



# IOWA ADMINISTRATIVE BULLETIN

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## CONTENTS IN THIS ISSUE

Pages 2058 to 2095 include **ARC 1993C** to **ARC 2014C**

### ADMINISTRATIVE SERVICES

#### DEPARTMENT[11]

Filed, Human resources—promotional lists, grievances, appeal of disciplinary actions, educational leave, sick leave insurance program, application of Hatch Act, 54.2(4), 61.1, 61.2(6), 63.10(4), 64.16(3), 65.3 **ARC 2000C**..... 2078

### AGENDA

Administrative rules review committee ..... 2053

### AGRICULTURE AND LAND STEWARDSHIP

#### DEPARTMENT[21]

Notice, Storage and handling of anhydrous ammonia, 43.6 **ARC 1998C** ..... 2058

### ALL AGENCIES

Agency identification numbers ..... 2056  
Citation of administrative rules ..... 2051  
Schedule for rule making ..... 2052

### DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Filed, Retention of study models and casts, 27.11 **ARC 1995C** ..... 2079

### HUMAN SERVICES DEPARTMENT[441]

Notice, Implementation of preventing sex trafficking and strengthening families Act, amendments to chs 112, 113, 117, 175, 202 **ARC 1997C** ..... 2063

### INSPECTIONS AND APPEALS

#### DEPARTMENT[481]

Notice, Subacute mental health care facilities—publicly funded facility beds, treatment of persons involuntarily hospitalized under Iowa Code chapter 229, 71.3(6), 71.13 **ARC 1996C** ..... 2068

Filed, Contested case proceedings, 10.12, 11.6, 11.7, 11.14 **ARC 1993C** ..... 2081

Filed, Elder group homes, assisted living programs, and adult day services—rescission of definition of “applicant or certificate holder,” 67.1 **ARC 1994C** ..... 2084

### INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Delivery and receipt of notices of cancellation, suspension, forfeiture, nonrenewal and termination, amendments to chs 20, 30, 35, 39, 40 **ARC 1999C** ..... 2084

### IOWA FINANCE AUTHORITY[265]

Filed, Purchasing—update of implementation sentence, ch 15 **ARC 2001C** ..... 2089

Filed, Transitional housing revolving loan program—update of internal references and implementation sentence, amendments to ch 23 **ARC 2002C**... 2089

Filed, Water pollution control works and drinking water facilities financing—update of implementation sentence, ch 26 **ARC 2003C** ..... 2090

**IOWA FINANCE AUTHORITY[265] (Cont'd)**

Filed, Jump-start housing assistance program—update of internal reference and implementation sentence, amendments to ch 29 **ARC 2004C** . . . . . 2091

Filed, Council on homelessness—update of internal reference and implementation sentence, amendments to ch 31 **ARC 2005C** . . . . . 2091

Filed, Water quality financial assistance program—update of references and implementation sentence, amendments to ch 33 **ARC 2006C** . . . . . 2092

Filed, Affordable housing assistance grant fund, rescind ch 35 **ARC 2007C** . . . . . 2093

Filed, Community housing and services for persons with disabilities revolving loan program—update of references and implementation sentence, amendments to ch 43 **ARC 2008C** . . . . . 2093

Filed, Agricultural development division—update of references and implementation sentence, amendments to ch 44 **ARC 2009C** . . . . . 2094

**IOWA PUBLIC INFORMATION BOARD[497]**

Notice, Board advisory opinions, 1.2, 1.3 **ARC 2012C** . . . . . 2069

Notice, Conflict of interest, 1.4 **ARC 2013C** . . . . . 2070

Notice, Complaint investigation and resolution procedures, 2.1 **ARC 2011C** . . . . . 2071

Notice, Open meetings, ch 8 **ARC 2010C** . . . . . 2072

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Notice, Child labor, 32.1, 32.2, 32.5, 32.7, 32.11, 32.12, 32.17 **ARC 2014C** . . . . . 2073

**PUBLIC HEARINGS**

Summarized list . . . . . 2055

**REVENUE DEPARTMENT**

Notice of electric and natural gas delivery tax rate changes. . . . . 2075

**TREASURER OF STATE**

Notice—Public funds interest rates . . . . . 2076

## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2015

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 5, 2015	June 24, 2015
1	Friday, June 19, 2015	July 8, 2015
2	Wednesday, July 1, 2015	July 22, 2015

**PLEASE NOTE:**

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 9, 2015, at 9 a.m. in Room [to be determined], State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Human resources—promotional lists, grievances, appeal of disciplinary actions, educational leave, sick leave insurance program, application of Hatch Act, 54.2(4), 61.1, 61.2(6), 63.10(4), 64.16(3), 65.3 Filed **ARC 2000C** ..... 5/27/15

#### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Storage and handling of anhydrous ammonia, 43.6 Notice **ARC 1998C** ..... 5/27/15

#### **ALCOHOLIC BEVERAGES DIVISION[185]**

COMMERCE DEPARTMENT[181]“umbrella”

Trade practices, 16.1 to 16.25, 16.40 to 16.44, 16.60, 16.75, 16.90, 16.105, 16.106 Filed **ARC 1992C** ..... 5/13/15

#### **CORRECTIONS DEPARTMENT[201]**

Iowa state industries, 37.2(5), 37.3, 37.4, 37.7, 37.8(1), 37.9, 37.10 Notice **ARC 1990C** ..... 5/13/15

#### **DENTAL BOARD[650]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Retention of study models and casts, 27.11 Filed **ARC 1995C** ..... 5/27/15

#### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Surface water classification, 61.3(5) Filed **ARC 1988C** ..... 5/13/15

#### **HUMAN SERVICES DEPARTMENT[441]**

Implementation of the preventing sex trafficking and strengthening families Act, amendments to chs 112, 113, 117, 175, 202 Notice **ARC 1997C** ..... 5/27/15

#### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

Contested case proceedings, 10.12, 11.6, 11.7, 11.14 Filed **ARC 1993C** ..... 5/27/15

Elder group homes, assisted living programs, and adult day services—rescission of definition of “applicant or certificate holder,” 67.1 Filed **ARC 1994C** ..... 5/27/15

Subacute mental health care facilities—publicly funded facility beds, treatment of persons involuntarily hospitalized under Iowa Code chapter 229, 71.3(6), 71.13 Notice **ARC 1996C** ..... 5/27/15

#### **INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]“umbrella”

Delivery and receipt of notices of cancellation, suspension, forfeiture, nonrenewal and termination, amendments to chs 20, 30, 35, 39, 40 Filed **ARC 1999C** ..... 5/27/15

#### **IOWA FINANCE AUTHORITY[265]**

Purchasing—update of implementation sentence, ch 15 Filed **ARC 2001C** ..... 5/27/15

Transitional housing revolving loan program—update of internal references and implementation sentence, amendments to ch 23 Filed **ARC 2002C** ..... 5/27/15

Water pollution control works and drinking water facilities financing—update of implementation sentence, ch 26 Filed **ARC 2003C** ..... 5/27/15

Jump-start housing assistance program—update of internal reference and implementation sentence, amendments to ch 29 Filed **ARC 2004C** ..... 5/27/15

Council on homelessness—update of internal reference and implementation sentence, amendments to ch 31 Filed **ARC 2005C** ..... 5/27/15

Water quality financial assistance program—update of references and implementation sentence, amendments to ch 33 Filed **ARC 2006C** ..... 5/27/15

Affordable housing assistance grant fund, rescind ch 35 Filed **ARC 2007C** ..... 5/27/15

Community housing and services for persons with disabilities revolving loan program—update of references and implementation sentence, amendments to ch 43 Filed **ARC 2008C** ..... 5/27/15

Agricultural development division—update of references and implementation sentence, amendments to ch 44 Filed **ARC 2009C** ..... 5/27/15

#### **IOWA PUBLIC INFORMATION BOARD[497]**

Board advisory opinions, 1.2, 1.3 Notice **ARC 2012C** ..... 5/27/15

Conflict of interest, 1.4 Notice **ARC 2013C** ..... 5/27/15

Complaint investigation and resolution procedures, 2.1 Notice **ARC 2011C** ..... 5/27/15

Open meetings, ch 8 Notice **ARC 2010C** ..... 5/27/15

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Child labor, 32.1, 32.2, 32.5, 32.7, 32.11, 32.12, 32.17 Notice **ARC 2014C** ..... 5/27/15

Standards for amusement rides and devices, concession booths, and bungee jump operations,  
rescind chs 61, 62; adopt chs 61 to 63 Notice **ARC 1987C** ..... 5/13/15

**NATURAL RESOURCES DEPARTMENT[561]**

State lands volunteer program, ch 13 Notice **ARC 1989C**..... 5/13/15

**REGENTS BOARD[681]**

Resident classification of veterans, qualified military persons, and their children and  
spouses/domestic partners, 1.4(2)"b" Filed **ARC 1991C** ..... 5/13/15

**TRANSPORTATION DEPARTMENT[761]**

Adoption of 2009 MUTCD with Revisions 1 and 2; signing on primary highways, memorial  
bridges and named routes, 130.1, 131.1, 131.4, 131.6(1), 131.10 Filed **ARC 1986C**..... 5/13/15

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

Senator Mark Chelgren  
819 Hutchinson  
Ottumwa, Iowa 52501

Representative Lisa Heddens  
2401 Westwind Drive  
Ames, Iowa 50010

Senator Mark Costello  
37265 Rains Avenue  
Imogene, Iowa 51645

Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Senator Thomas Courtney  
2609 Clearview  
Burlington, Iowa 52601

Representative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 5031

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

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

Senator Pam Jochum  
2368 Jackson Street  
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**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Storage and handling of anhydrous ammonia, 43.6 IAB 5/27/15 <b>ARC 1998C</b>	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 18, 2015 1 p.m.
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**CORRECTIONS DEPARTMENT[201]**

Iowa state industries, 37.2(5), 37.3, 37.4, 37.7, 37.8(1), 37.9, 37.10 IAB 5/13/15 <b>ARC 1990C</b>	Corrections Dept. Conference Room 510 E. 12th St. Des Moines, Iowa	June 2, 2015 11 a.m. to 1 p.m.
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**LABOR SERVICES DIVISION[875]**

Child labor, 32.1, 32.2, 32.5, 32.7, 32.11, 32.12, 32.17 IAB 5/27/15 <b>ARC 2014C</b>	Capitol View Room Workforce Development 1000 E. Grand Ave. Des Moines, Iowa	June 18, 2015 10 a.m. (If requested)
Standards for amusement rides and devices, concession booths, and bungee jump operations, rescind chs 61, 62; adopt chs 61 to 63 IAB 5/13/15 <b>ARC 1987C</b>	Capitol View Room Workforce Development 1000 E. Grand Ave. Des Moines, Iowa	June 3, 2015 1:30 p.m. (If requested)

**NATURAL RESOURCES DEPARTMENT[561]**

State lands volunteer program, ch 13 IAB 5/13/15 <b>ARC 1989C</b>	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	June 2, 2015 10 a.m.
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**UTILITIES DIVISION[199]**

Telephone service regulations, amendments to chs 22, 26 IAB 4/15/15 <b>ARC 1957C</b>	Room 69, Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	June 2, 2015 9 a.m.
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The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
    Soil Conservation Division[27]  
ATTORNEY GENERAL[61]  
AUDITOR OF STATE[81]  
BEEF INDUSTRY COUNCIL, IOWA[101]  
BLIND, DEPARTMENT FOR THE[111]  
CAPITAL INVESTMENT BOARD, IOWA[123]  
CITIZENS’ AIDE[141]  
CIVIL RIGHTS COMMISSION[161]  
COMMERCE DEPARTMENT[181]  
    Alcoholic Beverages Division[185]  
    Banking Division[187]  
    Credit Union Division[189]  
    Insurance Division[191]  
    Professional Licensing and Regulation Bureau[193]  
        Accountancy Examining Board[193A]  
        Architectural Examining Board[193B]  
        Engineering and Land Surveying Examining Board[193C]  
        Landscape Architectural Examining Board[193D]  
        Real Estate Commission[193E]  
        Real Estate Appraiser Examining Board[193F]  
        Interior Design Examining Board[193G]  
    Utilities Division[199]  
CORRECTIONS DEPARTMENT[201]  
    Parole Board[205]  
CULTURAL AFFAIRS DEPARTMENT[221]  
    Arts Division[222]  
    Historical Division[223]  
EARLY CHILDHOOD IOWA STATE BOARD[249]  
ECONOMIC DEVELOPMENT AUTHORITY[261]  
    City Development Board[263]  
IOWA FINANCE AUTHORITY[265]  
EDUCATION DEPARTMENT[281]  
    Educational Examiners Board[282]  
    College Student Aid Commission[283]  
    Higher Education Loan Authority[284]  
    Iowa Advance Funding Authority[285]  
    Libraries and Information Services Division[286]  
    Public Broadcasting Division[288]  
    School Budget Review Committee[289]  
EGG COUNCIL, IOWA[301]  
ENERGY INDEPENDENCE, OFFICE OF[350]  
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
EXECUTIVE COUNCIL[361]  
FAIR BOARD[371]  
HUMAN RIGHTS DEPARTMENT[421]  
    Community Action Agencies Division[427]  
    Criminal and Juvenile Justice Planning Division[428]  
    Deaf Services Division[429]  
    Persons With Disabilities Division[431]  
    Latino Affairs Division[433]  
    Status of African-Americans, Division on the[434]  
    Status of Women Division[435]

Status of Iowans of Asian and Pacific Islander Heritage[436]  
HUMAN SERVICES DEPARTMENT[441]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Child Advocacy Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
IOWA PUBLIC INFORMATION BOARD[497]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Military Division[611]  
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Board[650]  
    Medicine Board[653]  
    Nursing Board[655]  
    Pharmacy Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and Workforce Development Center Administration Division[877]

## ARC 1998C

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 200.14, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 43, “Fertilizers and Agricultural Lime,” Iowa Administrative Code.

The proposed amendment adopts the newest national safety standards for the safety and handling of anhydrous ammonia. The proposed amendment will necessitate that the emergency shut-off valve required in the line going to the remote transfer station be placed on the intake side of the pump. Additional information about the new standards can be found at <http://www.iowaagriculture.gov/feedandfertilizer/pdfs/2015/IowasadaptationofthenewAmmoniaStandards.pdf>. The Department intends to make the rule effective January 1, 2016.

A public hearing will be held on June 18, 2015, at 1 p.m. in the Second Floor Conference Room, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa.

Any interested persons may make written suggestions or comments on the proposed amendment on or before June 18, 2015. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by e-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

The proposed amendment is subject to the Department’s general waiver provisions.

After analysis and review of this rule making, the new national standards may have an impact on jobs for a manufacturer whose equipment does not comply with the national standards. Additionally, an estimated 15 percent of anhydrous tanks would require improved safety by moving the location of the emergency shut-off valve at a cost per tank of between \$400 to \$750 plus labor. This amendment is necessary to maintain and protect the safety of Iowa farmers and applicators.

This amendment is intended to implement Iowa Code section 200.14.

The following amendment is proposed.

Amend rule 21—43.6(200) as follows:

**21—43.6(200) Standard for the storage and handling of anhydrous ammonia.** The Compressed Gas Association’s (CGA’s) American National Standard Safety Requirements for the Storage and Handling of Anhydrous Ammonia (6th edition), commonly referred to as ANSI K61.1-1989 revision, approved March 17, 1989 ANSI/CGA G-2.1 2014, is adopted by this reference as the official requirement for the storage and handling of anhydrous ammonia, with the following exceptions:

1. Strike subrule ~~3.4.1 3.1~~ in its entirety and insert in lieu thereof the following:

~~3.4.1 3.1~~ Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency.

2. Strike Insert a new subrule 3.4.1.1 5.1.3 in its entirety and insert in lieu thereof the following to read as follows:

~~3.4.1.1 Two full face gas masks, each with one spare ammonia canister in a readily accessible location for use in ammonia concentrations less than the IDLH. See 2.19. A positive pressure, self-contained breathing apparatus may be substituted for the above equipment.~~

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

~~NOTE: A full face piece ammonia gas mask will provide effective respiratory protection in concentrations of ammonia in air that are not immediately dangerous to life or health for short periods of time. A gas mask is not recommended for respiratory protection in concentration exceeding the IDLH except for escape purposes only. Face piece fitting should be used to determine the ability of each individual gas mask wearer to obtain a satisfactory fit. If ammonia vapor is detected within the gas mask face piece, the face piece fit is improper, the ambient concentration is excessive, or the canister is exhausted, the wearer should return to fresh air immediately to take appropriate corrective measures. The life of a canister in service is controlled by many factors including the concentration of ammonia vapor to which it is exposed.~~

~~Canisters should not be opened until ready for use and should be discarded after use. Canisters should be discarded and replaced when the shelf life expiration date marked on the canister is exceeded. When canisters include an end-of-service indicator, the manufacturer's expiration instructions are to be followed. In addition to this protection, an independent air supplied, positive pressure, self-contained breathing apparatus, approved by NIOSH/MSHA, should be used for entry into concentrations of ammonia vapor that are unknown or immediately dangerous to life or health. The American National Standard Z88.2, Practices for Respiratory Protection, should be referred to wherever respirators may be used. (13)~~

5.1.3 Equipment and components must be installed, operated, and maintained in accordance with the manufacturer's recommendations or best engineering practices.

~~3. Strike subrule 5.2.1 in its entirety and insert in lieu thereof the following:~~

~~5.2.1 Containers used with systems covered in Sections 6, 9, 11, and 12 shall be made of steel or other material compatible with ammonia, and tested in accordance with the current ASME Code. An exception to the ASME Code requirements is that construction under Table UW 12 at a basic joint efficiency of under 80 percent is not authorized.~~

~~4. Strike subrule 5.2.2.1 in its entirety and insert in lieu thereof the following:~~

~~5.2.2.1 The entire container shall be postweld heat treated after completion of all welds to the shells and heads. The method employed shall be as prescribed in the ASME Code, except that the provisions for extended time at lower temperature for postweld heat treatment shall not be permitted. Welded attachments to pads may be made after postweld heat treatment [10]. Exception: Implements of husbandry will not require postweld heat treatment if they are fabricated with hot formed heads or with cold formed heads that have been stress relieved.~~

~~5. Strike subrule 5.2.2.2 in its entirety.~~

~~6. Strike subrule 5.2.4 in its entirety and insert in lieu thereof the following:~~

~~5.2.4 Welding for the repair or alteration of pressure-containing parts of a container shall be performed by an ASME Code certified welder. All repair or alteration shall conform insofar as possible to the ASME Code section and edition to which the container was constructed.~~

~~7. 3. Strike The following subrule 5.3.4 in its entirety and insert in lieu thereof the following as set out in CGA G-2.1 2014, page 16, is included:~~

5.3.4 In the absence of a specific determination by the secretary local jurisdictions, container locations separation distances for new, additional or relocated ammonia stationary storage containers and placements of containers covered by Sections 9, 10, 11 and 12 after January 1, 2002, shall comply with the following table be in accordance with Table 5:

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

Minimum Separation Distances for Location of Ammonia Storage Containers

Nominal Capacity of Container <sup>3)</sup> (Gallons or Cubic Meters)	Minimum Distances (in feet or meters) from Each Container to:			
	<u>Mainline of Railroad</u> <sup>4)</sup>	<u>Highway<sup>5)</sup> or Line of Adjoining Property which may can be built upon, Highways &amp; Mainline of Railroad</u>	<u>Place of Public Assembly**<sup>6)</sup> or Residential Occupancy<sup>7)</sup></u>	<u>Institution Institutional Occupancy<sup>8)</sup></u>
*Over 500 to 2,000 gals <sup>9)</sup>	<u>100 ft</u>	25 ft	150 ft	250 ft
Over 2,000 to 30,000 gals	<u>100 ft</u>	50 ft	300 ft	500 ft
Over 30,000 to 100,000 gals	<u>100 ft</u>	50 ft	450 ft	750 ft
Over 100,000 gals	<u>100 ft</u>	50 ft	600 ft	1000 ft
Over 2 to 8 m <sup>3</sup>	<u>30 m</u>	8 m	45 m	75 m
Over 8 to 110 m <sup>3</sup>	<u>30 m</u>	15 m	90 m	150 m
Over 110 to 400 m <sup>3</sup>	<u>30 m</u>	15 m	140 m	230 m
Over 400 m <sup>3</sup>	<u>30 m</u>	15 m	180 m	300 m

1) Separation distances referred to are approximate and based on experience with minor releases.

2) For additional distances, see 5.3.2, 5.3.3, 5.3.4, 5.3.5, 5.3.6 and 6.4.6.

3) The nominal capacity of multiple containers shall be aggregated, but only if containers are interconnected and safeguards do not exist to prevent a leak from one container from emptying interconnected containers.

4) Class II track or better. See 49 CFR 213.9 [8].

5) A highway is defined as a public way for purposes of vehicular travel, including the entire area within the right of way. See American Association of State Highway and Transportation Officials (AASHTO) Transportation Glossary (1983) [37].

6) Public assembly occupancy is a premise or that portion of a premise where large numbers of people congregate and from which occupants cannot quickly vacate the space. Public assembly occupancies include, among others, auditoriums, ballrooms, classrooms, passenger depots, restaurants, and theatres. See ANSI/ASHRAE 15 [1].

7) Residential occupancy is a premise or that portion of a premise that provides the occupants with complete independent living facilities including permanent provisions for living, sleeping, eating, cooking, and sanitation. Residential occupancies include, among others, dormitories, hotels, multiunit apartments, and private residences. See ANSI/ASHRAE 15 [1].

8) Institutional occupancy is a premise or that portion of a premise from which, because they are disabled, debilitated, or confined, occupants cannot readily leave without the assistance of others. Institutional occupancies include, among others, hospitals, nursing homes, asylums, and spaces containing locked cells. See ANSI/ASHRAE 15 [1].

9) \*NOTE: For 500 gallons (2m<sup>3</sup>) or less, see 5.3.1 and 5.3.3.

\*\*“Place of Public Assembly” includes any place other than the ammonia business office in which, by public invitation, members of the public normally attend for reasons of business, entertainment, instruction or the like.

8. — Insert a new subrule 5.4.2.9 to read as follows:

5.4.2.9 Recertification of Non-Refrigerated Containers and Systems Other Than DOT Containers. Containers with unreadable or missing nameplates may be recertified and have nameplates installed with the following information:

A. An identification number issued by the department.

B. The certification date.

C. The maximum allowable working pressure.

D. The wall thickness of the container shell and heads in inches or millimeters.

E. The water capacity of the container in pounds or kilograms or United States standard gallons or cubic meters (m<sup>3</sup>) at 60 degrees Fahrenheit (15.6 degrees centigrade).

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

Items A through E must be determined and documented on forms provided by the department by a company that holds a valid R stamp in compliance with the current edition of the National Board Inspection Code.

Nurse tanks and applicator tanks with unreadable or missing nameplates may be recertified and have nameplates installed by July 1, 2008.

9. ~~Strike subrule 5.5.11 in its entirety and insert in lieu thereof the following:~~

~~5.5.11 Each liquid filling connection shall have a positive shut-off valve in conjunction with either an internal back-pressure check valve or an internal excess flow valve. Vapor connections shall have a positive shut-off valve together with an internal excess flow valve.~~

~~NOTE: The internal back-pressure check valves or internal excess flow valves shall be installed in the facility piping prior to the positive shut-off valves. These valves shall be installed so that any break will occur on the side of the transfer hose. This may be accomplished by bulkheads or equivalent anchorage, or by the use of a weakness or shear fitting or any other method designed to protect the back-pressure check valves or excess flow valves.~~

~~10. Strike subrule 5.7.6 in its entirety.~~

~~11. Strike subrule 5.8.15 in its entirety and insert in lieu thereof the following:~~

~~5.8.15 No container pressure relief device shall be used over five years after the date of installation of the pressure relief device. Records shall be maintained which identify each container and indicate the date of installation for each container pressure relief device.~~

~~12. Strike subrule 5.10.8.1 in its entirety and insert in lieu thereof the following:~~

~~5.10.8.1 By December 31, 1993, all stationary storage installations shall have an approved emergency shut-off valve installed in the liquid fixed piping of the transfer system. This requirement does not apply to lines feeding a fixed process system. When possible, the emergency shut-off valve shall be located on the discharge side of the pump. A suitable backflow check valve or properly rated excess flow valve shall be installed in the vapor fixed piping of the transfer system. The emergency shut-off valve shall remain closed when plant is not in use. The emergency shut-off valve shall be installed in the facility piping so that any break will occur on the side of the transfer hose.~~

~~NOTE: This may be accomplished by concrete bulkheads or equivalent anchorage, or by the use of a weakness or shear fitting or any other method designed to protect the emergency shut-off valve. Such anchorage is not required for tank car unloading.~~

~~4. Strike subrule 5.3.6 in its entirety and insert in lieu thereof the following:~~

~~5.3.6 Areas within 10 feet (3 meters) of a storage container shall be maintained clear of dry grass and weeds and other combustible materials. Areas shall be kept clear of debris or any item that would interfere with emergency actions or evacuation as well as materials or objects not necessary for the operation of the storage system and components.~~

~~5. Strike subrule 5.6.6 in its entirety and insert in lieu thereof the following:~~

~~5.6.6 Adequate provisions shall be made to protect the storage system and components, including all exposed piping, from physical damage which could result from impact by moving machinery, automobiles or trucks, or any other equipment at the facility. See also 6.7.1.~~

~~6. Insert a new subrule 5.10.8.2 to read as follows:~~

~~5.10.8.2 For transfer of liquids from a container utilizing a remote transfer point, each liquid filling connection shall have a positive shut-off valve in conjunction with either an internal back-pressure check valve or an internal excess flow valve. Vapor connections shall have a positive shut-off valve between the supply source and the intake side of the pump. The liquid line supplying this transfer from the pump shall have an emergency shut-off valve between the supply source and the intake side of the pump. The emergency shut-off valve shall remain closed when the plant is not in use.~~

~~NOTE: The internal back-pressure check valves or internal excess flow valves shall be installed in the facility piping prior to the positive shut-off valves. These valves shall be installed so that any break will occur on the side of the transfer hose. Protection from pull away while connected is the same as described in 5.10.8.1.~~

~~13. 7. Add the following subrule 5.10.10:~~

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

5.10.10 Anhydrous ammonia shall be vented into an adequate supply of water. For this purpose, an adequate supply of water means ten gallons of water for each gallon of liquid ammonia or fraction thereof which is contained in the hose or vessel to be vented. The ammonia should be injected into the water as near the bottom of a vented water containing vessel as practical. If a hose is used to inject ammonia into water, the hose should be weighted or secured so that the end of the hose will remain near the bottom of the vessel. An approved sparging device is recommended. Any aqueous ammonia solution resulting from the venting process shall be disposed of safely and properly.

NOTE: Ammonia vapor may be flared off when appropriate equipment is used to not allow ammonia vapor to escape unchecked into the atmosphere. This section does not apply to venting of a coupling between transfer hose and nurse tank or applicator or venting of vapor through 85 percent bleeder valve when loading a nurse tank or applicator.

44. ~~8.~~ Add the following subrule 5.10.10.1:

5.10.10.1 Anhydrous ammonia shall not be vented into the air. Each transport truck unloading point at an anhydrous ammonia storage facility shall have a valve for venting purposes installed in the piping at or near the point where the piping and hose from the transport truck are connected. Anhydrous ammonia from any transport truck hose shall be vented into an adequate supply of water. For this purpose, an adequate supply of water means ten gallons of water for each gallon of liquid ammonia or fraction thereof which could be contained in the hose. The ammonia should be injected into the water as near the bottom of a vented water containing vessel as practical. If a hose is used to inject ammonia into water, the hose should be weighted or secured so that the end of the hose will remain near the bottom of the vessel. An approved sparging device is recommended. Any aqueous solution resulting from the venting process shall be disposed of safely and properly.

45. ~~9.~~ Add the following subrule 5.10.11:

5.10.11 All anhydrous ammonia storage locations shall have a permanent working platform installed at each nurse tank or applicator loading location. The working platform shall be designed to allow for connecting and disconnecting of transfer hoses without standing on equipment being loaded.

NOTE: This section does not apply to nurse tanks or applicators with a working surface designed for loading purposes.

46. ~~10.~~ ~~Strike~~ Add the following subrule 6.3.1.1 in its entirety and insert in lieu thereof the following:

6.3.1.1 ~~Relief valves shall be installed in a manifold or other suitable device so that they can be replaced while the container remains pressurized. See NOTE in section 5.8.7. Containers designed with internal pressure relief systems are exempt from this requirement.~~

47. ~~11.~~ Strike subrule 9.7.3 in its entirety and insert in lieu thereof the following:

9.7.3 A cargo tank of 3,500 gallons or less water capacity may be unloaded into permanent storage locations meeting the requirements of 3.4.1 and 5.10.8 ~~through 5.10.8.2~~ or into implements of husbandry meeting the requirements of ~~4.1 through 4.7~~ Section 11. A cargo tank of greater than 3,500 gallons water capacity but not greater than 5,000 gallons water capacity may be unloaded at permanent storage locations meeting the requirements of ~~3.4.1 3.4~~ 3.4 and 5.10.8 ~~through 5.10.8.2~~ or into a portable application equipment container which is capable of holding the entire load. A cargo tank of greater than 5,000 gallons water capacity may only be unloaded into a permanent storage location meeting the requirements of ~~3.4.1 3.4~~ 3.4 and 5.10.8 ~~through 5.10.8.2~~ and capable of holding the entire load.

12. ~~Strike subrule 11.3.5 in its entirety and insert in lieu thereof the following:~~

11.3.5 All vapor and liquid connections, except pressure relief valves and those specifically exempt in 5.5.5 and 5.5.6, shall be equipped with approved excess flow valves or may be fitted with quick-closing internal valves, which shall remain closed except during operating periods.

1. All vapor and liquid connections shall be closed except during operation periods.

2. Shared piping where multiple containers are plumbed together shall be equipped with additional excess flow valves or back-pressure check valves or both to meet the requirements of 5.10.8.

3. Mechanical remote shut-off valves may be added or substituted for excess flow valves in the piping after the vapor and liquid connections as a means of controlling the flow.

48. ~~13.~~ Strike subrule ~~4.6.1(4)~~ 11.6.1 in its entirety and insert in lieu thereof the following:

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

11.6.1(1) 11.6.1 Each person operating, repairing appurtenances of, or inspecting a nurse tank shall comply with the following requirements:

1. Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency; and

2. Any person making, breaking or testing any ammonia connection, transferring ammonia or performing maintenance or repair on an ammonia system under pressure shall wear chemical splash goggles and protective gloves impervious to ammonia. A full face shield may be worn over the goggles. However, a face shield shall not be worn as a substitute for a primary eye protection device (goggles).

14. Strike subrule 11.6.2.2 11.6.2 in its entirety- and insert in lieu thereof the following:

11.6.2 Each nurse tank shall be equipped with the following safety equipment and features:

1. Each container shall have for first-aid purposes at least 5 gallons (20 liters) of clean water in a container designed to provide ready access to the water for flushing any area of the body contacted by ammonia; and

2. A legible decal listing first-aid procedures to follow for injuries caused by ammonia.

15. Strike subrule 12.3.3 in its entirety and insert in lieu thereof the following:

12.3.3 An excess flow valve is not required in the vapor connections, provided that the controlling orifice is not in excess of 0.4375 inches (11.1 mm) in diameter and the valve is a hand-operated (attached hand wheel or equivalent) shut-off valve. Bleed off of vapors may be done into water meeting requirements of 5.10.10 if vapor connections cannot be made to the supplying vessel when filling applicator tanks. Vapors may be vented into the ground in the field of application under proper field conditions.

16. Strike subrule 12.4.1(1) 12.4.1 in its entirety and insert in lieu thereof the following:

12.4.1(1) 12.4.1 Each person operating, repairing appurtenances of, or inspecting an applicator tank shall comply with the following requirements:

1. Any person required to handle, transfer, transport, or otherwise work with ammonia shall be trained once each calendar year prior to handling to understand the properties of ammonia, to become competent in safe operating practices, and to take appropriate actions in the event of a leak or an emergency; and

2. Any person making, breaking or testing any ammonia connection, transferring ammonia or performing maintenance or repair on an ammonia system under pressure shall wear chemical splash goggles and protective gloves impervious to ammonia. A full face shield may be worn over the goggles. However, a face shield shall not be worn as a substitute for a primary eye protection device (goggles).

This rule is intended to implement Iowa Code section 200.14.

**ARC 1997C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 217.3 and 217.6 and the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), the Department of Human Services proposes to amend Chapter 112, “Licensing and Regulation of Child Foster Care Facilities,” Chapter 113, “Licensing and Regulation of Foster Family Homes,” Chapter 117, “Foster Parent Training,” Chapter 175, “Abuse of Children,” and Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The purpose of these amendments is to implement federal law, namely, the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), which was issued October 23, 2014, to require state child welfare agencies to implement procedures for the identification of and provision of services to victims of sex trafficking. The law also includes requirements for state child welfare agencies to enhance foster care transition programs in such a way that caretakers will make better decisions that better prepare youth for adulthood. The requirements include, for example, providing the child who ages out of foster care proper identification needed to gain employment.

These proposed amendments, some of which align definitions across chapters and resolve an inconsistency in current rules with regard to the reporting of an address change by a foster parent, are to be implemented by October 1, 2015.

Any interested person may make written comments on the proposed amendments on or before June 16, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 217.6 and P.L. 113-183.

The following amendments are proposed.

ITEM 1. Amend paragraph **112.6(2)“a”** as follows:

*a.* ~~The~~ When moving to a new home, the foster family fails to notify the licensing worker when moving to a new home department and the recruitment and retention contractor within 30 seven working days after the date of moving of the move to a new home.

ITEM 2. Adopt the following **new** rule 441—112.11(237):

**441—112.11(237) Required training on the reasonable and prudent parent standard.** Each group facility shall have an on-site official authorized to apply the reasonable and prudent parent standard as defined in rule 441—202.1(234). Within one year of being identified as an authorized on-site official, each authorized official shall complete the same department-approved training on the reasonable and prudent parent standard as required for foster parents and referenced in 441—subrule 117.8(6).

ITEM 3. Amend rule **441—113.2(237)**, definitions of “Department,” “Foster family home” and “Service area manager,” as follows:

*“Department”* means the Iowa department of human services and includes the local offices of the department.

*“Foster family home”* means a home in which an individual person or married couple ~~who~~ wishes to provide or is providing, for a period exceeding 24 consecutive hours, board, room, and care for a child in a single family living unit.

*“Service area manager”* means the department employee responsible for managing department offices ~~within a department service area~~ and personnel within the service area and for implementing policies and procedures of the department.

ITEM 4. Amend subrule 113.8(2) as follows:

**113.8(2) In-service training.** All licensed foster parents shall complete six hours of in-service training annually as required by rule 441—117.7(237).

*a.* All foster parents shall complete training in medication management, cardiopulmonary resuscitation, ~~and first aid,~~ and the reasonable and prudent parent standard in their first year of licensure as required by rule 441—117.8(237).

*b.* All licensed foster parents shall complete mandatory reporter training on child abuse identification and reporting in their first year of licensure and every five years thereafter as required by rule 441—112.10(232) and 441—subrule 117.8(4).

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Amend paragraph **117.8(4)“b”** as follows:

*b. Training provider.* The foster parent shall be responsible for obtaining the required two-hour mandatory reporter training ~~in~~ on child abuse identification and reporting as approved by the Iowa department of public health. A list of approved training opportunities is available at: [http://www.idph.state.ia.us/bh/abuse\\_ed\\_review.asp](http://www.idph.state.ia.us/bh/abuse_ed_review.asp).

ITEM 6. Adopt the following **new** subrule 117.8(6):

**117.8(6) Reasonable and prudent parent standard.** Before the end of the foster parent’s initial license year, each foster parent shall complete training on the reasonable and prudent parent standard as defined in rule 441—202.1(234). Foster parents licensed before October 1, 2015, shall complete this training no later than September 30, 2016.

ITEM 7. Amend rule **441—175.21(232,235A)**, definition of “Department,” as follows:

“Department” means the Iowa department of human services and includes the local offices of the department.

ITEM 8. Adopt the following **new** definitions of “Commercial sex act,” “Severe form of trafficking in persons,” “Sex trafficking” and “Sex trafficking victim,” in rule **441—175.21(232,235A)**:

“Commercial sex act,” as provided in 22 U.S.C. Section 7102(4), means any sex act on account of which anything of value is given to or received by any person.

“Severe form of trafficking in persons,” as provided in 22 U.S.C. Section 7102(9)(A), means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.

“Sex trafficking,” as provided in 22 U.S.C. Section 7102(10), means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

“Sex trafficking victim,” as provided in 42 U.S.C. Section 675(9), means any of the following:

1. A victim of sex trafficking.
2. A victim of a severe form of trafficking in persons.

ITEM 9. Amend subrule 175.22(1) as follows:

**175.22(1)** Any report made to the department which alleges child abuse, as defined in Iowa Code section 232.68, or constitutes a complaint that a child is a child in need of assistance, as defined in Iowa Code section 232.2(6), shall be accepted for assessment.

ITEM 10. Amend subrule 175.24(4) as follows:

**175.24(4)** If the report of suspected child abuse fails to constitute a child abuse allegation.

*a.* When it is determined that the report of suspected child abuse fails to constitute ~~an~~ a child abuse allegation of child abuse, the report of suspected child abuse shall become a rejected intake and shall be evaluated to determine whether the information reported constitutes a complaint that a child is a child in need of assistance.

*b.* When it is determined that a report of a child needing the assistance of the court fails to meet the definition of a child in need of assistance, the report shall become a rejected intake.

*c.* Rejected intake information shall be maintained by the department for three years from the date the report was rejected and shall then be destroyed.

ITEM 11. Amend subrule 175.24(5) as follows:

**175.24(5)** Intake information shall be provided as follows:

*a.* The county attorney shall be notified of all reports of suspected child abuse.

*b.* When a report of suspected child abuse is received which does not meet the requirements for an assessment or is accepted as a family assessment, and there is information about a criminal act harming a child, the department shall notify law enforcement of the report.

*c.* If the department has reasonable cause to believe that a child or youth for whom the department has responsibility for placement, care, or supervision is or is at risk of being a victim of sex trafficking or a severe form of trafficking in persons, the department must identify that child or youth as such, document it in agency records, and refer the information as necessary to determine appropriate services, in accordance with 42 U.S.C. Section 671(a)(9)(C). Additionally, the department shall report the child

## HUMAN SERVICES DEPARTMENT[441](cont'd)

or youth immediately, and in no case later than 24 hours, to law enforcement authorities, in accordance with 42 U.S.C. Section 671(a)(34).

ITEM 12. Rescind subrule **175.24(6)**.

ITEM 13. Adopt the following **new** paragraph **175.25(1)“c”**:

c. If the department has reasonable cause to believe that a child or youth for whom the department has responsibility for placement, care, or supervision is or is at risk of being a victim of sex trafficking or a severe form of trafficking in persons, the department must identify that child or youth as such, document it in agency records, and determine appropriate services, in accordance with 42 U.S.C. Section 671(a)(9)(C). Additionally, the department shall report the child or youth immediately, and in no case later than 24 hours, to law enforcement authorities, in accordance with 42 U.S.C. Section 671(a)(34).

ITEM 14. Adopt the following **new** definitions of “Age- or developmentally appropriate activities” and “Reasonable and prudent parent standard” in rule **441—202.1(234)**:

“*Age- or developmentally appropriate activities*” means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

“*Reasonable and prudent parent standard*” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encourage the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities. For the purposes of this definition, “caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution (including group homes, residential treatment, shelters, or other congregate care settings) in which a child in foster care has been placed.

ITEM 15. Amend rule 441—202.11(234) as follows:

**441—202.11(234) Services to the child.** The department service worker shall maintain a continuous relationship with the child.

**202.11(1) to 202.11(5)** No change.

**202.11(6)** ~~When the child has reached the age of majority under state law, the department shall provide a free copy of the child’s health and education records to the child when the child leaves foster care.~~ Throughout the provision of care, the foster care provider is permitted to use the reasonable and prudent parent standard to create opportunities for participation of the child in age- or developmentally appropriate activities.

**202.11(7) Independent living Transition planning program.** ~~The purpose of the independent living transition planning program is to provide supports and services, supports, activities and referrals to programs that assist children currently or formerly in foster care in acquiring skills and abilities necessary for transition to successful adult living adulthood.~~ The independent living transition planning program offers a life skills assessment, transition plan development, and transition-related services, supports, activities and referrals to programs.

a. *Eligibility.* ~~To be eligible for the independent living transition planning program, a child must be or have been in foster care as defined by rule 441—202.1(234) or 45 Code of Federal Regulations 1355.20 as amended to October 1, 2008, and must meet at least one of the following eligibility requirements:~~

- (1) ~~Is currently in foster care and is 16 14 years of age or older.~~
- (2) ~~Is under the age of 21 and was adopted from foster care on or after October 7, 2008, and was at least 16 years of age at the time of adoption or older.~~
- (3) ~~Is under the age of 21 and was placed in a subsidized guardianship arrangement from foster care on or after October 7, 2008, and was at least 16 years of age at the time of placement or older.~~
- (4) No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) Was formerly in foster care and is eligible for and participating in Iowa's postsecondary education and training voucher (ETV) program as described at 42 U.S.C. Section 677(a)(6-7).

*b. Assessment.* A life skills assessment shall be administered to all children in foster care who are aged ~~16~~ 14 or older. An assessment shall be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph "a." The assessment is designed to evaluate the child's strengths and needs in areas including, but not limited to:

- (1) Education,
- (2) Physical and mental health,
- (3) Employment,
- (4) Housing and money management, and
- (5) Supportive relationships.

*c. Transition plan development.* A transition plan shall be completed for all children in foster care who are aged ~~16~~ 14 or older, as provided in Iowa Code section 232.2(4) "f." Transition plan development shall also be available upon request to any child who has been discharged from foster care but meets the eligibility requirements in paragraph "a," but the transition plan will not be part of a case permanency plan. Transition plan requirements include the following:

(1) The transition plan shall be personalized at the direction of the child and shall be developed in consultation with the child and reviewed by the department in collaboration with a child-centered transition team, honoring the goals and concerns of the child.

(2) The transition plan shall document that the child received and signed a document that describes the rights of the child with respect to education, health, visitation, and court participation. The document must be signed by the child indicating that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.

(3) The transition plan shall document that the child received a copy of any credit report pertaining to the child as provided by the child's caseworker on an annual basis until the child is discharged from foster care. The child must receive assistance from the child's caseworker in interpreting and resolving any inaccuracies in the report.

(4) The transition plan shall document that any child leaving foster care at the age of 18 or older was provided with the following documents and information unless the child has been in foster care for less than six months or is not eligible to receive such document:

1. An official or certified copy of the child's birth certificate.
2. The child's social security card.
3. A driver's license or identification card issued by the state to the child.
4. Health insurance information.
5. A copy of the child's medical and education records.

(5) The transition plan shall document that the caseworker provided to the child, at the case permanency plan review in the 90 days before the child reached the age of 18, information and education about the importance of having a durable power of attorney for health care and a copy of the state's form used to identify such a proxy. The child has the option to complete the form at the age of 18 or older.

~~(2) (6)~~ The transition plan shall address the strengths and needs identified in the assessment; detail the steps, services, supports, activities and referrals to programs needed to implement the plan to best assist the child in preparing for successful adulthood; and document the membership of the transition team and the meeting dates for the team shall be documented in the transition plan.

~~(3) (7)~~ The transition plan shall be reviewed and updated at each case review after the plan's initial development; within 90 days before the child's eighteenth birthday; and within 90 days before the child is expected to leave foster care if the child remains in care after reaching the age of 18.

*d. Transition services.* Children shall be offered services, supports, activities and referrals to programs within, ~~some or all of~~ but not limited to, the five areas described below according to the child's age and development, strengths and needs, permanency goal, and placement as documented by in the transition case permanency plan.

(1) Education skills increase the child's chances of completing high school or obtaining a GED high school equivalency and of entering a satisfying career. Services may include assistance in academic

## HUMAN SERVICES DEPARTMENT[441](cont'd)

advising and guidance, secondary and postsecondary educational support, records transfer coordination, tutoring, financial aid planning, career exploration, mentoring, and career advising. ~~Education financial~~ Financial assistance for postsecondary education and training may be available to eligible children.

(2) Physical and mental health skills promote healthy physical, mental and emotional functioning. Health education services may include guidance on risk prevention, how to be healthy and fit, how to self-advocate for health care needs and access to health insurance, how to select medical professionals, and how to make informed decisions regarding treatment, lifestyle considerations, spirituality, and recreation. Provision must be made for the child's application for adult services if it is likely the child will need or be eligible for services or other support from the adult service system.

(3) No change.

(4) Housing and money management skills prepare a child to select, manage, and maintain safe and stable housing. Services may include lessons on the physical maintenance and cleaning of a house and guidance on managing personal finances, such as financial decisions, budgeting, bill paying, use of credit, and financing. Financial assistance for items, including room and board, may be available to children who meet the eligibility criteria of the ~~preparation for adult living~~ aftercare services program pursuant to 441—Chapter 187.

(5) No change.

ITEM 16. Amend subrule 202.15(2) as follows:

**202.15(2)** The department worker shall develop the case permanency plan with the child's parents, unless the child's parents are unwilling to participate in the plan's development, and with the child, unless the child is unable or unwilling to participate. For a child 14 years of age or older in foster care, the case permanency plan must be developed in consultation with the child. The child may choose up to two members of the case planning team who are not the child's foster parent or caseworker. The department may reject an individual selected by a child at any time if the department has good cause to believe the individual would not act in the best interests of the child. One individual selected by the child to be a member of a child's case planning team may be designated to be the child's advisor and, as necessary, advocate with respect to the use of the reasonable and prudent parent standard.

**ARC 1996C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135G.10, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 71, “Subacute Mental Health Care Facilities,” Iowa Administrative Code.

The proposed amendments implement the changes to Iowa Code chapter 135G, “Subacute Mental Health Care Facilities,” resulting from 2015 Iowa Acts, Senate File 401, including an increase in the number of publicly funded subacute care facility beds from 50 to 75. 2015 Iowa Acts, Senate File 401, also allows for the treatment of persons involuntarily hospitalized in accordance with Iowa Code chapter 229. The amendments therefore eliminate the requirement in the rules that persons be voluntarily admitted to a subacute mental health care facility.

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

Any interested person may make written suggestions or comments on the proposed amendments on or before June 16, 2015. Such written materials should be addressed to the Director, Department

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

of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

These amendments are intended to implement Iowa Code section 135G.10 and 2015 Iowa Acts, Senate File 401.

The following amendments are proposed.

ITEM 1. Amend subrule 71.3(6) as follows:

**71.3(6) Licensed beds limit.** The total number of publicly funded subacute care facility beds licensed under this chapter shall not exceed ~~50~~ 75.

ITEM 2. Rescind subparagraph **71.13(2)“b”(2)**.

ITEM 3. Renumber subparagraphs **71.13(2)“b”(3)** to **(6)** as **71.13(2)“b”(2)** to **(5)**.

ITEM 4. Amend subparagraphs **71.13(4)“a”(2)** and **(3)** as follows:

(2) The individual can be safely maintained and effectively treated with less intensive services in a community setting; or

(3) The symptoms of the individual do not meet admission criteria in subrule 71.13(2); ~~or~~ .

ITEM 5. Rescind subparagraph **71.13(4)“a”(4)**.

ITEM 6. Rescind paragraph **71.13(6)“b.”**

ITEM 7. Reletter paragraphs **71.13(6)“c”** to **“f”** as **71.13(6)“b”** to **“e.”**

**ARC 2012C**

## **IOWA PUBLIC INFORMATION BOARD[497]**

### **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 23.6, the Iowa Public Information Board hereby gives Notice of Intended Action to amend Chapter 1, “Organization and General Administration,” Iowa Administrative Code.

These amendments are necessary to reflect the Board’s current procedures on issuing advisory opinions.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 16, 2015, by contacting Charlie Smithson, Executive Director, Iowa Public Information Board, Third Floor, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by e-mail to [Charlie.Smithson@iowa.gov](mailto:Charlie.Smithson@iowa.gov).

The proposed amendments do not provide for a waiver as no obligation is being imposed on the public. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 23.6.

The following amendments are proposed.

ITEM 1. Amend rule 497—1.2(84GA,ch1115) as follows:

### **497—1.2(84GA, ch1115 23) Requirements for requesting board advisory opinions.**

**1.2(1)** No change.

**1.2(2) Who may request an advisory opinion.** Any person may request a board advisory opinion construing or applying Iowa Code chapters 21, ~~and 22,~~ and 23. An authorized agent may seek an opinion on behalf of any person. The board will not issue an opinion to an unauthorized third party.

## IOWA PUBLIC INFORMATION BOARD[497](cont'd)

The board may on its own motion issue opinions without receiving a formal request. The board may issue declaratory orders with the force of law pursuant to Iowa Code section 17A.9.

**1.2(3)** No change.

This rule is intended to implement 2012 Iowa Acts, chapter 1115, section 9(3) Iowa Code section 23.6.

ITEM 2. Amend rule 497—1.3(84GA,ch1115) as follows:

**497—1.3(84GA, ch 1115 23) Processing of advisory opinion requests.**

**1.3(1)** No change.

**1.3(2)** After receiving an opinion request, the board's executive director shall prepare a draft opinion for board review. If the same or similar issue has been addressed in an opinion of a court, or in an attorney general's opinion, or in another prior advisory opinion, the executive director may respond to the requester by sending a copy of the prior opinion. Upon an affirmative vote of at least five members, the executive director shall issue a board advisory opinion on behalf of the board. ~~The executive director may also cause an opinion to be issued on a routine matter on behalf of the board and shall provide notice to the board in writing of the opinion given.~~ Advice contained in a board opinion rendered to a government official or a lawful custodian of a public record, if followed, constitutes a defense for the government official or lawful custodian before the board to a subsequent complaint that is based on the same facts and circumstances. Board staff may also provide written advice on routine matters. However, such advice is not an advisory opinion of the board.

**1.3(3) to 1.3(5)** No change.

**1.3(6)** On an annual basis, the board shall review the advisory opinions issued for that year and determine which opinions should be adopted into rule pursuant to the procedures in Iowa Code chapter 17A.

This rule is intended to implement Iowa Code section 23.6.

## ARC 2013C

### IOWA PUBLIC INFORMATION BOARD[497]

#### 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 23.6, the Iowa Public Information Board hereby gives Notice of Intended Action to amend Chapter 1, “Organization and General Administration,” Iowa Administrative Code.

These amendments are necessary to ensure that the Board's administrative rule on conflicts of interest applies to all staff members and that the administrative rule reflects the requirements in the State Code of Ethics in Iowa Code chapter 68B.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 16, 2015, by contacting Charlie Smithson, Executive Director, Iowa Public Information Board, Third Floor, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by e-mail to [Charlie.Smithson@iowa.gov](mailto:Charlie.Smithson@iowa.gov).

The proposed amendments do not provide for a waiver as no obligation is being imposed on the public. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 23.6 and 68B.2A.

The following amendments are proposed.

## IOWA PUBLIC INFORMATION BOARD[497](cont'd)

ITEM 1. Amend rule 497—1.4(84GA, ch1115) as follows:

**497—1.4(84GA, ch1115 23) Conflict of interest.**

**1.4(1) Definition.** “Conflict of interest” means that a board member, ~~the executive director~~ an employee of the board, ~~or a board member’s immediate family,~~ or an immediate family member of an employee of the board has a significant personal, financial, or employment relationship with: a person who has requested an advisory opinion; a person who has petitioned for a declaratory order; a complainant; or a government employee or official or a governmental body that would be directly impacted by an advisory opinion, a declaratory order, or a complaint. For purposes of this rule, “immediate family” means ~~a member’s spouse, child, grandchild, or parent~~ the same as “immediate family members” in Iowa Code section 68B.2(11).

**1.4(2) Procedures.** As soon as a member of the board or ~~the executive director~~ an employee of the board becomes aware of a conflict of interest, the member or ~~executive director~~ employee of the board shall follow these procedures:

*a.* If the conflict is known before a meeting, the member or ~~executive director~~ employee of the board shall fully disclose the interest to the chairperson of the board in writing at least 24 hours before the meeting.

*b.* If the conflict is discovered during a meeting, the member or ~~executive director~~ employee of the board shall orally inform the board, and the nature of the conflict shall be reported in writing to the chairperson of the board within 24 hours after the meeting.

*c.* The board member or ~~executive director~~ employee of the board who has the conflict shall not participate in discussion or vote on any advisory opinion, declaratory order, or complaint.

**1.4(3) State code of ethics.** Board members and employees of the board shall comply with the state code of ethics found in Iowa Code chapter 68B and in the corresponding administrative rules adopted by the Iowa ethics and campaign disclosure board.

ITEM 2. Amend 497—Chapter 1, implementation sentence, as follows:

~~These rules are~~ This rule is intended to implement 2012 Iowa Acts, chapter 1115, section 6 Iowa Code sections 23.6 and 68B.2A.

**ARC 2011C**

## IOWA PUBLIC INFORMATION BOARD[497]

### 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 23.6, the Iowa Public Information Board hereby gives Notice of Intended Action to amend Chapter 2, “Complaint Investigation and Resolution Procedures,” Iowa Administrative Code.

This amendment is necessary to reflect the Board’s current procedures for handling a complaint.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 16, 2015, by contacting Charlie Smithson, Executive Director, Iowa Public Information Board, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by e-mail to [Charlie.Smithson@iowa.gov](mailto:Charlie.Smithson@iowa.gov).

The proposed amendment does not provide for a waiver as no obligation is being imposed on the public.

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

This amendment is intended to implement Iowa Code section 23.8.

The following amendment is proposed.

## IOWA PUBLIC INFORMATION BOARD[497](cont'd)

Amend rule 497—2.1(84GA,ch1115) as follows:

**497—2.1(84GA, ~~ch1115~~ 23) Complaints.**

**2.1(1)** and **2.1(2)** No change.

**2.1(3) Delegation.** In order to expedite proceedings, the board may delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board. The board's staff may conduct an initial review of the complaint and obtain more information to assist in the decision to accept or dismiss the complaint.

**2.1(4)** No change.

**2.1(5) Board review.** The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the facts alleged in the complaint and the results of the initial review conducted by the board's staff.

This rule is intended to implement Iowa Code section 23.8.

**ARC 2010C****IOWA PUBLIC INFORMATION BOARD[497]****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 23.6, the Iowa Public Information Board hereby gives Notice of Intended Action to adopt Chapter 8, “Open Meetings,” Iowa Administrative Code.

This amendment reflects Board decisions on complaints involving the open meetings laws in Iowa Code chapter 21.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 16, 2015, by contacting Charlie Smithson, Executive Director, Iowa Public Information Board, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319. Comments may be submitted by e-mail to [Charlie.Smithson@iowa.gov](mailto:Charlie.Smithson@iowa.gov).

The proposed amendment contains specific waiver provisions.

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

This amendment is intended to implement Iowa Code chapter 21.

The following amendment is proposed.

Adopt the following **new** 497—Chapter 8:

CHAPTER 8  
OPEN MEETINGS

**497—8.1(21,23) Notice.**

**8.1(1) When posted.** As provided in Iowa Code section 21.4, a governmental body shall give notice of the time, date, and place of the meeting and the tentative agenda at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The notice requirement also applies when there is a change to the original notice except as provided in Iowa Code section 21.4(3).

**8.1(2) Where posted.** Notice shall be posted at those locations designated in Iowa Code section 21.4. The notice shall be posted in an area that is easily accessible by the public or in an area where the notice is easily viewable by the public and shall be posted for at least 24 hours prior to the commencement of the meeting unless for good cause such notice is impossible or impractical. The posting of a notice in

## IOWA PUBLIC INFORMATION BOARD[497](cont'd)

an area that is not normally used for the posting of notices or public announcements shall not be deemed proper notice.

**8.1(3) Closed session.** When a governmental body includes a closed session item on the tentative agenda, the notice shall include a brief statement of the purpose of the closed session. It shall not be deemed sufficient notice for the governmental body to only reference the statute by number and subparagraph without more information. For example, it shall not be sufficient notice for the governmental body to list as an agenda item “closed session 21.5(1)(a).” An example of notice deemed sufficient would be “closed session 21.5(1)(c) discuss litigation with counsel.”

This rule is intended to implement Iowa Code chapter 21.

**ARC 2014C****LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 91.6 and 92.21, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 32, “Child Labor,” Iowa Administrative Code.

The proposed amendments are necessary to conform the rules with 2015 Iowa Acts, House File 397.

The principal reasons for adoption of these amendments are to remove obsolete language and implement 2015 Iowa Acts, House File 397.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on June 17, 2015, a public hearing will be held on June 18, 2015, at 10 a.m. in the Capitol View Room at Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted no later than June 18, 2015, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

After analysis and review of this rule making, no impact on jobs will occur.

These amendments are intended to implement Iowa Code chapter 92 as amended by 2015 Iowa Acts, House File 397.

The following amendments are proposed.

ITEM 1. Rescind the definitions of “Issuing officer,” “Part-time, occasional, or volunteer work,” and “Superintendent” in rule **875—32.1(92)**.

ITEM 2. Adopt the following **new** definition of “Other work” in rule **875—32.1(92)**:  
“Other work,” as used in Iowa Code section 92.5(11), includes manual detasseling of corn when performed from power-operated detasseling machines.

ITEM 3. Amend rule **875—32.1(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 as amended by ~~2009~~ 2015 Iowa Acts, House File ~~618~~ 397.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 4. Rescind subrule 32.2(2) and adopt the following **new** subrule in lieu thereof:

**32.2(2)** *How permits and certificates of age are issued.* Applicants for permits and certificates of age pursuant to Iowa Code chapter 92 must complete the Iowa Child Labor Application/Work Permit prior to beginning work. The Iowa Child Labor Application/Work Permit is available at the labor division's Web site. The following procedure shall be used to complete the form:

- a. An applicant shall obtain one of the following documents establishing the applicant's age:
  - (1) A certified copy of the applicant's birth certificate, if it is available.
  - (2) If a certified copy of the applicant's birth certificate is not available, the applicant's passport or a certified copy of the applicant's baptismal record.
  - (3) If the documents listed in (1) and (2) are not available, one of the following documents shall be used:
    1. A visa issued by the U.S. government.
    2. A resident alien card issued by the U.S. government.
    3. A physician's affidavit certifying the applicant's age. A sample physician's affidavit is available at the labor division's Web site.
- b. The applicant and a parent, guardian, custodian, or head of migrant family shall each complete the applicable portion of the form.
- c. The employer shall review and copy the document establishing the applicant's age, review permitted hours and duties, complete the employer's portion of the form, and file the form with the labor commissioner.
- d. The filing date shall be within three calendar days after the applicant begins work.

ITEM 5. Amend rule **875—32.2(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 92 as amended by ~~2009~~ 2015 Iowa Acts, House File ~~618~~ 397.

ITEM 6. Rescind and reserve rule **875—32.5(92)**.

ITEM 7. Rescind and reserve rule **875—32.7(92)**.

ITEM 8. Amend rule 875—32.11(92), introductory paragraph, as follows:

**875—32.11(92) Civil penalty calculation.** The labor commissioner shall follow the provisions of this rule when calculating civil penalties ~~for violations of this chapter or Iowa Code chapter 92 as amended by 2009 Iowa Acts, House File 618.~~ The labor commissioner may refer a violation to the appropriate authority for criminal prosecution in addition to assessing a civil penalty.

ITEM 9. Rescind subrule 32.11(1) and adopt the following **new** subrule in lieu thereof:

**32.11(1)** *Counting the number of violations.* Violations shall be counted as follows:

- a. Each item of inaccurate information on each Iowa Child Labor Application/Work Permit shall be a separate violation.
- b. Each day that a child works without a permit, works on a prohibited day, works at a prohibited time, or works in a prohibited occupation shall be a separate violation.
- c. If an employer completes the Iowa Child Labor Application/Work Permit but fails to submit it within three working days after the youth begins work, the fourth working day shall be the first violation and each day thereafter shall be an additional violation.

ITEM 10. Amend rule **875—32.11(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 92.22 ~~as amended by 2009 Iowa Acts, House File 618.~~

ITEM 11. Amend rule **875—32.12(92)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 92.22 ~~as amended by 2009 Iowa Acts, House File 618.~~

ITEM 12. Rescind and reserve rule **875—32.17(92)**.

## REVENUE DEPARTMENT

### Notice of Electric and Natural Gas Delivery Tax Rate Changes

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the changes to the electric and the natural gas delivery tax rates. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2014 by each taxpayer, for replacement taxes payable in the 2015-2016 fiscal year.

#### 2014 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA RATE CHANGES ONLY

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3227	Anthon Municipal Electric Utility	0.00010389
3237	Coon Rapids Municipal Utilities	0.00050314
3095	Greenfield Municipal Utilities	0.00114365
3267	Hopkinton Municipal Utilities	0.00000844
3291	Milford Municipal Utilities	0.00017311
3324	Spencer Municipal Utilities	0.00012104
3326	State Center Municipal Light Plant	0.00029879
3328	Sumner Municipal Light Plant	0.00020357
3342	Webster City Municipal Utilities	0.00043548
3345	West Bend Municipal Power Plant	0.00082391

CO. #	IOUs — ELECTRICS	DELIVERY TAX RATE
7305	Omaha Public Power District	0.00133761

CO. #	REC's	DELIVERY TAX RATE
4214	Boone Valley Electric Coop	0.00086284
4219	Calhoun County Electric Coop	0.00123234
4220	Cass Electric Coop	0.00004089
4235	Clarke Electric Coop	0.00252219
4287	Consumers Energy	0.00193459
4246	East-Central Iowa REC	0.00193233
4250	Farmers Electric Coop - Greenfield	0.00261293
4251	Federated Rural Electric	0.00032175
4253	Franklin Rural Electric Coop	0.00078432
4254	Freeborn-Mower Cooperative	0.00101377
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00103984
4266	Hawkeye REC	0.00051726

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4223	Heartland Power Coop	0.00035022
4268	Humboldt County REC	0.00095243
4280	Lyon Rural Electric Coop	0.00055902
4299	Nishnabotna Valley REC	0.00059726
4308	Osceola Electric Coop	0.00033499
4313	Pleasant Hill Community Line	0.00023453
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri County Electric Coop	0.00122351
4352	Woodbury County REC	0.00104762
4353	Wright Co. REC	0.00051745

**2014 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA  
RATE CHANGES ONLY**

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5215	Brighton Gas	0.00677346
5238	Coon Rapids Municipal Gas	0.00004787
5241	Corning Municipal Gas	0.00000613
5275	Lamoni Municipal Gas	0.00078798
5306	Osage Municipal Gas	0.00003126
5317	Rock Rapids Municipal Gas	0.00010492
5340	Wayland Municipal Gas	0.00025198
5349	Winfield Municipal Gas	0.00048575

<b>CO. #</b>	<b>IOUs — GAS</b>	<b>DELIVERY TAX RATE</b>
5204	Allerton Gas	0.02200410
5270	IES Utilities	0.00677129
5289	MidAmerican Energy	0.00913634
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.01123945

## TREASURER OF STATE

### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for May is 4.00%.

TREASURER OF STATE(cont'd)

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective May 9, 2015, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days .....	Minimum .05%
32-89 days .....	Minimum .05%
90-179 days .....	Minimum .05%
180-364 days .....	Minimum .05%
One year to 397 days .....	Minimum .05%
More than 397 days .....	Minimum .10%

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

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

**ARC 2000C**

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services (DAS) amends Chapter 54, "Recruitment, Application and Examination," Chapter 61, "Grievances and Appeals," Chapter 63, "Leave," Chapter 64, "Benefits," and Chapter 65, "Political Activity," Iowa Administrative Code.

The Department of Administrative Services is continuing its effort to review its administrative rules in accordance with Executive Order 71 by amending certain human resources rules to eliminate conflict with statute, to reflect changes in federal law, and to make other actions that reflect and clarify departmental practice.

The Department of Administrative Services does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Department's general rules concerning waivers.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 1, 2015, as **ARC 1936C**. No public comment was received. No changes were made to the amendments published under Notice.

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

These amendments are intended to implement Iowa Code chapter 8A, subchapter IV.

These amendments will become effective July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 54.2(4) as follows:

**54.2(4) Application for eligible lists.** Persons may apply to be on eligible lists as follows:

*a. Promotional lists.* Promotional applicants shall meet the minimum qualifications. Promotional applicants may be subject to keyboard examinations, background checks, psychological examinations, and other examinations used for further screening. The following persons may apply to be on promotional eligible lists:

(1) ~~Permanent employees~~ Persons who have attained permanent employee status, including permanent employees of the board of regents and community-based corrections;

(2) Persons enrolled in work experience programs who have successfully completed at least 90 calendar days 480 hours in the program are eligible to apply for promotional vacancies for a period of one year from the date of the successful completion of the work experience program;

(3) Persons who have been formally enrolled in the department's intern development program for a period of at least 90 calendar days 480 hours are eligible to apply for promotional vacancies for a period of one year from the date of the successful completion of the work experience program; and

(4) Disabled veterans who are enrolled in a job training program in accordance with the provisions of rule 11—57.9(8A) and have worked a minimum of 160 hours up to a maximum of 780 hours. are eligible to apply for promotional vacancies for a period of one year from the date of successful completion of the job training program; and

(5) Noncontract employees who have been laid off are eligible to apply for promotional vacancies for a period of one year from the date of layoff.

*b.* No change.

ITEM 2. Amend rule **11—61.1(8A)**, first unnumbered paragraph, as follows:

Grievances shall state the issues involved, the relief sought, the date the incident or violation took place and any rules involved and shall be filed on forms prescribed by the director. Grievances involving suspension, reduction in pay within the same pay grade, disciplinary demotion, or discharge ~~shall~~ may be filed as appeals in accordance with subrule 61.2(6) and commence with Step 3 of the grievance procedure described in subrule 61.1(1).

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 3. Amend subrule 61.2(6) as follows:

**61.2(6) *Appeal of disciplinary actions.*** Any nontemporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, ~~shall~~ may bypass steps one and two of the grievance procedure provided for in rule 11—61.1(8A) and may file an appeal in writing to the director for a review of the action within 7 calendar days after the effective date of the action. The appeal shall be on the forms prescribed by the director. The director shall affirm, modify or reverse the action and shall give a written decision to the employee within 30 calendar days after the receipt of the appeal. The time may be extended by mutual agreement of the parties. If not satisfied with the decision of the director, the employee may request an appeal hearing before the public employment relations board as provided in subrule 61.2(5).

ITEM 4. Rescind and reserve subrule **63.10(4)**.

ITEM 5. Rescind and reserve subrule **64.16(3)**.

ITEM 6. Amend rule 11—65.3(8A) as follows:

**11—65.3(8A) Application of Hatch Act.** In addition to the restrictions set forth in rules 11—65.1(8A) and 11—65.2(8A), employees occupying state positions ~~financed in whole or in part~~ wholly funded by federal "grant-in-aid" or other specific federal funding, are subject to the provisions of the federal Hatch Act. Where compliance with the political restrictions of the Hatch Act ~~are~~ is required for the receipt of federal funds, the appointing authority shall identify those state positions so covered. The employees under those further political activity restrictions shall be made aware of the additional restrictions by posting or other written notification from the appointing authority.

Persons found by proper authority to have violated the provisions of the federal Hatch Act are subject to summary discharge.

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 1995C**

**DENTAL BOARD[650]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.2, the Dental Board amends Chapter 27, "Standards of Practice and Principles of Professional Ethics," Iowa Administrative Code.

The amendment reduces the retention schedule for study models and casts. Current rules require dentists to maintain study models and casts for a minimum of six years after the date of last examination, prescription, or treatment. If the study model and cast involves a minor, then the study model and cast shall be maintained for a minimum of either (1) one year after the patient reaches the age of majority (i.e., 18 years of age), or (2) six years, whichever is longer. The amendment requires that study models and casts be maintained for six years after the date of completion of treatment. As an alternative, dentists may provide the study models and casts to the patient for retention one year after completion of treatment.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 4, 2015, as **ARC 1897C**. A public hearing was held on March 25, 2015, at 2 p.m. at the office of the Iowa Dental Board. There were no attendees. Seventeen written comments were received. Eight comments asked that there be no retention schedule but supported the option to provide study models and casts to patients immediately upon completion of treatment. Three supported providing study models and casts to patients immediately upon completion of treatment. Two asked for no retention schedule at all. Two supported the proposed amendment. One asked for no change to current requirements but would support an option

DENTAL BOARD[650](cont'd)

to provide study models and casts to patients immediately upon completion of treatment. One supported the amendment provided that study models and casts could immediately be delivered to patients.

This amendment is identical to that published under Notice.

This amendment was approved by the Board on April 23, 2015.

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

This amendment is intended to implement Iowa Code sections 153.33 and 153.34.

This amendment will become effective on July 1, 2015.

The following amendment is adopted.

Amend rule 650—27.11(153,272C) as follows:

**650—27.11(153,272C) Record keeping.** Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Records shall be permanent, timely, accurate, legible, and easily understandable.

**27.11(1) Dental records.** Dentists shall maintain dental records for each patient. The records shall contain all of the following:

*a. Personal data.*

(1) Name, date of birth, address and, if a minor, name of parent or guardian.

(2) Name and telephone number of person to contact in case of emergency.

*b. Dental and medical history.* Dental records shall include information from the patient or the patient's parent or guardian regarding the patient's dental and medical history. The information shall include sufficient data to support the recommended treatment plan.

*c. Patient's reason for visit.* When a patient presents with a chief complaint, dental records shall include the patient's stated oral health care reasons for visiting the dentist.

*d. Clinical examination progress notes.* Dental records shall include chronological dates and descriptions of the following:

(1) Clinical examination findings, tests conducted, and a summary of all pertinent diagnoses;

(2) Plan of intended treatment and treatment sequence;

(3) Services rendered and any treatment complications;

(4) All radiographs, study models, and periodontal charting, if applicable;

(5) Name, quantity, and strength of all drugs dispensed, administered, or prescribed; and

(6) Name of dentist, dental hygienist, or any other auxiliary, who performs any treatment or service or who may have contact with a patient regarding the patient's dental health.

*e. Informed consent.* Dental records shall include, at a minimum, documentation of informed consent that includes discussion of procedure(s), treatment options, potential complications and known risks, and patient's consent to proceed with treatment.

**27.11(2) Retention of records.** A dentist shall maintain a patient's dental record for a minimum of six years after the date of last examination, prescription, or treatment. Records for minors shall be maintained for a minimum of either (a) one year after the patient reaches the age of majority (18), or (b) six years, whichever is longer. Study models and casts shall be maintained for six years after the date of completion of treatment. Alternatively, one year after completion of treatment, study models and casts may be provided to the patient for retention. Proper safeguards shall be maintained to ensure safety of records from destructive elements.

**27.11(3) Electronic record keeping.** The requirements of this rule apply to electronic records as well as to records kept by any other means. When electronic records are kept, a dentist shall keep either a duplicate hard copy record or use an unalterable electronic record.

**27.11(4) Correction of records.** Notations shall be legible, written in ink, and contain no erasures or white-outs. If incorrect information is placed in the record, it must be crossed out with a single nondeleting line and be initialed by a dental health care worker.

**27.11(5) Confidentiality and transfer of records.** Dentists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies or summaries of the records, including dental radiographs or copies of the radiographs that are of diagnostic quality,

DENTAL BOARD[650](cont'd)

as will be beneficial for the future treatment of that patient. The dentist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

[Filed 5/7/15, effective 7/1/15]

[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

## ARC 1993C

# INSPECTIONS AND APPEALS DEPARTMENT[481]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.801 and 724.21A, the Department of Inspections and Appeals hereby amends Chapter 10, "Contested Case Hearings," and Chapter 11, "Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms," Iowa Administrative Code.

These amendments contain technical changes to update filing and service rules for contested case proceedings to permit appropriate use of e-mail and fax transmission of documents to the Administrative Hearings Division and other parties and to ensure consistency between the general rules and those involving permits to carry weapons or acquire firearms. The amendments also clarify that the rehearing procedure required by Iowa Code section 17A.16(2) is applicable to cases involving permits to carry weapons or acquire firearms under Iowa Code section 724.21A.

The Department does not believe that the amendments impose any financial hardship on any regulated entity, body, or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 1, 2015, as **ARC 1934C**. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code sections 10A.801, 17A.16, and 724.21A.

These amendments shall become effective July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 481—10.12(17A) as follows:

#### **481—10.12(17A) Service and filing of pleadings and other papers documents.**

**10.12(1)** *When service is required.* Except where otherwise specifically authorized by law, every pleading, motion, or other document or other paper filed in the contested case proceeding and every ~~paper~~ document relating to discovery in the proceeding shall be served upon each of the parties to the proceeding, including the originating agency. Except for the notice of the hearing and an application for rehearing as provided in Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.

**10.12(2)** *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by ~~delivery or by~~ delivering, mailing, or transmitting by facsimile (fax) or by electronic mail (e-mail) a copy to the ~~person's party or attorney at the party's or attorney's last-known mailing address, fax number, or e-mail address.~~ Service by first-class mail is ~~rebuttably presumed to be complete upon mailing,~~ except where otherwise specifically provided by statute, rule or order. Service by fax or electronic mail is complete upon transmission unless the party making service learns that the attempted service did not reach the person to be served.

**10.12(3)** *Filing with the division.* After a matter has been assigned to the division, and until a proposed decision is issued, ~~documents~~ every pleading, motion, or other document shall be filed with the division, rather than the originating agency. All ~~papers filed after the notice is issued~~ documents that are required to be served upon a party shall be filed simultaneously with the division.

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

a. Except where otherwise provided by law, a document is deemed filed with the division at the time it is:

(1) ~~Delivered to the division of appeals and fair hearings, department of inspections and appeals at the Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa, and date-stamped received;~~

(2) Delivered to an established courier service for immediate delivery to the division;

(3) Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or

(4) ~~Sent~~ Transmitted by facsimile transmission (fax) to (515)281-4477, by electronic mail (e-mail) to adminhearings@dia.iowa.gov, or by other electronic means approved by the division, as provided in subrule 10.12(3), paragraph "b."

b. All documents filed with the division pursuant to these rules, except a person's request or demand for a contested case proceeding, (see Iowa Code subsection 17A.12(9)), ~~may be filed by facsimile transmission (fax), electronic mail (e-mail), or other electronic means approved by the division. A copy shall be filed for each case involved.~~ A document filed by fax, e-mail, or other approved electronic means is presumed to be an accurate reproduction of the original. If a document filed by fax, e-mail, or other approved electronic means is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax, e-mail, or other approved electronic means shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax, e-mail, or other approved electronic means.

**10.12(4) Proof of mailing.** Adequate proof of mailing includes the following:

- a. A legible United States postal service postmark on the envelope;
- b. A certificate of service;
- c. A notarized affidavit; or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections and Appeals, Appeals Administrative Hearings Division, Lucas Wallace State Office Building, 2nd Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed) or (state interoffice mail).

(date)

(signature)

ITEM 2. Rescind rule 481—11.6(17A) and adopt the following **new** rule in lieu thereof:

**481—11.6(17A) Service and filing of documents.**

**11.6(1) When service is required.** Every pleading, motion, or other document filed in the contested case proceeding shall be served on each of the parties to the proceeding, including the agency. Except for an application for rehearing as provided in rule 481—11.14(17A) and Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.

**11.6(2) Methods of performing service.** Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivering, mailing, or transmitting by facsimile (fax) or by electronic mail (e-mail) a copy to the party or attorney at the party's or attorney's last-known mailing address, fax number, or e-mail address. Service by first-class mail is complete upon mailing. Service by fax or electronic mail is complete upon transmission unless the party making service learns that the attempted service did not reach the person to be served.

**11.6(3) Filing with the division.** Every pleading, motion, or other document in the contested case proceeding shall be filed with the division. All documents that are required to be served upon a party shall be filed simultaneously with the division.

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

a. Except where otherwise provided by law, a document is deemed filed with the division at the time it is:

- (1) Delivered to the division at the Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa, and date-stamped received;
- (2) Delivered to an established courier service for immediate delivery to the division;
- (3) Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or
- (4) Transmitted by facsimile (fax) to (515)281-4477, by electronic mail (e-mail) to [adminhearings@dia.iowa.gov](mailto:adminhearings@dia.iowa.gov), or by other electronic means approved by the division, as provided in subrule 11.6(3), paragraph "b."

b. All documents filed with the division pursuant to these rules, except a person's written appeal pursuant to rule 481—11.2(724), may be filed by facsimile (fax), electronic mail (e-mail), or other electronic means approved by the division. A document filed by fax, e-mail, or other approved electronic means is presumed to be an accurate reproduction of the original. If a document filed by fax, e-mail, or other approved electronic means is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax, e-mail, or other approved electronic means shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax, e-mail, or other approved electronic means.

**11.6(4) Proof of mailing.** Adequate proof of mailing includes the following:

- a. A legible United States postal service postmark on the envelope;
- b. A certificate of service;
- c. A notarized affidavit; or
- d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections and Appeals, Administrative Hearings Division, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.

(date)

(signature)

This rule is intended to implement Iowa Code section 724.21A.

ITEM 3. Amend rule 481—11.7(17A) as follows:

**481—11.7(17A) Witness lists and exhibits.** No later than five days before the hearing, a party shall serve on all parties and ~~the administrative law judge~~ shall file with the division a witness list and a copy of any exhibit(s) the party intends to introduce into evidence during the contested case proceeding. If a party fails to serve on all parties and ~~the administrative law judge~~ file with the division a witness list or any exhibit five days before the hearing, the party may be precluded from calling the witness at hearing or introducing the exhibit(s) into the record at hearing.

ITEM 4. Adopt the following new rule 481—11.14(17A):

**481—11.14(17A) Rehearing.** An applicant, permittee, or agency aggrieved by an administrative law judge's final decision rescinding or sustaining the agency's denial, suspension, or revocation may request rehearing. A request for rehearing shall be made by filing an application for rehearing with the division within 20 days of the date of the administrative law judge's final decision and must state the specific grounds for the rehearing and the relief sought. An application for rehearing shall be deemed to have

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

been denied unless the administrative law judge grants the application within 20 days after its filing. A request for rehearing is not necessary to exhaust administrative remedies.

This rule is intended to implement Iowa Code sections 724.21A and 17A.16.

[Filed 5/6/15, effective 7/1/15]

[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 1994C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 231C.3(1), the Department of Inspections and Appeals hereby amends Chapter 67, "General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services," Iowa Administrative Code.

The adopted amendment rescinds the definition of "applicant or certificate holder." This amendment corresponds to recently adopted amendments to Chapters 68, 69, and 70 (see **ARC 1927C**, IAB 4/1/15) that clarify the contents of an application for certification and the process for notifying the Department of a change of ownership of a program and add a definition for "change of ownership." With the adoption of those amendments, the definition for "applicant or certificate holder" is obsolete.

The Department does not believe that this rule making poses a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 1, 2015, as **ARC 1942C**. The Department received no comments during the public comment period. This amendment is identical to the one published under Notice of Intended Action.

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

This amendment is intended to implement Iowa Code sections 231B.2(1), 231C.3(1), and 231D.2(2).

This amendment shall become effective July 1, 2015.

The following amendment is adopted.

Rescind the definition of "Applicant or certificate holder" in rule **481—67.1(231B,231C,231D)**.

[Filed 5/6/15, effective 7/1/15]

[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 1999C****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 505, the Insurance Division hereby adopts amendments to Chapter 20, "Property and Casualty Insurance," Chapter 30, "Life Insurance Policies and Annuities," Chapter 35, "Accident and Health Insurance," Chapter 39, "Long-Term Care Insurance," and Chapter 40, "Health Maintenance Organizations," Iowa Administrative Code.

The purpose of these amendments is to clarify the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5, 514B.17, 514B.17A, 514D.3, 514G.111, 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and rules 191—39.22(514G), 191—40.10(514B) and 191—92.6(508).

## INSURANCE DIVISION[191](cont'd)

The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4)“b,” provides that a requirement under a law, other than Iowa Code chapter 554D, “to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law.” The notification laws contain varied statutory language, all with the express intent to require that policyholders are provided reasonable advance notice that insurance coverage will cease on a date certain. Iowa Code chapter 505B, which became effective on July 1, 2014, authorizes insurers and policyholders to consent to the delivery of notices or documents by electronic means. Iowa Code section 505B.1(6) provides “[i]f a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.” This provision must be applied in the context of the importance of the actual receipt by policyholders of notices of cancellation, suspension, forfeiture, nonrenewal or termination. The presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law. The Iowa Supreme Court has held that “[p]roof that a document was properly mailed raises a presumption that it was received.” *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982). Electronic transmission does not carry a similar presumption of receipt, so verification or acknowledgment of receipt would be required for electronic delivery of all notices of cancellation, suspension, forfeiture, nonrenewal and termination by an insurer. As of the date these amendments were proposed, the Iowa Insurance Commissioner had not found, reviewed or evaluated any reliable electronic verification or acknowledgment methods, so the Commissioner must conclude that electronic transmissions currently fail to satisfy the notice requirements of the Iowa Code sections referenced above. However, additional communication by electronic means of these notices may be provided by the insurer as a service to the policyholder.

These amendments were published under Notice of Intended Action in the April 1, 2015, Iowa Administrative Bulletin as **ARC 1943C**.

A public hearing was held on April 21, 2015, at the offices of the Iowa Insurance Division, Two Ruan Center, Fourth Floor, 601 Locust Street, Des Moines, Iowa. Interested persons had the opportunity to make written suggestions or comments on the proposed amendments on or before April 21, 2015. Comments were received.

One comment suggested creating a system by which the Iowa Insurance Commissioner could approve newly developed electronic notification procedures, if an insurer could demonstrate that the procedures satisfactorily verify receipt. This suggestion has not been adopted. Instead, if the Commissioner deems newly developed electronic notification procedures can provide satisfactory verification of receipt, the Division will amend the appropriate rules in a future rule making to allow such procedures.

Based on comments received and reviewed by the Division, the following changes have been made to the amendments published under Notice of Intended Action:

1. The terms “suspensions” and “forfeitures” were deleted from the division heading and from new rule 191—20.80(505B,515,515D,518,518A,519) in Items 2 and 3.
2. Language indicating that Iowa courts have not yet recognized a presumption of receipt for electronic transmissions has been added to subrules 20.80(1), 30.9(1), 35.9(1), 39.33(1) and 40.26(1).
3. The words “proof of” were deleted from the catchphrases of subrules 20.80(3), 30.9(3), 35.9(3), 39.33(3) and 40.26(3).
4. The first sentences of subrules 20.80(4), 30.9(4), 35.9(4), 39.33(4) and 40.26(3) were deleted, and language was inserted to recognize that electronic transmissions do not “currently” satisfy the notice requirements of the listed subrules.
5. Additional language was added to subrules 20.80(3), 30.9(3), 35.9(3), 39.33(3) and 40.26(3) to clarify that the use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the listed Iowa Code sections and administrative rules for certified mail or certificate of mailing as proof of mailing.
6. The words “rescission” and “discontinuance” were added to rules 191—35.9(509B,513B,514D) and 191—40.26(514B), and the words “suspension,” “forfeiture,” and “nonrenewal” were deleted.
7. The reference to rule 191—39.29(514G) was deleted from subrules 39.33(1), 39.33(3) and 39.33(4).

## INSURANCE DIVISION[191](cont'd)

8. Iowa Code sections 515.125 and 515.129A were added to the sections referenced in subrules 35.9(1) and 35.9(3).

9. The word “nonrenewal” was deleted from rule 191—39.33(514G).

10. The ZIP code was corrected in the amendment to paragraph 40.10(3)“h.”

In addition, Items 4 and 6, which added unnecessary reserved rules to Chapters 20 and 30, have not been adopted, and new Items 5 and 8 have been added to amend the implementation sentence of Chapter 30 and the Division I title of Chapter 39. The numbering of the items has been adjusted accordingly.

Insurance companies doing business in Iowa must be in compliance with these amendments beginning July 1, 2015.

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

These amendments are intended to implement Iowa Code chapters 505B, 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519.

These amendments will become effective July 1, 2015.

The following amendments are adopted.

ITEM 1. Reserve rules **191—20.73 to 191—20.79.**

ITEM 2. Adopt the following **new** division heading in **191—Chapter 20:**

DIVISION IV

CANCELLATIONS, NONRENEWALS AND TERMINATIONS

ITEM 3. Adopt the following **new** rule 191—20.80(505B,515,515D,518,518A,519):

**191—20.80(505B,515,515D,518,518A,519) Notice of cancellation, nonrenewal or termination of property and casualty insurance.**

**20.80(1) Purpose.** The purpose of this rule is to implement the policyholder protections of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 by clarifying the authorized methods of delivery for notices of cancellation, nonrenewal and termination by an insurer. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

**20.80(2) Scope.** This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 515, 518, and 518A.

**20.80(3) Delivery and receipt.** For any notice of cancellation, nonrenewal or termination by an insurer under Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

**20.80(4) Electronic transmissions.** Electronic transmissions do not currently satisfy the notice requirements of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 4. Adopt the following **new** rule 191—30.9(505,508):

**191—30.9(505,508) Notice of cancellation, forfeiture, lapse, nonrenewal or termination of life insurance and annuities.**

**30.9(1) Purpose.** The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, forfeiture, lapse, nonrenewal and termination by an insurer, so as to require reasonable

INSURANCE DIVISION[191](cont'd)

procedures for providing notice to policyholders of the consequences of cancellation, forfeiture, lapse, nonrenewal or termination of life insurance and annuity contracts. In universal life contracts, specific advance notice is required by rule 191—92.6(508). The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4) “b,” provides that a requirement under a law to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law. Notification regulation should effectively require reasonable advance notice to life insurance and annuity policyholders that insurance coverage will cease or be placed under a nonforfeiture benefit on a date certain. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

**30.9(2) Scope.** This rule shall apply to all insurance companies that issue contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25.

**30.9(3) Delivery and receipt.** For any notice of cancellation, forfeiture, lapse, nonrenewal or termination by an insurer in contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 to be effective, an insurer must, within the time frame established by law, or such reasonable time in advance and as governed by contract, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement for the contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 for certified mail or certificate of mailing as proof of mailing.

**30.9(4) Electronic transmissions.** Electronic transmissions do not currently satisfy the requirements of this rule or of rule 191—92.6(508). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

ITEM 5. Amend **191—Chapter 30**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 505.8, 508.25, 508.28 and 508A.4 and ~~chapter~~ Iowa Code chapters 505B and 509.

ITEM 6. Adopt the following **new** heading before new rule 191—35.9(509B,513B,514D) in **191—Chapter 35**:

GENERAL ACCIDENT AND HEALTH INSURANCE REQUIREMENTS

ITEM 7. Adopt the following **new** rule 191—35.9(509B,513B,514D):

**191—35.9(509B,513B,514D) Notice of cancellation, rescission, discontinuance or termination of accident and health insurance.**

**35.9(1) Purpose.** The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, rescission, discontinuance and termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

**35.9(2) Scope.** This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 512B, 515, and 520.

**35.9(3) Delivery and receipt.** For any notice of cancellation, rescission, discontinuance or termination by an insurer under Iowa Code sections 509B.5, 513B.5, 514D.3, 515.125 and 515.129A to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of

INSURANCE DIVISION[191](cont'd)

the named insured. Use of the U.S. Postal Service Intelligent Mail® fulfills any requirement in the Iowa Code sections cited in this subrule for certified mail or certificate of mailing as proof of mailing.

**35.9(4) *Electronic transmissions.*** Electronic transmissions do not currently satisfy the notice requirements of Iowa Code sections 509B.5, 513B.5 and 514D.3. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 8. Amend **191—Chapter 39**, division I heading , as follows:

DIVISION I  
GENERAL PROVISIONS

ITEM 9. Adopt the following new rule 191—39.33(514G):

**191—39.33(514G) Notice of cancellation, forfeiture, lapse or termination of long-term care insurance.**

**39.33(1) *Purpose.*** The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, forfeiture, lapse and termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code section 514G.111 and rule 191—39.22(514G). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

**39.33(2) *Scope.*** This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapter 508 or 515.

**39.33(3) *Delivery and receipt.*** For any notice of cancellation, forfeiture, lapse or termination by an insurer under Iowa Code section 514G.111 and rule 191—39.22(514G) to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code section 514G.111 and rule 191—39.22(514G) for certified mail or certificate of mailing as proof of mailing.

**39.33(4) *Electronic transmissions.*** Electronic transmissions currently fail to satisfy the notice requirements of Iowa Code section 514G.111 and rule 191—39.22(514G). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 10. Amend paragraph **40.10(3)“h”** as follows:

*h.* State that the enrollee may request such hearing by forwarding one copy of the notice of cancellation, marked to request a hearing, to the Commissioner of Insurance, ~~Lucas State Office Building~~ Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319 50309.

ITEM 11. Adopt the following new rule 191—40.26(514B):

**191—40.26(514B) Notice of cancellation, rescission, discontinuance or termination of enrollment.**

**40.26(1) *Purpose.*** The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, rescission, discontinuance or termination by a health maintenance organization, so as to implement the various consumer protections intended by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but Iowa courts have not yet recognized a presumption of receipt for electronic transmissions. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

INSURANCE DIVISION[191](cont'd)

**40.26(2) Scope.** This rule shall apply to all insurance companies holding a certificate of authority to operate an HMO under the provisions of Iowa Code chapter 514B.

**40.26(3) Delivery and receipt.** For any notice of cancellation, rescission, discontinuance or termination by a health maintenance organization under Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) to be effective, a health maintenance organization must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured. The use of U.S. Postal Service Intelligent Mail® fulfills any requirement in Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) for certified mail or certificate of mailing as proof of mailing.

**40.26(4) Electronic transmissions.** Electronic transmissions do not currently satisfy the notice requirements of Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). However, additional communication of notices by electronic means may be provided by an insurer as a service to the named insured.

This rule is intended to implement Iowa Code chapter 505B.

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[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 2001C**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.5(1)“f,” the Iowa Finance Authority hereby amends Chapter 15, “Purchasing,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1855C**. The Authority received no public comment on the proposed amendment. No changes were made to the amendment as published under Notice of Intended Action.

The Iowa Finance Authority adopted this amendment on April 1, 2015.

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

This amendment is intended to implement Iowa Code section 16.5(1)“f.”

This amendment will become effective on July 1, 2015.

The following amendment is adopted.

Amend **265—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~16.5 as amended by 2007 Iowa Acts, Senate File 431, section 19.~~ 16.5(1)“f.”

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 2002C**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.48, the Iowa Finance Authority hereby amends Chapter 23, “Transitional Housing Revolving Loan Program,” Iowa Administrative Code.

## IOWA FINANCE AUTHORITY[265](cont'd)

The purpose of these amendments is to update a cross reference in rule 265—23.1(16) and the implementation sentence at the end of the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1856C**. The Authority received no public comment on the proposed amendments. No changes were made to the amendments published under Notice of Intended Action.

The Iowa Finance Authority adopted these amendments on April 1, 2015.

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

These amendments are intended to implement Iowa Code section 16.48.

These amendments will become effective on July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 265—23.1(16) as follows:

**265—23.1(16) Purpose.** Through its transitional housing revolving loan program (program), the authority seeks to assist in the development of affordable housing for parents who are reuniting with their children while completing or participating in substance abuse treatment. This chapter implements ~~2005 Iowa Acts, House File 825, section 55, which adds Iowa Code section 16.184 to the authority's enabling statute~~ Iowa Code section 16.48.

ITEM 2. Amend **265—Chapter 23**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~16.5(17)~~ and ~~2005 Iowa Acts, House File 825, section 55~~ 16.48.

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

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**ARC 2003C**

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.131, the Iowa Finance Authority hereby amends Chapter 26, “Water Pollution Control Works and Drinking Water Facilities Financing,” Iowa Administrative Code.

The purpose of this amendment is to update the implementation sentence at the end of the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1866C**. The Authority received no public comment on the proposed amendment. No changes were made to the amendment published under Notice of Intended Action.

The Iowa Finance Authority adopted this amendment on April 1, 2015.

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

This amendment is intended to implement Iowa Code section 16.5(1)“r.”

This amendment will become effective on July 1, 2015.

The following amendment is adopted.

Amend **265—Chapter 26**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~16.5(17)~~ 16.5(1)“r” and 16.133.

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 2004C****IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.56, the Iowa Finance Authority hereby amends Chapter 29, “Jump-Start Housing Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to remove a cross reference and to update the implementation sentence at the end of the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1865C**. The Authority received no public comment on the proposed amendments. No changes were made to the amendments published under Notice of Intended Action.

The Iowa Finance Authority adopted these amendments on April 1, 2015.

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

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.56.

These amendments will become effective on July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend paragraph **29.3(1)“b”** as follows:

*b. Funds made available pursuant to 2009 Iowa Acts, Senate File 376.* The authority shall allocate program funds made available under 2009 Iowa Acts, Senate File 376, section 29, Disaster Damage Housing Assistance Grant Fund [~~creating Iowa Code section 16.186~~], by inviting local government participants to submit an application for funding. The authority shall award program funding made available under this paragraph based upon priority criteria to be specified in the application form including, but not limited to, the following:

(1) and (2) No change.

ITEM 2. Amend **265—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 16.5(1)“r,” ~~and 16.40,~~ and 16.56, 2009 Iowa Acts, Senate File 376, section 29, and 2009 Iowa Acts, House File 64, division I.

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 2005C****IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 31, “Council on Homelessness,” Iowa Administrative Code.

The purpose of these amendments is to update a cross reference in subrule 31.1(2) and in the implementation sentence at the end of the chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 4, 2015, as **ARC 1864C**. The Authority received no public comment on the proposed amendments. These amendments are identical to those published under Notice.

The Iowa Finance Authority adopted these amendments on April 1, 2015.

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

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.2D.

These amendments will become effective on July 1, 2015.

The following amendments are adopted.

## IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 1. Amend subrule 31.1(2) as follows:

**31.1(2) Council members and staff.** The powers of the council are vested in and exercised by 38 voting members appointed by the governor in accordance with Iowa Code section ~~46.400A~~ 16.2D. The 26 voting members selected from the general public shall each serve a two-year term. Terms shall be staggered so half of the voting members are appointed in one year and half are appointed in the year thereafter. Initially, the council shall, as soon as all members have been appointed, promptly elect a chairperson and a vice chairperson, both to a term not to exceed two years ending in May. The chairperson and vice chairperson shall not both be either general public members or agency director members. Thereafter, the chairperson and vice chairperson positions shall rotate between agency director members and general public members so that the chairperson and vice chairperson shall not both be either general public members or agency director members at the same time. Staff assistance and administrative support shall be provided by the Iowa finance authority as approved by the executive director.

ITEM 2. Amend **265—Chapter 31**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 16.5(1) “r” and ~~46.400A~~ 16.2D.

[Filed 5/8/15, effective 7/1/15]

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**ARC 2006C**

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 33, “Water Quality Financial Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to update references in the rules and the implementation sentence due to a revision of the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 4, 2015, as **ARC 1906C**. The Authority received no public comment on the proposed amendments. These amendments are identical to those published under Notice.

The Iowa Finance Authority adopted these amendments on May 6, 2015.

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

These amendments are intended to implement Iowa Code section 16.2D.

These amendments will become effective on July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 33.1(1) as follows:

**33.1(1) Statutory authority.** The authority to provide financial assistance to communities for water quality and wastewater improvement projects is provided by 2009 Iowa Acts, Senate File 376, section 13(4). The water quality financial assistance fund shall consist of funds appropriated from the revenue bonds ~~capital~~ capitals fund created in 2009 Iowa Acts, ~~Senate File 376, section 2~~ Iowa Code section 12.88.

ITEM 2. Amend rule **265—33.2(16,83GA,SF376)**, definition of “SRF,” as follows:

“*SRF*” means the Iowa water pollution control works and drinking water facilities financing program, which is jointly administered by IFA pursuant to Iowa Code section 16.131 ~~as amended by 2009 Iowa Acts, House File 281, and DNR pursuant to Iowa Code section 455B.294.~~

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 3. Amend **265—Chapter 33**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 16.5(1)“r” and ~~section~~ 16.131 as amended by 2009 Iowa Acts, House File 281, and 2009 Iowa Acts, Senate File 376, section 13(4).

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 2007C**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby rescinds Chapter 35, “Affordable Housing Assistance Grant Fund,” Iowa Administrative Code.

This amendment rescinds Chapter 35, the legislative authority for which has been repealed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 4, 2015, as **ARC 1907C**. The Authority received no public comment on the proposed amendment.

The Iowa Finance Authority adopted this amendment on May 6, 2015.

After analysis and review of this rule making, no impact on jobs is foreseen.

This amendment is intended to implement Iowa Code section 16.5(1)“r.”

This amendment will become effective on July 1, 2015.

The following amendment is adopted.

Rescind and reserve **265—Chapter 35**.

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 2008C**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 43, “Community Housing and Services for Persons With Disabilities Revolving Loan Program,” Iowa Administrative Code.

The purpose of these amendments is to update references in the rules and the implementation sentence due to a revision of the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 4, 2015, as **ARC 1903C**. The Authority received no public comment on the proposed amendments. These amendments are identical to those published under Notice.

The Iowa Finance Authority adopted these amendments on May 6, 2015.

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

These amendments are intended to implement Iowa Code sections 16.5(1) and 16.49.

These amendments will become effective on July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 265—43.1(16) as follows:

**265—43.1(16) Purpose.** Through its community housing and services for persons with disabilities revolving loan program, the authority seeks to further the availability of affordable housing and

## IOWA FINANCE AUTHORITY[265](cont'd)

supportive services for Medicaid waiver-eligible individuals with behaviors that provide significant barriers to accessing traditional rental and supportive service opportunities. Loans from the community housing and services for persons with disabilities revolving loan program fund are to be used to provide financing to construct permanent supportive housing or develop infrastructure in which to provide supportive services, including through new construction, acquisition and rehabilitation of existing housing or infrastructure, or conversion or adaptive reuse. This chapter is intended to implement Iowa Code ~~section~~ sections 16.5(1) and ~~2011 Iowa Acts, House File 649, section 50~~ 16.49.

Pursuant to ~~2011 Iowa Acts, House File 649, section 50~~, Iowa Code section 16.49(4)“d,” housing provided through a project under this chapter is exempt from the requirements of Iowa Code chapter 1350, Boarding Homes.

ITEM 2. Amend ~~265—Chapter 43~~, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 16.5(1) and ~~2011 Iowa Acts, House File 649, section 50~~ 16.49.

[Filed 5/8/15, effective 7/1/15]

[Published 5/27/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.

**ARC 2009C**

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

The purpose of these amendments is to update references in the rules and the implementation sentence due to revision of the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 4, 2015, as **ARC 1905C**. The Authority received no public comment on the proposed amendments. However, based on comment from staff, these amendments have been changed since publication of the Notice of Intended Action. In Items 4 and 5, subrules 44.6(1) and 44.7(1) have been amended to reflect a change in statute. In paragraph “a” of both subrules, the phrase “five years” has been changed to “ten years.” In addition, an Iowa Code reference has been updated in Item 6.

The Iowa Finance Authority adopted these amendments on May 6, 2015.

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

These amendments are intended to implement Iowa Code sections 16.4A, 16.4B, and 16.75 to 16.84.

These amendments will become effective on July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend rules ~~265—44.1(175)~~ to ~~265—44.6(175)~~, parenthetical implementation statute, as follows:

~~(175 16)~~

ITEM 2. Amend rule ~~265—44.2(16)~~, introductory paragraph, as follows:

**265—44.2(16) Definitions.** For any terms not defined in this rule, refer to Iowa Code section ~~175.2~~.

ITEM 3. Amend the following definitions in rule ~~265—44.2(16)~~:

“Act” means Iowa Code ~~chapters~~ chapter ~~16 and 175~~.

“BFCF eligible applicant” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections ~~175.36A~~ 16.79 and ~~175.38~~

## IOWA FINANCE AUTHORITY[265](cont'd)

16.81 and the provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

“*BFLP eligible applicant*” means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must also be a beginning farmer, as defined in Iowa Code section ~~475.42~~ 16.75, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

“*BFTC eligible applicant*” means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections ~~475.36A~~ 16.79 and ~~475.37~~ 16.80 and the provisions of these rules relating to recipient eligibility as they relate to who operates or will operate a farm.

ITEM 4. Amend subrules 44.6(1), 44.6(3) and 44.6(4) as follows:

**44.6(1) General provisions.**

*a. Term.* The term of the credit shall be equal to the term of the agricultural assets transfer agreement, except that any unused credit may be carried forward for a period of ~~five~~ ten years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

*b. and c.* No change.

**44.6(3) Execution of an agricultural assets transfer agreement.** In addition to the requirements of rule 265—44.6(~~175~~ 16), both the taxpayer and the BFTC eligible applicant shall execute an agricultural assets transfer agreement. This form shall be in a format used by the Iowa State Bar Association or other commonly accepted form and signed by all parties.

**44.6(4) Procedures following tax credit approval.** Either the BFTC eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. The authority shall act upon these changes pursuant to Iowa Code section ~~475.37~~ 16.80. Material changes cannot result in an increase in the original tax credit amount approved.

ITEM 5. Amend subrules 44.7(1) and 44.7(5) as follows:

**44.7(1) General provisions.**

*a. Term.* The term of the credit shall not exceed one year, except that any unused credit may be carried forward for a period of ~~five~~ ten years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

*b. and c.* No change.

**44.7(5) Procedures following tax credit approval.** Either the BFCF eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the custom hire contract. The authority shall act upon these changes pursuant to Iowa Code section ~~475.38~~ 16.81. Material changes cannot result in an increase in the original tax credit amount approved. Death of a party to the contract, divorce, or sale of the property will be considered eligible material changes.

ITEM 6. Amend **265—Chapter 44**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapters 16 and 175 and 2013 Iowa Acts, chapter 400~~ sections 16.4A, 16.4B, and 16.75 to 16.84.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/27/15.