



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXVI
May 28, 2014

NUMBER 24
Pages 2185 to 2248

CONTENTS IN THIS ISSUE

Pages 2194 to 2247 include **ARC 1465C** to **ARC 1475C**

ADMINISTRATIVE SERVICES DEPARTMENT

Public Notice 2194

AGENDA

Administrative rules review committee 2189

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice, Federal Wholesome Meat Act
regulations—adoption by reference,
76.2 **ARC 1468C** 2194

ALL AGENCIES

Agency identification numbers 2192
Citation of administrative rules 2187
Schedule for rule making 2188

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice, Elder group homes, assisted
living programs, adult day
services—verification of conviction
or record of founded abuse, dementia
training; admission and retention in
adult day services program, 67.19,
67.23, 70.23(1) **ARC 1472C** 2195

INSURANCE DIVISION[191] COMMERCE DEPARTMENT[181]*"umbrella"

Filed, Pharmacy benefits managers and
insurers, 59.1 to 59.10 **ARC 1466C** 2232

NATURAL RESOURCE COMMISSION[571] NATURAL RESOURCES DEPARTMENT[561]*"umbrella"

Notice, Deer hunting licenses, 106.1,
106.2(5), 106.4(5), 106.6, 106.7(5),
106.10(1) **ARC 1475C** 2197

PUBLIC HEALTH DEPARTMENT[641]

Notice, Newborn hearing and critical
congenital heart disease screening;
newborn screening data and specimens;
sliding fee scale for neuromuscular and
related disorders program, 4.1 to 4.3,
4.6(3), 4.8 **ARC 1471C** 2200
Notice, Radiation, amendments to chs 38
to 41, 45 **ARC 1470C** 2204

PUBLIC HEARINGS

Summarized list 2191

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

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

Filed, Appraiser qualifications before and
after January 1, 2015, 1.1(2), 1.2(1),
1.3, 1.4, 1.6(1), 1.18 to 1.22 **ARC 1467C** 2237

REVENUE DEPARTMENT[701]

Notice, Estate tax and generation
skipping transfer tax—applicability
dates, elimination of references;
research activities credit, amendments
to chs 5, 7, 8, 10, 42, 52, 86 to 89
ARC 1469C 2217

SECRETARY OF STATE[721]

Notice, Absentee ballots; special elections, 21.320(3)“b,” 21.352 to 21.355, 21.359, 21.361, 21.403(2), 21.404 **ARC 1473C** 2224

Notice, Voting systems—digital ballot images, Unisyn OpenElect OVCS central count tabulator, reports, 22.201(2), 22.261, 22.264, 22.266 **ARC 1474C** 2229

TREASURER OF STATE

Notice—Public funds interest rates 2231

VETERINARY MEDICINE BOARD[811]

Filed, Veterinary standards of practice, 1.4, 12.1 to 12.5 **ARC 1465C** 2240

PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2014

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 6, 2014	June 25, 2014
1	Friday, June 20, 2014	July 9, 2014
2	Wednesday, July 2, 2014	July 23, 2014

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 10, 2014, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Federal Wholesome Meat Act regulations—adoption by reference, 76.2 Notice **ARC 1468C** 5/28/14

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Eligibility to file ethics complaint, 11.4(1) Filed **ARC 1455C** 5/14/14

Out-of-state and exchange license applicants—provision of valid or expired license with application, 13.3(6), 13.17(1) Filed **ARC 1454C** 5/14/14

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Best management practices for grain vacuuming at small grain elevators; federal air toxics standards for chemical manufacturing plants and prepared feeds manufacturing, 22.10(3)“a,” 23.1(4) Notice **ARC 1458C** 5/14/14

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Enhanced 911 telephone systems; department organization, amendments to ch 10 Notice **ARC 1463C**..... 5/14/14

INSPECTIONS AND APPEALS DEPARTMENT[481]

Elder group homes, assisted living programs, adult day services—verification of conviction or record of founded abuse, dementia training; admission and retention in adult day services program, 67.19, 67.23, 70.23(1) Notice **ARC 1472C**..... 5/28/14

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Pharmacy benefits managers and insurers, 59.1 to 59.10 Filed **ARC 1466C** 5/28/14

IOWA FINANCE AUTHORITY[265]

Shelter assistance fund, 41.1 to 41.12 Notice **ARC 1459C** 5/14/14

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Federal occupational safety and health standards—adoption by reference, 10.20, 26.1 Notice **ARC 1461C** 5/14/14

LOTTERY AUTHORITY, IOWA[531]

Suspension of retailers for ticket sales to underage persons, 12.12(4) Filed **ARC 1462C**..... 5/14/14

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Deer hunting licenses, 106.1, 106.2(5), 106.4(5), 106.6, 106.7(5), 106.10(1) Notice **ARC 1475C**..... 5/28/14

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Respiratory care practitioners—practice, continuing education, 262.3(2), 265.5 Filed **ARC 1453C** 5/14/14

PUBLIC HEALTH DEPARTMENT[641]

Newborn hearing and critical congenital heart disease screening; newborn screening data and specimens; sliding fee scale for neuromuscular and related disorders program, 4.1 to 4.3, 4.6(3), 4.8 Notice **ARC 1471C** 5/28/14

Radiation, amendments to chs 38 to 41, 45 Notice **ARC 1470C** 5/28/14

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

License suspension; debt arrangements; jockey agent representation; definition of “administrator”; gambling game shipping notification, 4.7, 5.4(8), 10.5(4)“a,” 11.1, 11.4(6) Filed **ARC 1456C** 5/14/14

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Appraiser qualifications before and after January 1, 2015, 1.1(2), 1.2(1), 1.3, 1.4, 1.6(1), 1.18 to 1.22 Filed **ARC 1467C** 5/28/14

REVENUE DEPARTMENT[701]

Estate tax and generation skipping transfer tax—applicability dates, elimination of references; research activities credit, amendments to chs 5, 7, 8, 10, 42, 52, 86 to 89
Notice **ARC 1469C** 5/28/14

SECRETARY OF STATE[721]

Absentee ballots; special elections, 21.320(3)“b,” 21.352 to 21.355, 21.359, 21.361, 21.403(2), 21.404 Notice **ARC 1473C** 5/28/14
Voting systems—digital ballot images, Unisyn OpenElect OVCS central count tabulator, reports, 22.201(2), 22.261, 22.264, 22.266 Notice **ARC 1474C** 5/28/14

TREASURER OF STATE[781]

Required public funds custodial agreement provisions, 15.1 to 15.3, 15.5 Filed **ARC 1464C** 5/14/14

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”
Competitive natural gas providers; natural gas vehicle fuel providers; method for contacting duty officer, 2.2, 10.17(4), 19.14, 19.17(2), 20.19(2), 21.9, 25.5(3) Notice **ARC 1460C** 5/14/14

VETERINARY MEDICINE BOARD[811]

Veterinary standards of practice, 1.4, 12.1 to 12.5 Filed **ARC 1465C** 5/28/14

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Representative Lisa Heddens
4115 Wembley Avenue
Ames, Iowa 50010

Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601

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

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

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

Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001

Representative Jeff Smith
1006 Brooks North Lane
Okoboji, Iowa 51355

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

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

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

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

ENVIRONMENTAL PROTECTION COMMISSION[567]

Best management practices for grain vacuuming at small grain elevators; federal air toxics standards for chemical manufacturing plants and prepared feeds manufacturing, 22.10(3)“a,” 23.1(4) IAB 5/14/14 ARC 1458C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	June 16, 2014 1 p.m.
---	---	-------------------------

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Enhanced 911 telephone systems; department organization, amendments to ch 10 IAB 5/14/14 ARC 1463C	Homeland Security Conference Room Building W-4, Camp Dodge 7105 NW 70th Ave. Johnston, Iowa	June 3, 2014 1 p.m.
--	--	------------------------

IOWA FINANCE AUTHORITY[265]

Shelter assistance fund, 41.1 to 41.12 IAB 5/14/14 ARC 1459C	Authority Offices 2015 Grand Ave. Des Moines, Iowa	June 3, 2014 10 a.m. to 12 noon
--	--	------------------------------------

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards—adoption by reference, 10.20, 26.1 IAB 5/14/14 ARC 1461C	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	June 4, 2014 9 a.m. (If requested)
---	---	--

NATURAL RESOURCE COMMISSION[571]

Dear hunting licenses, 106.1, 106.2(5), 106.4(5), 106.6, 106.7(5), 106.10(1) IAB 5/28/14 ARC 1475C	Third Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	June 17, 2014 2 p.m.
--	--	-------------------------

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]
EMPOWERMENT BOARD, IOWA[349]
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]

ADMINISTRATIVE SERVICES DEPARTMENT

Public Notice

NOTICE OF OFFICIAL PUBLICATION RATE INCREASE FOR THE FISCAL YEAR
COMMENCING JULY 1, 2014, AND ENDING JUNE 30, 2015

In accordance with Iowa Code section 618.11, the Iowa Department of Administrative ITE Infrastructure Services/Printing Administrator hereby publishes the lineage rate* for newspaper publications of any order, citation, or other publication required or allowed by law (also known as official publications) for the period commencing on July 1, 2014, and ending on June 30, 2015, in the following amounts:

* Lineage rate: "...each line of eight point type two inches in length, or its equivalent." (Iowa Code section 618.11)

One insertion = 46.9 cents
Each subsequent insertion = 31.76 cents

The rate becomes effective on July 1, 2014. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 1.5% from March 2013 to March 2014. The March index was the most recent index available as of May 1, 2014, the date on which this notice was submitted for publication.

Pursuant to Iowa Code section 618.11, this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice may be directed to:

Matthew Behrens, ITE Chief Operating Officer
Iowa Department of Administrative Services
1305 E. Walnut
Des Moines, Iowa 50319
Telephone: (515)281-0768
E-mail: Matt.Behrens@iowa.gov

ARC 1468C

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 189A.7(8), the Agriculture and Land Stewardship Department hereby gives Notice of Intended Action to amend Chapter 76, “Meat and Poultry Inspection,” Iowa Administrative Code.

The amendment updates a reference to federal regulations in order to retain recognition of the state meat and poultry program.

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

Any interested person may make written comments or suggestions on the proposed amendment on or before June 17, 2014. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@IowaAgriculture.gov.

No waiver provision is included in the proposed amendment; however, the Department's general waiver rule would apply.

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

This amendment is intended to implement Iowa Code section 159.5(8) and Iowa Code chapter 189A. The following amendment is proposed.

Amend rule 21—76.2(189A) as follows:

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 416, Part 417, Part 418, Part 424, Part 430, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~January 1, 2013~~ March 7, 2013, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2013, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

ARC 1472C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 231B.2(1), 231C.3(1) and 231D.2(2), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs and Adult Day Services,” and Chapter 70, “Adult Day Services,” Iowa Administrative Code.

The amendments in Items 1 and 2 implement legislative changes made to Iowa Code section 135C.33 by 2014 Iowa Acts, House File 2365. The legislation provides employers with additional time to verify the conviction or entry of a record of founded abuse of current employees. The change from 48 hours to seven calendar days resulted from recommendations of the Background Check Study Committee that met in 2013 pursuant to 2013 Iowa Acts, Senate File 347. The Committee recommended the change because the information necessary for employers to verify a conviction or founded abuse may take up to seven calendar days to be available on the system used by employers for verification.

Item 3 rescinds rule 481—67.23(231B,231C,231D) regarding training related to Alzheimer's disease and similar forms of irreversible dementia. The rule requires programs to comply with administrative rules implementing Iowa Code section 231.62. Iowa Code section 231.62 was amended by 2012 Iowa Acts, chapter 1086, section 13, to remove the requirement that the Department on Aging adopt rules to implement certain training and education provisions for those who regularly deal with persons with Alzheimer's disease and similar forms of irreversible dementia.

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

The amendments in Item 4 implement legislative changes in 2014 Iowa Acts, Senate File 2193. The legislation adds to Iowa Code chapter 231D a new section which sets forth requirements for admission and retention of participants in an adult day services program.

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 17, 2014. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to david.werning@dia.iowa.gov.

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

These amendments are intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and 2014 Iowa Acts, House File 2365 and Senate File 2193.

The following amendments are proposed.

ITEM 1. Amend paragraph **67.19(9)“a”** as follows:

a. The employer shall act to verify the information within ~~48 hours~~ seven calendar days of notification. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

ITEM 2. Amend paragraph **67.19(10)“a”** as follows:

a. The program shall act to verify credible information within ~~48 hours~~ seven calendar days of receipt. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

ITEM 3. Rescind and reserve rule ~~481—67.23(231B,231C,231D)~~.

ITEM 4. Amend subrule 70.23(1) as follows:

70.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a participant who:

~~*a.* Is bed bound; or~~

~~*b.* a. Requires routine, three-person assistance with standing, transfer or evacuation; or~~

~~*e.* b. Is dangerous to self or other participants or staff, including but not limited to a participant who:~~

~~(1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse ~~or aggression~~; or~~

~~(2) Displays behavior that places another participant at risk; or~~

~~*d.* (2) Is in an acute stage of alcoholism, drug addiction, or ~~uncontrolled~~ mental illness; or~~

~~*e.* c. Is under the age of 18; ~~or~~~~

~~*f.* Requires more than part-time or intermittent health-related care; or~~

~~*g.* Has unmanageable incontinence on a routine basis despite an individualized toileting program;~~

~~or~~

~~*h.* Is medically unstable; or~~

~~*i.* Requires maximal assistance with activities of daily living.~~

ARC 1475C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, 481A.48(1), 483A.8, 483A.8B, 483A.8C, 483A.24, and 483A.24B, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 106, “Deer Hunting by Residents,” Iowa Administrative Code.

Chapter 106 sets regulations for deer hunting by residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

The proposed amendments eliminate the January antlerless-deer-only season, reduce antlerless deer quota numbers in 72 counties by 10,000 from the licenses sold in 2013, and restrict hunters in 27 counties to taking only antlered deer during the early muzzleloader and first shotgun seasons. These rules are designed to reduce the rate of decline in deer numbers in those counties whose deer populations have been reduced to levels that were agreed to in 2009 by the Deer Study Advisory Group (DSAG). The DSAG was created to review, analyze, and make recommendations on issues relating to the state’s deer population.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 17, 2014. Written comments may be directed to the Department of Natural Resources (Department), Wildlife Bureau Chief, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; by e-mail at wildlife@dnr.iowa.gov; or by fax at (515)281-6794. Persons who wish to convey their comments orally may contact the Department’s Wildlife Bureau at (515)281-5034 or by visiting the fourth floor of the Wallace State Office Building during regular business hours.

There will be a public hearing on June 17, 2014, at 2 p.m. in the third floor conference rooms of the Wallace State Office Building. At the public hearing, persons may present their views either orally or in writing. Participants will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

The proposed amendments will have a neutral impact on jobs in the state. Even though the Commission is proposing a license reduction, there should not be a noticeable change in deer hunting. The proposed new quotas are designed to reduce the rate of decline of the deer population. Thus, the private sector job impact should remain status quo even with this rule making. The following types of jobs are positively impacted by deer hunting generally (and should see no noticeable change due to this rule making): hunting equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48(1), 483A.8, 483A.8B, 483A.8C, 483A.24 and 483A.24B.

The following amendments are proposed.

ITEM 1. Amend subrules 106.1(1) to 106.1(4) as follows:

106.1(1) Type of license.

a. ~~Any deer~~ Regular deer licenses. ~~Any deer~~ Regular deer licenses shall be valid for taking deer of either sex in one season selected at the time the license is purchased. Regular deer licenses

NATURAL RESOURCE COMMISSION[571](cont'd)

shall be valid for taking deer of either sex except in Buena Vista, Calhoun, Cerro Gordo, Cherokee, Clay, Dickinson, Emmet, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Ida, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Webster, Winnebago, Worth and Wright Counties during the early muzzleloader or first regular gun season when the regular deer license will be valid for deer with at least one forked antler. Paid ~~any-deer~~ regular deer licenses shall be valid statewide except where prohibited in deer population management zones established under 571—Chapter 105. Free ~~any-deer~~ regular deer licenses shall be valid only on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

b. Antlerless-deer-only licenses. Antlerless-deer-only licenses shall be valid for taking deer that have no forked antler. Paid antlerless-deer-only licenses shall be valid in one county or in one deer population management zone and in one season as selected at the time the license is purchased. Free and reduced-fee antlerless-deer-only licenses shall be valid on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

106.1(2) Bow season licenses. ~~Any-deer~~ Regular deer and antlerless-deer-only licenses, paid or free, shall be valid in both segments of the bow season.

106.1(3) Regular gun season licenses. Paid ~~any-deer~~ regular deer and antlerless-deer-only licenses shall be valid in either the first or the second regular gun season, as designated on the license. Free ~~any-deer~~ regular deer licenses and antlerless-deer-only licenses shall be valid in both the first and second regular gun seasons.

106.1(4) Muzzleloader season licenses. ~~Any-deer~~ Regular deer and antlerless-deer-only licenses, paid or free, shall be valid in either the early or the late muzzleloader season, as designated on the license.

ITEM 2. Rescind and reserve subrule **106.1(6)**.

ITEM 3. Amend subrule 106.1(7) as follows:

106.1(7) Free and reduced-fee deer licenses for landowners and tenants. A maximum of one free ~~any-deer~~ regular deer license, two free antlerless-deer-only licenses, and two reduced-fee antlerless-deer-only licenses may be issued to a qualifying landowner or eligible family member and a qualifying tenant or eligible family member. Eligibility for licenses is described in 571—106.12(481A). The free ~~any-deer~~ regular deer license shall be available for one of the following seasons: the youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. One free antlerless-deer-only license shall be available for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. The second free antlerless-deer-only license shall be valid only for the January antlerless-deer-only season and will be available only if a portion of the farm unit lies within a county where paid antlerless-deer-only licenses are available during that season. Each reduced-fee antlerless-deer-only license shall be valid for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, first and second regular gun seasons, or January antlerless-deer-only season. January antlerless-deer-only licenses will be available only if a portion of the farm unit is located in a county where paid antlerless-deer-only licenses are available in that season.

ITEM 4. Rescind and reserve subrules **106.2(5)** and **106.4(5)**.

ITEM 5. Amend subrule 106.6(1) as follows:

106.6(1) Paid ~~any-deer~~ regular deer licenses. Residents may purchase no more than two paid ~~any-deer~~ regular deer licenses, one for the bow season and one for one of the following seasons: early muzzleloader season, late muzzleloader season, first regular gun season, or second regular gun season. No more than 7,500 paid statewide ~~any-deer~~ regular deer licenses will be sold for the early muzzleloader season. Fifty additional paid early muzzleloader season licenses will be sold through and will be valid only for the Iowa Army Ammunition Plant. There will be no quota on the number of paid ~~any-deer~~ regular deer licenses issued in the bow season, late muzzleloader season, first regular gun season, or second regular gun season.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 6. Amend paragraph **106.6(2)“b”** as follows:

b. No one may obtain paid licenses for both the first regular gun season and second regular gun season regardless of whether the licenses are valid for any deer or antlerless deer only. Paid antlerless-deer-only licenses for the early muzzleloader season may only be purchased by hunters who have already purchased one of the 7,500 paid statewide ~~any-deer~~ regular deer licenses. Hunters who purchase one of the 7,500 paid statewide ~~any-deer~~ regular deer licenses for the early muzzleloader season may not obtain paid antlerless licenses for the first or second regular gun season.

ITEM 7. Rescind and reserve subrule **106.6(4)**.

ITEM 8. Amend subrule 106.6(6) as follows:

106.6(6) Antlerless-deer-only licenses. Paid antlerless-deer-only licenses will be available by county for the ~~2013~~ 2014 deer season as follows:

County	Quota	County	Quota	County	Quota
Adair	2400 <u>1025</u>	Floyd	0	Monona	2500 <u>850</u>
Adams	1950 <u>1450</u>	Franklin	0	Monroe	3000 <u>1950</u>
Allamakee	4500 <u>2975</u>	Fremont	600 <u>525</u>	Montgomery	1050 <u>750</u>
Appanoose	3300 <u>2200</u>	Greene	450 <u>0</u>	Muscatine	1175 <u>775</u>
Audubon	400 <u>0</u>	Grundy	0	O'Brien	0
Benton	650 <u>325</u>	Guthrie	3300 <u>1950</u>	Osceola	0
Black Hawk	0	Hamilton	400 <u>0</u>	Page	950 <u>750</u>
Boone	650 <u>450</u>	Hancock	0	Palo Alto	0
Bremer	1000 <u>650</u>	Hardin	200 <u>0</u>	Plymouth	400 <u>0</u>
Buchanan	250 <u>200</u>	Harrison	2500 <u>850</u>	Pocahontas	0
Buena Vista	0	Henry	1025 <u>925</u>	Polk	1500 <u>1350</u>
Butler	0	Howard	350 <u>200</u>	Pottawattamie	1300 <u>850</u>
Calhoun	0	Humboldt	0	Poweshiek	500 <u>300</u>
Carroll	400 <u>0</u>	Ida	0	Ringgold	2600 <u>2200</u>
Cass	550 <u>400</u>	Iowa	775 <u>450</u>	Sac	0
Cedar	1025 <u>775</u>	Jackson	1250 <u>675</u>	Scott	500 <u>200</u>
Cerro Gordo	0	Jasper	1700 <u>775</u>	Shelby	400 <u>225</u>
Cherokee	0	Jefferson	2150 <u>1650</u>	Sioux	0
Chickasaw	450 <u>375</u>	Johnson	1400 <u>850</u>	Story	500 <u>150</u>
Clarke	2500 <u>2100</u>	Jones	975 <u>525</u>	Tama	500 <u>200</u>
Clay	0	Keokuk	1900 <u>450</u>	Taylor	2650 <u>2200</u>
Clayton	3200 <u>2775</u>	Kossuth	0	Union	2100 <u>1500</u>
Clinton	825 <u>400</u>	Lee	1400 <u>1275</u>	Van Buren	5400 <u>3800</u>
Crawford	300 <u>150</u>	Linn	1300 <u>850</u>	Wapello	2150 <u>1825</u>
Dallas	2700 <u>1875</u>	Louisa	850 <u>775</u>	Warren	4200 <u>2200</u>
Davis	3600 <u>2800</u>	Lucas	2800 <u>2200</u>	Washington	2250 <u>750</u>
Decatur	2800 <u>2200</u>	Lyon	0	Wayne	3000 <u>2200</u>
Delaware	975 <u>525</u>	Madison	4000 <u>2100</u>	Webster	400 <u>0</u>
Des Moines	900 <u>800</u>	Mahaska	1350 <u>475</u>	Winnebago	0
Dickinson	0	Marion	2250 <u>1650</u>	Winneshiek	3500 <u>1975</u>
Dubuque	1375 <u>725</u>	Marshall	500 <u>150</u>	Woodbury	2500 <u>850</u>
Emmet	0	Mills	950 <u>750</u>	Worth	0
Fayette	1650 <u>1500</u>	Mitchell	0	Wright	0

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 9. Rescind and reserve subrule **106.7(5)**.

ITEM 10. Amend subrule 106.10(1) as follows:

106.10(1) Licenses.

a. Youth deer hunt. A youth deer license may be issued to any Iowa resident who is not over 15 years old on the day the youth obtains the license. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free ~~any-deer~~ regular deer license for which the youth's family is eligible.

Each participating youth must be accompanied by an adult who possesses a regular hunting license and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). Only one adult may participate for each youth hunter. The accompanying adult must not possess a firearm or bow and must be in the direct company of the youth at all times.

A person may obtain only one youth ~~any-deer~~ regular deer license but may also obtain any other paid or free ~~any-deer~~ regular deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only licenses must be obtained in the same manner with which other hunters obtain them, as described in 106.6(2).

b. Severely disabled hunt. Any severely disabled Iowa resident meeting the requirements of Iowa Code section 321L.1(8) may be issued one ~~any-deer~~ regular deer license to hunt deer during the youth season. A person applying for this license must either possess a disability parking permit or provide a completed form from the department of natural resources. The form must be signed by a physician verifying that the person's disability meets the criteria defined in Iowa Code section 321L.1(8). Forms are available online at ~~www.iowadnr.com~~ www.iowadnr.gov, by visiting the DNR ~~central office~~ offices at the Wallace State Office Building or any district office, or by calling (515)281-5918. A person between 16 and 65 years of age must also possess a regular hunting license and have paid the habitat fee to obtain a license (if normally required to have a hunting license and to pay the habitat fee to hunt). A severely disabled person obtaining this license may obtain any other paid and free ~~any-deer~~ regular deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only licenses must be obtained in the same manner by which other hunters obtain them, as described in 106.6(2).

ARC 1471C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 136A.8, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

The proposed amendments add the newborn hearing screening program, Iowa Early Hearing Detection and Intervention, to the purview of the Center for Congenital and Inherited Disorders; describe the authority of the Department to collect, test, and store newborn screening specimens and conduct follow-up and quality assurance activities; include a new rule that describes newborn screening for critical congenital heart disease; define the time frame for retention of newborn screening data; describe ownership of the dried blood spot specimen; and amend a paragraph to require informed consent of the parent or guardian prior to the release of specimens for research use. Paragraph 4.6(3)"a" requiring the use of a sliding fee scale by the neuromuscular and related disorders program is rescinded.

These proposed amendments have been reviewed by the Congenital and Inherited Disorders Advisory Committee and interested individuals within the field.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Any interested person may make written comments or suggestions on the proposed amendments on or before June 17, 2014. Such written comments should be directed to Kimberly Noble Piper, State Genetics Coordinator, Center for Congenital and Inherited Disorders, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)725-1760. E-mail may be sent to kimberly.piper@idph.iowa.gov.

After analysis and review of this rule making, the impact on jobs is anticipated to be minimal.

These amendments are intended to implement Iowa Code chapter 136A and Iowa Code section 135.131.

The following amendments are proposed.

ITEM 1. Amend rule 641—4.1(136A), introductory paragraph, as follows:

641—4.1(136A) Program overview. The center for congenital and inherited disorders within the department of public health provides administrative oversight to the following: Iowa newborn screening program, ~~expanded maternal serum alpha-fetoprotein screening~~ Iowa maternal prenatal screening program, regional genetic consultation service, neuromuscular and related genetic disease program, ~~and~~ Iowa registry for congenital and inherited disorders, and Iowa early hearing detection and intervention program.

ITEM 2. Adopt the following **new** definitions of “Critical congenital heart disease,” “Newborn critical congenital heart disease (CCHD) screening” and “Early hearing detection and intervention program” in rule **641—4.2(136A)**:

“*Critical congenital heart disease*” or “*CCHD*” means the presence of one or more specific heart lesions: hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus.

“*Early hearing detection and intervention program*” means Iowa’s newborn hearing screening and follow-up program which ensures that all newborns and toddlers with hearing loss are identified as early as possible and provided with timely and appropriate audiological, educational and medical intervention and family support.

“*Newborn critical congenital heart disease (CCHD) screening*” means the screening of newborns for seven targeted heart conditions (hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus) using pulse oximetry to detect blood oxygen saturation levels.

ITEM 3. Amend rule **641—4.2(136A)**, definitions of “Committee” and “Primary health care provider,” as follows:

“*Committee*” means the center for congenital and inherited disorders advisory committee (CIDAC).

“*Primary health care provider*” means a licensed physician, physician assistant, nurse practitioner, or certified nurse midwife providing ongoing primary medical care to a patient.

ITEM 4. Adopt the following **new** paragraph **4.3(1)“d”**:

d. For purposes of newborn screening, the department shall collect newborn screening specimens and data, test the specimens for disorders on the universal screening panel, conduct follow-up on abnormal screening results, conduct quality improvement and quality assurance activities, and store specimens for a time period determined by policies established by the CIDAC and the department.

ITEM 5. Amend subrule 4.3(2), catchwords, as follows:

4.3(2) Neonatal metabolic Newborn blood spot screening procedure for facilities and providers.

ITEM 6. Amend paragraph **4.3(2)“b”** as follows:

b. Waiver Refusal. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant’s medical record, and the parent or guardian shall sign the refusal of screening waiver. The birthing facility or attending health care provider shall submit the signed refusal of screening waiver to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of dried blood spot collection forms.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 7. Amend paragraph **4.3(2)“e”** as follows:

e. ~~Waiver for the Refusal of release of residual specimens for research use.~~ The department shall establish policies and procedures, including a refusal for research ~~waiver~~ form, to allow a parent or guardian the ability to refuse the release of the newborn's residual newborn screening specimen for research purposes. The birthing facility or attending health care provider shall submit the signed refusal for research ~~waiver form~~ to the central laboratory pursuant to established policy and procedure.

ITEM 8. Amend paragraph **4.3(3)“b”** as follows:

b. Procedures for specimen collection for newborn blood spot screening shall be followed in accordance with 4.3(2).

ITEM 9. Amend paragraph **4.3(4)“e”** as follows:

e. Notification. The birthing facility shall report the newborn screening results to the health care provider who has undertaken ongoing primary pediatric care of the infant.

ITEM 10. Amend paragraph **4.3(6)“b”** as follows:

b. The follow-up programs shall submit a written annual report of the previous calendar year by July 1 of each year. The report shall include:

- (1) No change.
- (2) ~~Method and timing of referrals made to the follow-up programs~~ Number of confirmed cases receiving follow-up,
- ~~(3) Each individual's age at confirmation of disorder,~~
- ~~(4) Each individual's age when treatment began,~~
- ~~(5) Type of treatment for each individual with a disorder, and~~
- ~~(6)~~ (3) A written summary of educational and follow-up activities.

ITEM 11. Amend subrule 4.3(7), introductory paragraph, as follows:

4.3(7) *Sharing of information and confidentiality.* Reports, records, and other information collected by or provided to the Iowa newborn screening program relating to an infant's newborn screening results and follow-up information are confidential records pursuant to Iowa Code ~~section~~ sections 22.7 and 136A.7. INSP data shall be retained indefinitely.

ITEM 12. Amend subparagraph **4.3(7)“b”(1)** as follows:

- (1) The parent or guardian of an infant or child or the adult individual for whom the report is made.

ITEM 13. Amend paragraph **4.3(8)“a,”** introductory paragraph, as follows:

a. A newborn screening specimen collection form consists of a filter paper containing the dried blood spots (DBS) specimen and the attached requisition that contains information about the infant and birthing facility or drawing laboratory. The DBS specimen can be separated from the information contained in the requisition form. The DBS specimen is the property of the newborn's parent or guardian until the child reaches 18 years of age, at which point the specimen becomes the property of the individual upon whom the screening was performed. The INSP is the custodian of the specimens and related data for purposes of newborn screening, quality improvement and quality assurance activities and may release residual specimens to researchers upon consent of the parent, guardian, or individual adult.

ITEM 14. Reletter paragraph **4.3(8)“b”** as **4.3(8)“c.”**

ITEM 15. Adopt the following new paragraph **4.3(8)“b”**:

b. The program shall not release a residual DBS specimen except to the following persons and entities:

- (1) The parent or guardian of the infant or the individual adult upon whom the screening was performed.
- (2) A health care provider, birthing facility, or submitting laboratory.
- (3) A medical examiner authorized to conduct an autopsy on a child or an investigation into the death of a child.
- (4) A researcher for research purposes, under the terms and conditions provided in this rule.
- (5) The newborn screening program, for operations as provided in this rule.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 16. Amend relettered paragraph **4.3(8)“c”** as follows:

c. Research use. A residual DBS specimen may be released for research purposes only if written consent has been received from a parent or guardian of the child, or the individual adult upon whom the screening was performed, and each of the following conditions is satisfied:

(1) ~~Investigators shall submit proposals to use residual DBS specimens to the center. Any intent to utilize information associated with~~ intended use of the requested specimens DBS as part of the research study must be clearly delineated in the proposal.

(2) Before research can commence, proposals shall be approved by the researcher's institutional review board, the congenital and inherited disorders advisory committee, and the department.

~~(3) Personally identifiable residual specimens or records shall not be disclosed without documentation of informed parental consent obtained by the researcher.~~

~~(4)~~ (3) Research on anonymized or identifiable residual DBS specimens shall be allowed only in instances where research would further: newborn screening activities; the health of an infant or child for whom no other specimens are available or readily attainable; ~~or~~ general medical knowledge for existing public health surveillance activities; public health purposes; or medical knowledge to advance the public health.

ITEM 17. Adopt the following **new** paragraphs **4.3(8)“d”** and **“e”**:

d. Newborn screening program operations. Residual DBS specimens may be used for activities, testing, and procedures directly related to the operation of the newborn screening program, including confirmatory testing, laboratory quality control assurance and improvement, calibration of equipment, evaluation and improvement of the accuracy of newborn screening tests, and validation of equipment and screening methods.

e. Prohibited uses. A residual DBS specimen shall not be released to any person or entity for commercial purposes or law enforcement purposes or to establish a database or repository for forensic identification.

ITEM 18. Renumber subrules **4.3(9)** and **4.3(10)** as **4.3(10)** and **4.3(11)**.

ITEM 19. Adopt the following **new** subrule 4.3(9):

4.3(9) *Newborn screening for critical congenital heart disease.* The purpose of newborn screening for CCHD is to identify newborns with structural heart defects usually associated with hypoxia in the newborn period which could have significant morbidity or mortality early in life with the closing of the ductus arteriosus or other physiological changes early in life. Screening for CCHD is through the use of pulse oximetry monitoring. All newborns and infants born in Iowa shall receive newborn screening for CCHD.

a. Newborn CCHD screening procedure for providers and facilities.

(1) Educating parent or guardian. Before pulse oximetry on an infant is conducted, a parent or guardian shall be informed of the type of screening, how it is performed, the nature of the disorders for which the infant is being screened, and the follow-up procedure for an abnormal screen result.

(2) Refusal. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of dried blood spot collection forms.

b. Newborn CCHD screening using pulse oximetry method for newborns in low-risk or intermediate nurseries or out-of-hospital births.

(1) Screening should not begin until the newborn is at least 24 hours of age, or as late as possible if earlier discharge is planned, and should be completed on the second day of life.

(2) Screening shall be conducted using pulse oximeters that are motion tolerant; report functional oxygen saturation; have been validated in low-perfusion conditions; have been cleared by the Food and Drug Administration (FDA) for use on newborns; and have a 2 percent root-mean-square accuracy.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Disposable or reusable probes may be used. Reusable probes must be appropriately cleaned between uses according to manufacturer's instructions.

(3) Newborn CCHD screening shall be conducted in accordance with the most recently published guidelines, algorithms, and protocols from the American Academy of Pediatrics (AAP) or the department. Materials are available on the CCID web page at http://idph.state.ia.us/genetics/newborn_screening.asp.

c. Newborn CCHD screening using pulse oximetry method for high-risk newborns in neonatal intensive care settings (NICU). Until such time that an evidence-based protocol for CCHD screening in infants discharged from the NICU is available, the attending health care provider shall conduct a comprehensive examination of the newborn, including pulse oximetry, to screen the infant for CCHD prior to discharge.

d. Primary health care provider responsibility. The health care provider shall ensure that infants under the provider's care are screened and the results are communicated to the parent or guardian.

e. Reporting results of newborn CCHD screening. When a newborn CCHD reporting system is established by the department, providers and birth facilities shall report newborn CCHD screening information in accordance with department policy.

ITEM 20. Amend subrule 4.6(3) as follows:

4.6(3) Patient fees.

a. ~~A sliding fee scale for specialty genetic provider services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.~~

b. ~~Families/clients seen in neuromuscular outreach clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the neuromuscular outreach clinics.~~

e. The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

ITEM 21. Adopt the following **new** rule 641—4.8(135):

641—4.8(135) Iowa's early hearing detection and intervention program. The goal of universal hearing screening of all newborns and infants in Iowa is the early detection of hearing loss to allow children and their families the earliest possible opportunity to obtain appropriate early intervention services. All newborns and infants born in Iowa, except those born with a condition that is incompatible with life, shall be screened for hearing loss. Early hearing detection and intervention programming and services will be provided pursuant to 641—Chapter 3.

ARC 1470C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 38, “General Provisions for Radiation Machines and Radioactive Materials,” Chapter 39, “Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials,” Chapter 40, “Standards for Protection Against Radiation,” Chapter 41, “Safety Requirements for the Use of Radiation Machines

PUBLIC HEALTH DEPARTMENT[641](cont'd)

and Certain Uses of Radioactive Materials,” and Chapter 45, “Radiation Safety Requirements for Industrial Radiographic Operations,” Iowa Administrative Code.

The following paragraphs summarize the changes:

Items 1, 33, 43, 45 and 59 amend rules to reflect current federal regulations.

Items 42, 46, 52, 56, 57 and 61 amend rules to correct errors discovered by staff.

Items 47, 48, 49, 50, 51, 53, 54, 55, and 58 amend rules to reduce the regulatory burden on licensees.

The remaining items amend rules to meet U.S. Nuclear Regulatory Commission (USNRC) compatibility requirements pursuant to the stipulations of the state of Iowa’s status as a USNRC agreement state.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 17, 2014. Such written materials should be directed to Chief of Bureau of Radiological Health, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)281-4529; or e-mail angela.leek@idph.iowa.gov.

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

These amendments are intended to implement Iowa Code chapter 136C.

The following amendments are proposed.

ITEM 1. Amend subrule 38.1(2) as follows:

38.1(2) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of September 15, 2010 [effective date of these amendments].

ITEM 2. Amend rule **641—38.2(136C)**, definition of “Unrefined and unprocessed ore,” as follows: “Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

ITEM 3. Amend paragraph **39.4(2)“c,”** introductory paragraph, as follows:

c. Any person is exempt from the requirements for a license set forth in this chapter and from the rules in this chapter and 641—Chapter 40 to the extent that such person receives, possesses, uses, or transfers:

ITEM 4. Amend subparagraph **39.4(2)“c”(2)** as follows:

(2) Source material contained in the following products:

1. Glazed ceramic tableware manufactured before [effective date of these amendments], provided that the glaze contains not more than 20 percent by weight source material,

2. Glassware containing not more than ~~40~~ 2 percent by weight source material or, for glassware manufactured before [effective date of these amendments], 10 percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction,

3. and 4. No change.

ITEM 5. Rescind and reserve numbered paragraph **39.4(2)“c”(5)“1.”**

ITEM 6. Amend subparagraph **39.4(2)“c”(7)** as follows:

(7) Thorium or uranium contained in or on finished optical lenses and mirrors, provided that each lens or mirror does not contain more than ~~30~~ 10 percent by weight of thorium or uranium or, for lenses manufactured before [effective date of these amendments], 30 percent by weight of thorium; and that this exemption ~~shall~~ does not be deemed to authorize either:

1. The shaping, grinding, or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror, or

2. The receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 7. Rescind and reserve subparagraph **39.4(2)“c”(8)**.

ITEM 8. Adopt the following **new** paragraph **39.4(2)“f”**:

f. No person may initially transfer for sale or distribution a product containing source material to persons exempt under these rules, or equivalent regulations of an agreement state or the Nuclear Regulatory Commission, unless authorized by a license issued under 10 CFR 40.52 to initially transfer such products for sale or distribution.

(1) Persons initially transferring for sale or distributing source material in products covered by the exemptions in these rules before [effective date of these amendments] without specific authorization may continue such distribution for one year beyond this date. Initial distribution may also be continued until the Nuclear Regulatory Commission takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than one year beyond this date.

(2) Persons authorized to manufacture, process, or produce these materials or products containing source material by the agency, an agreement state, or the Nuclear Regulatory Commission, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under 10 CFR 40.52 for distribution only and are exempt from the requirements of 641—Chapter 40 and 39.4(25)“a” and “b.”

ITEM 9. Amend subparagraph **39.4(3)“c”(2)** as follows:

(2) Self-luminous products containing radioactive material.

1. Tritium, krypton-85, or promethium-147. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, any person is exempt from these rules to the extent that such person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.22 of 10 CFR Part 32, which license authorizes the initial transfer of the product for use under these rules. Any person who desires to manufacture, process, or produce or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, ~~or to transfer such products~~ for use according to this paragraph, shall apply for a license ~~which states that the product may be transferred by the licensee to persons exempt from this paragraph~~ under 10 CFR 32.22 and for a certificate of registration in accordance with 10 CFR 32.210. The exemption in 39.4(3)“c”(2) does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

2. No change.

ITEM 10. Amend subparagraph **39.4(3)“c”(3)** as follows:

(3) Gas and aerosol detectors containing radioactive material.

1. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the requirements for a license set forth in this chapter and from the requirements contained in 641—Chapters 38, 40, and 41 to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life health, safety or property ~~from fires and airborne hazards~~ and manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.26 of 10 CFR Part 32, ~~or a licensing state pursuant to 39.4(29)“e,”~~ which license authorizes the initial transfer of the product for use under this rule. This exemption also covers gas and aerosol detectors manufactured or distributed before November 20, 2007, in accordance with a specific license issued by a state under comparable provisions to 10 CFR 32.26 authorizing distribution to persons exempt from regulatory requirements.

~~2. Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an agreement state shall be considered exempt under 39.4(3)“c”(3)“1,” provided that the device is labeled in accordance with the specific license authorizing~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~distribution of the generally licensed device, and provided further that they meet the requirements of 39.4(29)“e.”~~

~~3. Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a licensing state shall be considered exempt under 39.4(3)“c”(3)“1,” provided that the device is labeled in accordance with the specific license authorizing distribution, and provided further that they meet the requirements of 39.4(29)“e.”~~

~~4. 2. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing radioactive material, or to initially transfer such products for use pursuant to 39.4(3)“c”(3)“1,” shall apply for a license which states that the product may be initially transferred by the licensee to persons exempt from these rules, the regulations of the U.S. Nuclear Regulatory Commission, or equivalent rules of an agreement state under 10 CFR 32.26 and for a certificate of registration in accordance with 10 CFR 32.210~~

ITEM 11. Adopt the following **new** subparagraph **39.4(3)“c”(4)**:

(4) 1. Static elimination devices which contain, as a sealed source or sources, by-product material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device.

2. Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, by-product material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.

3. Such devices authorized before [effective date of these amendments] for use under the general license that was provided in 39.4(22)“a” and equivalent regulations of an agreement state or the Nuclear Regulatory Commission and manufactured, tested and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the agency.

ITEM 12. Adopt the following **new** subparagraph **39.4(3)“c”(6)**:

(6) Certain industrial devices. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing radioactive material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in this chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.30, which license authorizes the initial transfer of the device for use under these rules. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources. Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing by-product material for use under these rules should apply for a license under 10 CFR 32.30 and for a certificate of registration in accordance with 10 CFR 32.210.

ITEM 13. Amend paragraph **39.4(21)“a”** as follows:

a. A general license is hereby issued authorizing commercial and industrial firms, research, educational and medical institutions, and federal, state and local government agencies to receive, possess, use and transfer not more than 15 pounds (6.82 kg) of source material at any one time uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes: in the following forms and quantities: A person authorized to use or transfer source material, pursuant to this general license, may not receive more than a total of 150 pounds (68.2 kg) of source material in any one calendar year.

(1) No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year. Persons possessing source material in excess of these limits as of [effective date of these amendments] may continue to

PUBLIC HEALTH DEPARTMENT[641](cont'd)

possess up to 7 kg (15.4 lb) of uranium and thorium at any one time for one year beyond this date, or until the agency takes final action on a pending application submitted on or before [date one year from effective date of these amendments] for a specific license for such material; and receive up to 70 kg (154 lb) of uranium or thorium in any one calendar year until [date of end of calendar year after effective date of these amendments], or until the agency takes final action on a pending application submitted on or before [date one year from effective date of these amendments] for a specific license for such material; and

(2) No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this paragraph unless it is accounted for under the limits of 39.4(21) "a"(1); or

(3) No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this paragraph; or

(4) No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.

ITEM 14. Amend paragraph **39.4(21)"b"** as follows:

~~b. Persons Any person who receive, possess, use, or transfer receives, possesses, uses, or transfers source material pursuant to in accordance with the general license issued in 39.4(21) "a" are exempt from the provisions of 641—Chapter 40 to the extent that such receipt, possession, use, or transfer is within the terms of such general license; provided, however, that this exemption shall not be deemed to apply to any such person who is also in possession of source material under a specific license issued pursuant to this chapter.~~

(1) Is prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the agency in a specific license.

(2) Shall not abandon such source material. Source material may be disposed of as follows:

1. A cumulative total of 0.5 kg (1.1 lb) of source material in a solid, nondispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to persons receiving the material for permanent disposal. The recipient of source material transferred under the provisions of this paragraph is exempt from the requirements to obtain a license under this chapter to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued under this chapter; or

2. In accordance with 641—40.70(136C).

(3) Is subject to the provisions in 641—38.4(136C), 641—38.9(136C), 39.4(21), 39.4(32) "a" through "d" and "f," 39.4(41), 39.4(51), 39.4(52), 641—40.95(136C), 641—40.96(136C), and 641—40.97(136C).

(4) Reserved.

(5) Shall not export such source material except in accordance with 10 CFR Part 110.

ITEM 15. Amend paragraph **39.4(21)"c"** as follows:

~~c. Persons who receive, possess, use, or transfer source material pursuant to the general license in 39.4(21) "a" are prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the agency in a specific license. Any person who receives, possesses, uses, or transfers source material in accordance with 39.4(21) "a" shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the agency about such contamination and may consult with the agency as to the appropriateness of sampling and restoration activities to ensure~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in 641—40.29(136C).

ITEM 16. Adopt the following **new** paragraph **39.4(21)“f”**:

f. Any person who receives, possesses, uses, or transfers source material in accordance with the general license granted in 39.4(21)“*a*” is exempt from the provisions of 641—Chapter 40 to the extent that such receipt, possession, use, and transfer are within the terms of this general license, except that such person shall comply with the provisions of 641—40.29(136C) and 641—40.70(136C) to the extent necessary to meet the provisions of 39.4(21)“*b*”(2) and 39.4(21)“*c*.” However, this exemption does not apply to any person who also holds a specific license issued under this chapter.

ITEM 17. Adopt the following **new** paragraph **39.4(21)“g”**:

g. No person may initially transfer or distribute source material to persons generally licensed under 39.4(21)“*a*”(1) and (2), or equivalent regulations of the Nuclear Regulatory Commission or an agreement state, unless authorized by a specific license issued in accordance with 39.4(39) or equivalent provisions of the Nuclear Regulatory Commission or an agreement state. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to persons generally licensed by 39.4(21)“*a*” before [effective date of these amendments] without specific authorization may continue for one year beyond this date. Distribution may also be continued until the agency takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or before [date one year from effective date of these amendments].

ITEM 18. Rescind and reserve paragraph **39.4(22)“a.”**

ITEM 19. Amend paragraph **39.4(24)“g”** as follows:

g. ~~An~~ (1) Except as provided in 39.4(24)“*g*”(2), (3), and (4), an application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source must either:

(1) 1. Identify the source or device by manufacturer and model number as registered with the Nuclear Regulatory Commission under 10 CFR 32.210 or with an agreement state, or for a source or a device containing radium-226 or accelerator-produced radioactive material as registered with a state under provisions comparable to 10 CFR 32.210; or

~~(2) 2.~~ 2. Contain the information identified in 10 CFR 32.210(c); ~~or,~~

~~(3) (2)~~ (2) For sources or devices ~~containing naturally occurring or accelerator-produced radioactive material~~ manufactured prior to November 30, 2007 [effective date of these amendments], that are not registered with the Nuclear Regulatory Commission under 10 CFR 32.210 or with an agreement state, and for which the applicant is unable to provide all the categories of information specified in 10 CFR 32.210(c), ~~the applicant must provide~~ application must include:

1. All available information identified in 10 CFR 32.210(c) concerning the source and, if applicable, the device; and

2. Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a current leak test.

(3) For sealed sources and devices allowed to be distributed without registration of safety information in accordance with 10 CFR 32.210(g)(1), the applicant may supply only the manufacturer, model number, and radionuclide and quantity.

(4) If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 20. Adopt the following **new** subparagraph **39.4(26)“c”(6)**:

(6) If, in surveys made under 641—subrule 40.36(1), residual radioactivity in the facility and the environment, including the subsurface, is detected at levels that would, if left uncorrected, prevent the site from meeting the 641—40.29(136C) criteria for unrestricted use, the licensee must submit a decommissioning funding plan within one year of when the survey is completed.

ITEM 21. Amend paragraph **39.4(26)“e”** as follows:

e. (1) Each decommissioning funding plan must be submitted for review and approval and must contain: a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from 39.4(26)“f,” including means of adjusting cost estimates and associated funding levels periodically over the life of the facility. Cost estimates must be adjusted at intervals not to exceed three years. The decommissioning funding plan must also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate and a signed original of the financial instrument obtained to satisfy the requirements of 39.4(26)“f.”

1. A detailed cost estimate for decommissioning, in an amount reflecting:

- The cost of an independent contractor to perform all decommissioning activities;
- The cost of meeting the 641—40.29(136C) criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of 641—40.30(136C), the cost estimate may be based on meeting the 641—40.30(136C) criteria;
- The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and
- An adequate contingency factor;

2. Identification of and justification for using the key assumptions contained in the decommissioning cost estimate (DCE);

3. A description of the method of assuring funds for decommissioning from 39.4(26)“f,” including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

4. A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

5. A signed original of the financial instrument obtained to satisfy the requirements of 39.4(26)“f” (unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning).

(2) At the time of license renewal and at intervals not to exceed three years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this cannot be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

1. Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;

2. Waste inventory increasing above the amount previously estimated;

3. Waste disposal costs increasing above the amount previously estimated;

4. Facility modifications;

5. Changes in authorized possession limits;

6. Actual remediation costs that exceed the previous cost estimate;

7. Onsite disposal; and

8. Use of a settling pond.

ITEM 22. Amend paragraph **39.4(26)“f,”** introductory paragraph, as follows:

f. The financial instrument must include the licensee’s name, license number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. The financial instrument submitted must be a signed original or signed original

PUBLIC HEALTH DEPARTMENT[641](cont'd)

duplicate, except where a copy of the signed original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:

ITEM 23. Amend subparagraph **39.4(29)“d”(1)** as follows:

(1) An application for a specific license to manufacture or initially transfer devices containing radioactive material, excluding special nuclear material, to persons generally licensed under 39.4(22) “d” or equivalent regulations of the NRC, an agreement state, or a licensing state will be approved if:

1. to 3. No change.

4. Each device having a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label containing the device model number and serial number, the isotope and quantity, the words “Caution—Radioactive Material,” the radiation symbol described in 641—subrule 40.60(1), and the name of the manufacturer or initial distributor; ~~and~~

5. Each device meeting the criteria of 39.4(22) “d”(3)“13” bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing if separable, or the device if the source housing is not separable, that includes the words, “Caution—Radioactive Material,” and, if practicable, the radiation symbol described in 641—subrule 40.60(1); ~~and~~

6. The device has been registered in the Sealed Source and Device Registry.

ITEM 24. Amend subparagraph **39.4(29)“e”(2)** as follows:

(2) The applicant satisfies the requirements of Sections 32.53, 32.54, 32.55, and 32.56, ~~and 32.104~~ of 10 CFR Part 32, or their equivalent.

ITEM 25. Amend subparagraphs **39.4(29)“f”(1)** and **(2)** as follows:

(1) The applicant satisfies the general requirements of 39.4(25); ~~and~~

(2) The applicant satisfies the requirements of Sections 32.57, 32.58, and 32.59 of 10 CFR Part 32, or their equivalent. ~~The applicant submits sufficient information regarding each type of calibration or reference source pertinent to evaluation of the potential radiation exposure, including:~~

1. ~~Chemical and physical form and maximum quantity of americium-241 or radium-226 in the source;~~

2. ~~Details of construction and design;~~

3. ~~Details of the method of incorporation and binding of the americium-241 or radium-226 in the source;~~

4. ~~Procedures for and the results of prototype testing of sources, which are designed to contain more than 0.005 microcuries of americium-241 or radium-226, to demonstrate that the americium-241 or radium-226 contained in each source will not be released or be removed from the source under normal conditions of use;~~

5. ~~Details of quality control procedures to be followed in the manufacture of the source;~~

6. ~~Description of labeling to be affixed to the source or storage container for the source;~~

7. ~~Any additional information, including experimental studies and tests, required by the agency to facilitate a determination of the safety of the source.~~

ITEM 26. Rescind subparagraphs **39.4(29)“f”(3)** to **(6)**.

ITEM 27. Amend paragraph **39.4(29)“i”** as follows:

~~i. Licensing the manufacture and distribution of ice detection devices. An application for a specific license to manufacture or initially transfer ice detection devices containing strontium-90 to persons generally licensed under 39.4(22) “j” will be approved if the applicant satisfies the general requirements of 39.4(25) and the criteria requirements of Sections 32.61, and 32.62, ~~and 32.103~~ of 10 CFR Part 32, or their equivalent.~~

ITEM 28. Amend paragraph **39.4(29)“l”** as follows:

~~l. Manufacture and distribution of sources or devices containing radioactive material for medical use.~~

(1) An application for a specific license to manufacture and distribute sources and devices containing radioactive material to persons licensed pursuant to 641—41.2(136C) for use as a calibration,

PUBLIC HEALTH DEPARTMENT[641](cont'd)

transmission, or reference source or for the uses listed in 641—subrules 41.2(41), 41.2(43), 41.2(49), and 41.2(88) will be approved if:

- ~~(1)~~ 1. The applicant satisfies the general requirements in 39.4(25);
- ~~(2)~~ 2. The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:
 - ~~1.~~ 1. The radioactive material contained, its chemical and physical form, and amount,
 - ~~2.~~ 2. Details of design and construction of the source or device,
 - ~~3.~~ 3. Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents,
 - ~~4.~~ 4. For devices containing radioactive material, the radiation profile of a prototype device,
 - ~~5.~~ 5. Details of quality control procedures to ensure that production sources and devices meet the standards of the design and prototype tests,
 - ~~6.~~ 6. Procedures and standards for calibrating sources and devices,
 - ~~7.~~ 7. Legend and methods for labeling sources and devices as to their radioactive content, and
 - ~~8.~~ 8. Instructions for handling and storing the source or device from the radiation safety standpoint.

These instructions are to be included on a durable label attached to the source or device or attached to a permanent storage container for the source or device, provided that instructions which are too lengthy for such label may be summarized on the label and printed in detail on a brochure which is referenced on the label;

- ~~(3)~~ 3. The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, and date of assay, and a statement that the NRC, agreement state, or this agency has approved distribution of the source or device to persons licensed to use by-product material identified in 641—41.2(136C) and 641—subrules 41.2(41) and 41.2(43), as appropriate, and to persons who hold an equivalent license issued by the NRC or an agreement state; and

4. The source or device has been registered in the Sealed Source and Device Registry.

- ~~(4)~~ (2) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months, the applicant shall include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and.

- ~~(5)~~ (3) In determining the acceptable interval for test of leakage of radioactive material, the agency will consider information that includes, but is not limited to:

1. to 10. No change.

ITEM 29. Amend paragraph **39.4(32)“b”** as follows:

b. No license issued or granted under this chapter and no right to possess or utilize radioactive material granted by any license issued pursuant to this chapter shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the agency shall, after securing full information, find that the transfer is in accordance with the provisions of the Iowa Code, now or hereafter in effect, and to all valid rules, regulations, and orders of the agency, and shall give its consent in writing. An application for transfer of license must include:

- (1) The identity and technical and financial qualifications of the proposed transferee; and
- (2) The financial assurance for decommissioning information required by 39.4(26).

ITEM 30. Amend subparagraph **39.4(32)“f”(2)** as follows:

(2) An entity (as that term is defined in 11 U.S.C. ~~401(14)~~ 101(15)) controlling the licensee or listing the license or licensee as property of the estate; or

ITEM 31. Adopt the following **new** subrule 39.4(39):

39.4(39) *Requirements for license to initially transfer source material for use under a general license.* An application for a specific license to initially transfer source material for use under 39.4(21),

PUBLIC HEALTH DEPARTMENT[641](cont'd)

or equivalent regulations of an agreement state or the Nuclear Regulatory Commission, will be approved if:

- a. The applicant satisfies the general requirements specified in 39.4(25); and
- b. The applicant submits adequate information on, and the agency approves the methods to be used for, quality control, labeling, and providing safety instructions to recipients.

ITEM 32. Adopt the following **new** subrule 39.4(40):

39.4(40) Conditions of licenses to initially transfer source material for use under general license: quality control, labeling, safety instructions, and records and reports.

a. Each person licensed under 39.4(39) shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words "radioactive material."

b. Each person licensed under 39.4(39) shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

c. Each person licensed under 39.4(39) shall provide the information specified in this paragraph to each person to whom source material is transferred for use under 39.4(21) or equivalent provisions in agreement state or Nuclear Regulatory Commission regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

(1) A copy of 39.4(21) and 39.4(41) or relevant equivalent regulations of the agreement state or Nuclear Regulatory Commission.

(2) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

d. Each person licensed under 39.4(39) shall report transfers as follows:

(1) File a report with the Iowa Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. The report shall include the following information:

1. The name, address, and license number of the person who transferred the source material;

2. For each general licensee under 39.4(21) or equivalent agreement state or Nuclear Regulatory Commission provisions to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name or position, or both, and telephone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

3. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.

(2) File a report with each responsible agreement state agency or the Nuclear Regulatory Commission that identifies all persons, operating under provisions equivalent to 39.4(21), to whom greater than 50 grams (0.11 lb) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to those transfers made to the agreement state or Nuclear Regulatory Commission jurisdiction:

1. The name, address, and license number of the person who transferred the source material; and

2. The name and address of the general licensee to whom source material was distributed; a responsible agent, by name or position, or both, and telephone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

3. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients within the agreement state or Nuclear Regulatory Commission jurisdiction.

(3) Submit each report by January 31 of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under 39.4(21) or equivalent agreement state or Nuclear Regulatory Commission provisions during the current period, a report shall be submitted to the agency indicating so. If no transfers have been made to general licensees in a particular agreement

PUBLIC HEALTH DEPARTMENT[641](cont'd)

state or Nuclear Regulatory Commission jurisdiction during the reporting period, this information shall be reported to the responsible agreement state agency or Nuclear Regulatory Commission upon request.

e. Each person licensed under 39.4(39) shall maintain all information that supports the reports required by these rules concerning each transfer to a general licensee for a period of one year after the event is included in a report to the agency, the Nuclear Regulatory Commission or to an agreement state agency.

ITEM 33. Amend subrule 40.1(5) as follows:

40.1(5) All references to any Code of Federal Regulations (CFR) in this chapter are those in effect ~~on or before September 15, 2010~~ as of [effective date of these amendments].

ITEM 34. Amend subrule 40.28(6) as follows:

40.28(6) Minimization of contamination. Applicants for licenses, other than renewals, after July 1, 1999, shall describe in the application how facility design and procedures for operation will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in 641—40.10(136C) and radiological criteria for license termination in 40.28(1) through 40.28(5).

ITEM 35. Amend paragraph **40.30(3)“a”** as follows:

a. Funds placed into ~~an account~~ a trust segregated from the licensee’s assets and outside the licensee’s administrative control ~~as described in 641—subparagraph 39.4(26)“f”(1) and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;~~

ITEM 36. Rescind and reserve paragraph **40.30(3)“b.”**

ITEM 37. Amend subrule 40.31(1) as follows:

40.31(1) The agency may terminate a license using alternate criteria greater than the dose criterion of 641—40.29(136C), 40.30(2) and 40.30(4)“a”(1) if the licensee:

a. and *b.* No change.

c. Reduces doses to ALARA levels taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal; ~~and~~

d. Has submitted a decommissioning plan or license termination plan (LTP) to the agency indicating the licensee’s intent to decommission in accordance with 641—paragraph 39.4(33)“d,” and specifying that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how the advice of individuals and institutions in the community, who may be affected by the decommissioning, has been sought and addressed, as appropriate, following analysis of that advice. In seeking such advice, the licensee shall provide for:

(1) and (2) No change.

(3) A publicly available summary of the results of all such discussions, including a description of the individual viewpoints of the participants on the issues and the extent of agreement and disagreement among the participants on the issues; and

e. Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.

ITEM 38. Amend paragraphs **40.32(1)“b”** and **“c”** as follows:

b. Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the agency, after evaluation of information specified by 641—subparagraphs 39.4(29)“l”(4)(2) and 39.4(29)“l”(5)(3) of these rules, an agreement state, a licensing state, or the U.S. Nuclear Regulatory Commission.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

c. Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the agency, after evaluation of information specified by 641—subparagraphs 39.4(29)“l”(4)(2) and 39.4(29)“l”(5)(3) of these rules, an agreement state, a licensing state, or the Nuclear Regulatory Commission.

ITEM 39. Amend subrule 40.36(1) as follows:

40.36(1) Each licensee or registrant shall make, or cause to be made, surveys of areas, including the subsurface, that:

a. No change.

b. Are necessary under the circumstances to evaluate:

(1) No change.

(2) Concentrations or quantities of ~~radioactive material~~ residual radioactivity; and

(3) The potential radiological hazards ~~that could be present~~ of the radiation levels and residual radioactivity detected.

ITEM 40. Renumber subrules **40.36(2)** to **40.36(5)** as **40.36(3)** to **40.36(6)**.

ITEM 41. Adopt the following new subrule 40.36(2):

40.36(2) Notwithstanding 641—40.82(136C), records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with 641—subrule 39.4(26) as applicable.

ITEM 42. Amend paragraph **40.37(1)“b”** as follows:

b. Minors likely to receive, in 1 year from sources external to the body, a deep dose equivalent in excess of 0.1 rem (1 mSv), a lens dose equivalent in excess of 0.15 rem (1.5 mSv), or a shallow dose equivalent to the skin or to the extremities in excess of 0.5 rem (5 mSv);

ITEM 43. Amend paragraph **41.1(1)“b”** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of July 9, 2008 [effective date of these amendments].

ITEM 44. Amend subparagraph **41.1(3)“a”(10)**, introductory paragraph, as follows:

(10) All individuals who are associated with the operation of an X-ray system are subject to the requirements of 641—subrule ~~40.36(3)~~ 40.36(4) and rules 641—40.15(136C) and 641—40.37(136C). In addition:

ITEM 45. Amend paragraph **41.2(1)“b”** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of September 15, 2010 [effective date of these amendments].

ITEM 46. Amend paragraphs **41.2(4)“b”** and **“c”** as follows:

b. Before permitting anyone, except a visiting authorized user or visiting authorized nuclear pharmacist described in 41.2(12), to work as an authorized user or authorized nuclear pharmacist under the license;

c. Before changing a radiation safety officer, ~~or~~ teletherapy physicist or authorized medical physicist;

ITEM 47. Rescind and reserve subparagraph **41.2(9)“a”(3)**.

ITEM 48. Amend subparagraphs **41.2(17)“b”(2)** and **(3)** as follows:

(2) Test each dose calibrator for accuracy upon installation and at 12-month intervals ~~not to exceed 12 months~~ thereafter by assaying at least two sealed sources containing different radionuclides, the activity of which the manufacturer has determined within 5 percent of the stated activity, with minimum activity of 10 microcuries (370 kBq) for radium-226 and 50 microcuries (1.85 MBq) for any other photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(3) Test each dose calibrator for linearity upon installation and at 3-month intervals ~~not to exceed three months~~ thereafter over the range of use between 30 microcuries (1.1 megabecquerels) and the highest dosage that will be administered; and

ITEM 49. Amend paragraphs **41.2(20)“a”** to **“d”** as follows:

a. Sealed sources manufactured and distributed by persons specifically licensed pursuant to 641—Chapter 39 or equivalent provisions of the U.S. Nuclear Regulatory Commission, agreement state or licensing state and that do not exceed ~~±5 30~~ millicuries (~~555 MBq 1.11 GBq~~) each;

b. Any radioactive material listed in 41.2(31) or 41.2(33) with a half-life of ~~400~~ 120 days or less in individual amounts not to exceed 15 millicuries (555 MBq);

c. Any radioactive material listed in 41.2(31) or 41.2(33) with a half-life greater than ~~400~~ 120 days in individual amounts not to exceed 200 microcuries (7.4 MBq) each; and

d. Technetium-99m in individual amounts ~~not to exceed 50 millicuries (1.85 GBq)~~ as needed.

ITEM 50. Amend paragraph **41.2(21)“d”** as follows:

d. A licensee shall retain leak test records for five years. The records shall contain the model number, and serial number, if assigned, of each source tested, the identity of each source radionuclide and its estimated activity, the measured activity of each test sample expressed in microcuries (becquerels), a description of the method used to measure each test sample, the date of the test, ~~and~~ the signature of the radiation safety officer and the signature of the individual performing the leak test.

ITEM 51. Amend paragraph **41.2(21)“g”** as follows:

g. A licensee in possession of a sealed source or brachytherapy source shall conduct a physical inventory of all such sources at 6-month intervals ~~not to exceed three months~~. The licensee shall retain each inventory record for five years. The inventory records shall contain the model number of each source, and serial number if one has been assigned, the identity of each source radionuclide and its estimated activity, the location of each source, date of the inventory, ~~and~~ the signature of the radiation safety officer and the signature of the individual performing the physical inventory.

ITEM 52. Amend subparagraph **41.2(34)“a”(2)** as follows:

(2) More than 0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride injection (0.02 kilobecquerel strontium-82 per megabecquerel rubidium-82 chloride); or more than ~~0.02~~ 0.2 microcurie of strontium-85 per millicurie of rubidium-82 chloride injection (~~0.02~~ 0.2 kilobecquerel strontium-85 per megabecquerel rubidium-82 chloride).

ITEM 53. Amend paragraph **41.2(38)“a”** as follows:

a. A licensee shall provide oral and written radiation safety instruction for all personnel caring for patients or human research subjects undergoing radiopharmaceutical therapy and hospitalized for compliance with 41.2(27). Refresher training shall be provided initially and at 12-month intervals ~~not to exceed one year~~ or as required for patient care.

ITEM 54. Rescind and reserve subparagraph **41.2(39)“a”(8)**.

ITEM 55. Amend paragraph **41.2(44)“a”** as follows:

a. The licensee shall provide oral and written radiation safety instruction to all personnel caring for a patient or human research subject receiving implant therapy. Refresher training shall be provided initially and at 12-month intervals ~~not to exceed one year~~ or as required for patient care.

ITEM 56. Adopt the following new subparagraph **41.3(6)“b”(5)**:

(5) Therapeutic medical physics; or

ITEM 57. Amend subrule 41.3(7) as follows:

41.3(7) Qualifications of operators. Individuals who will be operating a therapeutic radiation machine for medical use shall be adequately instructed in the safe operating procedures and hold a current permit to practice in radiation therapy as a radiation therapist under the provisions of 641—Chapter 42. The permit holder shall make the permit available at the individual's place of employment. If the permit holder works at more than one facility, a duplicate of the permit shall be kept at each facility.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 58. Amend subparagraph **41.3(18)“f”(6)** as follows:

(6) Therapeutic radiation machines subject to 41.3(18) shall have safety quality assurance checks of each external beam radiation therapy machine performed at intervals ~~not to exceed one week~~ recommended by the manufacturer;

ITEM 59. Amend paragraph **45.1(1)“b”** as follows:

b. All references to any Code of Federal Regulations (CFR) in this chapter are those in effect as of ~~September 15, 2010~~ [effective date of these amendments].

~~The provisions of 641—Chapter 38 are in addition to, and not in substitution for, any other applicable portions of 641—Chapters 39 to 45.~~

ITEM 60. Amend paragraph **45.1(5)“b,”** introductory paragraph, as follows:

b. Notwithstanding the requirements of 641—subrule ~~40.36(2)~~ 40.36(3) each radiation survey instrument shall be calibrated:

ITEM 61. Amend subparagraph **45.1(7)“a”(3)** as follows:

(3) The plant or site where each sealed source is used and the date of use; and

ITEM 62. Amend paragraph **45.3(4)“a”** as follows:

a. Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standard N432-1980₂ “Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography” (published as NBS Handbook 136, issued January 1981). This publication has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. This publication may be purchased from the American National Standards Institute, Inc., ~~1430 Broadway~~ 25 West 43rd Street, New York, New York ~~10018~~ 10036, telephone (212)642-4900. ~~Copies of the document are available for inspection at the Iowa Department of Public Health, Bureau of Radiological Health, Lucas State Office Building, Des Moines, Iowa 50319.~~

ARC 1469C

REVENUE DEPARTMENT[701]

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 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 5, “Public Records and Fair Information Practices,” Chapter 7, “Practice and Procedure Before the Department of Revenue,” Chapter 8, “Forms and Communications,” Chapter 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 86, “Inheritance Tax,” Chapter 87, “Iowa Estate Tax,” Chapter 88, “Generation Skipping Transfer Tax,” and Chapter 89, “Fiduciary Income Tax,” Iowa Administrative Code.

These amendments are proposed as a result of 2014 Iowa Acts, House File 2435.

Items 1 through 7, 14 through 29, and 33 amend various rules and subrules to eliminate references to the Iowa estate tax and generation skipping transfer tax related to the repeal of these taxes in 2014 Iowa Acts, House File 2435, section 25, applicability for which is set forth in Items 30, 31 and 32.

Items 8 and 9 amend paragraph 42.11(3)“d” and the implementation sentence for rule 701—42.11(15,422) to update the date for which Iowa is coupled with federal changes to the credit for

REVENUE DEPARTMENT[701](cont'd)

increasing research activities, which is the basis for the Iowa credit for increasing research activities for Iowa individual income tax.

Items 10, 11, 12 and 13 amend paragraphs 52.7(3)“d,” 52.7(5)“d,” and 52.7(6)“d” and the implementation sentence for rule 701—52.7(422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities, which is the basis for the Iowa credit for increasing research activities for Iowa corporation income tax. This change is similar to the change in Items 8 and 9.

Items 30 and 31 amend subrule 87.1(1) and rule 701—87.6(451) to state that the Iowa estate tax only applies for deaths occurring prior to January 1, 2005.

Item 32 amends 701—Chapter 88 by adding new rule 701—88.7(421) to state that the generation skipping transfer tax only applies for deaths occurring prior to January 1, 2005.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than June 30, 2014, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 17, 2014. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by June 17, 2014.

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

These amendments are intended to implement Iowa Code sections 15.335, 422.3, 422.10, 422.32 and 422.33 as amended by 2014 Iowa Acts, House File 2435, and 2014 Iowa Acts, House File 2435, section 25.

The following amendments are proposed.

ITEM 1. Amend paragraphs **5.13(2)“n”** and **“cc”** as follows:

n. Inheritance, ~~generation skipping transfer, tax and~~ qualified use inheritance ~~and estate tax returns, related~~ field and office audit systems, and related field collections system (Iowa Code ~~section~~ sections 450.68 and 450B.7).

cc. ~~Inheritance tax returns, estate tax returns, and generation skipping transfer tax returns (Iowa Code sections 450.68, 450A.12, 450B.7 and 451.12).~~

ITEM 2. Amend paragraph **5.14(6)“j”** as follows:

j. Inheritance, ~~generation skipping transfer, tax and~~ qualified use inheritance ~~and estate tax~~ systems, related field and office audit systems, and related field collections systems (Iowa Code sections 450.66, 450.67, 450.71, 450.81, 450.88, 450.94, 450.97, 450A.8, 450A.11, 450A.12, and 450B.7, 451.5, 451.11, and 451.12);

ITEM 3. Amend rule 701—7.1(421,17A) as follows:

701—7.1(421,17A) Applicability and scope of rules. These rules pertain to practice and procedure and are designed to implement the requirements of the Act and aid in the effective and efficient administration

REVENUE DEPARTMENT[701](cont'd)

and enforcement of the tax laws of this state and other activities of the department. These rules shall govern the practice, procedure and conduct of the informal proceedings, contested case proceedings, licensing, rule making, and declaratory orders involving taxation and other areas within the department's jurisdiction, which includes the following:

1. Sales and use tax—Iowa Code chapter 423;
2. Individual and fiduciary income tax—Iowa Code sections 422.4 to 422.31 and 422.110 to 422.112;
3. Franchise tax—Iowa Code sections 422.60 to 422.66;
4. Corporate income tax—Iowa Code sections 422.32 to 422.41 and 422.110 to 422.112;
5. Withholding tax—Iowa Code sections 422.16 and 422.17;
6. Estimated tax—Iowa Code sections 422.16, 422.17 and 422.85 to 422.92;
7. Motor fuel tax—Iowa Code chapter 452A;
8. Property tax—Iowa Code chapters 421, 425 to 428A and 433 to 441;
9. Cigarette and tobacco tax—Iowa Code chapters 421B and 453A;
10. Inheritance tax, ~~generation skipping transfer tax, and~~ qualified use inheritance tax ~~and estate tax~~—Iowa Code chapters 450, ~~450A, and~~ 450B and 451;
11. Local option taxes—Iowa Code chapter 423B;
12. Hotel and motel tax—Iowa Code chapter 423A;
13. Drug excise tax—Iowa Code chapter 453B;
14. Automobile rental excise tax—Iowa Code chapter 423C;
15. Environmental protection charge—Iowa Code chapter 424;
16. Replacement taxes—Iowa Code chapter 437A;
17. Statewide property tax—Iowa Code chapter 437A;
18. Equipment tax—Iowa Code chapter 423D;
19. Other taxes and activities as may be assigned to the department from time to time; and
20. The taxpayer's bill of rights—Iowa Code section 421.60.

As the purpose of these rules is to facilitate business and advance justice, any rule contained herein, pursuant to statutory authority, may be suspended or waived by the department to prevent undue hardship in any particular instance or to prevent surprise or injustice.

This rule is intended to implement Iowa Code chapter 17A.

ITEM 4. Amend rule **701—7.2(421,17A)**, definition of “Taxpayer’s representative,” as follows:

“*Taxpayer’s representative*” or “*authorized taxpayer’s representative*” means an individual authorized to practice before the department under rule 701—7.6(17A); an individual who has been named as an authorized representative on a fiduciary return of income form filed under Iowa Code section 422.14, or a tax return filed under Iowa Code chapter 450, “Inheritance Tax,” ~~chapter 450A,~~ “Generation Skipping Transfer Tax,” or ~~chapter 451, “Iowa Estate Tax” or chapter 450B, “Qualified Inheritance Tax”~~; or for proceedings before the department, any other individual the taxpayer designates who is named on a valid power of attorney if appearing on behalf of another.

ITEM 5. Amend subrules 7.34(5) and 7.34(10) as follows:

7.34(5) A power of attorney is not needed for individuals who have been named as an authorized representative on a fiduciary return of income filed under Iowa Code section 422.14 or a tax return filed under Iowa Code chapter 450, ~~450A or 451.~~

7.34(10) The department will not recognize as a valid power of attorney a power of attorney form attached to a tax return filed with the department except in the instance of a form attached to a fiduciary return of income form; or an inheritance tax return, generation skipping tax return, or estate tax return.

ITEM 6. Amend paragraphs **8.4(1)“q”** and **“r”** as follows:

q. Inheritance, ~~generation skipping transfer, and~~ qualified use inheritance, ~~and estate tax returns~~ systems have forms designed by the department. Approved substitute forms may be used.

r. Inheritance, ~~generation skipping transfer, and~~ qualified use inheritance ~~and estate tax field~~ and office audit systems; and related field collections systems have forms designed by the department. Approved substitute forms may be used.

REVENUE DEPARTMENT[701](cont'd)

ITEM 7. Amend subrule 10.1(3) as follows:

10.1(3) “*Taxes*” means all taxes and charges arising under Title X of the Iowa Code, which include but are not limited to individual income, withholding, corporate income, franchise, sales, use, hotel/motel, railroad fuel, equipment car, replacement tax, statewide property tax, motor vehicle fuel, and inheritance, estate and generation skipping transfer taxes and the environmental protection charge imposed upon petroleum diminution due and payable to the state of Iowa.

ITEM 8. Amend paragraph **42.11(3)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 42.11(3)“*b*” and the alternative simplified credit described in paragraph 42.11(3)“*c*,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240 2014.

ITEM 9. Amend rule **701—42.11(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15.335 and 422.10 as amended by 2013 2014 Iowa Acts, Senate House File 406 2435.

ITEM 10. Amend paragraph **52.7(3)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“*b*” and the alternative simplified credit described in paragraph 52.7(3)“*c*,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240 2014.

ITEM 11. Amend paragraph **52.7(5)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“*b*” and the alternative simplified credit described in paragraph 52.7(3)“*c*” of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240 2014.

ITEM 12. Amend paragraph **52.7(6)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative simplified credit described in paragraph 52.7(3)“*c*” of this rule, such amounts are limited to research activities conducted within the enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, 2013, and as amended by the American Taxpayer Relief Act of 2012, Public Law No. 112-240 2014.

ITEM 13. Amend rule **701—52.7(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 15.335 and 422.33 as amended by 2013 2014 Iowa Acts, Senate House File 406 2435.

ITEM 14. Amend subrule **86.1(1)**, definition of “Compliance division,” as follows:

“*Compliance division*” is the administrative unit of the department created by the director to administer the inheritance, ~~estate, generation skipping transfer,~~ and fiduciary income tax laws of the state.

REVENUE DEPARTMENT[701](cont'd)

ITEM 15. Amend paragraphs **86.3(6)“a”** and **“b”** as follows:

a. Statute of limitations and federal audits in general. In the case of a federal audit, the department, notwithstanding the normal three-year audit period specified in Iowa Code paragraphs 450.94(5) “a” and “b,” shall have an additional six-month period for examination of the inheritance tax return to determine the correct tax due and for making an assessment for additional tax that may be due.

The additional six-month period begins on the date the taxpayer performs two affirmative acts: (1) notifies the department, and the department receives such a notification, in writing, that all controversies with the Internal Revenue Service concerning the federal estate, federal gift, and federal generation skipping transfer taxes (for deaths occurring after December 31, 2004) have been concluded and (2) submits to the department a copy of the federal audit, closing statement, court decision, or any other relevant federal document concerning the concluded controversy. The additional six-month examination period does not begin until both of the acts are performed. See Iowa Code sections 622.105 and 622.106 for the mailing date as constituting the filing date and Iowa Code section 4.1(34) and *Emmetsburg Ready Mix Co. v. Norris*, 362 N.W.2d 498 (Iowa 1985) when the due date falls on a legal holiday.

b. Statute of limitations regarding federal audits involving real estate.

(1) In general. Effective for estates with decedents dying on or after July 1, 1999, in addition to the period of limitation for examination and determination, the department shall make an examination to adjust the value of real property for Iowa inheritance tax purposes to the value accepted by the Internal Revenue Service for federal estate tax purposes. The department shall have an additional six months to make an examination and adjustment for the value of the real property.

(2) Beginning of the additional six-month period. The additional six-month period for assessment and adjustment begins on the date the taxpayer performs two affirmative acts: (a) notifies the department, in writing, that all controversies with the Internal Revenue Service concerning the federal estate, federal gift, and federal generation skipping transfer taxes (for deaths occurring after December 31, 2004) have been concluded and (b) submits to the department a copy of the federal audit, closing statement, court decision, or any other relevant federal document. Such documents must indicate the final federal determination and final audit adjustments of all real property.

(3) Adjustment required. The department must make an adjustment to the value of real property for inheritance tax purposes to the value accepted for federal estate tax purposes regardless of whether any of the following have occurred: an inheritance tax clearance has been issued; an appraisal has been obtained on the real property indicating a contrary value; there has been an acceptance of another value for real property by the department; an agreement has been entered into by the department and the personal representative for the estate and persons having an interest in the real property regarding the value of the real property.

(4) Refunds. Despite the time period for refunds set forth in Iowa Code section 450.94(3), the personal representative for the estate has six months from the day of final disposition of any real property valuation matter between the personal representative for the estate and the Internal Revenue Service to claim a refund from the department of an overpayment of tax due to the change in the valuation of real property by the Internal Revenue Service.

ITEM 16. Amend rule **701—86.3(450)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.25₂ and 422.30₂ ~~÷ section 450.37₂~~, as amended by 1999 Iowa Acts, chapter 151, section 47; and Iowa Code sections 450.53, 450.65, 450.71, and 450.94, 450A.12 and 451.12.

ITEM 17. Amend paragraph **86.6(1)“f”** as follows:

f. Federal taxes. Deductible under this category are the federal estate taxes and federal taxes owing by the decedent including any penalty and interest accrued to the date of death. Prior to 1983, the federal estate tax was prorated based on the portion of federal estate tax attributable to Iowa property and that attributable to property located outside the state of Iowa. However, currently the deductibility of federal estate tax is treated like other liabilities of the estate. For estates with property located in Iowa and outside the state of Iowa, see the proration computation provided in 86.6(2). The deduction is

REVENUE DEPARTMENT[701](cont'd)

limited to the net federal tax owing after all allowable credits, ~~such as the federal credit for state death taxes paid~~, have been subtracted. Any penalty and interest imposed or accruing on federal taxes after the decedent's death is not deductible.

ITEM 18. Amend paragraph **86.8(7)“c”** as follows:

c. Interplay of the additional inheritance tax with the Iowa estate tax for deaths occurring prior to January 1, 2005. In the event of an early disposition or cessation of the qualified use of the specially valued real estate, the federal estate tax is recomputed with a corresponding recomputation of the credit allowable under 26 U.S.C. Section 2011 for state death taxes paid. If the maximum allowable credit for state death taxes paid as recomputed is greater than the total inheritance tax obligation on all of the shares of the estate, including the shares which have not been revalued, the amount of the maximum credit for state death taxes paid is the additional tax. ~~See Iowa Code section 451.2.~~

ITEM 19. Amend subrule 86.8(9) as follows:

86.8(9) Due date for paying the additional inheritance tax. The additional inheritance ~~or Iowa estate~~ tax imposed by Iowa Code section 450B.3 ~~or 451.2~~ and the return for the additional tax is due six months after the early disposition or cessation of the qualified use of the real estate specially valued.

ITEM 20. Amend subrule 86.8(10) as follows:

86.8(10) No extension of time to file or pay. Iowa Code chapter 450B makes no provision for an extension of time to file the return for the additional tax and pay the additional inheritance tax ~~or Iowa estate tax~~ due. Therefore, if the return for the additional tax is not filed or the additional inheritance ~~or Iowa estate~~ tax is not paid within six months after the early disposition or cessation of the qualified use, the return or the tax is delinquent and subject to penalty under subrule 86.8(13).

ITEM 21. Amend subrule 86.8(11) as follows:

86.8(11) Interest on additional tax. The additional inheritance ~~or Iowa estate~~ tax imposed under Iowa Code section 450B.3 ~~or 451.2~~ accrues interest at the rate of 10 percent per annum until paid commencing the last day of the ninth month after the decedent's death. The variable prime interest rate made applicable to inheritance tax by 1981 Iowa Acts, chapter 131, sections 15 and 16, on real estate not specially valued, does not apply to interest due on the additional tax imposed by Iowa Code section 450B.3 ~~or 451.2~~. In addition, the federal rule that interest only accrues on the additional federal estate tax when an election is made under 26 U.S.C. Section 1016(c) to increase the basis for gain or loss on the real estate no longer eligible to be specially valued, has no application to Iowa special use valuation. In this respect the Iowa law does not conform to the federal statute.

ITEM 22. Amend subrule 86.8(12) as follows:

86.8(12) Receipt for additional tax. The receipt for the additional tax imposed by Iowa Code section 450B.3 ~~or 451.2~~, is separate and distinct from the receipt for inheritance tax required by Iowa Code section 450.64. The receipt must identify the property which was the subject of the early disposition or cessation of the qualified use, the owners of the property, the qualified heir, the amount paid and whether the additional tax paid is for a partial or full disposition or cessation of the qualified use.

ITEM 23. Amend subrule 86.8(13) as follows:

86.8(13) Penalty for failure to file or failure to pay. Department rules 701—Chapter 10, pertaining to the penalty for failure to timely file the return or to pay the inheritance tax imposed by Iowa Code chapter 450, also apply where there is a failure to timely file the return reporting the additional inheritance ~~or Iowa estate~~ tax or to pay the additional tax due imposed by Iowa Code section 450B.3 ~~or 451.2~~.

ITEM 24. Amend paragraph **86.8(14)“b”** as follows:

b. Liability for payment of the tax. The qualified heir or the heir's successor is personally liable for all the additional inheritance ~~or Iowa estate~~ tax imposed under Iowa Code section 450B.3 ~~or 451.2~~. It is the qualified heir's duty to collect the additional Iowa inheritance ~~or Iowa estate~~ tax from each person whose share was revalued. In respect to the additional tax, the duty of the qualified heir is the same as the duty of the fiduciary of an estate or trust under Iowa Code section 450.5, for the regular inheritance ~~or Iowa estate~~ tax. See subrule 86.2(1) regarding the responsibility of the fiduciary of an estate or trust.

REVENUE DEPARTMENT[701](cont'd)

While the qualified heir is primarily liable for the payment of all of the additional tax, each person who has an interest in the real estate no longer eligible to be specially valued is also liable under the agreement provided for in 86.8(5) "e" for additional tax on that person's revalued share. Therefore, if the qualified heir fails to pay ~~the additional Iowa estate tax~~ or the additional tax imposed on any revalued share, the department may proceed to collect the delinquent tax from the person who received the share. The liability for the additional tax due from each person who had an interest in the revalued real estate is the same as the liability for the inheritance tax on property not specially valued. See *Eddy v. Short*, 190 Iowa 1376, 1380, 1832, 179 N.W. 818 (1920); *In re Estate of Stone*, 132 Iowa 136, 109 N.W. 455 (1906).

ITEM 25. Amend subrule 86.8(15) as follows:

86.8(15) Special lien for additional inheritance tax.

a. *In general.* The special lien created by Iowa Code section 450B.6 is separate and distinct from the lien provided for in Iowa Code section 450.7, for the inheritance tax imposed at the time of the decedent's death. The special lien is to secure any additional inheritance ~~or Iowa estate~~ tax that may be due within the ten-year period after the decedent's death, should there be an early disposition or cessation of the qualified use. The inheritance tax lien provided for in Iowa Code section 450.7 is only to secure the tax imposed at the time of the decedent's death on the transfer of property including property that is specially valued. If an additional tax is imposed for the early disposition or cessation of the qualified use, it is secured by the lien created by Iowa Code section 450B.6.

b. *Form of the notice of the special lien.* The notice of the special lien for additional inheritance ~~or Iowa estate~~ tax created by Iowa Code section 450B.6 must conform as nearly as possible to the special use valuation lien provided for in 26 U.S.C. Section 6324B.

c. *Notice of lien.* Unlike the lien provided for in Iowa Code section 450.7, notice of the special lien for additional inheritance ~~or Iowa estate~~ tax must be recorded before it has priority over subsequent mortgagees, purchasers or judgment creditors. The special lien is perfected by recording the notice of the special lien in the recorder's office in the county where the estate is being probated (even though the real estate may be located in a different county). Failure to perfect the special lien by recording as provided for in Iowa Code section 450B.6 divests the qualified real property from the lien in the event of a sale to a bona fide purchaser for value.

d. *Duration of the special lien.* The special lien continues:

- (1) Until the additional inheritance ~~or Iowa estate~~ tax is paid, or ten years after the date the additional tax is due, whichever first occurs, if there is an early disposition or cessation of the qualified use, or
- (2) For ten years after the decedent's death on all other property which has been specially valued.

e. *Release of the lien.* The special lien for additional inheritance tax:

- (1) May be released at any time in whole or in part upon adequate security being given to secure the additional tax that may be due, if any.
- (2) Is released by payment of the additional inheritance ~~or Iowa estate~~ tax imposed by Iowa Code section 450B.3 ~~or 451.2~~, on the property which was the subject of an early disposition or cessation of the qualified use.
- (3) Is released when it becomes unenforceable by reason of lapse of time.

f. *Application to release the lien.* Ten years after the decedent's death, unless there is an additional tax remaining unpaid, the qualified heir may submit to the department an application in writing for release of the lien on the real estate specially valued. The application must contain information necessary to enable the department to determine whether or not the special use valuation lien should be released. Supporting documentation may include a copy of the federal release. If, after audit of the application, it is determined the real estate remained eligible for special valuation, the department will release the lien.

ITEM 26. Amend subrule 86.8(17) as follows:

86.8(17) Audits, assessments and refunds. Subrules 86.3(1) to 86.3(3) providing for the audit, assessment and refund of the inheritance tax imposed by Iowa Code sections 450.2 and 450.3, shall also be the rules for the audit, assessment and refund of the additional inheritance ~~or Iowa estate~~ tax imposed by Iowa Code section 450B.3 ~~or 451.2~~.

REVENUE DEPARTMENT[701](cont'd)

ITEM 27. Amend subrule 86.8(18) as follows:

86.8(18) Appeals. Rule 86.4(450) providing for an appeal to the director and a subsequent appeal to district court under the Iowa administrative procedure Act for disputes involving the inheritance tax imposed by Iowa Code chapter 450 shall also be the rule for appeal for disputes concerning special use valuation and the additional inheritance or Iowa estate tax imposed by Iowa Code chapters chapter 450B and 451.

ITEM 28. Amend rule **701—86.8(450B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 450B.1 to 450B.7 ~~and 451.2.~~

ITEM 29. Amend rule 701—86.15(450) as follows:

701—86.15(450) Applicability. Any references made within Chapter 86 of these rules to Iowa Code chapter 451, Iowa Estate Tax; and to Chapter 87 of these rules, “Iowa Estate Tax;” are applicable only for deaths that occurred prior to ~~July 1, 2008~~ January 1, 2005.

This rule is intended to implement ~~2008~~ 2014 Iowa Acts, ~~Senate House File 2350~~ 2435, section 37 25.

ITEM 30. Amend subrule 87.1(1) as follows:

87.1(1) Applicability. This chapter is applicable only for dates of death occurring prior to ~~July 1, 2008~~ January 1, 2005.

ITEM 31. Amend rule 701—87.6(451) as follows:

701—87.6(451) Applicable rules. Unless otherwise provided in this chapter, the rules found in 701—Chapter 86 apply to the administration of estate tax including, but not limited to, rules regarding statutes of limitations provided, however, that the estate tax is applicable only to deaths occurring prior to ~~July 1, 2008~~ January 1, 2005.

This rule is intended to implement Iowa Code chapter 17A, and section 450.94, and ~~2008~~ 2014 Iowa Acts, ~~Senate House File 2350~~ 2435, section 37 25.

ITEM 32. Adopt the following **new** rule 701—88.7(421):

701—88.7(421) Applicability. This chapter is applicable only for dates of death occurring prior to January 1, 2005.

This rule is intended to implement 2014 Iowa Acts, House File 2435, section 25.

ITEM 33. Amend subrule **89.1(1)**, definition of “Compliance division,” as follows:

“*Compliance division*” is the organizational unit of the department created by the director to administer the inheritance, ~~estate, generation-skipping transfer,~~ and fiduciary income tax laws.

ARC 1473C

SECRETARY OF STATE[721]

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 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These amendments are necessitated by the passage of 2014 Iowa Acts, House File 2366. The bill was signed into law by Governor Branstad on April 25, 2014, necessitating amendments to a number

SECRETARY OF STATE[721](cont'd)

of existing administrative rules implementing sections of the Iowa Code that have been amended by this legislation. The statutory changes which necessitate these amendments include allowing county commissioners to use one envelope as a combined absentee ballot return envelope and affidavit envelope, eliminating the requirement for a voter to list a party affiliation on a primary election absentee ballot affidavit envelope, and changing the deadline by which a county commissioner must receive an absentee ballot to review the envelope marked with the affidavit for completeness.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 17, 2014, by contacting Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-0145 or in person at the Secretary of State's office on the first floor of the Lucas State Office Building.

Requests for a public hearing must be received by June 17, 2014.

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

These amendments are intended to implement Iowa Code chapter 53 as amended by 2014 Iowa Acts, House File 2366.

The following amendments are proposed.

ITEM 1. Amend subparagraph **21.320(3)“b”(3)** as follows:

(3) The ~~affidavit envelope~~ affidavit form, which can be printed by the voter on an envelope and used for the voter's declaration of eligibility and voter registration application, if necessary.

ITEM 2. Amend rule 721—21.352(53) as follows:

721—21.352(53) Review of returned affidavit envelopes marked with affidavits.

21.352(1) Personnel. The commissioner may assign staff members to complete the review of returned ~~affidavit envelopes~~ marked with affidavits. Only persons who have been trained for this responsibility shall be authorized to review ~~affidavit envelopes~~ marked with affidavits.

21.352(2) ~~Affidavit envelopes reviewed~~ Review of envelopes marked with affidavits. The ~~affidavit envelopes~~ marked with affidavits of all absentee ballots returned to the commissioner's office shall be reviewed, including those ~~of ballots~~ returned by the bipartisan team delivering absentee ballots to health care facilities, such as hospitals and nursing homes. If a reviewer finds that any absentee affidavits returned from any health care facility are incomplete or defective, the commissioner shall send the bipartisan delivery team back to assist voters as needed with completing affidavits or to deliver any replacement ballots.

21.352(3) Instructions. Each reviewer shall receive instructions in substantially the form prepared by the state commissioner of elections. The instructions shall provide basic security and procedural guidance and include a method for accounting for all returned absentee ballots. The prohibitions shall include:

- a. Leaving unsecured ballots unattended.
- b. Altering any information on any affidavit.
- c. Adding any information to any affidavit, except as specifically required to comply with the requirements of the law.
- d. Sealing any ~~affidavit envelope~~ marked with the affidavit that is found open.
- e. Discarding any return carrier envelopes, ballots, or ~~affidavit envelopes~~ marked with affidavits that are returned by voters.

ITEM 3. Amend rule 721—21.353(53) as follows:

721—21.353(53) Opening the return carrier envelopes that are not marked with voters' affidavits. ~~The~~ If the commissioner is using return carrier envelopes that are not marked with voters' affidavits, the commissioner may direct a staff member to open the return carrier envelopes either manually or with an automatic letter opener, if one is available. Only a trained reviewer may remove the contents of the return carrier envelope. The return carrier envelopes opened and emptied pursuant to

SECRETARY OF STATE[721](cont'd)

this rule shall be stored for 22 months for federal elections and 6 months for local elections in a manner that will facilitate retrieval, if necessary.

ITEM 4. Amend rule 721—21.354(53) as follows:

721—21.354(53) Review process. ~~A reviewer shall remove the contents from only one return carrier envelope at a time.~~

~~**21.354(1) Return carrier envelopes preserved.** The return carrier envelopes shall be stored in a manner that will facilitate their retrieval, if necessary. They shall be stored for 22 months for federal elections and 6 months for local elections.~~

21.354(2) 21.354(1) Examination of affidavit envelope marked with affidavit. The reviewer shall make sure that:

- a. The affidavit envelope marked with the affidavit is sealed, apparently with the ballot inside.
- b. The affidavit envelope marked with the affidavit has not been opened and resealed.
- c. The affidavit includes ~~all of the following:~~ the voter's signature.
 - (1) ~~A signature.~~
 - (2) ~~For primary elections only, political party affiliation.~~

~~**21.354(3) 21.354(2) No defects or incomplete information.** If the reviewer finds that the required information on the affidavit is complete signed and that there are no defects that would cause the absentee and special voters precinct board to reject the ballot, the reviewer shall put the affidavit envelope marked with the affidavit into a group of envelopes to be retained in the secure storage area with ~~others~~ other ballots that require no further attention until they are delivered to the absentee and special voters precinct board.~~

~~**21.354(4) 21.354(3) Defective and incomplete affidavits.** The commissioner shall contact the voter if the reviewer finds any of the following flaws in the affidavit or affidavit envelope marked with the affidavit:~~

- a. The commissioner shall contact the voter immediately if the affidavit envelope marked with the affidavit is defective. An affidavit envelope marked with the affidavit is defective if:
 - (1) The absentee ballot is not enclosed in the affidavit envelope marked with the affidavit.
 - (2) The affidavit envelope marked with the affidavit is not sealed.
 - (3) The affidavit envelope marked with the affidavit has been opened and resealed.
 - (4) The voter submits a change of address in a new precinct after returning a voted absentee ballot.
- b. The commissioner shall contact the voter within 24 hours if the affidavit is ~~incomplete~~ not signed. ~~An incomplete affidavit lacks:~~

- (1) ~~The signature of the voter.~~
- (2) ~~For primary elections only, political party affiliation.~~

c. If an affidavit envelope marked with the affidavit has flaws that are included in both paragraphs "a" and "b," the commissioner shall follow the process in paragraph "a."

~~**21.354(5) 21.354(4) Defective and incomplete affidavits stored separately.** The commissioner shall store the defective and incomplete affidavit envelopes marked with affidavits separately from other returned absentee ballot affidavit envelopes marked with affidavits.~~

- a. Incomplete affidavit envelopes marked with affidavits requiring voter correction must be available for retrieval when the voter comes to make corrections.
- b. Defective affidavit envelopes marked with affidavits must be attached to the replacement ballot (if any) for review by the absentee and special voters precinct board.

ITEM 5. Amend rule 721—21.355(53), introductory paragraph, as follows:

721—21.355(53) Notice to voter. When the commissioner finds an incomplete absentee ballot affidavit or finds a defective affidavit envelope marked with the affidavit, the commissioner shall notify the voter in writing and, if possible, by telephone and by e-mail. The commissioner shall keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter.

SECRETARY OF STATE[721](cont'd)

ITEM 6. Amend subrules 21.355(1) and 21.355(2) as follows:

21.355(1) *Notice to voter—incomplete ballot affidavit.* Within 24 hours after receipt of an absentee ballot with an incomplete affidavit, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include:

a. Explanation of ~~missing required information (lack of signature or, for primary elections only, political party affiliation)~~ that the voter's absentee ballot affidavit is missing the voter's signature.

b. The voter's options for ~~correcting~~ completing the affidavit as follows:

- (1) Completing the affidavit at the commissioner's office by 5 p.m. the day before the election;
- (2) Requesting a replacement ballot pursuant to Iowa Code section 53.18; or
- (3) Voting at the polls on election day.

c. Address of commissioner's office, business hours and contact information.

21.355(2) *Notice to voter—defective ballot affidavit.* Immediately after determining that an absentee ballot ~~affidavit~~ envelope marked with the affidavit is defective, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include the following information:

a. to d. No change.

ITEM 7. Amend the implementation sentence at the end of rule ~~721—21.355(53)~~ as follows:

Rules ~~721—21.351(53) through 721—21.355(53)~~ are intended to implement ~~2009~~ Iowa Code ~~Supplement~~ sections 53.18 and 53.25 as amended by ~~2010~~ 2014 Iowa Acts, ~~Senate file 2196 House File 2366, and section 53.25 division II.~~

ITEM 8. Amend rule ~~721—21.359(53)~~ as follows:

721—21.359(53) Processing absentee ballots before election day. The commissioner may only direct the absentee and special voters precinct board to open ~~affidavit~~ envelopes marked with affidavits on the Monday before election day under the following circumstances:

For any election, only if the commissioner has provided secrecy envelopes (or folders) pursuant to subrule 21.359(1) and the commissioner determines removing secrecy envelopes from ~~affidavit~~ envelopes marked with affidavits is necessary due to the quantity of voted absentee ballots received as set forth in Iowa Code section 53.23, subsection 3, paragraph "a."

For general elections, if the commissioner convenes the absentee and special voters precinct board pursuant to Iowa Code section 53.23, subsection 3, paragraph "c," to begin tabulation of absentee ballots.

21.359(1) No change.

21.359(2) When the absentee and special voters precinct board convenes to begin processing absentee ballots, the board shall first review voters' affidavits to determine which ballots will be accepted for counting and prepare the notices to those voters whose ballots have been rejected for the reasons set forth in ~~2009~~ Iowa Code ~~Supplement~~ section 53.25. ~~Affidavit envelopes~~ Envelopes marked with affidavits containing ballots that are rejected shall be stored in the manner prescribed by Iowa Code section 53.26. The applications submitted for rejected ballots shall be stored in a secure location for the time period required by Iowa Code section 50.19.

21.359(3) ~~The affidavit envelopes~~ Envelopes marked with affidavits containing ballots that have been accepted for counting by the absentee and special voters precinct board shall be stacked with the affidavits facing down. The envelopes shall be opened and the secrecy envelope containing the ballot shall be removed.

21.359(4) No change.

21.359(5) The following security procedures shall be followed:

a. No change.

b. No ballots shall be counted or examined before election day except as provided in Iowa Code section 53.23, subsection 3, paragraph "c," ~~as amended by 2009 Iowa Acts, House File 670, section 1.~~

c. When secrecy envelopes are removed from ~~affidavit~~ envelopes marked with affidavits on the day before an election and not tabulated as permitted by Iowa Code section 53.23, subsection 3, paragraph

SECRETARY OF STATE[721](cont'd)

~~“c,” as amended by 2009 Iowa Acts, House File 670, section 1,~~ the number of secrecy envelopes shall be recorded before the ballots are stored and the number shall be verified before any ballots are removed from the secrecy envelopes on election day. The ballots may be bundled and sealed in groups of a specified number to make counting easier.

This rule is intended to implement Iowa Code section 53.23 as amended by ~~2009~~ 2014 Iowa Acts, House File ~~670~~ 2366, division II.

ITEM 9. Amend paragraph **21.359(5)“c”** as follows:

c. When secrecy envelopes are removed from ~~affidavit~~ envelopes marked with affidavits on the day before an election and not tabulated as permitted by Iowa Code section 53.23, subsection 3, paragraph “c,” ~~as amended by 2009 Iowa Acts, House File 670, section 1,~~ the number of secrecy envelopes shall be recorded before the ballots are stored and the number shall be verified before any ballots are removed from the secrecy envelopes on election day. The ballots may be bundled and sealed in groups of a specified number to make counting easier.

ITEM 10. Amend rule 721—21.361(53), introductory paragraph, as follows:

721—21.361(53) Rejection of absentee ballot. The absentee and special voters precinct board shall reject absentee ballots without opening the ~~affidavit~~ envelope marked with the affidavit if any of the conditions cited in Iowa Code section 53.25 ~~as amended by 2009 Iowa Acts, House File 475,~~ exist.

ITEM 11. Amend subrules 21.361(3) to 21.361(5) as follows:

21.361(3) An absentee ballot shall be rejected if the ~~affidavit~~ envelope marked with the affidavit is open.

21.361(4) An absentee ballot shall be rejected if the ~~affidavit~~ envelope marked with the affidavit has been opened and resealed.

21.361(5) An absentee ballot shall be rejected if the ~~affidavit~~ envelope marked with the affidavit contains more than one ballot of any kind.

ITEM 12. Rescind subrule **21.361(7)**.

ITEM 13. Amend rule **721—21.361(53)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 49.9 ~~and 53.14~~ and section 53.25 as amended by ~~2009~~ 2014 Iowa Acts, House File ~~475~~ 2366, division II.

ITEM 14. Amend subrule 21.403(2) as follows:

21.403(2) Election calendar. The election calendar shall be adjusted as follows:

a. The deadline for candidates to file nomination papers with the ~~city clerk~~ county commissioner shall be not later than ~~12 noon~~ 5 p.m. on the fifty-third day before the election.

~~b. The city clerk shall deliver all nomination papers accepted by the clerk to the county commissioner of elections not later than 5 p.m. on the fifty-third day before the election.~~

~~e. b.~~ A candidate who has filed nomination papers for the special election may withdraw by filing a written notice of withdrawal in the office of the county commissioner not later than 5 p.m. on the fiftieth day before the election.

~~d. c.~~ A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate’s nomination papers or to the qualifications of the candidate for this special election with the county commissioner not later than 12 noon on the fiftieth day before the election.

~~e. d.~~ The hearing on the objection must be held within 24 hours of receipt of the objection.

ITEM 15. Amend subrules 21.404(2) and 21.404(3) as follows:

21.404(2) Special elections to fill vacancies held in conjunction with the general election. If the proposed date of the special election coincides with the date of the general election, the council shall give notice of the proposed date of the special city election not later than 76 days before the date of the general election. Candidates shall file nomination papers with the ~~city clerk~~ county commissioner not later than 5 p.m. on the seventieth day before the general election. ~~The city clerk shall deliver the nomination papers accepted by the clerk not later than 5 p.m. on the sixty-ninth day before the general~~

SECRETARY OF STATE[721](cont'd)

~~election.~~ Objection and withdrawal deadlines shall be 64 days before the general election, ~~the same as the deadlines for candidates who file their nomination papers with the commissioner.~~ Hearings on objections shall be held as soon as possible in order to facilitate printing of the general election ballot.

21.404(3) Election calendar. If the special election date is not the same as the date of the general election, the election calendar shall be adjusted as follows:

~~a.~~ a. The deadline for candidates to file nomination papers with the ~~city clerk~~ county commissioner shall be not later than ~~12 noon~~ 5 p.m. on the twenty-fifth day before the election.

~~b.~~ b. ~~The city clerk shall deliver all nomination papers accepted by the clerk to the county commissioner of elections not later than 5 p.m. on the twenty-fifth day before the election.~~

~~c.~~ c. A candidate who has filed nomination papers for the special election may withdraw by filing a written notice of withdrawal in the office of the county commissioner not later than 5 p.m. on the twenty-second day before the election.

~~d.~~ d. A person who would have the right to vote for the office in question may file a written objection to the legal sufficiency of a candidate's nomination papers or to the qualifications of the candidate for this special election with the county commissioner not later than 12 noon on the twenty-second day before the election.

~~e.~~ e. d. The hearing on the objection must be held within 24 hours of receipt of the objection.

ARC 1474C

SECRETARY OF STATE[721]

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 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 22, “Voting Systems,” Iowa Administrative Code.

These amendments are necessary to establish uniformity in the treatment of digital ballot images captured by the various voting systems certified by the Iowa Board of Examiners for Voting Systems for use in the state of Iowa. Current rules address digital ballot images for two of the three systems certified for use in the state. These amendments remove the individual references to digital ballot images and adopt in lieu thereof a rule of general applicability to all certified voting systems. These amendments also adopt standards for use of the Unisyn OpenElect OVCS central count tabulator certified for the first time on January 17, 2014, by the Iowa Board of Examiners for Voting Systems for use in the state.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 17, 2014, by contacting Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-0145 or in person at the Secretary of State's office on the first floor of the Lucas State Office Building.

Requests for a public hearing must be received by June 17, 2014.

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

These amendments are intended to implement Iowa Code sections 50.12 and 52.5.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 22.201(2):

22.201(2) Digital ballot images that are saved as the voted ballots are scanned and the portions of those images that are printed on the results tapes may be used for the purpose of tallying write-in votes cast in the election. Digital ballot images that are saved as the voted ballots are scanned shall not be transferred to the election computer used as part of the voting system as defined by rule 721—22.1(52).

SECRETARY OF STATE[721](cont'd)

Digital ballot images shall be treated as voted ballots under Iowa Code section 50.12 in terms of preservation, access, retention, and destruction, except the images shall not be accessed in the event of an official recount as required by Iowa Code section 50.48(4)“a” or election contest unless the actual physical ballots are unavailable.

ITEM 2. Rescind and reserve paragraph **22.261(2)“e.”**

ITEM 3. Rescind and reserve paragraph **22.261(3)“d.”**

ITEM 4. Amend paragraph **22.264(2)“c”** as follows:

c. Ballot acceptance by the OVO unit. In an official election, the commissioner shall not program the OVO for unconditional acceptance of all ballots and shall program the OVO unit to accept undervoted ballots. The system shall also be programmed to query the voter and give the voter the on-screen option to “Cast Ballot as Marked” in each of the following situations:

(1) to (3) No change.

ITEM 5. Adopt the following new subrule 22.264(7):

22.264(7) Central count automatic tabulator configuration choices. The following settings are mandatory for all elections in which the OVCS is used.

a. Ballot control. In an official election, the commissioner shall program the central count automatic tabulator to accept overvoted ballots and undervoted ballots. The commissioner shall program the central count automatic tabulator to sort blank ballots and unreadable ballots as required by Iowa Code section 52.37. Ballots with write-in votes may be sorted for further review by the absentee and special voters precinct board at the commissioner’s discretion.

b. Reports. The following are required reports:

(1) Opening the polls. Before ballots are tabulated in the central count automatic tabulator, a Zero Certification report shall be printed and shall be signed by the members of the absentee and special voters precinct board.

(2) Closing the polls. After all ballots are tabulated by the central count automatic tabulator, a poll report shall be printed. The poll report is the official record of ballots tabulated in the absentee precinct and shall be signed by the members of the absentee and special voters precinct board.

c. Reopen polls. The commissioner shall enable the option to reopen the polls, but protect it against unauthorized use.

ITEM 6. Amend subrule 22.266(2) as follows:

22.266(2) Precinct automatic tabulator configuration choices. The following selections are mandatory for all elections.

a. Access, messaging and tabulating selections. The Machine Behavioral Settings shall be configured as follows:

(1) The option to allow voters to review ballot selections detected by the precinct automatic tabulator shall be disabled.

(2) Results for each precinct automatic tabulator shall be consolidated by precinct and shall not be reported by split within a precinct.

~~(3) The option to store ballot images as ballots are scanned by the precinct automatic tabulators shall be disabled.~~

(4) (3) The automatic tabulators shall be configured to report write-in votes when the oval is darkened, regardless of whether there is text written on the corresponding write-in line.

b. and c. No change.

ITEM 7. Amend paragraph **22.266(3)“b”** as follows:

b. Reports. The following are required reports:

(1) Opening the polls. Before ballots are tabulated in the central count automatic tabulator, a Zero Certification report shall be printed and shall be signed by the members of the absentee and special voters precinct board.

(2) Closing the polls. After all ballots are tabulated by the central count automatic tabulator, a poll report shall be printed. The poll report is the official record of ballots tabulated in the absentee precinct

SECRETARY OF STATE[721](cont'd)

and shall be signed by the members of the absentee and special voters precinct board. The following certification text shall appear at the end of the poll report:

We, the undersigned precinct election officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted by the Optical Scan tabulation device at this election.

[print lines for each of the officials to sign]

Precinct Election Officials

Date: _____

Time: _____

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 4.75%.

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, 2014, 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 1466C

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 507B.12 and 510B.3, the Insurance Division (the Division) hereby adopts amendments to Chapter 59, "Pharmacy Benefits Managers," Iowa Administrative Code.

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

These amendments were published under Notice of Intended Action in the April 2, 2014, Iowa Administrative Bulletin as **ARC 1412C**.

A public hearing was held on April 22, 2014, 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 22, 2014.

Some comments were received. After review of the comments, the Division determined that no changes to the language in the Notice of Intended Action needed to be made.

The Division intends that these amendments shall become effective July 2, 2014, and that insurers and pharmacy benefits managers shall be in compliance on or before July 2, 2014, with the exception of the requirements of subparagraph 59.4(1)"j"(1), with which they must be in compliance on or before January 1, 2015.

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

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

These amendments will become effective July 2, 2014, and insurers and pharmacy benefits managers shall be in compliance on or before July 2, 2014, with the exception of the requirements of subparagraph 59.4(1)"j"(1), with which they must be in compliance on or before January 1, 2015.

The following amendments are adopted.

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

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

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

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

"*Clean claim*" means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the ~~pharmacist or pharmacies~~ pharmacy or the ~~insured~~ covered individual in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected.

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

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

"*Day*" means a calendar day, unless otherwise defined or limited.

INSURANCE DIVISION[191](cont'd)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. and *b.* No change.

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

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

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

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

g. to *i.* No change.

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

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

INSURANCE DIVISION[191](cont'd)

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

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

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

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

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

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

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

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

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

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

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

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

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

INSURANCE DIVISION[191](cont'd)

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

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

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

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

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

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

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

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

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

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

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

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

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

INSURANCE DIVISION[191](cont'd)

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

191—59.7(510B) Complaints.

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

~~a.~~ ~~Complaints from the pharmacy indicating the~~ The reason for the complaint and factual documentation to support the complaint;

~~b.~~ ~~Contact name, address and telephone number of the pharmacy benefits manager;~~

~~e. b.~~ Contact name, address and telephone number of the pharmacy;

~~d. c.~~ Prescription number;

~~e. d.~~ Prescription reimbursement amount for any disputed ~~claim(s) claim;~~

~~f. e.~~ Disputed Any disputed prescription claim payment ~~date(s) date;~~

~~g. f.~~ Plan Covered entity benefits certificate; and

~~g.~~ The final determination and outcome of the complaint.

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

a. Name, address, telephone number and e-mail address for a contact person for the pharmacy benefits manager;

b. A summary of the information listed in paragraph 59.7(1) "a," excluding documentation; and

c. The information listed in paragraphs 59.7(1) "b," "d," "e," and "g."

ITEM 10. Adopt the following new rule 191—59.8(510,510B):

191—59.8(510,510B) Duty to notify commissioner of fraud. A covered entity that contracts with a pharmacy benefits manager to perform the covered entity's services shall require the pharmacy benefits manager to follow Iowa Code section 507E.6 in notifying the commissioner of any detection of fraud, including but not limited to prescription drug diversion activity. "Prescription drug diversion activity," for purposes of this rule, means the diversion of prescription drugs from legal and medically necessary uses to uses that are illegal and not medically authorized or necessary. A pharmacy benefits manager shall follow the fraud detection protocol developed by the covered entity or shall allow the covered entity to review and agree to the pharmacy benefits manager's protocol.

ITEM 11. Adopt the following new rule 191—59.9(507,510,510B):

191—59.9(507,510,510B) Commissioner examinations of pharmacy benefits managers.

59.9(1) Pharmacy benefits managers shall cooperate with the commissioner for the commissioner's administration of Iowa Code chapters 507, 510, and 510B and this chapter.

59.9(2) Pharmacy benefits managers shall maintain for five years the records necessary to demonstrate to the commissioner compliance with this chapter. Pharmacy benefits managers shall provide the commissioner easy accessibility to records for examination, audit and inspection to verify compliance with this chapter.

ITEM 12. Adopt the following new rule 191—59.10(505,507,507B,510,510B,514L):

191—59.10(505,507,507B,510,510B,514L) Failure to comply. Failure to comply with the provisions of this chapter or with Iowa Code chapters 510 and 510B, or failure to comply with 191—Chapters 58 and 78 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter or of Iowa Code chapters 510 and 510B, shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B.

INSURANCE DIVISION[191](cont'd)

ITEM 13. Amend **191—Chapter 59**, implementation sentence, as follows:
These rules are intended to implement Iowa Code chapters 17A, 505, 507, 510, 510B and 514L and ~~Iowa Code Supplement chapter 510B.~~

[Filed 5/7/14, effective 7/2/14]

[Published 5/28/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/28/14.

ARC 1467C

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby amends Chapter 1, "Organization and Administration," Iowa Administrative Code.

The amendments in Items 1 to 5 update administrative information such as the Board's address, hours, and committees. The amendments remove duplicated information that is also found in the rules of the Professional Licensing and Regulation Bureau [193].

The new rules in Item 6 provide specific dates and deadlines for individuals who want to become certified appraisers prior to January 1, 2015, in accordance with the federal criteria. The changes in federal criteria have been posted on the Board's Web site after they were received from the federal regulatory agencies. Because the Board is charged with adopting rules to establish uniform appraisal standards and appraiser certification requirements and other rules necessary to administer and enforce this chapter and the Board's responsibilities under Iowa Code chapter 272C, these rules are adopted to provide clarity and a time line to avoid any miscommunication with any individual. An individual who fails to meet these time lines will be required to meet the 2015 criteria as outlined and required by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

Rule 193F—1.18(543D) clearly informs individuals that the Board is required to maintain compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

Rule 193F—1.19(543D) provides that any individual who wishes to apply for registration as an associate appraiser or certification as a certified appraiser will be required to meet the new criteria effective January 1, 2015.

Rule 193F—1.20(543D) provides guidance to avoid any miscommunication with any person and deadlines for credential upgrading.

Rule 193F—1.21(543D) sets forth the national criminal history check date of January 1, 2017. The Board has statutory authority pursuant to Iowa Code section 543D.22 to perform national criminal history checks only if needed to comply with federal guidelines. The Board was recently informed that the AQB changed the implementation date for the national criminal history checks to January 1, 2017.

Rule 193F—1.22(543D) sets forth the Board's process for determining an individual's eligibility as an associate or certified appraiser.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 2, 2014, as **ARC 1410C**. A public hearing was held on April 23, 2014. No public comment was received.

On April 11, 2014, the AQB announced the delay of the implementation of "Section VI background checks" in the AQB criteria effective January 1, 2015. As a result, the Real Estate Appraiser Examining Board has removed those requirements from subrules 1.19(2) and 1.20(2), paragraph 1.20(4)"c," and rules 193F—1.21(543D) and 193F—1.22(543D).

In addition, the Board added Item 7 to amend and update the implementation sentence for Chapter 1.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

The Real Estate Appraiser Examining Board adopted these amendments on May 8, 2014.

After analysis and review of this rule making, no jobs impact exists.

These amendments are intended to implement Iowa Code chapter 543D.

These amendments will become effective July 2, 2014.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

The following amendments are adopted.

ITEM 1. Amend subrule 1.1(2) as follows:

1.1(2) All official communications, including submissions and requests, should be addressed to the board at its official address, ~~1920 SE Hulsizer Road, Ankeny, Iowa 50021~~ 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

ITEM 2. Amend subrule 1.2(1) as follows:

1.2(1) The board may appoint administrative committees ~~of not less than three nor more than five board members~~ for the purpose of making recommendations on matters specified by the board.

ITEM 3. Amend rule 193F—1.3(543D) as follows:

193F—1.3(543D) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson shall be elected to serve until their successors are elected. ~~The election of these officers shall be the first order of business after hearing the reports of outgoing officers. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.~~

ITEM 4. Amend rule 193F—1.4(543D) as follows:

193F—1.4(543D) Other meetings. In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the chairperson of the board or by joint call of a majority of its members. ~~One week's notice shall be given for such meetings, and the notice must designate the time and place of the meeting.~~

ITEM 5. Amend subrule 1.6(1) as follows:

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours ~~as provided in 193—Chapter 13. The board maintains an office at 1920 SE Hulsizer Road, Ankeny, Iowa 50021. The office is open during regular business hours from 8 a.m. until 4:30 p.m. Monday through Friday. The office is closed Saturdays, Sundays, and official state holidays.~~

ITEM 6. Adopt the following new rules 193F—1.18(543D) to 193F—1.22(543D):

193F—1.18(543D) Qualified state appraiser certifying agency.

1.18(1) The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

1.18(2) The board must adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D.

193F—1.19(543D) January 1, 2015, criteria.

1.19(1) Effective on and after January 1, 2015, the AQB has changed the criteria for eligibility for registration as an associate appraiser and certification as a certified appraiser. No person may be registered as an associate appraiser or certified as a certified appraiser on or after January 1, 2015, unless the person is eligible under the revised criteria.

1.19(2) The January 1, 2015, criteria were adopted by the AQB in 2011 and have been widely disseminated, including on the board's Web site at: <http://www.state.ia.us/government/com/prof/appraiser/home.html>.

a. For associate appraisers, the revised criteria place a five-year restriction on the time period in which qualifying education must be completed prior to the submission of an application for associate appraiser registration and require completion of supervisory appraiser/associate coursework by both the supervisory appraiser and the associate appraiser applicant.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

b. For certified appraisers, the revised criteria modify the conditions under which applicants for certification are eligible to take the required examinations and require a bachelor's degree for all certified appraisers, including residential appraisers.

193F—1.20(543D) Application and work product deadlines.

1.20(1) *December 31, 2014, application deadline.* In order to be considered for registration as an associate appraiser or certification as a certified appraiser under the criteria in effect prior to January 1, 2015, an applicant must submit an original, fully completed application to the board office for the board's actual receipt no later than December 31, 2014, at 4:30 p.m.

1.20(2) *Deadline for associate appraiser applicants.* The associate appraiser and supervisory appraiser provisions are more fully set out in 193F—Chapters 4 and 15, respectively. Before submitting an application for registration with the board, a person seeking registration as an associate appraiser must complete 75 hours of appraisal education and secure a qualified supervisory appraiser. An associate appraiser applicant who submits an application to the board office after December 31, 2014, at 4:30 p.m. shall be subject to the January 1, 2015, criteria and will accordingly be subject to the five-year restriction on qualifying education and the supervisory appraiser/associate coursework.

1.20(3) *Summary of certification requirements before January 1, 2015.* As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, 2,500 hours of qualifying experience in a minimum of 24 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of 30 months for general appraisers, and work product review. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer's submission of review reports to the board; a meeting between the applicant and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office.

1.20(4) *October 1, 2014, deadline for submission of appraisals and work files.*

a. As a result of the minimum periods of time needed to accomplish all work product review steps summarized in 1.20(3), an applicant for certification as a certified appraiser must fully submit to the board office the three appraisals and associated work files for work product review, as provided in 193F—5.6(543D) and 193F—6.6(543D), no later than October 1, 2014.

b. To allow sufficient time for board selection of three appraisals from the work product review experience log, board communication of the selected appraisals to the applicant, and applicant submission of the appraisals and work files to the board office by October 1, 2014, applicants for residential certification should submit their work product experience log to the board by September 1, 2014, and applicants for general certification should submit their work product experience log to the board by August 1, 2014.

c. Applicants for certification as residential or general certified appraisers who submit appraisals and work files for work product review on or after October 2, 2014, shall be considered for certification under the January 1, 2015, criteria. If an applicant submitting appraisals and work files for work product review on or after October 2, 2014, has previously passed the required examination, the examination results will remain valid for the 24-month period of validity, as described in 193F—Chapter 3.

193F—1.21(543D) National criminal history check. Effective January 1, 2017, all applicants for any of the classifications listed in 193F—1.17(543D) must satisfactorily complete a national criminal history

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

check as provided in Iowa Code section 543D.22 as a condition of registration as an associate real property appraiser or certification as a residential or general real property appraiser.

193F—1.22(272C,543D) Process for board review of eligibility.

1.22(1) Before applying for registration as an associate appraiser or certification as a certified appraiser, a person with a criminal history or other background matters that may impair registration or certification may request that the board evaluate the prospective applicant's criminal history or other background matters by submitting a written request to the board. Upon receiving such a request, the board may request additional supporting materials.

1.22(2) Requests will be processed under the same standards as applications for registration or certification in order to inform the prospective applicant whether any of the disclosed information is or may be a bar to future registration or certification. In responding to a request, the board shall address only the offenses or matters listed in the request. The board's response will be based upon the laws, rules, and guidelines in effect at the time of the board's response, including the guidelines and policies promulgated by the AQB or ASC.

1.22(3) If the information supplied is not accurate or is incomplete, or if applicable laws, rules, or guidelines change or are impacted by intervening board orders or case law, the board's response shall not be binding on a future board.

ITEM 7. Amend **193F—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 543D.4, 543D.5, and 543D.7, 543D.17, 543D.20 and 543D.22 and ~~chapters 252J, 261, and chapter 272C.~~

[Filed 5/8/14, effective 7/2/14]

[Published 5/28/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/28/14.

ARC 1465C

VETERINARY MEDICINE BOARD[811]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 169.5, the Board of Veterinary Medicine hereby amends Chapter 1, "Description of Organization and Definitions," and Chapter 12, "Standards of Practice," Iowa Administrative Code.

The amendments revise veterinary standards of practice in Chapter 12 by expanding the current veterinary requirements for the prescription of drugs and controlled substances and the storage and dispensing of controlled substances. In addition, the amendments provide additional veterinary requirements for the use of diagnostic imaging, administration of anesthesia, safety and sanitation in veterinary facilities, proper disposal of waste materials, use of sterile surgical equipment, veterinary facility standards, and veterinary practice record keeping.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1377C** on March 19, 2014. A number of comments suggesting changes were received. Concerns were expressed about the amount of record keeping required and the application of the rules to large animal practices. The comments were generally supportive of the amendments.

These amendments differ from those published under Notice of Intended Action. Clarifications have been made to ensure that both the terms "drugs" and "medications" were used and to add the word "licensed" before the word "veterinarian." Also, in rule 811—12.1(169), subrule 12.1(2) was added to state that the veterinarian/client/patient relationship cannot be based solely on telephonic or electronic communications, and subrule 12.1(5) was added to clarify that this relationship may be terminated due to concerns about veterinarian or staff safety; the other subrules in rule 811—12.1(169) were renumbered accordingly. Lastly, subrule 12.4(3) was revised to clarify that the labeling requirements for diagnostic images apply only to stored images.

VETERINARY MEDICINE BOARD[811](cont'd)

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

These amendments are intended to implement Iowa Code chapters 169 and 272C.

These amendments will become effective July 2, 2014.

The following amendments are adopted.

ITEM 1. Adopt the following new definitions in rule **811—1.4(17A,169)**:

“*Client*” means the patient’s owner, owner’s designee, or other person responsible for the patient.

“*Client consent*” requires that the licensed veterinarian inform the client of the reasonable and usual diagnostic and treatment options available and provide an assessment of the risks and benefits of such choices, the prognosis and an estimate of the fees expected for the provision of services. The consent of the client shall be provided in verbal or written form prior to initiation of diagnostic and treatment procedures and shall be documented in the medical record by the licensed veterinarian or staff. The client shall indicate that the client’s questions have been answered to the client’s satisfaction and that the client consents to the recommended treatments or procedures.

“*Patient*” means an animal or group of animals examined or treated by a licensed veterinarian.

ITEM 2. Amend rule 811—12.1(169) as follows:

811—12.1(169) Prescription drugs and restricted immunization products Veterinarian/client/patient relationships. A drug or immunization product intended for veterinary use where state or federal law restricts this drug or immunizing product to use by or under the order of a licensed veterinarian, shall only be sold or distributed to, or on the order of, a licensed veterinarian, to be used in the course of the veterinarian’s professional practice.

~~12.1(1) The order for all such drugs or immunizing products shall be accompanied by the veterinarian’s original prescription which should show the quantity of the product, the number of times the prescription can be refilled, the veterinarian’s name, address and telephone.~~

~~12.1(2) A prescription veterinary product shall not be deemed to be used “in the course of the veterinarian’s professional practice” unless the veterinarian is supervising the use of the product or a veterinarian/client/patient relationship exists.~~

~~12.1(3) 12.1(1) The board shall determine, on a case-by-case basis, if a valid veterinarian/client/patient relationship exists. The board may consider, among other items, the following criteria~~ This relationship shall be deemed to exist when all of the following criteria have been met:

a. The licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal(s) patient and the need for medical treatment, and the client (owner or other caretaker) has agreed to follow the instructions of the licensed veterinarian; and when

b. There is The licensed veterinarian has sufficient knowledge of the animal(s) by the veterinarian patient to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s) patient. This Sufficient knowledge means that the licensed veterinarian has recently seen and or is personally acquainted with the keeping and care of the animal(s) patient by virtue of an examination of the animal(s) patient or by medically appropriate and timely visits to the premises where the animal(s) patient is kept; and when

c. The practicing licensed veterinarian is readily available or provides for follow-up in case of adverse reactions of or failure of the regimen of therapy.

12.1(2) A valid veterinarian/client/patient relationship cannot be established by contact solely based on a telephonic or electronic communication.

12.1(3) Both the licensed veterinarian and the client have the right to establish or decline a valid veterinarian/client/patient relationship. Once the licensed veterinarian and the client have agreed and entered into a relationship, and the licensed veterinarian has begun patient care, the licensed veterinarian may not neglect the patient and must continue to provide professional services related to the patient’s injury or illness within the previously agreed limits. As subsequent needs and costs for patient care are identified, the licensed veterinarian and the client must confer and reach agreement on the continued care

VETERINARY MEDICINE BOARD[811](cont'd)

and responsibility for fees. If the informed client declines future care or declines to assume responsibility for the fees, the relationship may be terminated by either party.

12.1(4) If no ongoing medical condition exists, a licensed veterinarian may terminate a valid veterinarian/client/patient relationship by notifying the client that the licensed veterinarian no longer wishes to serve that patient and client. However, if an ongoing medical or surgical condition exists, the patient should be referred to another licensed veterinarian for diagnosis, care, and treatment and the former attending licensed veterinarian should continue to provide care as needed during the transition.

12.1(5) Concerns about licensed veterinarian or staff safety may result in immediate termination of the veterinarian/client/patient relationship.

ITEM 3. Amend rule 811—12.2(169) as follows:

811—12.2(169) Extra-label use of veterinary drugs and immunization products. Controlled substances, drugs, prescription medications and restricted immunization products. When state or federal law restricts a drug, medication or immunization product intended for use by or on the order of a licensed veterinarian, the licensed veterinarian shall sell, distribute, or order the drug or medication only in the course of the licensed veterinarian's professional practice. A prescription veterinary drug, medication or immunization product shall not be deemed to be used "in the course of the licensed veterinarian's professional practice" unless a valid veterinarian/client/patient relationship exists.

12.2(1) Prescriptions. The order for all such drugs, medications or immunization products shall be accompanied by the licensed veterinarian's original prescription that shows the following:

- a. Licensed veterinarian's name, address and telephone number;
- b. Client's name;
- c. Patient's name or identification;
- d. Date issued;
- e. Drug, medication or product name, strength, and quantity;
- f. Directions for use;
- g. Number of times the prescription may be refilled;
- h. Expiration date of the drug, medication or product; and
- i. Applicable withdrawal period (paragraph 12.2(2) "d") for livestock and poultry.

12.2(2) Extra-label use of veterinary drugs, medications, and immunization products. Any extra-label use of veterinary drugs, medications and or immunization products shall be by or under the order of a licensed veterinarian only and shall be subject to the following criteria:

12.2(1) a. There shall be a veterinarian-/client-/patient relationship as defined in subrule 12.1(3) 12.1(1).

12.2(2) b. For drugs or medications used in animals patients not intended for food, one of the following applies:

- (1) there There are no marketed drugs, medications and immunization products specifically labeled for the conditions condition(s) diagnosed;
- (2) The approved product is clinically ineffective; or
- (3) in In the licensed veterinarian's clinical judgment, the labeled dosage is inappropriate for the condition or the extra-label use should result in a better outcome for the patient.

12.2(3) c. The health of the treated animal(s) patient is immediately threatened, and or suffering or death would result from a failure to treat the affected animal(s) patient.

12.2(4) d. Appropriate withdrawal times period shall be specified when the veterinary drugs, medications or immunization products are used in animals intended as food. Extra-label drug use in food-producing animals must follow Food and Drug Administration - Animal Medicinal Drug Use Clarification Act regulations (21 Code of Federal Regulations 530). Licensed veterinarians are encouraged to consult the Food Animal Residue Avoidance Databank (FARAD) or public peer-reviewed documents when determining appropriate withdrawal period.

VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 4. Amend rule 811—12.3(169) as follows:

811—12.3(169) Prescription drug or medication labeling and packaging. A licensed veterinarian shall comply with all of the following requirements for the storage, handling, dispensing, and administering of a drug or medication:

~~12.3(1) The veterinarian shall maintain all controlled substances in compliance with state and federal requirements. All prescription drugs, medications and controlled substances must be purchased, maintained, handled, prescribed and dispensed in compliance with state and federal requirements including but not limited to the requirements of the Iowa board of pharmacy, the U.S. Occupational Safety and Health Administration, the U.S. Department of Agriculture, the U.S. Food and Drug Administration, the U.S. Environmental Protection Agency and the U.S. Drug Enforcement Administration. A valid veterinarian/client/patient relationship must be established before prescription drugs or medications may be dispensed or a prescription released. All drugs or medications administered, prescribed or dispensed must be documented in the patient's medical record. The sale of veterinary prescription drugs or medications or the extra-label use of any drug, medication or product by a licensed veterinarian without a valid veterinarian/client/patient relationship is not permissible.~~

~~12.3(2) All medications that are dispensed from a container other than the original container shall be placed in a child-resistant container unless otherwise requested by the owner or unless the medication is in a form or size that cannot be easily dispensed in a child-resistant container.~~

~~12.3(3) 12.3(2) All drugs or medications dispensed shall be labeled with the following information:~~

- ~~a.~~ Name, telephone number, and address of the veterinary clinic, hospital, or service facility.
- ~~b.~~ Name of the prescribing licensed veterinarian.
- ~~c.~~ Date on which the prescription is dispensed.
- ~~d.~~ Directions for use, including any cautionary statements and withdrawal times when appropriate.
- ~~e.~~ ~~Name and species~~ Species of the patient.
- ~~f.~~ Name, or identification, or location of the patient.
- ~~f. g.~~ Name of the owner.

~~g. h.~~ Name, strength, and dosage form of the drug or medication. If the drug or medication is a compounded product, all active ingredients must be listed on the label, with corresponding strengths or concentrations of each ingredient.

~~h. i.~~ Number of units dispensed.

~~i. j.~~ Expiration date. If the drug or medication is a compounded product with no assigned expiration date, the licensed veterinarian shall determine a beyond-use date as supported by the literature or by the licensed veterinarian's professional judgment when no such supportive information exists.

~~j. k.~~ Appropriate withdrawal times period for livestock or poultry, when the animal patient or its product is intended as food.

~~12.3(4) 12.3(3) All drugs or medications dispensed in the original container shall retain the original label and, in addition, shall be labeled with the same information as required in subrule 12.3(3) 12.3(2).~~

~~12.3(4) All drugs or medications that are dispensed in a container other than the original container shall be placed in a tamper-resistant container unless otherwise requested by the owner or unless the drug or medication is in a form or size that cannot be easily dispensed in a tamper-resistant container.~~

~~12.3(5) Medications~~ Drugs or medications which have expired shall be removed from current inventory and shall not be dispensed or sold. Expired drugs or medications shall be disposed of in accordance with local, state and federal regulations.

~~12.3(6) Medications~~ Drugs or medications shall be dispensed only for specific animals and for specific veterinary medical therapies with the exception of groups of similar animals and other groups such as pet fish, kennels, and catteries for which dispensing shall be done judiciously within a valid veterinarian-/client-/patient relationship.

VETERINARY MEDICINE BOARD[811](cont'd)

ITEM 5. Adopt the following new rules 811—12.4(169) and 811—12.5(169):

811—12.4(169) Veterinary medical records.

12.4(1) *Controlled substances records.* The licensed veterinarian must maintain a controlled substance log which contains complete, accurate and readily retrievable records of all controlled substances possessed, administered, or dispensed.

a. Each record of a controlled substance which is dispensed must meet all U.S. Drug Enforcement Administration and Iowa board of pharmacy regulations for the controlled substances log.

b. Each log record must include the following information:

- (1) Name or identification of the patient.
- (2) Client's name and address, if not readily available from the licensed veterinarian's records.
- (3) Name, strength and quantity of the controlled substance dispensed.
- (4) Date on which the controlled substance was dispensed.
- (5) Initials of the dispensing licensed veterinarian or authorized auxiliary.
- (6) Name of the prescribing licensed veterinarian.

c. All controlled substances must be kept in a locked storage area, and access to the storage area must be restricted pursuant to state and federal laws and regulations.

d. Each package or container in which a controlled substance is stored or dispensed must be clearly labeled pursuant to the requirements set forth in state and federal laws and regulations.

e. Each package or container in which a controlled substance is stored or dispensed must comply with all state and federal packaging requirements and with rule 811—12.2(169).

12.4(2) *Patient records.* Veterinary medical records are an integral part of veterinary care. Medical records are the property of the veterinary practice. Each licensed veterinarian shall maintain for at least five years an easily retrievable record for each patient that receives veterinary services. The record must be available for inspection by the client during normal business hours. The information within veterinary medical records is privileged and confidential and shall not be released except by court order, a public health emergency or consent of the client. The licensed veterinarian in charge shall provide a copy of the complete record to the client not later than two business days after the licensed veterinarian or practice receives from the client a request for the record. A licensed veterinarian or veterinary practice may have an additional three business days to provide a copy of nondigital diagnostic images. The licensed veterinarian may charge reasonable and customary fees for the copying of records.

a. Records required for patients defined as "livestock" in Iowa Code section 717.1(4) include the following:

- (1) Name, address and telephone number of the client.
- (2) Name or identity of the patient, pen, herd, flock, or group, including the identification number, if any.
- (3) Date of service.
- (4) Documentation of client consent.
- (5) Diagnosis or condition at the beginning of treatment of the patient, including results of tests.
- (6) Procedures/indications.
- (7) Name of drug or medication and treatment administered indicating dosage, frequency and route of administration.

(8) Withdrawal period.

(9) Record of diagnostic images taken.

(10) Name of attending licensed veterinarian.

b. Records required for other patients include the following:

- (1) Name, address and telephone number of the client.
- (2) Name and identity of the patient, including the identification number, if any.
- (3) Date of birth (or estimated age), sex, species and breed of patient.
- (4) Dates of care, custody or treatment of the patient.
- (5) A history of the patient's condition as it pertains to the patient's medical status.
- (6) Documentation of client consent.

VETERINARY MEDICINE BOARD[811](cont'd)

- (7) Diagnosis or condition at the beginning of treatment of the patient, including results of tests and body weight.
- (8) Surgery record, including preanesthesia medication, anesthesia, and the procedure performed.
- (9) Name of drug or medication and treatment administered indicating dosage, frequency and route of administration.
- (10) Progress and disposition of the case.
- (11) Record of diagnostic images taken.
- (12) Name of attending licensed veterinarian.

12.4(3) Stored diagnostic images.

- a. Each stored diagnostic image must be identified with the following information:
 - (1) The name of the licensed veterinarian or facility that took the diagnostic image.
 - (2) The name or identifying number, or both, of the patient.
 - (3) The name of the client.
 - (4) The date on which the diagnostic image was taken.
 - (5) The anatomical orientation depicted by the diagnostic image.
- b. Stored diagnostic images must be retained for at least five years.
- c. A stored diagnostic image of the patient or a copy must be released, upon the written or verbal request, to another licensed veterinarian who has the authorization of the client. Original diagnostic images shall be returned in a reasonable time.

12.4(4) General anesthesia. General anesthesia is a condition caused by the administration of a drug or combination of drugs sufficient to produce a state of unconsciousness or dissociation and blocked response to a given pain or alarming stimulus. The following standards relating to general anesthesia must be adhered to:

- a. Within 12 hours prior to the administration of a general anesthetic, the patient must receive a physical examination, with the results noted in the patient's medical records.
- b. The patient under general anesthesia must be under observation for a length of time appropriate to the species for the patient's safe recovery.
- c. The licensed veterinarian must provide a method of respiratory monitoring that may include observing the patient's chest movements, observing the rebreathing bag, or using a respirometer.
- d. The licensed veterinarian must provide a method of cardiac monitoring which may include the use of a stethoscope or electrocardiograph monitor.

811—12.5(169) Veterinary facilities.

12.5(1) Facility standards. The following standards shall apply to all facilities used by a licensed veterinarian to provide veterinary services.

- a. *Facilities for treatment or hospitalization.* In a facility where patients are examined and retained for treatment or hospitalization, the following must be provided:
 - (1) An examination room, separate from the reception room or office, with sufficient size to accommodate the licensed veterinarian, assistant, patient and client.
 - (2) Nonporous tabletops, countertops and floor coverings which can be adequately cleaned and disinfected.
 - (3) The ability to house patients separately and maintain sanitary conditions.
 - (4) Appropriate separation of patients with known or suspected infectious and contagious diseases from patients not known to have such diseases in a manner that reasonably guards against transmission of disease.
 - (5) Provision for daily exercise of patients unless the primary enclosure is of sufficient size to provide exercise.
 - (6) Exercise areas that are cleaned a minimum of once in each 24-hour period and more frequently as may be necessary to reduce disease hazards and odors.
 - (7) A sanitary area for performing surgeries under sterile conditions. If sterile surgical procedures are performed on the premises, the licensed veterinarian must maintain the following at all times:

VETERINARY MEDICINE BOARD[811](cont'd)

1. Appropriate sterile surgical packs including drapes, sponges and instrumentation for use in each procedure.
 2. For each sterile surgical procedure, equipment sterilized and surgical packs properly prepared for sterilization sufficient to kill microorganisms.
 3. Clean attire, masks, and gloves for use in any sterile procedure.
 - (8) Oxygen and equipment necessary to administer oxygen to the types of patients treated in the facility.
 - (9) Capability to provide diagnostic radiological images in the facility or through an outside facility.
 - (10) Provision for laboratory and pharmaceutical services in the facility or through another commercial facility.
 - b. Facilities for services.* Veterinary service facilities where patients are only examined or provided vaccinations must provide the following:
 - (1) An examination room, separate from the reception room or office, with sufficient size to accommodate the licensed veterinarian, assistant, patient and client.
 - (2) Nonporous tabletops, countertops and floor coverings which can be adequately cleaned and disinfected.
 - (3) A secure and sanitary area for the storage of instruments, drugs and medications.
 - (4) Cooling/heating equipment for the storage of drugs, medications and immunization products.
 - (5) Capability to provide diagnostic radiological images in the facility or through an outside facility.
 - (6) Provision for laboratory and pharmaceutical services in the facility or through another commercial facility.
 - c. Mobile clinics.* Mobile clinics are self-contained units for small animal, nonlivestock or nonpoultry patients and shall be equipped with the following:
 - (1) Hot and cold water.
 - (2) Nonporous tabletops, countertops and floor coverings which can be adequately cleaned and disinfected.
 - (3) An adequate power source for diagnostic equipment.
 - (4) A collecting tank for disposal of waste materials.
 - (5) Adequate lighting.
 - (6) Adequate heating, cooling and ventilation.
 - (7) Sterile instrumentation which meets the requirements of the level of surgery to be performed.
 - (8) Separate compartments for the transportation or holding of patients.
 - (9) A secure and sanitary area for the storage of instruments, drugs and medications.
 - (10) Cooling/heating equipment for the storage of drugs, medications and immunization products.
 - d. House/farm call units.* House/farm call units are not self-contained units and must be equipped with or have access to all of the following:
 - (1) Water.
 - (2) Cooling/heating equipment for the storage of drugs, medications and immunization products.
 - (3) A secure and sanitary area for the storage of instruments, drugs and medications.
 - e. Emergency veterinary hospitals.* "Emergency veterinary hospital" means an animal hospital which provides emergency treatment to an ill or injured patient. Any facility advertising as an emergency facility shall have a licensed veterinarian and appropriate support staff on the premises during the hours of operation. Any facility which advertises using phrases similar or identical to "24-hour emergency veterinary hospital," "Emergency," "Open 24 hours," or "Day or night care" must have treatment services continuously available.
- 12.5(2) Safety and sanitation standards.** A veterinary facility must have a safe and sanitary environment that:
- a.* Protects the health of the patients and guards against the transmission of infection.
 - b.* Provides for proper routine disposal of waste materials in compliance with all applicable local, state, and federal laws and regulations and for proper disposal of hypodermic devices, sharps and biomedical waste. Any person who is authorized to use hypodermic devices and sharps shall dispose

VETERINARY MEDICINE BOARD[811](cont'd)

of them in accordance with applicable local, state and federal regulations. Biomedical waste should be disposed of in accordance with applicable local, state and federal regulations.

c. Provides for proper sterilization or sanitation of all equipment used in diagnosis, treatment or surgery.

d. Ensures the maintenance of proper temperature and ventilation of the indoor facility.

e. Provides adequate lighting appropriate for the task being performed.

f. Includes legal and sanitary methods for the disposal or storage of deceased patients.

g. Meets the standards for radiological procedures as set by the Iowa department of public health.

12.5(3) Resources. A library of current journals or textbooks, or Internet access which provides readily accessible reference materials shall be available.

[Filed 5/1/14, effective 7/2/14]

[Published 5/28/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/28/14.