follows:

“*Emergency assistance*” means any one or more of the following services provided in response to a IV-A emergency assistance application:

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1. Family-centered child welfare services as set forth in 441—~~Chapters 182 and 185~~ Chapter 172.
2. ~~Family preservation services as set forth in 441—Chapters 181 and 185.~~
3. ~~2.~~ Foster Shelter care as set forth in 441—Chapters ~~185~~ 156 and 202, except for placements of less than 48 hours.
4. ~~3.~~ Protective day child care as set forth in 441—Chapter 170.
5. ~~Wrap-around services as set forth in 441—Chapter 179.~~
6. ~~4.~~ Adolescent Tracking, monitoring, and evaluation outreach as set forth in 441—Chapter 151, Division H III.

ITEM 9. Amend rule 441—133.2(235) as follows:

441—133.2(235) Application. An application for emergency assistance shall be made according to ~~441—Chapter 130 on Form SS-1120-0, Application for Social Services/IV-A Emergency Assistance rule 441—130.2(234)~~. An application shall be completed anytime a decision is made to provide emergency assistance or when an adult family member requests emergency assistance on behalf of a child.

133.2(1) The application shall be filed by a parent, except where both parents are absent or unwilling to apply on behalf of a child who meets all other eligibility conditions, in which case another adult member of the family with whom the child resides or has resided within the past six months acting on behalf of the child may file the application.

133.2(2) If the application is made on behalf of a child for whom the department has legal custody, the department worker may sign the application on behalf of the child.

ITEM 10. Amend subrule 133.3(4) as follows:

133.3(4) Service need. The applicant must demonstrate a need for one or more of the emergency assistance services as follows:

- a. Family-centered child welfare services as established at ~~rules 441—182.2(234) and 441—185.2(234)~~ rule 441—172.12(234) or 441—172.22(234).
- b. ~~Family preservation services as established at rules 441—181.2(234) and 441—185.2(234).~~
- ~~e.~~ b. Foster Shelter care as established at rules rule 441—202.2(234) and 441—185.2(234).
- ~~d.~~ c. Protective day child care as established at rule 441—170.2(234) 441—subparagraph 170.2(2)“b”(3).
- e. ~~Wrap-around funding as established at rule 441—179.2(234).~~
- f. d. Adolescent Tracking, monitoring, and evaluation outreach as established at rule ~~441—151.22(235) 441—151.33(232)~~.

ITEM 11. Amend subrule 133.3(6) as follows:

133.3(6) Financial eligibility. The applicant family:

- a. ~~is~~ is receiving FIP, SSI, food ~~stamp~~ assistance benefits, or Medicaid in the month of the application, or
- b. ~~does~~ Does not have cash to provide needed emergency care or services as evidenced by the applicant ~~family having an~~ family's income ~~which does not exceed~~ exceeding 800 percent of the poverty guidelines established by the Office of Management and Budget.

ITEM 12. Amend rules 441—133.4(235) and 441—133.5(235) as follows:

441—133.4(235) Method of service provision. Except for ~~wrap-around~~ tracking, monitoring, and outreach services, services shall be provided through department workers or through purchase of service agreements with providers that are approved by the department as qualified to provide specified services and ~~who~~ have a current contract with the department of human services to provide services. ~~Organizations or persons selected by the department to provide services and support pursuant to an approved application for wrap-around funding shall be considered eligible providers.~~

441—133.5(235) Duration of services. Services to families and children provided through the emergency assistance program as a result of a single application may be provided for either a period not to exceed 12 months, or until there is no longer a need for services according to eligibility criteria for the

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specified services, whichever occurs first. ~~Family centered supportive services, family assistance fund services, and wrap around services shall be discontinued when the funds allocated to those services are obligated or expended as set forth at rules 441—182.3(234), 441—181.3(234), and 441—179.11(234).~~

ITEM 13. Amend paragraphs **150.3(3)“j”** and **“m”** as follows:

j. Client reports. The provider shall maintain the following client records, ~~except when providing services as described in 441—Chapter 182, for which the requirements in 441—subrules 185.10(4), 185.10(5) and 185.10(6) shall apply, as specified in rule 441—182.7(234):~~

(1) to (3) No change.

m. Maintenance of client records. Records for clients served through a purchase of service contract must be retained by the provider for a period of three years after service to the client terminates, ~~except for services described in 441—Chapter 182, for which the requirements of rule 441—182.7(234) shall apply.~~

ITEM 14. Rescind and reserve paragraph **150.3(4)“c.”**

ITEM 15. Amend paragraph **150.3(6)“c”** as follows:

c. Family-centered services. For family-centered services, the provisions in ~~rules 441—182.3(234) and 441—182.4(234)~~ rule 441—172.3(234) relating to approval, authorization, and referral shall apply.

ITEM 16. Rescind 441—Chapter 152 and adopt the following **new** chapter in lieu thereof:

CHAPTER 152
FOSTER GROUP CARE CONTRACTING

PREAMBLE

This chapter sets forth the contracting process used for providers of foster group care services, including standards for rate-setting, payment mechanisms, and provider monitoring, audits, and sanctions. The term of the contract is limited to no more than six years pursuant to 11—Chapters 106 and 107. The rules also establish provider qualifications, service authorization procedures, documentation requirements, and service termination and appeal procedures associated with foster group care services. Refer to 441—Chapter 156 for additional program requirements.

441—152.1(234) Definitions.

“Affiliates” means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

“Authorized representative,” within the context of rule 441—152.9(234), means that person appointed to carry out audit procedures, including an assigned auditor, fiscal consultant, or agent contracted for a specific audit or audit procedure.

“Child” means a person under 18 years of age or a person 18 or 19 years of age who meets the criteria in Iowa Code section 234.1.

“Claim” means each record the department receives that tells the amount of requested payment and the service rendered by a provider to a child and family.

“Client” means a child who has been found to be eligible for foster group care services through the Iowa department of human services.

“Confidence level” means the probability that an overpayment or underpayment rate determined from a random sample of charges is less than or equal to the rate that exists in the universe from which the sample was drawn.

“Contract” means a formal written agreement between the Iowa department of human services and a provider of foster group care services.

“Contract monitor” means a department employee who is assigned to assist in developing, monitoring, and evaluating a contract and to provide related technical assistance.

“Department” means the Iowa department of human services.

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“Extrapolation” means that the total dollars of overpayment or underpayment will be estimated by using sample data meeting the confidence level requirement.

“Family,” for purposes of child welfare service delivery, shall include the following:

1. The natural or adoptive parents, stepparents, and children who reside in the same household.
2. A child who lives with an adult related to the child within the fourth degree of consanguinity and the adult relatives within the fourth degree of consanguinity in the child’s household who are responsible for the child’s supervision. Relatives within the fourth degree of consanguinity include: full or half siblings, aunts, uncles, great-aunts, great-uncles, nieces, great-nieces, nephews, great-nephews, grandparents, great-grandparents, great-great-grandparents, and first cousins.
3. A child who lives alone or who resides with a person or persons not legally responsible for the child’s support.

“Fiscal record” means a tangible and legible history that documents the criteria established for financial and statistical records as set forth in subrule 152.2(7).

“Grant” means an award of funds to develop specific programs or achieve specific outcomes.

“Host area” means:

1. The department service area where the provider’s corporate office is located, or
2. The service area designated by the chief of the bureau of purchased services when the provider’s corporate office is out of state.

“Juvenile court officer” means a person appointed as a juvenile court officer or chief juvenile court officer under Iowa Code chapter 602.

“Level of care” means a type of foster group care service that is differentiated by the ratio of staff to children. There are three levels of foster group care services:

1. Community-level group care (service code D1), which requires a minimum staff-to-client ratio of 1 to 8 during prime programming time.
2. Comprehensive-level group care (service code D2), which requires a minimum staff-to-client ratio of 1 to 5 during prime programming time.
3. Enhanced comprehensive-level group care (service code D3), which requires a minimum staff-to-client ratio during prime programming time as follows:
 - 1 staff person for facilities serving up to 4 children.
 - 2 staff persons for facilities serving 5 to 7 children.
 - 3 staff persons for facilities serving 8 to 10 children.
 - 4 staff persons for facilities serving 11 to 13 children.
 - 5 staff persons for facilities serving 14 to 16 children.
 - 6 staff persons for facilities serving 17 to 19 children.
 - 1 staff person for every 3 children for facilities serving 20 or more children.

“Nonprime programming time” means any period of the day other than prime programming time and sleeping time.

“Overpayment” means any payment or portion of a payment made to a provider that is incorrect according to the laws and rules applicable to foster group care services and results in a payment greater than that to which the provider is entitled.

“Prime programming time” means any period of the day when special attention, supervision, or treatment is necessary (for example, upon awakening of the clients in the morning until their departure for school, during meals, after school, during transition between activities, evenings and bedtime, and on nonschool days such as weekends, holidays, and school vacations).

“Probation” means a specified period of conditional participation in the provision of foster group care services.

“Provider” means any natural person, company, firm, association, or other legal entity that is seeking a contract or is under contract with the department pursuant to this chapter.

“Random sample” means a systematic (or every “nth” unit) sample for which each item in the universe has an equal probability of being selected.

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“*Referral worker*” means the department worker or juvenile court officer who refers the case to a provider and who is responsible for carrying out the follow-up activities of determining client eligibility and ensuring that the service authorization is completed.

“*Service authorization*” means the process of determining service necessity and the level of care and number of units of service to be provided to a child.

“*Service record*” means an individual, tangible, and legible file that records service-related activities set forth in subrule 152.2(6).

“*Site*” means a location from which services are delivered or where staff report or records are kept. In the foster group care programs, each separately licensed location is a site.

“*Sleeping time*” means any period of the day during which clients are normally sleeping.

“*Suspension of payments*” means the withholding of all payments due a provider until resolution of the matter in dispute between the provider and the department.

“*Underpayment*” means any payment or portion of a payment not made to a provider for services delivered to eligible recipients according to the laws and rules applicable to the foster group care services program and to which the provider is entitled.

“*Unit of service*” means one day.

“*Universe*” means all items (claims) submitted by a specific provider for payment during a specific period, from which a random sample will be drawn.

“*Withholding of payments*” means a reduction or adjustment of the amounts paid to a provider on pending and subsequently submitted claims for purposes of offsetting overpayments previously made to the provider.

441—152.2(234) Conditions of participation.

152.2(1) Provider licensure. The department shall enter into a contract with a provider for foster group care services only when the provider’s facility has achieved full licensure as follows:

- a. A facility providing community-level group care shall be licensed:
 - (1) As a community residential facility pursuant to 441—Chapter 114;
 - (2) As a comprehensive residential facility pursuant to 441—Chapter 115; or
 - (3) Under comparable standards by the state in which the facility is located.
- b. A facility providing comprehensive-level group care shall be licensed:
 - (1) As a comprehensive residential facility pursuant to 441—Chapter 115; or
 - (2) Under comparable standards by the state in which the facility is located.
- c. A facility providing enhanced comprehensive-level group care shall be licensed:
 - (1) As a comprehensive residential facility pursuant to 441—Chapter 115; or
 - (2) Under comparable standards by the state in which the facility is located.

152.2(2) Provider staffing. At a minimum, all providers shall meet the requirements for staff qualifications, training, and number of staff pursuant to 441—Chapter 114 or as identified in appendices to Form 470-3052, Foster Group Care Services Contract.

a. All foster group care programs shall provide an appropriate number of hours of prime programming time sufficient to meet the child welfare service needs of the children served in the program.

b. Staffing during prime programming time, nonprime programming time, and sleeping time shall be sufficient to meet the group care maintenance needs of the children served in the program.

152.2(3) Services provided. The provider shall comply with the requirements for services to be provided, as described on Form 470-3051, Foster Group Care Services Contract Face Sheet, and appendices to Form 470-3052, Foster Group Care Services Contract. These services shall at a minimum meet the requirements found in 441—Chapter 156 and in 441—Chapter 114 or 441—Chapters 114 and 115, as applicable, or the contract may be terminated.

152.2(4) Provider charges. A provider shall not charge departmental clients more than it receives for the same foster group care services provided to nondepartmental clients. The provider shall agree not to require any fee from departmental clients unless a fee is required by the department and is consistent with federal regulation and state policy.

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152.2(5) Compliance with the law. The provider and its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing services under the contract.

a. Drug-free workplace. The provider shall operate a drug-free workplace.

b. Use of funds. The provider shall:

(1) Agree that federally appropriated funds shall not be paid on behalf of the department or provider to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with:

1. The awarding of any federal contract,
2. The making of any federal grant,
3. The making of any federal loan,
4. The entering into of any cooperative agreement, or
5. The extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

(2) Ensure that no funds received or expended will be used in any way to promote or oppose unionization.

152.2(6) Maintenance of service records. A provider shall maintain complete and legible records as required in this subrule. A provider's client service records and case files for foster group care services shall comply with the requirements of this subrule and with the record-keeping requirements related to licensure pursuant to 441—Chapter 114.

a. The provider shall establish and maintain confidential, individual service records for each client receiving foster group care services. The service records must adequately support the provision of child welfare services and group care maintenance as defined in rule 441—156.1(234). The service record shall include, at a minimum, those items identified in rule 441—114.11(237) and the following:

- (1) Additional reports, if requested by the referral worker;
- (2) Form 470-3055, Referral and Authorization for Child Welfare Services;
- (3) Daily documentation of billed per diem services as defined in paragraph "b"; and
- (4) Notes indicating the child's general progress in regard to the child's care plan, entered no less than every seven calendar days.

b. Daily documentation of billed per diem services shall include:

- (1) The child's first and last name;
- (2) The month, day, and year service was provided;
- (3) The first and last names of the persons who provided the service;
- (4) A clear description of the specific service rendered, including interventions, actions, and activities performed which support the provision of child welfare services; and
- (5) Any problem areas or unusual behavior for the child.

c. If individual case files include service records for services other than foster group care services, the provider has the responsibility to maintain the client records in compliance with all applicable rules.

d. The provider shall retain service records for clients receiving foster group care services for a period of not less than five years following the date of final payment or completion of any required audit or review, whichever is later. If any litigation, claim, negotiation, audit, review, or other action involving the records has been started before the expiration of the five-year period, the records must be retained until the later of:

- (1) The completion of the action and resolution of all issues which arise from it, or
- (2) The end of the regular five-year period.

e. Failure to maintain records or failure to make records available to the department or to its authorized representatives upon request may result in a notice of violation and recoupment of payments, pursuant to rules 441—152.9(234) and 441—152.10(234).

152.2(7) Maintenance of financial and statistical records. The provider shall maintain sufficient financial and statistical records, including program and census data, to document the validity of the reports submitted to the department. The records shall be available for review at any time during normal

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business hours by department personnel, the department's fiscal consultant, and state or federal audit personnel.

a. At a minimum, financial and statistical records shall include all revenue and expenses supported by a provider's general ledger and documentation on file in the provider's office. These records include, but are not limited to:

- (1) Payroll information.
- (2) Capital asset schedules.
- (3) All canceled checks, deposit slips, and invoices (paid and unpaid).
- (4) Audit reports (if any).
- (5) The board of directors' minutes (if applicable).
- (6) Loan agreements and other contracts.
- (7) Reviewable, legible census reports and documentation of units of service provided to departmental clients that identify the individual client and are kept on a daily basis and summarized in a monthly report.
- (8) For nondepartmental clients, sufficient documentation of utilization to establish a complete unit of service count.

b. The provider shall maintain the following documentation for each program.

- (1) A list of all staff and supervisors providing foster group care services and their qualifications.
- (2) The number of staff hired and terminated in the year to date.

c. The documentation prepared by the provider shall be retained for use when any financial report is prepared and for review by the department's fiscal consultant. Financial records must be retained for five years from the date of report submission or final payment for services.

d. Independent audits. When a provider has an audit conducted, a firm not related to the provider shall conduct the audit. The provider shall submit a copy of the independent audit report to the department within 30 days of receipt of the report. The bureau of purchased services shall maintain the report and provide a copy of the report to the fiscal consultant.

152.2(8) *Special-purpose organizations.* A provider may establish a separate, special-purpose organization to conduct certain client-related or non-client-related activities on behalf of the provider. (For example, a provider may establish a development foundation to assume the provider's fund-raising activity.) Even if the provider does not own the special-purpose organization (e.g., a nonprofit, non-stock-issuing corporation) and has no common governing body membership, a separate special-purpose organization shall be considered a related party for purposes of this chapter when one of the following applies:

a. The provider controls the organization through contracts or other legal documents that give the provider the authority to direct the organization's activities, management, and policies.

b. For all practical purposes, the provider is the primary beneficiary of the organization's activities. The provider shall be considered the special-purpose organization's primary beneficiary if one or more of the following circumstances exist:

- (1) The organization has solicited funds on the provider's behalf with provider approval, and substantially all funds so solicited were contributed with the intent of benefiting the provider.
- (2) The provider has transferred some of its resources to the organization, substantially all of whose resources are held for the benefit of the provider.
- (3) The provider has assigned certain of its functions to a special-purpose organization that is operating primarily for the benefit of the provider.

152.2(9) *Certification by department of transportation.*

a. If the provider furnishes public transit service as defined in rule 761—910.1(324A), the provider shall annually submit to the contract monitor information regarding compliance with or exemption from public transit coordination requirements as found in Iowa Code chapter 324A and department of transportation rules in 761—Chapter 910. This information shall include:

- (1) Form 020107, Certification Application for Coordination of Public Transit Services, which the contract monitor shall submit to the department of transportation; and

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(2) A copy of an ACORD Certificate of Insurance or similar self-insurance documentation, as applicable.

b. If a provider believes it does not furnish public transit service as defined in rule 761—910.1(324A) and, therefore, is exempt from the requirements in paragraph “*a*,” the provider shall submit Form 020107 with only Section 1 completed when the provider enters into a new contract.

c. If a provider that has furnished public transit service as defined in rule 761—910.1(324A) ceases to do so, the provider becomes exempt from the requirements in paragraph “*a*.”

d. If an exempt provider begins to furnish public transit service as defined in rule 761—910.1(324A), the provider shall inform the contract monitor within 30 days of the change and shall adhere to the procedures in paragraph “*a*.”

e. Failure of the provider to cooperate in obtaining or providing the required documentation of compliance or exemption is grounds for denial or termination of the contract.

152.2(10) *Copyright and patents.* The activities and results of contract activity may be published subject to confidentiality requirements.

441—152.3(234) *Determination of rates.* Rates for foster group care services effective on or after November 1, 2006, shall be based on the historical payment rate negotiated between the provider and the department and shall be calculated based on rule 441—156.9(234).

152.3(1) *Negotiation of rates.* Rates for foster group care services effective on or after November 1, 2006, must be established in accordance with this subrule, except as provided in subrule 152.3(4).

a. All historical rate negotiations made under the former rehabilitative treatment and supportive services program on or after February 1, 1998, remain true and valid.

b. The scope of negotiations is limited solely to the rate to be paid for each service.

c. No other items, such as, but not limited to, changes in staff qualifications, service definition, required components, allowable costs or any licensing or other contractual requirements, shall be the subject of negotiations or be used as a basis for changing rates.

d. The service area manager of the host area is responsible for the negotiation of rates for each provider whose contract for foster group care services is administered by the host area, regardless of where the services are provided. Only the service area manager of the host area may approve the rates negotiated for a provider, except as provided in subrule 152.3(4).

(1) The service area manager of the host area shall take into consideration the other service areas served by a provider when negotiating a rate for a service provided in multiple service areas.

(2) When a service is provided only in a nonhost area, the two service area managers shall determine which one will negotiate the rate for that service.

e. The service area manager of the host area and the provider are mutually responsible for initiating the rate negotiation process. Negotiations may be conducted in a manner acceptable to both parties, but shall be conducted face to face upon the request of either party.

f. At the initiation of the rate negotiation process, the provider must disclose all relevant subcontractual and related-party relationships involved in the provision of foster group care services.

g. Negotiated rates shall not exceed any rate ceiling established or authorized by the legislature.

h. Once a negotiated rate is established, it shall not be changed or renegotiated, except in the following circumstances:

(1) Rates may be changed when funds are appropriated for an across-the-board increase.

(2) Rates may be changed by mandated across-the-board decreases.

152.3(2) *New service.* When a prospective provider contracts to provide a foster group care service or an existing provider adds a new foster group care service on or after November 1, 2006, the rate for the new service shall be established based on a payment rate negotiated with the provider.

a. The starting point for negotiated rates shall be the weighted average for each service as of July 1, 1997, as previously established in accordance with 441—subrule 185.109(1), in effect at that time, and further calculated based on rule 441—156.9(234). These rates shall become the established weighted average rates for each service code as described in 441—Chapter 156 and in the appendices of the foster group care contract.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) The rate for community-level group care child welfare service is \$8.43 per unit of service.
- (2) The rate for community-level group care maintenance is \$50.16 per unit of service.
- (3) The rate for comprehensive-level group care child welfare service is \$10.13 per unit of service.
- (4) The rate for comprehensive-level group care maintenance is \$60.31 per unit of service.
- (5) The rate for enhanced comprehensive-level group care child welfare service is \$13.36 per unit of service.
- (6) The rate for enhanced comprehensive-level group care maintenance is \$79.55 per unit of service.

b. In the event the department and a new provider or an existing provider adding a new foster group care service are unable to reach agreement on a rate for a service within 60 days of initiating rate negotiations, a rate resolution process may be used. If no rate is agreed upon within 60 days of initiation of a rate resolution process, no rate shall be established and the services in question shall not be part of any approved contract for foster group care services.

152.3(3) Interruptions in a program.

a. The rate for a new provider shall remain the same as the rate established for the former provider if:

- (1) A provider assumes the delivery of a program from a related-party provider, or
- (2) The difference between the former provider and the new provider is a change in name or a change in the legal form of ownership (i.e., a change from partnership to corporation).

b. If a provider ceases to contract for and provide a foster group care service on or before October 31, 2006, and before the calculation of new rates according to rule 441—156.9(234), the rate in effect when the contract ceased shall be used to calculate the new rates to be used as the starting point in negotiations.

c. If a provider ceases to contract for and provide a foster group care service after a rate has been established in accordance with rule 441—156.9(234) and then decides to again contract for and provide the foster group care service, the rate shall be established at the rate in effect when the service was interrupted.

152.3(4) Exception to rate policy. When a provider not located in Iowa has been granted an exception to these rules based upon another state's requirement that its providers be paid the same rate they are paid for clients from that state, the exception shall continue in effect as written for the life of the contract.

152.3(5) Across-the-board cuts. Payment under the contract may be subject to across-the-board cuts pursuant to Iowa Code section 8.31.

441—152.4(234) Initiation of contract proposal. All potential providers have a right to request a contract.

152.4(1) Initial contact. The initial contact shall be between the potential provider and the bureau of purchased services.

a. At the beginning of the contract development process, the bureau shall give the potential provider:

- (1) Information about the contracting process; and
- (2) Instructions on how to access the foster group care services provider handbook electronically.

b. The provider shall sign Form 470-3057, Verification of Receipt, at the end of the contract development process to verify receipt of information on how to access the handbook.

152.4(2) Contract proposal development. When the bureau of purchased services determines that a new contract is to be developed, a contract monitor shall be assigned to assist in contract development and processing. The contract monitor shall assist the applicant in the completion of the contract proposal and required fiscal information. The contract proposal shall include all of the following:

a. Form 470-3051, Foster Group Care Services Contract Face Sheet.

b. Form 470-3404, Foster Group Care Services Negotiated Rate Establishment Amendment. This form need not be completed until the completion of the rate negotiation process, but the contract proposal will not be acted upon until the form is completed and attached to the contract proposal.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Form 470-3052, Foster Group Care Services Contract, or Form 470-3053, Amendment to Foster Group Care Services Contract.

152.4(3) Contract proposal approval. The department shall review all complete proposed contracts for compliance with state and federal requirements.

a. The applicant shall submit four copies of the contract proposal to the assigned contract monitor 60 calendar days in advance of the desired effective date of the contract.

b. Submission within the time frame does not ensure the effective date of the contract. The department shall give the applicant notice and explanation in writing of any delay in the approval process.

c. The contract monitor shall forward four signed copies of the contract proposal to the bureau of purchased services within four weeks of receipt.

d. Before the contract can be effective, it shall be approved and signed by the following persons:

(1) An authorized representative of the provider.

(2) The service area manager, who shall make a decision within one week of receipt.

(3) The director of the department or the director's designee, who shall make a decision within 15 days of receipt.

152.4(4) Rejection of contract proposal. The department shall give the applicant notice and explanation in writing of the reasons for rejection of the contract proposal within ten working days of the decision. The following criteria may cause a proposed contract or proposed contract amendment to be rejected:

a. The proposed contract does not meet applicable rules, regulations, or guidelines.

b. The applicant has falsified any information required as a condition of participation.

c. Licenses submitted as a condition of participation in the contract process have never been approved or have been revoked or suspended.

d. The provider fails to provide notification within seven days of any changes that may significantly affect the licenses submitted as a condition of contracting.

e. The department and the provider fail to reach agreement on negotiated rates.

441—152.5(234) Contract. All providers shall enter into a contract with the department using Form 470-3052, Foster Group Care Services Contract.

152.5(1) Contract effective date. When the agreed-upon contract conditions have been met, the effective date of a new contract, a renewed contract, or an amendment to add a new service code to the contract is the day following signature of the director of the department or the director's designee, unless the provider and the department agree to a later specified date.

a. The contract shall be effective only after the provider is licensed to provide foster group care services as described in subrule 152.2(1).

b. The contract shall be effective only when signed by all parties as required by paragraph 152.4(3) "d."

152.5(2) Liability for payment. The department shall not be liable for payment for any programs or services before:

a. The contract effective date, or

b. The effective date of the rate for the program or service.

152.5(3) Term of contract. Pursuant to the provisions of 11—Chapters 106 and 107, the term of the contract is limited to no more than six years from the effective date of the contract.

441—152.6(234) Client eligibility and referral.

152.6(1) Determination of eligibility. The department shall determine a child's eligibility for foster group care services. The department shall not make payment for foster group care services provided before the child's eligibility determination and service authorization.

152.6(2) Court order. If a child and family have been referred to the department and the department has not authorized foster group care services, but the services have been ordered by the juvenile court, the department shall make payment subject to availability of authorized funds.

HUMAN SERVICES DEPARTMENT[441](cont'd)

152.6(3) Service authorization. Any change in the level of care or increase in the number of units or duration of foster group care services shall be authorized by the department.

441—152.7(234) Billing procedures. At the end of each month, the provider shall prepare Form 470-0020, Purchase of Service Provider Invoice, for contractual services provided during the month for which the provider has documentation of the billed per diem services as described in subrule 152.2(6). Separate invoices shall be prepared for each county from which clients were referred. Each invoice shall contain claims for only one month of service. A separate invoice is required for each separate month of service if the service spans more than one month.

152.7(1) Submission of invoices. Complete invoices shall be sent to the department local office responsible for the client for approval and forwarding for payment. The time limit for submission of original invoices shall be 90 days from the date of service, except at the end of the state fiscal year when claims for services through June 30 shall be submitted by August 10.

152.7(2) Resubmittal of rejected claims. Valid claims that were originally submitted within the time limit specified in subrule 152.7(1) but were rejected because of an error shall be resubmitted as soon as corrections are made.

152.7(3) Payment. The invoices shall be subject to audit and adjustment by the department. Within 60 days of the date of receipt of a valid invoice, the department shall make payment in full of all claims concerning foster group care services rendered to clients.

441—152.8(234) Contract management. During the contract period, the assigned contract monitor designated in the contract shall be the contract liaison between the department and the provider.

152.8(1) The provider shall contact the contract monitor about all interpretations and problems relating to the contract, and the contract monitor shall follow the issues through to their resolution.

152.8(2) The contract monitor shall also monitor performance under the contract and shall provide or arrange for technical assistance to improve the provider's performance if needed. Form 470-0670, Report of On-Site Visit, shall be used to monitor performance under the contract.

152.8(3) The contract monitor shall make at least one on-site visit to each provider during the term of the provider's contract. The on-site visit shall be coordinated with on-site visits scheduled to fulfill requirements for provider reviews, licensing, or other on-site visits required by the department. Site visits to out-of-state providers shall be made at the discretion of the service area responsible for administration of the contract.

441—152.9(234) Provider reviews. The department may review any provider at its discretion at any time. Records generated and maintained by the department or its fiscal agent may be used by reviewers and in all proceedings of the department.

152.9(1) Review of provider records. The department shall have the authority to conduct a scheduled or an unannounced site visit to evaluate the adequacy of service records in compliance with the policies and procedures for foster group care services.

152.9(2) Purpose. Upon proper identification, authorized representatives of the department shall have the right to review the service and fiscal records of the provider to determine whether:

- a. The department has accurately paid claims for services.
- b. The provider has furnished the services.
- c. The provider has retained service records and fiscal records, as described in subrules 152.2(6) and 152.2(7), that substantiate claims submitted for payment during the review period.
- d. Expenses reported to the department have been handled as required under subrule 152.2(8).

152.9(3) Method. The department shall select the appropriate method of conducting a review and shall protect the confidential nature of the records being reviewed. The provider may be required to furnish records to the department. The provider may select the method of delivering any requested records to the department. Review procedures may include, but are not limited to, the following:

- a. Comparing service and fiscal records with each claim.
- b. Interviewing clients and employees of providers.

HUMAN SERVICES DEPARTMENT[441](cont'd)

152.9(4) Sampling. The department's procedures for reviewing a provider's service records may include the use of random sampling and extrapolation. When these procedures are used, all sampling will be performed within acceptable statistical methods, yielding not less than a 95 percent confidence level.

a. Findings. The review findings generated through the review procedure shall constitute prima facie evidence in all department proceedings of the number and amount of requests for payment as submitted by the provider.

b. Extrapolation. Findings of the sample will be extrapolated to the universe for the review period. The total of the payments determined to be in error in the review sample shall be divided by the total payments in the reviewed sample to calculate the percentage of dollars paid in error. This percentage shall then be multiplied by the total payments in the review universe to determine the extrapolated overpayment.

c. Disagreement with findings. When the provider disagrees with the department's review findings and the findings have been generated through sampling and extrapolation, the provider may present evidence to show that the sample was invalid. The burden of proof of compliance rests with the provider. The evidence may include a 100 percent review of the universe of provider records used by the department in the drawing of the department's sample. This review shall:

- (1) Be arranged and paid for by the provider.
- (2) Be conducted by a certified public accountant.
- (3) Demonstrate that bills and records not reviewed in the department's sample complied with program regulations and requirements.
- (4) Be submitted to the department with all supporting documentation.

152.9(5) Actions based on review findings.

a. The department shall report the results of a review of provider records to concerned parties consistent with the provisions of 441—Chapter 9.

b. When an overpayment is found, the department may do one or more of the following:

- (1) Request repayment in writing.
- (2) Impose sanctions provided for in rule 441—152.10(234).
- (3) Investigate and refer the matter to an agency empowered to prosecute.

441—152.10(234) Sanctions against providers. Failure to meet the requirements relevant to provider contracting, financial record keeping, billing and payment, and client record keeping may subject providers to sanctions.

152.10(1) Grounds for sanction. The department may impose sanctions against a provider for committing one or more of the following actions:

a. Failing to provide and maintain the quality of the services to children and families within established standards, including:

- (1) Failing to meet standards required by state or federal law for licensure.
- (2) Failing to correct deficiencies in provider operations after receiving notice of these deficiencies from the department.
- (3) Engaging in a course of conduct or performing an act that is in violation of state or federal regulations or continuing that conduct following notification that it should cease.
- (4) Violating any laws, regulations, or code of ethics governing the conduct of occupations or professions subject to this chapter.
- (5) Receiving a formal reprimand or censure by an association of the provider's peers for unethical practices.
- (6) Being suspended or terminated from participation in another governmental program such as, but not limited to, workers' compensation or Medicaid remedial services.
- (7) Committing a negligent practice resulting in client death or injury.

b. Failing to disclose or make available to the department or its authorized agent records of services provided to a child and family and records of payments made for those services.

c. Engaging in deceptive billing practices, such as:

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) Presenting or causing to be presented for payment any false or deceptive claim for services.
- (2) Submitting or causing to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled.
 - d. Submitting or causing to be submitted false information to meet service authorization requirements.
 - e. Inducing, furnishing or otherwise causing the child or family to receive foster group care services that are not authorized (overutilization of services).
 - f. Rebating or accepting a fee or portion of a fee or a charge for referrals of a child or family.
 - g. Failing to repay or arrange for the repayment of identified overpayments or other erroneous payments.

152.10(2) *Notice of violation.* Should the department have information that indicates that a provider may have submitted bills or been practicing in a manner inconsistent with the program requirements, or may have received payment for which the provider may not be properly entitled, the department shall notify the provider of the discrepancies noted.

- a. Notification shall set forth:
 - (1) The nature of the discrepancies or violations.
 - (2) The known dollar value of the discrepancies or violations.
 - (3) The method of computing the dollar value.
 - (4) Further actions to be taken or sanctions to be imposed by the department.
 - (5) Any actions required of the provider.
- b. The provider shall have 15 days after the date of the notice and before the department action to show cause why the action should not be taken.

152.10(3) *Sanctions.* The following sanctions may be imposed on providers based on the grounds specified in subrule 152.10(1):

- a. A term of probation for provision of foster group care services.
- b. Termination from participation in the provision of foster group care services.
- c. Suspension from provision of foster group care services.
- d. Suspension or withholding of payments to the provider.
- e. Review of 100 percent of the provider's claims before payment.
- f. Referral to the appropriate state licensing board for investigation.
- g. Referral of the matter to appropriate federal or state legal authorities for investigation and prosecution under applicable federal or state laws.
- h. Suspension of foster group care services licensure.
- i. Termination of foster group care services licensure.

152.10(4) *Imposition and extent of sanction.* The department shall determine what sanction to impose. The following factors shall be considered in determining the sanction or sanctions to be imposed:

- a. Seriousness of the offense.
- b. Extent of violations.
- c. History of prior violations.
- d. Prior imposition of sanctions.
- e. Prior provision of technical assistance.
- f. Pattern of failure to follow program rules.
- g. Whether a lesser sanction will be sufficient to remedy the problem.
- h. Actions taken or recommended by peer review groups or licensing bodies.

152.10(5) *Scope of sanction.*

- a. The sanction may be applied to all known affiliates of a provider. Each decision to include an affiliate shall be made on a case-by-case basis after giving due regard to all relevant factors and circumstances. The violation, failure, or inadequacy of performance may be imputed to a person with whom the violator is affiliated when the conduct was committed in the course of official duty or was effectuated with the knowledge or approval of that person.

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b. When there are grounds for sanction pursuant to subrule 152.10(1) against a provider facility, campus, or site, the department may suspend or terminate the provision of foster group care services by:

- (1) The provider; or
- (2) The specific facility, campus, or site; or
- (3) Any individual within the provider's organization who is responsible for the violation.

c. No provider shall submit claims for payments to the department for any services provided by any facility, campus, site, or person within the organization that has been suspended or terminated from provision of foster group care services except for those services provided before the suspension or termination.

d. Suspension or termination from provision of foster group care services shall preclude the submission of claims to the department for payment for any services provided after suspension or termination, whether submitted personally or through the provider.

152.10(6) Suspension or withholding of payments pending a final determination. When the department has notified a provider of a violation pursuant to paragraph 152.9(5) "b" or subrule 152.10(2) and has demanded repayment of an identified overpayment, the department may withhold payments on pending and subsequently received claims in an amount reasonably calculated to approximate the amounts in question or may suspend payment pending a final determination. When the department intends to withhold or suspend payments, it shall notify the provider in writing.

152.10(7) Notice of sanction. When a provider has been sanctioned, the department shall notify, as appropriate, the applicable professional society, board of registration or licensure, and federal or state agencies of the findings made and the sanctions imposed.

441—152.11(234) Appeals of departmental actions. Providers may appeal decisions of the department, other than rate determinations, according to rules in 441—Chapter 7.

These rules are intended to implement Iowa Code section 234.6.

ITEM 17. Rescind the definitions of "Family foster care supervision" and "Foster family home study" in rule **441—156.1(234)**.

ITEM 18. Amend rule **441—156.1(234)**, definition of "Substance abuse treatment supervisor," as follows:

"Substance abuse treatment supervisor" means the same as treatment supervisor as defined in ~~the substance abuse commission department of public health rule 643—3.1(125) as treatment supervisor 641—155.1(125)~~.

ITEM 19. Rescind and reserve rule **441—156.7(234)**.

ITEM 20. Amend paragraph **156.9(2)"c"** as follows:

c. Appeals. The decision of the director regarding approval of an exception to the ~~cost principles rate determination~~ in ~~rules 441—185.101(234) to 441—185.108(234)~~ rule 441—152.3(234) is not appealable.

ITEM 21. Amend paragraph **156.9(4)"a"** as follows:

a. The rate shall be determined according to the policies in ~~rules 441—185.101(234) to 441—185.108(234)~~ rule 441—152.3(234) and added to the maintenance rate for the mother. The young child portion of the maintenance rate shall be limited to the costs associated with food, clothing, shelter, personal incidentals, and supervision for each young child and shall not exceed the maintenance rate for the mother. Costs for day care shall not be included in the maintenance rate.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- ITEM 22. Rescind and reserve **441—Chapter 157.**
- ITEM 23. Rescind and reserve **441—Chapter 182.**
- ITEM 24. Rescind and reserve **441—Chapter 183.**
- ITEM 25. Rescind and reserve **441—Chapter 185.**

[Filed 4/10/09, effective 7/1/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7756B

MEDICINE BOARD[653]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 148.13, the Board of Medicine hereby amends Chapter 9, "Permanent Physician Licensure," Iowa Administrative Code.

This amendment is intended to inform applicants that the preliminary notice of denial is a public record and that the applicant will be notified of the appeal process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7607B**. No public comment was received. This amendment is identical to that published under Notice.

The Board approved the amendment to Chapter 9 during a meeting held via teleconference call on April 16, 2009.

This amendment is intended to implement Iowa Code chapters 147 and 148.

This amendment will become effective June 10, 2009.

The following amendment is adopted.

Amend subrule 9.15(1) as follows:

9.15(1) Preliminary notice of denial. Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that shall be sent to the applicant by regular, first-class mail at the address provided by the applicant. The preliminary notice of denial ~~shall be in writing,~~ is a public record and shall cite the factual and legal basis for denying the application, notify the applicant of the time for appeal process, and specify the date upon which the denial will become final if it is not appealed.

[Filed 4/16/09, effective 6/10/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7742B

PAROLE BOARD[205]

Adopted and Filed

Pursuant to the authority of Iowa Code section 906.3, the Parole Board hereby adopts new Chapter 9, "Certificates of Employability," Iowa Administrative Code.

The rules in Chapter 9 prescribe the application process for obtaining a Certificate of Employability and establish the authority of the Board of Parole in granting or revoking a Certificate of Employability in accordance with Iowa Code section 906.19 [2008 Iowa Acts, House File 2660, section 24].

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 19, 2008, as **ARC 7337B**. The Board received informal oral feedback on the rules in the form of in-person communications.

PAROLE BOARD[205](cont'd)

Due in part to the feedback received, changes have been made to the rules that were published under Notice of Intended Action. The rules have been revised in order to better conform the chapter to the requirements of 2008 Iowa Acts, House File 2660, section 4. The revisions are a logical outgrowth of the rules published under Notice and the comments received in response to the rules. The following changes have been made since publication of the Notice of Intended Action:

1. The definition of “Eligible offender” has been changed. The second sentence has been removed and a new sentence has been inserted in lieu thereof.

2. In subrule 9.3(3), the last sentence has been removed and a new sentence has been inserted in lieu thereof.

3. In subrule 9.3(4), regarding granting a certificate of employability, the original sentence has been removed and a new sentence has been inserted in lieu thereof.

The Board adopted this amendment on January 8, 2009.

This amendment will become effective on June 10, 2009.

This amendment is intended to implement Iowa Code section 906.19 [2008 Iowa Acts, House File 2660, section 24].

The following amendment is adopted.

Adopt the following **new** 205—Chapter 9:

CHAPTER 9 CERTIFICATES OF EMPLOYABILITY

205—9.1(906) Definitions. As used in this chapter:

“*Direct relationship*” means that the nature of criminal conduct for which the eligible offender was convicted has a direct bearing on the offender’s fitness or ability to perform one or more of the duties or responsibilities necessarily related to the certificate of employability sought.

“*Eligible offender*” means a person who has been convicted of one or more than one eligible crime or eligible offense and has been sentenced to the custody of the director of the Iowa department of corrections. Persons required to register under Iowa Code chapter 692A are ineligible for the certificate of employability program.

“*Employment*” means any occupation, vocation or employment, or any form of vocational or educational training. For the purposes of this chapter, “employment” shall not include membership in any law enforcement agency.

“*Private employer*” means any person, company, corporation, labor organization or association.

“*Public agency*” means the state or any local subdivision thereof, or any state or local department, agency, board or commission.

205—9.2(906) Certificates of employability.

9.2(1) The provisions of this chapter shall apply to any application by an eligible offender to any public agency or private employer for employment, except where a mandatory forfeiture, disability or bar to employment is imposed by law and has not been removed by an executive pardon. The provisions of this chapter shall also apply to an application to a licensing agency by an eligible offender to obtain licensure required for employment.

9.2(2) When a certificate of employability is presented to a public agency, the licensing agency cannot deny a license based on the felony conviction or based on a lack of good moral character, unless the agency makes a determination that there is a direct relationship between the offense and the license sought or that the issuance of the license involves unreasonable risk to property or the safety and welfare of specific individuals or the general public.

9.2(3) A certificate of employability shall not, however, in any way prevent any judicial, administrative, licensing or other body, board or authority from relying upon the conviction specified therein as the basis for the exercise of its discretionary power to suspend, revoke, refuse to issue or refuse to renew any license, permit or other authority or privilege in accordance with the provisions set out in this chapter.

PAROLE BOARD[205](cont'd)

205—9.3(906) Issuance of a certificate by the board of parole.

9.3(1) The board of parole may issue a certificate of employability to an offender who has been committed to an institution under the jurisdiction of the department of corrections. Such certificate may be issued by the board at the time the offender is released from such institution under the board's authority or at any time thereafter. The board shall only issue a certificate of employability to an offender who obtains a positive recommendation from the department of corrections or community-based corrections in the state of Iowa.

9.3(2) The board of parole shall not issue any certificate of employability pursuant to this chapter unless the board is satisfied that:

- a. The person to whom it is to be granted is an eligible offender;
- b. The relief to be granted by the certificate is consistent with the employability of the eligible offender; and
- c. The relief to be granted by the certificate is consistent with the public interest.

9.3(3) Any certificate of employability issued by the board of parole to an eligible offender shall be deemed to be a temporary certificate until such time as the eligible offender is discharged from the board's supervision. Such a certificate may be revoked by the board, by the board's designee, or by an administrative parole judge for violation of the conditions of release or new arrest. Revocation shall be upon notice to the offender, who shall be accorded an opportunity to explain the violation prior to a decision thereon in accordance with subrule 9.3(5) below. After an eligible offender discharges all indictable criminal offenses imposed by the state of Iowa, the certificate of employability will only be revoked if it is determined that the certificate was obtained as the result of fraud or deceit or if the eligible offender is subsequently convicted in Iowa, or any other jurisdiction, of a crime that has a maximum penalty of two or more years of incarceration, in which case the certificate of employability shall be automatically revoked.

9.3(4) In the granting of a certificate of employability, the number of votes required to grant the certificate will be determined by the board of parole risk assessment score as set out in 205—subrules 8.15(2) to 8.15(4).

9.3(5) A certificate of employability may be revoked by the decision of an administrative parole judge or the board's designated officer at a parole revocation hearing held pursuant to rule 205—11.7(908). A certificate of employability may also be revoked at any time by affirmative vote of three or more of the parole board members.

9.3(6) The board may conduct an investigation of the applicant for the purpose of determining whether a certificate of employability shall be issued.

9.3(7) Any applicant whose application for a certificate of employability has been denied shall have the right to an appeal to the board of parole if the applicant initiates an appeal within ten days of written receipt of initial decision. Any appeal must be on an official board of parole appeal form.

205—9.4(906) Effect of revocation; use of revoked certificate. Where a certificate of employability is deemed to be revoked, disabilities and forfeitures relieved by the certificate shall be reinstated as of the date upon which the person to whom the certificate was issued receives written notice of such revocation. Any such person shall upon receipt of such notice surrender the certificate to the board of parole.

205—9.5(906) Forms and filing.

9.5(1) All applications, certificates and orders of revocation necessary for the purposes of this chapter shall be upon forms prescribed by the board of parole and in accordance with policies adopted by the board.

9.5(2) The parole board issuing or revoking any certificate pursuant to this chapter shall immediately file a copy of the certificate, or of the order of revocation, with the department of corrections and with any affected licensing agency.

PAROLE BOARD[205](cont'd)

205—9.6(906) Certificate not to be deemed a pardon. Nothing contained in this chapter shall be deemed to alter or limit or affect the manner of applying for pardons to the governor, and no certificate issued hereunder shall be deemed or construed to be a pardon.

These rules are intended to implement Iowa Code section 906.19.

[Filed 4/10/09, effective 6/10/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7757B

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby amends Chapter 9, "Harness Racing," Chapter 10, "Thoroughbred and Quarter Horse Racing," and Chapter 11, "Gambling Games," Iowa Administrative Code.

Items 1 through 6 implement changes to conform the rules to industry standards.

Items 7 and 8 clarify existing rules.

These adopted amendments are identical to those published under Notice of Intended Action in the February 11, 2009, Iowa Administrative Bulletin as **ARC 7554B**.

A public hearing was held on March 3, 2009. No comments were received.

These amendments will become effective June 10, 2009.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [9.7(1)"d"(3), 10.5, 10.6(2), 10.7(1)"d"(3), 11.1, 11.12(8)"a"] is being omitted. These amendments are identical to those published under Notice as **ARC 7554B**, IAB 2/11/09.

[Filed 4/17/09, effective 6/10/09]

[Published 5/6/09]

[For replacement pages for IAC, see IAC Supplement 5/6/09.]

ARC 7736B

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 543B.9, 543B.18, and 543B.15, the Real Estate Commission hereby amends Chapter 2, "Definitions," Iowa Administrative Code.

This amendment to rule 2.1(543B) adds a definition for "moral turpitude."

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 7508B** on January 14, 2009. Additionally, a public hearing was held on February 3, 2009. No comments were received by the public.

This amendment was adopted by the Commission on March 26, 2009.

This amendment shall become effective on June 10, 2009.

The following amendment is adopted.

Adopt the following **new** definition in rule **193E—2.1(543B)**:

"*Moral turpitude*" means an act of baseness, vileness, or depravity, in the private and social duties which a person owes to another person or to society in general, contrary to the accepted and customary rule of right and duty between person and person. It is conduct that is contrary to justice, honesty and good morals. Various factors may cause an offense which is generally not regarded as constituting moral

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

turpitude to be regarded as such. A crime of moral turpitude as specified in Iowa Code section 543B.15(3) shall include without limitation forcible felonies as delineated in Iowa Code section 702.11.

[Filed 4/6/09, effective 6/10/09]

[Published 5/6/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/6/09.

ARC 7761B

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Chapter 38, "Administration," Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 43, "Assessments and Refunds," Chapter 46, "Withholding," Chapter 48, "Composite Returns," Chapter 50, "Apportionment of Income for Resident Shareholders of S Corporations," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 54, "Allocation and Apportionment," Chapter 59, "Determination of Net Income," Chapter 86, "Inheritance Tax," Chapter 88, "Generation Skipping Transfer Tax," Chapter 89, "Fiduciary Income Tax," and Chapter 104, "Hotel and Motel—Filing Returns, Payment of Tax, Penalty, and Interest," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXI; No. 19, p. 1992, on March 11, 2009, as **ARC 7632B**.

These amendments clarify existing rules and remove obsolete rules or rule provisions.

Item 1 amends rule 701—10.3(422,450,452A) and the implementation clause to provide that interest due on unpaid tax is not subject to waiver.

Item 2 amends subrule 10.8(1) to provide for an additional exception to the penalty for failure to file relating to Iowa inheritance tax if a disclaimer is filed by a beneficiary.

Item 3 amends subrule 10.8(2) to provide for an additional exception to the penalty for failure to pay relating to Iowa inheritance tax if a disclaimer is filed by a beneficiary.

Item 4 rescinds and reserves rules 701—10.20(422,423) and 701—10.21(422,423), which are obsolete rules regarding penalty for retail sales tax.

Item 5 rescinds and reserves rule 701—10.30(423), which is an obsolete rule regarding penalty for use tax.

Item 6 rescinds and reserves rule 701—10.85(422), which is an obsolete rule regarding penalty for inheritance tax.

Item 7 rescinds and reserves rule 701—10.90(451), which is an obsolete rule regarding penalty for estate tax.

Item 8 rescinds and reserves rule 701—10.96(450A), which is an obsolete rule regarding penalty for generation skipping tax. Rule 701—10.97(422) is also rescinded, but the content is adopted as subrule 88.3(15) in Item 45.

Item 9 rescinds and reserves rules 701—10.101(422) and 701—10.102(422), which are obsolete rules regarding penalty for fiduciary income tax. Rule 701—10.103(422) is also rescinded, but the content is adopted as subrule 89.7(1) in Item 47.

Item 10 rescinds and reserves rules 701—10.110(423A) and 701—10.111(423A), which are obsolete rules regarding penalty for hotel and motel tax.

Items 11 and 12 amend subrule 10.115(2) and the implementation clause for rule 701—10.115(421) by citing an Iowa Supreme Court case regarding the application of payments and to provide guidance for the application of payments in situations where more than one tax period is involved.

Item 13 amends rule 701—38.12(422) to remove obsolete provisions regarding the indexation of the standard deduction for inflation for tax years ending prior to January 1, 1996, for individual income tax.

REVENUE DEPARTMENT[701](cont'd)

Item 14 amends the introductory paragraph in rule 701—38.14(422) to remove a reference to a Department publication that no longer exists.

Item 15 amends subrule 38.14(2) to remove an obsolete provision regarding tax information that the Department can obtain from the Internal Revenue Service.

Item 16 amends paragraph 40.2(1)“a” to provide that original issue discount on United States Treasury obligations are exempt from Iowa income tax.

Item 17 amends paragraph 40.2(2)“a” to provide that interest from Federal Agricultural Mortgage Corporation obligations is subject to Iowa income tax.

Item 18 amends subrule 40.16(2) to provide that nonresidents of Iowa who earn compensation in Iowa and at least one other state for an airline company or merchant marine company are only subject to the income tax laws of their state of residence.

Item 19 amends subrule 40.16(5) by adding an example regarding how nonresidents of Iowa are taxed on income from intangible personal property for individual income tax.

Item 20 amends subrule 40.21(6) to correct a reference from corporation income tax to individual income tax.

Item 21 amends rule 701—40.30(422) to remove an obsolete provision regarding percentage depletion for tax years beginning before January 1, 1987, and to include the current provision for percentage depletion for tax years beginning on or after January 1, 1987, for individual income tax.

Item 22 amends rule 701—40.31(422) to remove an obsolete provision regarding away-from-home expenses for state legislators for tax years beginning before January 1, 1987, and to include the current provision for away-from-home expenses for state legislators for tax years beginning on or after January 1, 1987, for individual income tax.

Item 23 amends subrule 40.38(8) by citing an Iowa Supreme Court case regarding the capital gains exclusion for individual income tax.

Item 24 amends rule 701—40.43(422) by striking the last unnumbered paragraph.

Item 25 amends subrule 40.46(4) to correct a reference that has changed due to Department reorganization.

Item 26 amends rule 701—40.53(422), introductory paragraph, to provide that the College Savings Iowa Plan and the Iowa Advisor 529 Plan are eligible for deductions related to contributions to the Iowa Educational Savings Plan Trust for individual income tax.

Item 27 rescinds and reserves subrule 41.5(5), which is an obsolete subrule regarding the deduction for payments of tuition and textbooks for individual income tax.

Item 28 amends rule 701—43.8(422), introductory paragraph, to remove an obsolete provision regarding the livestock production credit for individual income tax.

Item 29 rescinds and adopts new subrule 43.8(1) to remove obsolete provisions regarding the livestock production tax credit for individual income tax.

Item 30 rescinds and reserves paragraph 43.8(2)“i,” which is an obsolete provision regarding the livestock production tax credit for individual income tax.

Item 31 amends subrule 46.4(2) to add two new provisions that provide that nonresidents of Iowa who earn compensation in Iowa and at least one other state for an airline company or merchant marine company are not subject to Iowa withholding tax.

Items 32 and 33 amend subrules 48.9(1) and 48.9(2) to clarify the due date of composite returns.

Item 34 amends rule 701—50.1(422), introductory paragraph, to remove obsolete provisions regarding the S corporation apportionment credit.

Item 35 rescinds and reserves rule 701—50.8(422), which is an obsolete subrule regarding the S corporation apportionment credit.

Item 36 amends paragraph 52.1(1)“d” to cite additional court cases and provide additional examples regarding intangible property located or having a situs within Iowa which would create a filing requirement for corporation income tax.

Item 37 amends subrule 52.1(4) to add an additional example regarding the taxation of corporations having only intangible property located or having a situs in Iowa for corporation income tax.

REVENUE DEPARTMENT[701](cont'd)

Items 38 and 39 amend subrule 52.5(4), introductory paragraph and paragraphs “a” and “b,” to remove obsolete provisions regarding the alternative minimum tax credit for corporation income tax.

Item 40 amends subrule 52.18(4), introductory paragraph, to provide clarification on what tax period the historic preservation and cultural and entertainment district tax credit can be claimed for corporation income tax.

Items 41 to 43 amend paragraph 54.6(1)“f,” rule 701—54.9(422) and rule 701—59.29(422) to correct references that have changed due to Department reorganization. This is similar to the change in Item 25.

Item 44 adopts new subrules 86.2(11) and 86.2(12) to set forth the penalty and interest provisions for unpaid Iowa inheritance tax.

Item 45 adopts new subrules 88.3(14) and 88.3(15) to set forth the penalty and interest provisions for unpaid Iowa generation skipping transfer tax.

Item 46 adopts new rule 701—89.6(422) to set forth the penalty provisions for unpaid Iowa fiduciary income tax.

Item 47 adopts new subrule 89.7(1) to set forth the interest provisions for unpaid Iowa fiduciary income tax.

Item 48 adopts new rule 701—104.8(423A) to set forth the penalty and interest provisions for unpaid Iowa hotel and motel tax.

Item 49 adopts new rule 701—104.9(423A) to set forth the provisions for waiver of penalty for Iowa hotel and motel tax.

One change has been made since the Notice of Intended Action. Implementation sentences have been added to rules 701—104.8(423A) and 701—104.9(423A).

These amendments will become effective June 10, 2009, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code chapters 421, 422, 423, and 423A.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 10, 38, 40, 41, 43, 46, 48, 50, 52, 54, 59, 86, 88, 89, 104] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 7632B**, IAB 3/11/09.

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[For replacement pages for IAC, see IAC Supplement 5/6/09.]

ARC 7750B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10, 307.12, 321.449 and 321.450, the Department of Transportation, on April 15, 2009, adopted amendments to Chapter 520, “Regulations Applicable to Carriers,” Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the March 11, 2009, Iowa Administrative Bulletin as **ARC 7601B**.

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

TRANSPORTATION DEPARTMENT[761](cont'd)

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

Proposed federal regulations are published in the FR to allow a period for public comment, and, after adoption, the final regulations are published in the FR. Each year a revised edition of 49 CFR is published, incorporating all of the final regulations adopted during the year. Although revised editions of 49 CFR are usually dated October or November, the publication is not actually available in Iowa for several months after that date.

The amendments to the FMCSR and the HMR that have become final and effective since the 2007 edition of the CFR are listed in the information below. The parts affected are followed by FR citations.

Amendments to the FMCSR and Federal HMR

Parts 172 and 178 (FR Vol. 72, No. 201, Page 59146, 10-18-07)

This correction from the Pipeline and Hazardous Materials Safety Administration (PHMSA) corrects editorial errors in Parts 172 and 178 of the final rule issued October 1, 2007. Effective date: October 18, 2007.

Part 172 (FR Vol. 73, No. 4, Pages 1089-1115, 01-07-08)

This final rule from the PHMSA amends the HMR by revising and correcting editorial errors to the list of hazardous substances and reportable quantities in Part 172. The Environmental Protection Agency (EPA) requires PHMSA to list and regulate all hazardous substances designated by the EPA. This final rule enables shippers and carriers to identify the affected hazardous substances, comply with all applicable regulatory requirements, and make the required notifications if the release of a hazardous substance occurs. Effective date: March 31, 2008.

Parts 171, 172, 173, 175, 177, 178, 180 (FR Vol. 73, No. 18, Pages 4699-4720, 01-28-08)

This final rule from the PHMSA amends the HMR to update, clarify or provide relief from certain requirements governing the classification, packaging, or labeling of hazardous materials transported in commerce. In addition, PHMSA is updating references to consensus standards, revising and clarifying certain hazard communication requirements, and clarifying transportation requirements applicable to dry ice, detonator assemblies, and explosives. PHMSA is also expanding exceptions from regulation for small quantities of hazardous materials. Effective date: October 1, 2008.

Part 172 (FR Vol. 73, No. 137, Page 40914, 07-16-08)

This correction from the PHMSA corrects an editorial error in Part 172 of the final rule issued January 28, 2008. Effective date: October 1, 2008.

Parts 171, 172, 173, 175, 176, 178, 179 and 180 (FR Vol. 73, No. 191, Pages 57001-57008, 10-01-08)

This final rule from the PHMSA corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR. The amendments contained in this rule are nonsubstantive changes. Effective date: October 1, 2008.

Part 172 (FR Vol. 73, No. 191, Pages 57008-57010, 10-01-08)

This correction from the PHMSA corrects editorial errors in Part 172 of the final rule issued October 1, 2007. Effective date: October 1, 2008.

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 321.

These amendments will become effective June 10, 2009.

Rule-making actions:

TRANSPORTATION DEPARTMENT[761](cont'd)

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

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2007~~ 2008).

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

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2007~~ 2008).

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