



IOWA ADMINISTRATIVE BULLETIN

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Notice, Dependent adult abuse in facilities and programs, ch 52 **ARC 7828B** 2658

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Filed, Department duties; county commission account and training program; Iowa veterans cemetery, 1.1 to 1.3, 1.5, 1.11, 1.15 **ARC 7825B** 2703

Filed, County commissions of veteran affairs fund and training program, ch 7 **ARC 7824B** 2704

Filed, Veterans trust fund, 14.2, 14.3(1), 14.4, 14.5, 14.7 **ARC 7823B** 2705

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2009

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 24 '08	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09
Jan. 9	Jan. 28	Feb. 17	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	***May 13***	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	***June 24***	July 15	Aug. 19	Nov. 16
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
June 24	July 15	Aug. 4	Aug. 19	***Aug. 19***	Sep. 9	Oct. 14	Jan. 11 '10
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '10
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '10
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '10
Aug. 19	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '10
Sep. 4	Sep. 23	Oct. 13	Oct. 28	***Oct. 28***	Nov. 18	Dec. 23	Mar. 22 '10
Sep. 18	Oct. 7	Oct. 27	Nov. 11	***Nov. 12***	Dec. 2	Jan. 6 '10	Apr. 5 '10
Oct. 2	Oct. 21	Nov. 10	Nov. 25	***Nov. 25***	Dec. 16	Jan. 20 '10	Apr. 19 '10
Oct. 16	Nov. 4	Nov. 24	Dec. 9	***Dec. 9***	Dec. 30	Feb. 3 '10	May 3 '10
Oct. 28	Nov. 18	Dec. 8	Dec. 23	***Dec. 23***	Jan. 13 '10	Feb. 17 '10	May 17 '10
Nov. 12	Dec. 2	Dec. 22	Jan. 6 '10	Jan. 8 '10	Jan. 27 '10	Mar. 3 '10	May 31 '10
Nov. 25	Dec. 16	Jan. 5 '10	Jan. 20 '10	Jan. 22 '10	Feb. 10 '10	Mar. 17 '10	June 14 '10
Dec. 9	Dec. 30	Jan. 19 '10	Feb. 3 '10	Feb. 5 '10	Feb. 24 '10	Mar. 31 '10	June 28 '10
Dec. 23	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
1	Friday, June 12, 2009	July 1, 2009
2	Wednesday, June 24, 2009	July 15, 2009
3	Friday, July 10, 2009	July 29, 2009

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 9, 2009, at 10 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Agenda published in the May 20, 2009, Iowa Administrative Bulletin.

EMPOWERMENT BOARD, IOWA[349]

Community empowerment, amendments to ch 1 Filed **ARC 7831B** 6/3/09

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

E. coli effluent limits; nutrient monitoring, 62.8(2), ch 63 Table II Notice **ARC 7813B** 6/3/09

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

"Electronic format" or "electronic filing" defined, 4.1(6), 4.8(4) Notice **ARC 7806B** 6/3/09

Form DR-SFA—filing requirements for subsequent elections, 4.11(3) Notice **ARC 7807B** 6/3/09

Prohibitions on use of campaign funds to pay candidate, spouse and children, 4.25(1)

Filed Without Notice **ARC 7801B** 6/3/09

Registration of subsequent candidate's committee, 4.26(2) Notice **ARC 7809B** 6/3/09

Federal and out-of-state campaign committees—exemption from filing of independent

expenditure statement, 4.27 Filed Without Notice **ARC 7800B** 6/3/09

Forwarding of committee records, 4.37(3) Notice **ARC 7803B** 6/3/09

Petition for waiver of civil penalty, 4.60, 7.6, 8.12, 15.2 Notice **ARC 7805B** 6/3/09

Filing requirements for statewide candidates, 7.3(3), 7.3(4) Filed Without Notice **ARC 7802B** 6/3/09

False communication, 8.18(2) Notice **ARC 7812B** 6/3/09

Remedial actions imposed after hearing, 9.4(1) Notice **ARC 7808B** 6/3/09

Civil penalty for violation, 9.4 Notice **ARC 7810B** 6/3/09

Time for service of notice of hearing, 11.5(3) Notice **ARC 7804B** 6/3/09

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Historic site preservation grant program—award limit, 50.3(8) Notice **ARC 7817B** 6/3/09

HUMAN SERVICES DEPARTMENT[441]

Notification of debt forms, 11.1, 11.2(2) Filed **ARC 7829B** 6/3/09

Ticket to hope program, 58.61 to 58.68, 153.8 Filed **ARC 7830B** 6/3/09

Premiums assessed for Medicaid for employed people with disabilities (MEPD), 75.1(39)

Filed **ARC 7833B** 6/3/09

Annual updates—statewide average cost of nursing facility services to a private-pay resident

and of institutional care, 75.23(3), 75.24(3)"b" Filed **ARC 7834B** 6/3/09

Medicaid—covered nonprescription drugs, 78.2(5) Notice **ARC 7816B** 6/3/09

Medicaid—coverage and fees for ambulatory surgical center services, 78.26, 79.1 Notice **ARC 7827B** 6/3/09

Update of CFR references relating to payment methodology for prescription drugs, 79.1(8)

Filed **ARC 7835B** 6/3/09

Visual inspection for lead hazards, 110.5(1)"x" Notice **ARC 7815B** 6/3/09

Child care assistance—fee schedule 2009, 170.4(2)"a" Filed Emergency **ARC 7837B** 6/3/09

INSPECTIONS AND APPEALS DEPARTMENT[481]

Dependent adult abuse in facilities and programs, ch 52 Notice **ARC 7828B** 6/3/09

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Licensing of insurance producers, 10.2, 10.8, 10.15, 10.16, 10.18(4) Filed **ARC 7836B** 6/3/09

NATURAL RESOURCES DEPARTMENT[561]

Special nonresident deer and turkey licenses, ch 12 Filed **ARC 7814B** 6/3/09

PUBLIC HEALTH DEPARTMENT[641]

Compliance with Virginia Graeme Baker Pool and Spa Safety Act, amendments to ch 15

Filed **ARC 7839B** 6/3/09

Standard for impact resistance and method of testing, rescind ch 121 Filed Without Notice **ARC 7838B** 6/3/09

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Buyer(s) acknowledgment of receipt of radon fact sheet, 14.1(6) Notice **ARC 7799B** 6/3/09

REGENTS BOARD[681]

Application fees to state universities, 1.7 Notice **ARC 7822B** 6/3/09

REVENUE DEPARTMENT[701]

Taxation of communication services, payments made by a third party, 18.20(7), 212.8
Notice **ARC 7832B** 6/3/09

STATUS OF WOMEN DIVISION[435]

HUMAN RIGHTS DEPARTMENT[421]"umbrella"

Iowans in transition, rescind ch 5 Notice **ARC 7821B** 6/3/09

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Notification and reporting of electrical outages, 20.18(6), 20.19 Notice **ARC 7820B** 6/3/09

Clarification of status of regulated, deregulated, and unregulated telecommunications
 services, amendments to ch 22 Filed **ARC 7826B** 6/3/09

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Department duties; county commission account and training program; Iowa veterans
 cemetery, 1.1 to 1.3, 1.5, 1.11, 1.15 Filed **ARC 7825B** 6/3/09

County commissions of veteran affairs fund and training program, ch 7 Filed **ARC 7824B** 6/3/09

Veterans trust fund, 14.2, 14.3(1), 14.4, 14.5, 14.7 Filed **ARC 7823B** 6/3/09

WORKERS' COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Contested cases—delivery, fees, 4.7, 4.8(2) Notice **ARC 7819B**, also Filed Emergency **ARC 7818B** 6/3/09

AGENCY	HEARING LOCATION	DATE AND TIME
EDUCATIONAL EXAMINERS BOARD[282]		
Class B license—uniform expiration date, 13.11(5) IAB 5/20/09 ARC 7778B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	June 10, 2009 1 p.m.
EDUCATION DEPARTMENT[281]		
Practitioner and administrator preparation programs, 79.1 to 79.17, 79.19 to 79.21 IAB 5/20/09 ARC 7780B	Conference Room 2NE, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 12, 2009 9 to 10 a.m.
Financial management of categorical funding, ch 98 IAB 5/20/09 ARC 7781B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 9, 2009 9 to 10 a.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
E. coli effluent limits; nutrient monitoring, 62.8(2), ch 63 Table II IAB 6/3/09 ARC 7813B	Fifth Floor East/West Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	June 25, 2009 1 to 3 p.m.
HISTORICAL DIVISION[223]		
Historic site preservation grant program—award limit, 50.3(8) IAB 6/3/09 ARC 7817B	Tone Boardroom, Historical Bldg. 600 E. Locust St. Des Moines, Iowa	June 23, 2009 10 a.m.
HUMAN SERVICES DEPARTMENT[441]		
Safety standards for children's centers, ch 106 IAB 5/20/09 ARC 7769B	Auditorium Wallace State Office Bldg. Des Moines, Iowa	June 10, 2009 9 to 10:30 a.m.
INSPECTIONS AND APPEALS DEPARTMENT[481]		
Dependent adult abuse in facilities and programs, ch 52 IAB 6/3/09 ARC 7828B	Room 319, Third Floor Lucas State Office Bldg. Des Moines, Iowa	June 26, 2009 3 p.m.
INSURANCE DIVISION[191]		
Medicare supplement insurance minimum standards, 15.3(4), 37.2, 37.3, 37.5 to 37.26, 37.50 to 37.59 IAB 5/20/09 ARC 7795B	330 Maple St. Des Moines, Iowa	June 10, 2009 10 a.m.
Business of insurance—genetic information, 15.11(5) IAB 5/20/09 ARC 7797B (See also ARC 7796B)	330 Maple St. Des Moines, Iowa	June 10, 2009 11 a.m.
NURSING BOARD[655]		
ARNP supervision of fluoroscopy, 7.2 IAB 4/22/09 ARC 7714B	Des Moines West Room, Holiday Inn 1050 6th Ave. Des Moines, Iowa	June 3, 2009 6 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
PROFESSIONAL LICENSURE DIVISION[645]		
Licensure of podiatrists, 220.2 to 220.4, 220.6, 220.7 IAB 5/20/09 ARC 7779B	Fifth Floor Board Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 17, 2009 9 to 9:30 a.m.
PUBLIC HEALTH DEPARTMENT[641]		
Center for congenital and inherited disorders, 4.2 to 4.4, 4.6, 4.7 IAB 5/20/09 ARC 7791B	Conference Call Hearing (To participate, call 1-866-685-1580 and enter pass code number 5152816466#)	June 9, 2009 10 to 11 a.m.
WIC food package approval criteria, 73.9(3) IAB 5/20/09 ARC 7798B (ICN Network)	ICN Room, 6th Floor Lucas State Office Bldg. Des Moines, Iowa (To confirm availability of site or to schedule a time to speak, call 515-281-4919)	June 10, 2009 9 to 10 a.m.
	Iowa State University 1 Lagomarcino Hall Corner of Knoll Rd. & Pamel Dr. Ames, Iowa	June 10, 2009 9 to 10 a.m.
	Public Library Information Center—Kelinson Rm. 2950 Learning Center Campus Dr. Bettendorf, Iowa	June 10, 2009 9 to 10 a.m.
	Public Library 524 Parkade Cedar Falls, Iowa	June 10, 2009 9 to 10 a.m.
	Loess Hills AEA 24997 Highway 92 Council Bluffs, Iowa	June 10, 2009 9 to 10 a.m.
	Keystone AEA - 1 2310 Chaney Rd. Dubuque, Iowa	June 10, 2009 9 to 10 a.m.
	Ft. Dodge Air National Guard 1649 Nelson Ave. Ft. Dodge, Iowa	June 10, 2009 9 to 10 a.m.
	Iowa Valley Community College 123 6th Ave. West Grinnell, Iowa	June 10, 2009 9 to 10 a.m.
	Public Library 150 West Willman St. Hiawatha, Iowa	June 10, 2009 9 to 10 a.m.
	North Iowa Area Community College - 1 500 College Dr. Mason City, Iowa	June 10, 2009 9 to 10 a.m.
	Mount Pleasant Treatment Center 1200 East Washington Mount Pleasant, Iowa	June 10, 2009 9 to 10 a.m.
	Public Library 300 S. Filmore St. Osceola, Iowa	June 10, 2009 9 to 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
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(ICN Network)	Great Prairie AEA - 1 2814 N. Court St. Ottumwa, Iowa	June 10, 2009 9 to 10 a.m.
	Northwest AEA - 12 1520 Morningside Ave. Sioux City, Iowa	June 10, 2009 9 to 10 a.m.
PUBLIC SAFETY DEPARTMENT[661]		
Motor fuel dispensing—B-blend, 221.4(2) IAB 5/20/09 ARC 7772B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	June 9, 2009 9 a.m.
Support and anchorage of manufactured homes—reinstallations, 322.11 IAB 5/20/09 ARC 7777B (See also ARC 7775B)	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	June 9, 2009 10 a.m.
REAL ESTATE COMMISSION[193E]		
Buyer(s) acknowledgment of receipt of radon fact sheet, 14.1(6) IAB 6/3/09 ARC 7799B	Professional Licensing Conference Room Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	June 23, 2009 9 a.m.
STATUS OF WOMEN DIVISION[435]		
Iowans in transition, rescind ch 5 IAB 6/3/09 ARC 7821B	Room 208 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2009 1 p.m.
UTILITIES DIVISION[199]		
Notification and reporting of electrical outages, 20.18(6), 20.19 IAB 6/3/09 ARC 7820B	Board Hearing Room 350 Maple St. Des Moines, Iowa	July 28, 2009 9 a.m.

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

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

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

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

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ARC 7813B

ENVIRONMENTAL PROTECTION COMMISSION[567]

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 455B.173 and 455B.197, the Environmental Protection Commission gives Notice of Intended Action to amend Chapter 62, "Effluent and Pretreatment Standards: Other Effluent Limits or Prohibitions," and Chapter 63, "Monitoring, Analytical and Reporting Requirements," Iowa Administrative Code.

Chapters 62 and 63 were recently amended by rule making designated as **ARC 7625B**. The amendments were approved by the Commission on February 17, 2009, and were published under Notice of Intended Action in the March 11, 2009, Iowa Administrative Bulletin. On April 8, 2009, the Administrative Rules Review Committee unanimously placed a 70-day delay on the effective date of portions of **ARC 7625B**. This proposed rule making addresses some of the issues that contributed to the 70-day delay. Based upon public comment and internal review, the Department has determined that additional revisions are appropriate at this time.

The proposed amendment to subrule 62.8(2) is designed to address new technical data received by the Department from the United States Environmental Protection Agency indicating that the methodology set forth in the Department's "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on June 16, 2004, for establishing E. coli effluent limits is not supported by the technical data upon which the methodology is intended to be based.

The proposed amendment to Table II of Chapter 63 is intended to reduce the burden on smaller communities in regard to nutrient monitoring requirements.

Any person may make written suggestions or comments on the proposed amendments on or before July 10, 2009. Written comments should be directed to Courtney Cswercko, NPDES Section, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by E-mail to courtney.cswercko@dnr.iowa.gov.

A public hearing will be held on June 25, 2009, from 1 to 3 p.m. in the Fifth Floor East/West Conference Rooms of the Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa. At the public hearing, comments on the proposed amendments may be submitted orally or in writing.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department to advise of any specific needs.

These amendments are intended to implement Iowa Code sections 455B.173, 455B.197 and 455B.105(11).

The following amendments are proposed.

ITEM 1. Amend subrule 62.8(2) as follows:

62.8(2) Effluent limitations necessary to meet water quality standards. No effluent, alone or in combination with the effluent of other sources, shall cause a violation of any applicable water quality standard. When it is found that a discharge that would comply with applicable effluent standards in 62.3(455B), 62.4(455B) or 62.5(455B) or effluent limitations in 62.6(455B) would cause a violation of water quality standards, the discharge will be required to meet the water quality-based effluent limits (WQBELs) necessary to achieve the applicable water quality standards as established in 567—Chapter 61. Any such effluent limit shall be derived from the calculated waste load allocation, as described in "Supporting Document for Iowa Water Quality Management Plans," Chapter IV, July 1976, as revised on June 16, 2004, or the waste load allocation as required by a total maximum daily load, whichever is

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

more stringent. The translation of waste load allocations to WQBELs shall use Iowa permit derivation methods, as described in the “Supporting Document for Iowa Water Quality Management Plans,” Chapter IV, July 1976, as revised on June 16, 2004, except that the daily sample maximum criteria for *E. coli* set forth in Part E of the “Supporting Document for Iowa Water Quality Management Plans” shall not be used as an end-of-pipe permit limitation.

ITEM 2. Amend **567—Chapter 63**, Table II, as follows:

Table II Minimum Self-Monitoring in Permits for Organic Waste Dischargers
Continuous Discharge Wastewater Treatment Plants

Wastewater Parameter	Sampling Location	Sample Type ^{3,11}	Frequency by P.E. ^{1,6}						
			≤ 100	101-500	501-1,000	1,001-3,000	3,001-15,000	15,001-105,000	> 105,000
Flow ²	Raw or Final	24-Hr Total	1/week	Daily	Daily	Daily	Daily	Daily	Daily
BOD ₅	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
CBOD ₅	Final	24-Hr Comp.	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
Total Suspended Solids (TSS)	Raw	24-Hr Comp.	1/6 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week ⁵	Daily
	Final	24-Hr Comp.	1/3 Months	1/3 Months	1/Month	1/2 Weeks	1/Week	2-5/Week ⁵	Daily
Ammonia Nitrogen ¹⁰	Final	24-Hr Comp.	1/Month	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
TKN ⁸	Raw	24-Hr Comp.	—	—	—	1/2 Months —	1/Month	1/Month	1/2 Weeks
Total Nitrogen ⁹	Final	24-Hr Comp.	—	—	—	1/3 Months —	1/3 Months	1/2 Months	1/2 Months
Total Phosphorus ⁹	Final	24-Hr Comp.	—	—	—	1/3 Months —	1/3 Months	1/2 Months	1/2 Months
pH	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	5/Week	Daily
<i>E. coli</i> ^{4,7}	Final	Grab	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months	5 samples, 1/3 Months
Temperature	Raw	Grab	—	—	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily
	Final	Grab	1/3 Months	1/Month	1/Week	1/Week	2/Week	2-5/Week ⁵	Daily

ARC 7806B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

Iowa Code section 68A.401(1)“a” provides that certain campaign statements and reports are required to be filed in an “electronic format as prescribed by rule.” Iowa Code section 68A.402(1) provides that certain campaign reports shall be filed by “electronic filing as prescribed by rule.” The proposed

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

amendments define “electronic format” and “electronic filing” as the Board’s electronic filing system, which permits the filing of statements and reports via the Board’s Web site.

The proposed amendments do not contain a waiver provision, as it is clear from campaign laws that the intent of the General Assembly is for “electronic format” and “electronic filing” to mean the filing of statements and reports via the Board’s Web site.

Any interested person may make written comments on the proposed amendments on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code section 68A.401(1)“a” as amended by 2009 Iowa Acts, Senate File 51, section 1, and section 68A.402(1) as amended by 2009 Iowa Acts, Senate File 49, section 4.

The following amendments are proposed.

ITEM 1. Adopt the following new subrule 4.1(6):

4.1(6) *Electronic format or electronic filing defined.* “Electronic format” or “electronic filing” means the board’s electronic filing system for submitting a statement of organization via the board’s Web site at www.iowa.gov/ethics.

ITEM 2. Amend rule **351—4.1(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement sections~~ section 68A.201 and section 68A.401 as amended by 2009 Iowa Acts, Senate File 51, section 1.

ITEM 3. Adopt the following new subrule 4.8(4):

4.8(4) *Electronic format or electronic filing defined.* “Electronic format” or “electronic filing” means the board’s electronic filing system for submitting campaign disclosure reports via the board’s Web site at www.iowa.gov/ethics.

ITEM 4. Amend rule **351—4.8(68A,68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68A.401 as amended by ~~2007 Iowa Acts, Senate File 39, section 5, and 2007 Iowa Acts, House File 413, section 1~~ 2009 Iowa Acts, Senate File 51, section 1, and section 68A.402 as amended by 2009 Iowa Acts, Senate File 49, section 4.

ARC 7807B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

Form DR-SFA was created so that a campaign could register a committee for purposes of using the abbreviated “paid for by” attribution prior to crossing the \$750 financial filing threshold, which would mandate registering a committee. The proposed amendment requires Form DR-SFA to be filed for each separate election in which the committee will be involved.

The proposed amendment does not contain a waiver provision. The Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendment on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 68A.201 and 68A.405.

The following amendment is proposed.

Adopt the following **new** subrule 4.11(3):

4.11(3) *Subsequent elections.* A person that filed Form DR-SFA for one election and then becomes involved in a subsequent election and wants to voluntarily register a committee shall file either a new Form DR-SFA or file an amended Form DR-SFA, which provides information concerning the new election.

ARC 7809B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The proposed amendment clarifies that when a candidate has registered a committee for one office and then seeks another office, the candidate is required to register a new committee for the second office sought, regardless of whether the \$750 financial filing threshold for the second office will be exceeded if funds are transferred from the first committee.

The proposed amendment does not contain a waiver provision. The Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendment on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68A.303.

The following amendment is proposed.

Amend subrule 4.26(2) as follows:

4.26(2) *Transfer of assets for same candidate.* A candidate's committee may transfer funds, assets, loans, and debts to a committee established for a different office when the same candidate established both committees. A candidate seeking to transfer funds, assets, loans, or debts under this subrule shall file either an amended statement of organization disclosing information for the new office sought or register a new committee regardless of whether the \$750 financial filing threshold for the new office will be exceeded.

ARC 7803B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The proposed amendment resolves the situation that arises when a former committee officer refuses to forward committee records to a subsequently appointed or elected committee officer by setting a time period for the records to be submitted and by enabling the Board to impose sanctions for the failure to forward committee records.

The proposed amendment contains a waiver provision.

Any interested person may make written comments on the proposed amendment on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68A.203.

The following amendment is proposed.

Adopt the following **new** subrule 4.37(3):

4.37(3) Records forwarded. An officer of a committee who is replaced by another officer shall forward within seven days any committee records to the subsequently appointed or elected committee officer. The board may grant an extension of time for good cause. The failure to forward records pursuant to this subrule may subject the former officer to board sanctions.

ARC 7805B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, "Campaign Disclosure Procedures," Chapter 7, "Personal Financial Disclosure," Chapter 8, "Executive Branch Lobbying," and Chapter 15, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

In order to provide consistency in reviewing and making determinations concerning requests for waivers of late-filed reports, the Board has created a Waiver of Civil Penalty form. The proposed amendments reflect that a request for waiver of a civil penalty shall be submitted on this form in lieu of the current process, which permits the submission of a request for waiver by letter, with no specific guidance as to how the request is to be filed.

The proposed amendments do not contain a specific waiver provision, as they are establishing the form to be used by the regulated community in seeking a waiver of certain Board rules.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Any interested person may make written comments on the proposed amendments on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code sections 68B.32A(5), 68B.32A(8), and 68B.32A(9).

The following amendments are proposed.

ITEM 1. Amend rule 351—4.60(68B) as follows:

351—4.60(68B) Requests for waiver of penalties. If a person believes that there are mitigating circumstances that prevented the timely filing of a report, the person may make a written request to the board for waiver of the penalty by filing a Petition for Waiver of Civil Penalty form. A person seeking a waiver must submit the request to the board within 30 days of receiving a civil penalty assessment order. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or seek a contested case proceeding pursuant to rule 351—4.61(68B).

This rule is intended to implement Iowa Code ~~Supplement~~ section 68B.32A(8).

ITEM 2. Amend rule 351—7.6(68B) as follows:

351—7.6(68B) Requests for waiver of penalties. If an individual holding a designated position in the executive branch believes that mitigating circumstances prevented the timely filing of Form PFD, the individual may make a written request to the board for waiver of the penalty by filing a Petition for Waiver of Civil Penalty form. The request for waiver must be received by the board within 30 days of notification to the individual of the civil penalty assessment. Waivers may be granted only under exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty may be waived based on the circumstances.

This rule is intended to implement Iowa Code ~~section~~ sections 68B.32A(5) and 68B.32A(9).

ITEM 3. Amend rule 351—8.12(68B) as follows:

351—8.12(68B) Request for waiver of penalty. An executive branch lobbyist or an executive branch lobbyist client that believes there are mitigating circumstances that prevented the timely filing of a report may make a written request to the board for waiver of the penalty. The board must receive the request for waiver within 30 days of the lobbyist's or lobbyist client's being notified of the civil penalty assessment by filing a Petition for Waiver of Civil Penalty form. Waivers will be granted only for exceptional or very unusual circumstances. The board will review the request and issue a waiver or denial of the request. If a waiver is granted, the board will determine how much of the penalty is waived based on the circumstances. If a denial or partial waiver is issued, the person shall promptly pay the assessed penalty or request a contested case proceeding pursuant to rule 351—8.13(68B) to appeal the board's decision.

This rule is intended to implement Iowa Code sections 68B.32A(5) and 68B.32A(9).

ITEM 4. Amend rule 351—15.2(17A,68A,68B) as follows:

351—15.2(17A,68A,68B) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations when no other more specifically applicable law or rule provides for waivers. To the extent another more specific provision of law or rule governs the issuance of a waiver, the more specific provision shall supersede this chapter with respect to any waiver process. A person seeking a waiver of a civil penalty under rule 351—4.60(68B), 351—7.6(68B), or 351—8.12(68B) for the late filing of a report is not required to follow the process set out in this chapter. The person may instead file the waiver request

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

by submitting a ~~letter that includes any reasons why a waiver should be granted~~ Petition for Waiver of Civil Penalty form.

ARC 7812B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

The proposed amendment adds an executive branch lobbyist registration statement to the communications that an executive branch lobbyist is prohibited from sending to an executive branch official or executive branch employee in the name of a fictitious person or in the name of a real person without the consent of that person.

The proposed amendment does not contain a waiver provision, as submitting a false executive branch lobbyist registration should not be subject to waiver.

Any interested person may make written comments on the proposed amendment on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68B.32A(13).

The following amendment is proposed.

Amend subrule 8.18(2) as follows:

8.18(2) *False communication.* An executive branch lobbyist shall not cause a communication or an executive branch lobbyist registration statement to be sent to an executive branch official or an executive branch employee in the name of either of the following:

- a. A fictitious person; or
- b. A real person except with the consent of that person.

ARC 7808B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 9, "Complaint, Investigation, and Resolution Procedures," Iowa Administrative Code.

The proposed amendment clarifies that one of the remedial actions the Board may impose pursuant to Iowa Code section 68B.32D after a hearing and a finding of a violation is the assessment of costs related to the holding of the hearing.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

The proposed amendment does not contain a waiver provision; however, any Board action after a hearing is subject to appeal and judicial review.

Any interested person may make written comments on the proposed amendment on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code section 68B.32D.

The following amendment is proposed.

Amend subrule 9.4(1) as follows:

9.4(1) *Action after hearing.* If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the actions set out in Iowa Code section 68B.32D, including as a remedial action the assessment of direct costs related to the hearing for printing, postage, long-distance telephone charges, witness fees, and compensation paid to the presiding officer.

ARC 7810B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 9, "Complaint, Investigation, and Resolution Procedures," Iowa Administrative Code.

Iowa Code section 68B.32A(9) directs the Board to "establish and impose penalties, and recommendations for punishment" for persons who violate a law or rule under the Board's jurisdiction. The proposed amendments would permit the Board to resolve certain violations by imposing a civil penalty as opposed to initiating the full contested case process. The person subject to the imposition of a civil penalty would still be able to request a contested case proceeding to challenge the determination and would still be able to seek judicial review of a Board action.

The proposed amendments contain a waiver provision.

Any interested person may make written comments on the proposed amendments on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code sections 68B.32A(9) and 68B.32D.

The following amendments are proposed.

ITEM 1. Amend subrule 9.4(2) as follows:

9.4(2) *Administrative resolution.* Violations may be handled by administrative resolution rather than through the full investigative and contested case proceeding process. The board may order administrative resolution by directing that the person take specified remedial action. The board may also order administrative resolution by issuing a letter of reprimand or by imposing a civil penalty as set out in subrule 9.4(7).

ITEM 2. Adopt the following **new** subrule 9.4(7):

9.4(7) *Civil penalty for violation.* If the board determines that probable cause exists to believe that a violation of any statute or rule under its jurisdiction has occurred, except for a late-filed disclosure report, the board may order administrative resolution of the violation by imposing a civil penalty not to

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

exceed \$500. A person assessed a civil penalty may appeal the decision by requesting within 30 days of the date of the correspondence informing the person of the board's decision a contested case proceeding to be held under the process set out in subrule 9.4(4).

ARC 7804B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 11, "Contested Case Procedures," Iowa Administrative Code.

The proposed amendment sets out the number of days before a Board hearing that service of process is to be completed.

The proposed amendment does not contain a specific waiver provision, but the scheduling of a hearing is subject to a continuance under rule 351—11.16(17A,68B).

Any interested person may make written comments on the proposed amendment on or before June 23, 2009. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code chapter 17A and Iowa Code sections 68B.32A and 68B.32C.

The following amendment is proposed.

Amend subrule 11.5(3) as follows:

11.5(3) Time. The notice of hearing shall be served: ~~upon all parties at least 30 days before the scheduled hearing date.~~

a. Upon all parties at least 20 days before the scheduled hearing date if the alleged violation involves conduct other than the failure to timely file a statement, report, or document that is required to be filed pursuant to a law or rule under the board's jurisdiction.

b. Upon all parties at least 10 days before the scheduled hearing date if the alleged violation involves the failure to timely file a statement, report, or document that is required to be filed pursuant to a law or rule under the board's jurisdiction.

c. Upon all parties at least 10 days before the scheduled hearing date if the hearing is an appeal of a board decision concerning a civil penalty waiver request for a late-filed statement, report, or document that is required to be filed pursuant to a law or rule under the board's jurisdiction.

d. Upon all parties at least 10 days before the scheduled hearing date if the hearing is an appeal of a decision of a regulatory agency to deny or grant conditional consent for an official or employee of the regulatory agency to sell or lease goods or services as provided in 351—subrule 6.11(6).

e. Upon all parties at least 10 days before the scheduled hearing date if the hearing is an appeal of a decision by the office of the governor to deny or grant conditional consent for a member of the governor's office to sell or lease goods or services as provided in 351—subrule 6.12(4).

ARC 7817B**HISTORICAL DIVISION[223]****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 303.1A, the Director of the Department of Cultural Affairs proposes to amend Chapter 50, "Historic Site Preservation Grant Program," Iowa Administrative Code.

The proposed amendment to Chapter 50 removes the limit of two projects per county per grant cycle and substitutes a limit of \$200,000 per county in any grant cycle. This action is required due to a change made by the Legislature during the 2009 legislative session.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on June 23, 2009. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail kristen.vandermolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing at 10 a.m. on June 23, 2009, at the above address in the Tone Boardroom. At the hearing, persons may present their views either orally or in writing. Persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code chapter 303.

The following amendment is proposed.

Amend subrule 50.3(8) as follows:

50.3(8) *Geographic distribution of funds.* No more than ~~two projects~~ \$200,000 may be awarded in any grant cycle within a single county.

ARC 7816B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

The proposed amendments would change the list of covered nonprescription drugs under the Medicaid program to:

- Remove the nonprescription drug omeprazole magnesium delayed-release tablets 20 mg (base equivalent), as duplicative of the payable and less costly prescription product omeprazole.

HUMAN SERVICES DEPARTMENT[441](cont'd)

- Remove the following nonprescription drugs because the products are no longer available: benzoyl peroxide 10% wash; ferrous sulfate tablets 300 mg; ferrous gluconate 300 mg; niacin (nicotinic acid) tablets 25 mg; pseudoephedrine/dextromethorphan 15 mg/5 mg/5 mL syrup; sennosides granules 15 mg/5 ml; sennosides tablets 187 mg; and sodium chloride solution 0.9% for inhalation with metered dispensing valve 90 ml, 240 ml.

- Add the following products established as preferred on the preferred drug list: cetirizine hydrochloride liquid 1 mg/ml; cetirizine hydrochloride tablets 5 mg; cetirizine hydrochloride tablets 10 mg; epinephrine racemic solution 2.25%; loratadine syrup 5 mg/5 ml; sennosides syrup 8.8 mg/5 ml; and sennosides tablets 8.6 mg.

Omeprazole magnesium delayed-release tablets 20 mg (base equivalent) are available by prescription in a generic form that can have a state maximum allowable cost rate applied, resulting in significant savings to the Iowa Medicaid program. In addition, this drug is in the therapeutic class of proton pump inhibitors, which is a covered therapeutic class for prescription products under Medicare Part D. Therefore, removal of this product from the Medicaid nonprescription drug list also eliminates Medicaid payment for the drug for Medicare Part D dual eligibles, resulting in additional savings to the program.

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

Any interested person may make written comments on the proposed amendments on or before June 24, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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

The following amendments are proposed.

ITEM 1. Rescind the following entries in subrule **78.2(5)**:

~~Omeprazole magnesium delayed-release tablets 20 mg (base equivalent)~~

~~Pseudoephedrine/dextromethorphan 15 mg/5 mg/5 mL syrup~~

~~Sennosides granules 15 mg/5 ml~~

~~Sodium chloride solution 0.9% for inhalation with metered dispensing valve 90 ml, 240ml~~

ITEM 2. Amend the following entries in subrule **78.2(5)**:

Benzoyl peroxide 10% gel, lotion, ~~wash~~

Ferrous sulfate tablets ~~300 mg~~, 325 mg

Ferrous gluconate ~~300 mg~~, 325 mg

Niacin (nicotinic acid) tablets ~~25 mg~~, 50 mg, 100 mg, 250 mg, 500 mg

Sennosides tablets ~~187~~ 8.6 mg

ITEM 3. Adopt the following **new** entries in subrule **78.2(5)** in alphabetical order:

Cetirizine hydrochloride liquid 1 mg/ml

Cetirizine hydrochloride tablets 5 mg

Cetirizine hydrochloride tablets 10 mg

Epinephrine racemic solution 2.25%

Loratadine syrup 5 mg/5 ml

Sennosides syrup 8.8 mg/5 ml

ARC 7827B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

The proposed amendments will affect Medicaid coverage limits and fees for services provided by an ambulatory surgical center. Under current rules, Iowa Medicaid covers the same procedures that are covered by Medicare and reimburses these services based on a fee schedule that depends on the complexity of the procedure.

Medicare used the same reimbursement methodology until January 1, 2008. At that time, Medicare began phasing in a reimbursement methodology based on the hospital Outpatient Prospective Payment System (OPPS). Medicare's change in methodology is being phased in using a blended payment methodology over three years, with full implementation by 2011. Unlike Medicare, Iowa's Medicaid Management Information System (MMIS) cannot process claims using a combination of these methodologies, making a phased-in approach at the state level impossible.

Additionally, Medicare has begun to cover more than 800 procedures that previously were not covered for ambulatory surgical centers, many of which do not have a comparable payment category under Iowa's existing methodology. If Iowa Medicaid were to cover these same procedures using the existing payment methodology, the result would be inflated payments for nearly 500 procedures. For example, Medicaid payment for removal of sutures in a physician's office is \$59.55, while the payment at the lowest ambulatory surgical center category would be \$332.89.

The Department will monitor Medicare implementation of the OPPS methodology and determine if Iowa should adopt that methodology beginning in January 2011. In the interim, these amendments provide for the Department to determine the scope of covered ambulatory surgical center services independently from Medicare and set the fee for newly covered procedures. All services covered under the previous Medicare policy will continue to be covered. The list of covered services will be made available through a fee schedule published on the Iowa Medicaid Enterprise Web site.

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

Any interested person may make written comments on the proposed amendments on or before June 24, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by E-mail to policyanalysis@dhs.state.ia.us or by fax to (515)281-4980.

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

The following amendments are proposed.

ITEM 1. Amend rule 441—78.26(249A) as follows:

441—78.26(249A) Ambulatory surgical center services. Ambulatory surgical center services are those services furnished by an ambulatory surgical center in connection with a covered surgical procedure or a covered dental procedure. Covered procedures are listed in the fee schedule published on the department's Web site.

HUMAN SERVICES DEPARTMENT[441](cont'd)

78.26(1) Covered surgical procedures shall be those medically necessary procedures that are eligible for payment as physicians' services, under the circumstances specified in rule 441—78.1(249A) and performed on ~~an eligible recipient~~ a Medicaid member, that can safely be performed in an outpatient setting as determined by the department upon advice from the ~~department's utilization review and quality assurance firm~~ Iowa Medicaid enterprise medical services unit.

78.26(2) Covered dental procedures are those medically necessary procedures that are eligible for payment as dentists' services, under the circumstances specified in rule 441—78.4(249A) and performed on ~~an eligible recipient~~ a Medicaid member, that can safely be performed in an outpatient setting for Medicaid ~~recipients~~ members whose mental, physical, or emotional condition necessitates deep sedation or general anesthesia.

78.26(3) The covered services provided by the ambulatory surgical center in connection with a Medicaid-covered surgical or dental procedure shall be those nonsurgical and nondental services ~~covered by the Medicare program as ambulatory surgical center services in connection with Medicare covered surgical procedures.~~ that:

- a. Are medically necessary in connection with a Medicaid-covered surgical or dental procedure;
- b. Are eligible for payment as physicians' services under the circumstances specified in rule 441—78.1(249A) or as dentists' services under the circumstances specified in rule 441—78.4(249A);
- and
- c. Can safely and economically be performed in an outpatient setting, as determined by the department upon advice from the Iowa Medicaid enterprise medical services unit.

78.26(4) Limits on covered services.

~~78.26(1)~~ a. Abortion procedures are covered only when criteria in subrule 78.1(17) are met.

~~78.26(2)~~ b. Sterilization procedures are covered only when criteria in subrule 78.1(16) are met.

~~78.26(3)~~ c. Preprocedure review by the Iowa Foundation for Medical Care (IFMC) is required if ambulatory surgical centers are to be reimbursed for certain frequently performed surgical procedures as set forth under subrule 78.1(19). Criteria are available from IFMC, ~~3737 Woodland Avenue~~ 1776 West Lakes Parkway, Suite 500, West Des Moines, Iowa ~~50265~~ 50266-8239, or in local hospital utilization review offices. (Cross-reference 78.28(6))

This rule is intended to implement Iowa Code section 249A.4.

ITEM 2. Amend subrule **79.1(2)**, provider category "Ambulatory surgical centers," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Ambulatory surgical centers	Base rate fee <u>Fee schedule as determined by Medicare.</u> See 79.1(3)	Fee schedule in effect 6/30/08 plus 1%.

ITEM 3. Amend subrule 79.1(3) as follows:

79.1(3) Ambulatory surgical centers.

a. Payment is made for facility services on a fee schedule determined by ~~Medicare~~ the department and published on the department's Web site. These fees are grouped into ~~eight~~ nine categories corresponding to the difficulty or complexity of the surgical procedure involved. ~~Procedures not classified by Medicare shall be included in the category with comparable procedures.~~

b. Services of the physician or the dentist are reimbursed on the basis of a fee schedule (see paragraph 79.1(1)"c"). This payment is made directly to the physician or dentist.

ARC 7815B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 237A.12 and 2008 Iowa Acts, chapter 1187, section 35, the Department of Human Services proposes to amend Chapter 110, "Child Development Homes," Iowa Administrative Code.

The proposed amendment would implement a new condition on registration as a child development home for an applicant who provides child care in a facility built before 1960. The amendment requires the provider to conduct a visual inspection for lead hazards as evidenced by chipping or peeling paint and to complete interim controls using safe work methods as defined by the Department of Public Health if chipping or peeling paint is found. Providers would have to meet these requirements before initial registration and before registration renewal. The amendment sets a phase-in period for compliance for child development homes that are registered at the time the rule goes into effect.

This amendment does not provide for waivers in specified situations, except that interim controls are not required if the chipping or peeling paint is certified as non-lead-based. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before June 24, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 237A.12 and 2008 Iowa Acts, chapter 1187, section 35.

The following amendment is proposed.

Adopt the following **new** paragraph **110.5(1)"x"**:

x. A provider operating in a facility built before 1960 shall assess and control lead hazards before being issued an initial child development home registration or a renewal of the registration. To comply with this requirement, the provider shall:

(1) Conduct a visual assessment of the facility for lead hazards that exist in the form of peeling or chipping paint;

(2) Apply interim controls on any chipping or peeling paint found, using lead-safe work methods in accordance with and as defined by department of public health rules at 641—Chapter 70, unless a certified inspector as defined in 641—Chapter 70 determines that the paint is not lead-based paint; and

(3) Submit Form 470-4755, Lead Assessment and Control, as verification of the visual assessment and completion of interim controls, if necessary.

EXCEPTION: Providers that have a valid registration on [the date that this rule is implemented] shall assess and control lead hazards by June 30, 2010.

ARC 7828B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 235E.5, the Department of Inspections and Appeals hereby gives Notice of Intended Action to adopt new Chapter 52, "Dependent Adult Abuse in Facilities and Programs," Iowa Administrative Code.

The rules in Chapter 52 relate to civil findings of dependent adult abuse in health care facilities and programs. Specifically, the rules provide definitions, specify who must report and the reporting procedures, and set forth the process for evaluating reports and gathering evidence.

As required by statute, the proposed rules were developed in consultation and cooperation with the Dependent Adult Protective Advisory Council, industry representatives, professional groups, and consumer groups. A draft of the rules was provided to interested groups for review. The groups were given an opportunity to provide informal comments, and each group that provided comments was given an opportunity to meet with the Department and discuss the comments. The Department revised the proposed rules after reviewing the comments and meeting with interested groups.

Any interested person may make written suggestions or comments on these proposed rules on or before June 23, 2009. Such written materials should be sent to Steven Mandernach, Administrative Rules Coordinator, Department of Inspections and Appeals, 321 E. 12th Street, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6863 or by E-mail to steven.mandernach@dia.iowa.gov.

Also, there will be a public hearing on June 26, 2009, at 3 p.m. in Room 319, Third Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules.

Any person who intends to attend the public hearing and who has special requirements, such as those relating to hearing or mobility impairments, should contact the Department to advise the Department of specific needs.

These rules are intended to implement Iowa Code chapter 235E.

The following amendment is proposed.

Adopt the following **new** 481—Chapter 52:

CHAPTER 52
DEPENDENT ADULT ABUSE IN FACILITIES AND PROGRAMS

481—52.1(235E) Definitions. For purposes of this chapter, the following definitions apply:

"Assault of a dependent adult" means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

"Caretaker" means a person who is or was a staff member of a facility or program who provides or provided care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.

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

“*Confidentiality*” means the withholding of information from any manner of communication, public or private.

“*Court*” means the district court.

“*Department*” means the department of inspections and appeals.

“*Dependent adult*” means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for the person’s own care or protection is impaired, either temporarily or permanently.

“*Dependent adult abuse*” means any of the following as a result of the willful misconduct or gross negligence or reckless act or omission of a caretaker, taking into account the totality of the circumstances: physical injury, unreasonable confinement, unreasonable punishment, assault, sexual offense, sexual exploitation, exploitation, or neglect. “Dependent adult abuse” does not include any of the following:

1. Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

2. Circumstances in which the dependent adult’s caretaker, acting in accordance with the dependent adult’s stated or implied consent, declines medical treatment or care.

3. The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult’s next of kin, attorney in fact, or guardian pursuant to the applicable procedures under Iowa Code chapter 125, 144A, 144B, 222, 229, or 633.

“*Exploitation*” means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

“*Facility*” means a health care facility as defined in Iowa Code section 135C.1 or a hospital as defined in Iowa Code section 135B.1.

“*Gross negligence*” means an act or omission that demonstrates a substantial lack of concern or conscious indifference for whether an injury will result or has resulted.

“*Immediately,*” for purposes of mandatory reporters’ reporting of suspected dependent adult abuse, means within 24 hours.

“*Inspector*” means a surveyor, monitor or investigator with the department or any department designee.

“*Intimate relationship*” means a significant romantic involvement between two persons that need not include sexual involvement, but does not include a casual social relationship or association in a business or professional capacity. In determining whether persons are in an intimate relationship, the court may consider the following nonexclusive list of factors:

1. The duration of the relationship,
2. The frequency of interaction,
3. Whether the relationship has been terminated, and
4. The nature of the relationship, characterized by either person’s expectation of sexual or romantic involvement.

“*Misappropriates*” includes taking unfair advantage of or wrongfully or dishonestly exercising control over property.

“*Neglect of a dependent adult*” means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or physical or mental health. Neglect can occur when there is an immediate or potential danger of the dependent adult suffering injury or death and includes, but is not limited to, the failure of a caregiver to make a reasonable effort to protect a dependent adult from abuse.

“*Person*” means person as defined in Iowa Code section 4.1.

“*Physical injury*” means a physical injury, or injury which is at a variance with the history given of the injury, which involves a breach of skill or care or learning ordinarily exercised by a caretaker

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

in similar circumstances. “Physical injury” includes damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage.

“*Program*” means an elder group home as defined in Iowa Code section 231B.1, an assisted living program certified under Iowa Code section 231C.3, or an adult day services program as defined in Iowa Code section 231D.1.

“*Recklessly*” means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

“*Registry*” means the central registry for dependent adult abuse information established in Iowa Code section 235B.5.

“*Report*” means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

“*Resident*” means a resident of a health care facility as defined in Iowa Code chapter 135C, a patient in a hospital as defined in Iowa Code chapter 135B, a tenant of an assisted living program as defined in Iowa Code chapter 231C, a tenant in an elder group home as defined in Iowa Code chapter 231B, or a participant in an adult day services program as defined in Iowa Code chapter 231D.

“*Sexual exploitation*” means any consensual or nonconsensual sexual conduct with a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. “Sexual exploitation” includes but is not limited to:

1. Kissing;
2. Touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals;
3. A sex act as defined in Iowa Code section 702.17;
4. The transmission, display or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment, care, monitoring, assessment or diagnosis or as part of an ongoing investigation.

“Sexual exploitation” does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

“*Sexual offense*” means the commission of a sexual offense under Iowa Code chapter 709 or Iowa Code section 726.2 with or against a dependent adult.

“*Staff member*” means an individual who provides direct or indirect treatment or services to residents in a facility or program. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services include those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance. Specifically excluded from the definition of “staff member” are individuals such as part-time volunteers, building contractors, repair workers or others who are in a facility or program for a very limited purpose, are not in the facility or program on a regular basis, or do not provide any treatment or services to the residents of the facility or program.

“*Unreasonable confinement*” means confinement that includes but is not limited to the use of restraints, either physical or chemical, for the purpose of controlling behavior or for the convenience of staff. “Unreasonable confinement” does not include the use of confinement and restraints if the methods are employed in conformance with state and federal standards governing confinement and restraint or as authorized by a physician or physician extender.

“*Unreasonable punishment*” means a willful act or statement intended by the caretaker to punish, agitate, confuse, frighten, or cause emotional distress to the dependent adult. Such willful act or statement includes but is not limited to intimidating behavior, threats, harassment, deceptive acts, or false or misleading statements.

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

“*Willful misconduct*” means an intentional act committed with disregard for a known or obvious risk, making it probable that harm will follow.

481—52.2(235E) Persons who must report dependent adult abuse and the reporting procedure for those persons.

52.2(1) Persons who must report dependent adult abuse. The following persons shall report suspected dependent adult abuse in accordance with subrule 52.2(2) below.

- a. A staff member; or
- b. An employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse.

52.2(2) Reporting suspected dependent adult abuse in facilities or programs.

a. If a staff member or employee is required to make a report pursuant to this rule, the staff member or employee shall immediately notify the person in charge or the person’s designated agent who shall then notify the department within 24 hours of such notification.

b. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within 24 hours.

c. Nothing in this subrule prevents a mandatory reporter or any other person from notifying the department directly of any suspected abuse.

d. The employer or supervisor of a person who is required to or may make a report pursuant to this rule shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

e. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person should also immediately make an oral report to an appropriate law enforcement agency.

f. A report of suspected dependent adult abuse shall contain as much of the following information as the person making the report is able to furnish:

- (1) The date and time of the incident;
- (2) The name, date of birth and diagnoses of the dependent adult;
- (3) Whether the dependent adult sustained an injury and, if yes, whether photographs of the injury were taken;
- (4) The nature and extent of the dependent adult abuse, including evidence of previous dependent adult abuse allegations;
- (5) A list of the staff members working at the time of the incident, including each staff member’s full name, title, date of birth, address and telephone number;
- (6) The alleged perpetrator’s full name, title, date of birth, social security number, address and telephone number;
- (7) Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse or helpful in providing assistance to the dependent adult; and
- (8) The name, address and telephone number of the person making the report.

52.2(3) A report shall be accepted whether or not it contains all of the information requested. When the report is made to any agency other than the department, that agency shall promptly refer the report to the department.

52.2(4) A person required to report abuse who knowingly and willfully fails to do so within 24 hours may be subject to criminal penalties and civil liability as provided for by statute.

52.2(5) Interference with a person required to report.

a. It is unlawful for any person or employer to discharge, suspend, or otherwise discipline a person for any of the following:

- (1) For reporting suspected dependent adult abuse;
- (2) For cooperating with or assisting the department in evaluating or investigating a case of dependent adult abuse; or

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

- (3) For participating in judicial proceedings relating to dependent adult abuse.
- b. A person or employer found in violation of this subrule is guilty of a simple misdemeanor.

481—52.3(235E) Reports and registry of dependent adult abuse.

52.3(1) Receipt and evaluation of reports. The department shall receive and evaluate reports of dependent adult abuse in facilities and programs. The department shall inform the department of human services of such evaluations and dispositions for inclusion in the central registry for dependent adult abuse information pursuant to Iowa Code section 235B.5.

52.3(2) Reports sent to the department or the department of human services. Any person who believes that a dependent adult has suffered dependent adult abuse may report the suspected dependent adult abuse to the department. The department shall transfer any reports received of dependent adult abuse in the community to the department of human services. The department of human services shall transfer any reports received of dependent adult abuse in facilities or programs to the department.

52.3(3) Reports of abuse that is minor, isolated, and unlikely to reoccur.

a. *Minor, isolated, and unlikely to reoccur—first instance.* A report of dependent adult abuse that meets the definition of dependent adult abuse as defined in Iowa Code section 235E.1(5)“a”(1)(a) or (d) which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services for a five-year period, shall not be included in the central registry, and shall not be considered founded dependent adult abuse.

b. *Minor, isolated, and unlikely to reoccur—subsequent instance(s).* A subsequent report of dependent adult abuse that meets the definition of dependent adult abuse as defined in Iowa Code section 235E.1(5)“a”(1)(a) or (d), that occurs within the five-year period, and that is committed by the same caretaker may also be considered minor, isolated, and unlikely to reoccur, depending on the totality of circumstances.

c. *Retention of reports.* All initial and subsequent reports are collected and maintained by the department of human services until a five-year period has expired, with no additional reports having been filed.

481—52.4(235E) Financial institution employees and reporting suspected financial exploitation. An employee of a financial institution may report suspected financial exploitation of a dependent adult to the department.

481—52.5(235E) Evaluation of report. Upon receipt of a report as defined in rule 481—52.1(235E), the department shall conduct an intake sufficient to determine whether the allegation constitutes dependent adult abuse as defined in rule 481—52.1(235E).

481—52.6(235E) Separation of victim and alleged abuser. Upon receiving a claim of dependent adult abuse of a dependent adult in a facility or program, the facility or program shall separate the victim and the alleged abuser immediately and shall maintain that separation until the abuse investigation is completed and the abuse determination is made.

NOTE: Facilities that participate in the federal Medicare or Medicaid program may be subject to additional federal requirements regarding separation.

481—52.7(235E) Interviews, examination of evidence, and investigation of dependent adult abuse allegations.

52.7(1) Entering and examining evidence at a facility or program. An inspector of the department may enter any facility or program without a warrant and may examine all records and items pertaining to residents, employees, former employees, and the alleged dependent adult abuser and any other records and items necessary to ensure the integrity of the investigation.

52.7(2) Interviews.

a. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who might have knowledge about the alleged dependent adult abuse.

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

b. An alleged dependent adult abuser may request to have an attorney present at any time during the interview. An employee organization representative or union representative may observe an investigative interview conducted by the department of an alleged dependent adult abuser if all of the following conditions are met:

(1) The alleged dependent adult abuser is part of a bargaining unit or employee organization that is party to a collective bargaining agreement under Iowa Code chapter 20 or any other applicable state or federal law.

(2) The alleged dependent adult abuser requests the presence of a union representative or employee organization representative.

(3) The representative maintains the confidentiality of all information from the interview subject to the penalties provided in Iowa Code section 235B.12 if such confidentiality is breached.

(4) The purpose of the interview is a civil administrative dependent adult abuse investigation under applicable law.

52.7(3) *Photographs of victim, vicinity and related matters.* An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved. The department shall obtain consent from the dependent adult abuse victim or guardian or other person with a power of attorney over the dependent adult abuse victim prior to taking photographs of the dependent adult abuse victim.

52.7(4) *Evaluating information.* An inspector shall consider whether the information as reported, other known or discovered information, and any information gathered as a result of the inspector's contact with collateral sources, including prior abuse allegations and disciplinary actions, would tend to corroborate the alleged abuse.

481—52.8(235E) Notification to subsequent employers. The department shall notify a facility or program that subsequently employs an alleged or founded dependent adult abuser.

These rules are intended to implement Iowa Code chapter 235E.

ARC 7799B

REAL ESTATE COMMISSION[193E]

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 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 14, "Seller Property Condition Disclosure," Iowa Administrative Code.

The proposed amendment to subrule 14.1(6) will require that Buyer(s) acknowledge receipt of an informational pamphlet provided by the Iowa Department of Public Health concerning radon gas. The amendment will also change the listed order of the items for which the Buyer(s) acknowledges receipt.

A public hearing will be held on June 23, 2009, at 9 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received before the end of the business day on June 23, 2009. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to David.Batts@iowa.gov.

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

This amendment is intended to implement Iowa Code sections 543B.9 and 543B.18.
The following amendment is proposed.

Amend subrule **14.1(6)**, Residential Property Seller Disclosure Statement, section entitled “Buyer(s) Acknowledgement,” as follows:

BUYER(S) ACKNOWLEDGMENT:

Buyer(s) acknowledges receipt of a Radon Fact Sheet for Real Estate prepared by the Iowa Department of Public Health.

Buyer(s) acknowledges receipt of a copy of this Real Estate Disclosure Statement. This statement is not intended to be a warranty or to substitute for any inspection the buyer(s) may wish to obtain.

Buyer _____ Buyer _____
Date ____/____/____ Date ____/____/____

ARC 7822B

REGENTS BOARD[681]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 1, “Admission Rules Common to the Three State Universities,” Iowa Administrative Code.

The proposed amendment revises rule 681—1.7(262) to increase University of Iowa application fees for undergraduate international students from \$60 to \$85 and application fees for graduate/professional international students from \$85 to \$100 and proposes a new \$40 fee for nondegree students. The proposed amendment would increase Iowa State University application fees for undergraduate domestic students from \$30 to \$40, graduate domestic students from \$30 to \$40 and graduate international students from \$70 to \$90. A new application fee of \$40 for nondegree students is proposed at the University of Northern Iowa. The fee increases will help offset processing costs. The addition of the new application fees at the University of Iowa and the University of Northern Iowa for nondegree students is necessary because the processing of these applications takes as much time as the processing of applications for degree students.

Any interested person may make written comments on this amendment on or before June 23, 2009, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6420; or E-mail at mbruns@iastate.edu.

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

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is proposed.

Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

REGENTS BOARD[681](cont'd)

Undergraduate domestic student	\$40
Undergraduate international student	\$60 <u>\$85</u>
Graduate/professional domestic student	\$60
Graduate/professional international student	\$85 <u>\$100</u>
PharmD student	\$100
Re-entry fee	\$20
<u>Nondegree student</u>	<u>\$40</u>

Iowa State University

Undergraduate domestic student	\$30 <u>\$40</u>
Undergraduate international student	\$50
Graduate domestic student	\$30 <u>\$40</u>
Graduate international student	\$70 <u>\$90</u>
Veterinary Medicine	\$60

University of Northern Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$50
<u>Nondegree student</u>	<u>\$40</u>

This rule is intended to implement Iowa Code section 262.9(3).

ARC 7832B

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 chapter 17A and sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," and Chapter 212, "Elements Included In and Excluded From a Taxable Sale and Sales Price," Iowa Administrative Code.

Item 1 amends rule 701—18.20(422,423) by adopting new subrule 18.20(7). The proposed amendment provides definitions used in the taxation of communication service, telecommunications service, ancillary service and other similar communication service and expands and clarifies provisions governing these services. The amendment is required for compliance with the Streamlined Sales and Use Tax Agreement.

Item 2 amends Chapter 212 by adding new rule 701—212.8(423). This new rule deals with payments made by a third party, such as a reimbursement to a retailer from a manufacturer for a manufacturer's coupon.

REVENUE DEPARTMENT[701](cont'd)

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 July 6, 2009, to the Policy Section, Taxpayer Service and Policy 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 23, 2009. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy 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, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 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 26, 2009.

These amendments are intended to implement Iowa Code chapters 422 and 423.

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 18.20(7):

18.20(7) *Communication service, telecommunications service, ancillary service, and other similar communication service.*

a. Purpose. This subrule covers various provisions related to communication service, telecommunications service, ancillary service, and other similar communication service.

b. Definitions.

(1) *“Air-to-ground radio telephone service”* means a radio service in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) *“Ancillary services”* means services that are associated with or incidental to the provision of a telecommunications service. The term includes, but is not limited to, detailed communications billing service, directory assistance, vertical service, and voice mail services.

(3) *“Call-by-call basis”* means any method of charging for telecommunications services where the price is measured by individual calls.

(4) *“Communications channel”* means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(5) *“Communication service”* means the act of communicating using any system or the act of transmission and receipt of information between two or more points. Each point must be capable of both transmitting and receiving information if communication is to occur. The term “communication service” includes, but is not limited to, the transmission and receipt of sound, printed materials (including letters and other materials), other images perceived visually and data encoded in computer languages. Communication service also includes telecommunications service, ancillary service and other similar communication service.

(6) *“Conference bridging service”* means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include telecommunications services used to reach the conference bridge.

(7) *“Customer”* means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunications service. For purposes of sourcing sales of telecommunications services, the end user of the telecommunications service is the customer of

REVENUE DEPARTMENT[701](cont'd)

the telecommunications service when the end user is not also the contracting party. "Customer" does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(8) "*Customer channel termination point*" means the location where the customer either inputs or receives the communications.

(9) "*Detailed telecommunications billing service*" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(10) "*Directory assistance*" means an ancillary service of providing telephone number information and address information.

(11) "*End user*" means the person who utilizes the telecommunication service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity.

(12) "*Fixed wireless service*" means a telecommunications service that provides radio communication between fixed points.

(13) "*Home service provider*" means the same as defined in Section 124(5) of Public Law 106-252, 4 U.S.C. § 124(5) (Mobile Telecommunications Sourcing Act). The home service provider is the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

(14) "*Interstate*" means a telecommunications service that originates in one United States state or a United States territory or possession and terminates in a different United States state or a United States territory or possession.

(15) "*Intrastate*" means a telecommunications service that originates in one United States state or a United States territory or possession and terminates in the same United States state or a United States territory or possession.

(16) "*Mobile telecommunications service*" means commercial mobile radio service; that is, a radio communication service carried on between mobile stations or receivers and land stations and by mobile stations communicating among themselves.

(17) "*Mobile wireless service*" means a telecommunications service that is transmitted, conveyed, or routed regardless of the technology used, whereby the origination and/or termination points of the transmission, conveyance, or routing are not fixed, including, by example only, telecommunications services that are provided by a commercial mobile radio service provider.

(18) "*Paging service*" means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers. This transmission may include messages and sounds.

(19) "*Pay telephone service*" means a telecommunications service provided through any pay telephone. Pay telephone service also includes coin operated telephone service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(20) "*Place of primary use*" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, the place of primary use must be within the licensed service area of the home service provider.

(21) "*Postpaid calling service*" means the telecommunications service obtained by making a payment on a call-by-call basis, either through use of a credit card or payment mechanism such as a bank card, travel card, credit card or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a telecommunications service, except a prepaid wireless calling service, that would be a prepaid calling service except it is not exclusively a telecommunication service.

(22) "*Prepaid calling service*" means the right to access exclusively telecommunications services, which must be paid for in advance and which enable the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that are sold in predetermined units or dollars of which the number declines with use in a known amount.

REVENUE DEPARTMENT[701](cont'd)

(23) *“Prepaid wireless calling service”* means a telecommunications service that provides the right to utilize mobile wireless service as well as other non-telecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(24) *“Private communication service”* means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(25) *“Residential telecommunications service”* means a telecommunications service or ancillary services provided to an individual for personal use at a residential address, including an individual dwelling unit, such as an apartment. In the case of institutions where individuals reside, such as schools or nursing homes, telecommunications service is considered residential if it is provided to and paid for by an individual resident rather than the institution.

(26) *“Service address”* means:

1. The location of the telecommunications equipment to which a customer’s call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

2. If the location in numbered paragraph “1” of this subparagraph is not known, “service address” means the origination point of the signal of the telecommunications services first identified by either the seller’s telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

3. If the locations in numbered paragraphs “1” and “2” of this subparagraph are not known, the service address means the location of the customer’s place of primary use.

(27) *“Telecommunications service”* means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term includes any transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value-added. “Telecommunications service” does not include the following:

1. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser’s primary purpose for the underlying transaction is the processed data or information;

2. Installation or maintenance of wiring or equipment on a customer’s premises;

3. Tangible personal property;

4. Advertising, including but not limited to directory advertising;

5. Billing and collection services provided to third parties;

6. Internet access service;

7. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, or routing of the service by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service and audio and video programming services delivered by a commercial mobile radio service provider;

8. Ancillary service;

9. Digital products delivered electronically, including but not limited to software, music, video, reading materials or ring tones.

(28) *“Value-added non-voice data service”* means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

REVENUE DEPARTMENT[701](cont'd)

(29) “*Vertical service*” means an ancillary service that is offered in connection with one or more telecommunications services which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections. Nonexclusive examples of vertical service include call forwarding, caller ID, three-way calling, and conference bridging services.

(30) “*Voice mail service*” means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

c. Taxable communication service, telecommunications service, ancillary service, and other similar communication service. The sales price from the sale of communication service, telecommunications service, ancillary service, and other similar communication service is subject to the sales or use tax. The following is a nonexclusive list of services subject to the Iowa sales and use tax:

- (1) Air-to-ground radio telephone service;
- (2) Ancillary services except detailed communications billing service;
- (3) Conference bridging service;
- (4) Fixed wireless service;
- (5) Mobile wireless service;
- (6) Pay telephone service;
- (7) Postpaid calling service;
- (8) Prepaid calling service;
- (9) Prepaid wireless calling service;
- (10) Private communication service;
- (11) Residential telecommunications service.

d. Nontaxable communication service, telecommunications service, ancillary service, and other similar communication service. The following services are not subject to the Iowa sales and use tax:

- (1) Detailed communications billing service;
- (2) Internet access fees or charges;
- (3) One-way paging services that only receive information and are not capable of transmitting information;
- (4) Value-added non-voice data service;
- (5) Any charge necessary to secure only interstate communication service if the nature of the service is separately stated and the charge for the interstate service is separately billed.

e. Sourcing of telecommunications services.

(1) General sourcing principles apply to telecommunications services unless the service falls under one of the exceptions set out in paragraph “e.”

(2) Exceptions. The following telecommunications services and products are sourced in accordance with the principles set out in subparagraph (2):

1. Mobile telecommunications service is sourced to the place of primary use, unless the service is prepaid wireless calling service.

2. Prepaid calling service is sourced as provided under Iowa Code section 423.15. However, if the seller has sufficient information available, the sale of prepaid wireless calling service may be sourced to the location of the place of primary use.

3. A sale of a private telecommunications service is sourced as follows:

- Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which the customer channel termination point is located.

- Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in the jurisdiction in which the customer channel termination points are located.

- Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced 50 percent in each level of jurisdiction in which the customer channel termination points are located.

- Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage

REVENUE DEPARTMENT[701](cont'd)

determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

4. The sale of Internet access service is sourced to the customer's place of primary use.

5. The sale of an ancillary service is sourced to the customer's place of primary use.

6. A postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either (a) the seller's telecommunications system or (b) information received by the seller from its service provider, where the system used to transport the signals is not that of the seller.

7. The sale of telecommunications service sold on a call-by-call basis is sourced to (a) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or (b) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

8. The sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer's place of primary use.

9. The sale of the following telecommunication services is sourced to each level of taxing jurisdiction as follows:

- A sale of mobile telecommunications services, other than prepaid calling service, is sourced to the customer's place of primary use as required by the federal Mobile Telecommunications Sourcing Act.

- A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either (a) the seller's telecommunications system or (b) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

f. Bundled transaction.

(1) A "bundled transaction" is the retail sale of two or more products where (a) the products are otherwise distinct and identifiable, and (b) the products are sold for one non-itemized price. A bundled transaction does not include the sale of any products in which the sales price varies or is negotiable based on the selection by the purchaser of the products included in the transaction.

(2) In the case of a bundled transaction that includes any of the following: telecommunications service, ancillary service, Internet access, or audio or video programming service:

1. If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products will be subject to tax unless the provider can identify by reasonable and verifiable standards such portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.

2. If the price is attributable to products that are subject to tax at different tax rates, the total price may be treated as attributable to the products subject to tax at the highest tax rate unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including but not limited to non-tax purposes.

3. The provisions of this subrule shall apply unless otherwise provided by federal law.

g. Direct pay permit. The department may issue a direct pay permit that allows the holder to purchase tangible personal property or taxable services without payment of the tax to the seller. The direct pay permit holder cannot use the direct pay permit for the purchase of communication service, telecommunications service, ancillary services, or other similar communication service. The seller should charge and collect the sales or use tax from the purchaser on the taxable sales of communication service, telecommunications service, ancillary services, and other similar communication service.

h. Credit. A taxpayer subject to sales or use tax on communication service, telecommunications service, ancillary service or other similar communication service who has paid any legally imposed sales or use tax on such service to another jurisdiction outside the state of Iowa is allowed a credit against the sales or use tax imposed by the state of Iowa equal to the sales or use tax paid to the other taxing jurisdictions.

i. Sales of communication service, telecommunications service, ancillary service, or other similar communication service to the United States government or the state government of Iowa. Sales

REVENUE DEPARTMENT[701](cont'd)

of communication service, telecommunications services, ancillary services, or other similar communication service to the United States government or its agencies or to the state of Iowa or its agencies are not subject to sales or use tax. In order to be a sale to the United States government or to the state government of Iowa, the government or agency involved must make the purchase of the services and pay directly to the vendor the purchase price of the services. Telecommunications service providers should obtain an exemption certificate from each agency for their records.

j. Retailers liable for collecting and remitting tax. Retailers that sell taxable communication service, telecommunications service, ancillary services, or other similar communication service are liable for collecting and remitting the state sales or use tax and any applicable local sales tax on the amounts of the sales.

ITEM 2. Adopt the following **new** rule 701—212.8(423):

701—212.8(423) Payment from a third party. The sales price from the sales of tangible personal property, services, or enumerated services includes consideration received by the seller from third parties. The following conditions shall apply:

212.8(1) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

212.8(2) The seller has an obligation to pass the price reduction or discount through to the purchaser;

212.8(3) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

212.8(4) One of the following criteria is met:

a. The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

b. The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a “preferred customer” card that is available to any patron does not constitute membership in such a group); or

c. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

This rule is intended to implement Iowa Code chapter 423.

ARC 7821B

STATUS OF WOMEN DIVISION[435]

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 216A.54, the Commission on the Status of Women hereby proposes to rescind Chapter 5, “Iowans in Transition,” Iowa Administrative Code.

Chapter 5 was adopted in 1991 to implement Iowa Code section 216A.57. On December 2, 2008, the Iowa Commission on the Status of Women voted to discontinue the Iowans in Transition Program as of June 30, 2009. The proposed amendment rescinds Chapter 5 because the rules in the chapter are obsolete.

Interested individuals may make written comments on the proposed amendment on or before June 23, 2009, at 4:30 p.m. Comments on the proposed amendment should be directed to Lori

STATUS OF WOMEN DIVISION[435](cont'd)

SchraderBachar, Iowa Commission on the Status of Women, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-4470; fax (515)242-6119; or E-mail lori.schraderbachar@iowa.gov.

Additionally, a public hearing to receive comments on the proposed amendment will be held on June 23, 2009, at 1 p.m. in Room 208 at the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa.

This amendment is intended to implement Iowa Code section 216A.54.

The following amendment is proposed.

Rescind and reserve **435—Chapter 5**.

USURY

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

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

ARC 7820B

UTILITIES DIVISION[199]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.4, 476.1, and 476.2 and chapter 478, the Utilities Board (Board) gives notice that on May 12, 2009, the Board issued an order in Docket No. RMU-2009-0004, In re: Amendments to Outage Notification Rules for Electric Utilities [199 IAC 20.18 and 20.19], “Order Commencing Rule Making,” that proposes amendments updating the Board’s rules for notification and reporting of electrical outages. The Board is proposing amendments to these rules based upon its experience since the adoption of the existing rules in March 2008; the comments received in RMU-2009-0001, which was recently terminated; and a workshop in which affected electric utilities participated. The order containing the background and support for this rule making may be found on the Board’s Web site, www.state.ia.us/iub.

UTILITIES DIVISION[199](cont'd)

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before June 23, 2009. The statement should be filed electronically through the Board’s Electronic Filing System (EFS). Instructions for making an electronic filing may be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

An oral presentation to receive oral comments on the proposed amendments will be held at 9 a.m. on July 28, 2009, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, and 476.2 and chapter 478.

The following amendments are proposed.

ITEM 1. Amend subrule 20.18(6) as follows:

20.18(6) Notification of major events.

a. Notification and reporting of major events as defined in subrule 20.18(4) shall comply with the requirements of rule 20.19(476,478).

b. For major events as defined in subrule 20.18(4), each electric utility shall submit to the board within 30 days after the utility has restored service to those customers capable of receiving service in the area a report that contains the following information:

- (1) A description of the circumstances that caused the outage;
- (2) The total number of customers out of service during the outage;
- (3) The longest customer interruption;
- (4) The damage cost estimates to the electric utility’s facilities; and
- (5) The number of personnel from other utilities and contractors used to restore service.

ITEM 2. Amend rule 199—20.19(476,478) as follows:

199—20.19(476,478) Notification and reporting of outages.

20.19(1) Notification. The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board of any when it becomes apparent that an outage that results, or is expected to result, in the following may result in a loss of service for more than two hours and the outage meets one of the following criteria:

a. Loss For all utilities, loss of service for more than two hours to substantially all of a municipality, including the surrounding area served by the same utility;

b. Loss For utilities with more than 50,000 customers, loss of service for more than two hours to 20 percent of the customers in a utility’s established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

c. Loss of service for more than two hours to more than 3,600 customers in a metropolitan area For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service to 25 percent or more of the utility’s customers;

d. No change.

e. Any other outage considered significant by the electric utility. This includes loss of service to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1)“a” through “d.”

UTILITIES DIVISION[199](cont'd)

20.19(2) Information required.

~~a. Notice~~ Notification shall be provided as soon as the utility learns of the outage, or as soon as practical thereafter, regarding outages that meet the requirements of subrule 20.19(1) by calling notifying the board duty officer by E-mail at iubdutyofficer@iub.state.ia.us or by telephone at 515-745-2332. The caller shall leave a call back number for a person who can provide Notification shall be made at the earliest possible time after it is determined the event may be reportable and should include the following information, as available:

- (1) The general nature or cause of the outage;
- (2) No change.
- (3) The approximate number of customers that have experienced a loss of electric service as a result of the outage;
- (4) The ~~estimated~~ time until when service ~~will~~ is estimated to be restored; and
- (5) No change.

The notice should be supplemented as more complete or accurate information is available.

~~b. The electric utility shall provide updates to the board as new or additional information becomes available until all service is restored~~ Updates of the estimated time service will be restored to all customers able to receive service or of significant changed circumstances shall be provided to the board, unless service is restored within one hour of the time initially estimated.

20.19(3) Outage report. Each electric utility shall submit a report to the board within 30 days after the customers affected by the outage reported under subrule 20.19(1) have regained service. The report shall include the following:

- ~~a. — A description of the circumstances that caused the outage;~~
- ~~b. — The total number of customers out of service during the outage;~~
- ~~c. — The longest customer interruption;~~
- ~~d. — The damage cost estimates to the electric utility's facilities; and~~
- ~~e. — The number of people used to restore service.~~

ARC 7819B

WORKERS' COMPENSATION DIVISION[876]

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 86.8, the Workers' Compensation Commissioner hereby gives Notice of Intended Action to amend Chapter 4, "Contested Cases," Iowa Administrative Code.

Item 1 provides that the agency may deliver notices, orders, rulings and decisions in contested case proceedings by E-mail. Items 2 to 4 specify that the agency filing fee is \$100 for filing certain original notice and petitions in contested case proceedings.

The Division has determined that these amendments will have no impact on small business within the meaning of Iowa Code section 17A.4A.

The Division has determined that these amendments will not necessitate additional annual expenditures exceeding \$100,000, or \$500,000 within five years, by political subdivisions or agencies which contract with political subdivisions within the meaning of Iowa Code section 25B.6. Therefore, no fiscal impact statement accompanies this rule making.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 23, 2009, to the Workers' Compensation Commissioner, Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319.

WORKERS' COMPENSATION DIVISION[876](cont'd)

These amendments do not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 7818B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code sections 17A.12 and 85.3 and 2009 Iowa Acts, Senate File 469, section 15, as amended by 2009 Iowa Acts, Senate File 478, section 194.

ARC 7837B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

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

These amendments update the Child Care Assistance fee schedule based on the federal poverty income guidelines issued for 2009. The annual increase in the income levels allows families that have received increased income to maintain eligibility for Child Care Assistance without paying increased fees.

Any fee that is determined before July 1, 2009, will be based on the current fee schedule and will remain in effect until the family’s eligibility is redetermined. The new fee schedule will be applied to all new applications as of July 1, 2009, and will be applied to existing cases when the family’s eligibility is redetermined. Eligibility is redetermined at the annual recertification and when the family reports a change that affects eligibility, such as the birth of a child.

Approximately three-fourths of the families receiving Child Care Assistance pay no fees, either because the family’s income is below the federal poverty level or because the family’s eligibility for assistance is determined without regard to income (such as Family Investment Program participants and families receiving protective child care).

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

The Council on Human Services adopted these amendments on May 13, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because these amendments merely apply existing methodology to new poverty level guidelines. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(3).

The Department also finds that these amendments confer a benefit by maintaining fees commensurate with the family’s income in relation to current poverty income guidelines. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of the amendments is waived.

These amendments are intended to implement Iowa Code section 237A.13.

These amendments shall become effective on July 1, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraph **170.4(2)“a,”** introductory paragraph, as follows:

a. *Sliding fee schedule.* The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2008~~ 2009:

ITEM 2. Amend paragraph **170.4(2)“a,”** table, as follows:

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
A	\$824	\$1,109	\$1,394	\$1,679	\$1,964	\$2,249	\$2,534	\$2,819	\$3,104	\$3,389	\$0.00	\$0.00	\$0.00
	<u>\$858</u>	<u>\$1,154</u>	<u>\$1,450</u>	<u>\$1,746</u>	<u>\$2,043</u>	<u>\$2,338</u>	<u>\$2,634</u>	<u>\$2,931</u>	<u>\$3,226</u>	<u>\$3,523</u>			
B	\$867	\$1,167	\$1,467	\$1,767	\$2,067	\$2,367	\$2,667	\$2,967	\$3,267	\$3,567	\$0.20	\$0.45	\$0.70
	<u>\$903</u>	<u>\$1,215</u>	<u>\$1,526</u>	<u>\$1,838</u>	<u>\$2,150</u>	<u>\$2,461</u>	<u>\$2,773</u>	<u>\$3,085</u>	<u>\$3,396</u>	<u>\$3,708</u>			
C	\$891	\$1,200	\$1,508	\$1,816	\$2,125	\$2,433	\$2,742	\$3,050	\$3,358	\$3,667	\$0.45	\$0.70	\$0.95
	<u>\$928</u>	<u>\$1,249</u>	<u>\$1,569</u>	<u>\$1,889</u>	<u>\$2,210</u>	<u>\$2,530</u>	<u>\$2,851</u>	<u>\$3,171</u>	<u>\$3,491</u>	<u>\$3,812</u>			
D	\$916	\$1,232	\$1,549	\$1,866	\$2,183	\$2,500	\$2,816	\$3,133	\$3,450	\$3,767	\$0.70	\$0.95	\$1.20
	<u>\$954</u>	<u>\$1,283</u>	<u>\$1,611</u>	<u>\$1,941</u>	<u>\$2,270</u>	<u>\$2,599</u>	<u>\$2,928</u>	<u>\$3,258</u>	<u>\$3,586</u>	<u>\$3,916</u>			
E	\$941	\$1,267	\$1,593	\$1,918	\$2,244	\$2,570	\$2,895	\$3,221	\$3,547	\$3,872	\$0.95	\$1.20	\$1.45
	<u>\$980</u>	<u>\$1,319</u>	<u>\$1,657</u>	<u>\$1,995</u>	<u>\$2,334</u>	<u>\$2,672</u>	<u>\$3,010</u>	<u>\$3,349</u>	<u>\$3,687</u>	<u>\$4,025</u>			

HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
F	\$967 <u>\$1,007</u>	\$1,301 <u>\$1,355</u>	\$1,636 <u>\$1,702</u>	\$1,970 <u>\$2,050</u>	\$2,305 <u>\$2,398</u>	\$2,640 <u>\$2,744</u>	\$2,974 <u>\$3,092</u>	\$3,309 <u>\$3,440</u>	\$3,643 <u>\$3,787</u>	\$3,978 <u>\$4,135</u>	\$1.20	\$1.45	\$1.70
G	\$994 <u>\$1,035</u>	\$1,338 <u>\$1,393</u>	\$1,682 <u>\$1,749</u>	\$2,026 <u>\$2,107</u>	\$2,370 <u>\$2,465</u>	\$2,713 <u>\$2,821</u>	\$3,057 <u>\$3,179</u>	\$3,401 <u>\$3,537</u>	\$3,745 <u>\$3,893</u>	\$4,089 <u>\$4,251</u>	\$1.45	\$1.70	\$1.95
H	\$1,021 <u>\$1,063</u>	\$1,374 <u>\$1,431</u>	\$1,728 <u>\$1,797</u>	\$2,081 <u>\$2,164</u>	\$2,434 <u>\$2,532</u>	\$2,787 <u>\$2,898</u>	\$3,141 <u>\$3,265</u>	\$3,494 <u>\$3,633</u>	\$3,847 <u>\$3,999</u>	\$4,200 <u>\$4,366</u>	\$1.70	\$1.95	\$2.20
I	\$1,050 <u>\$1,093</u>	\$1,413 <u>\$1,471</u>	\$1,776 <u>\$1,847</u>	\$2,139 <u>\$2,225</u>	\$2,502 <u>\$2,603</u>	\$2,865 <u>\$2,979</u>	\$3,229 <u>\$3,357</u>	\$3,592 <u>\$3,735</u>	\$3,955 <u>\$4,111</u>	\$4,318 <u>\$4,489</u>	\$1.95	\$2.20	\$2.45
J	\$1,078 <u>\$1,123</u>	\$1,451 <u>\$1,511</u>	\$1,824 <u>\$1,898</u>	\$2,197 <u>\$2,286</u>	\$2,570 <u>\$2,674</u>	\$2,943 <u>\$3,060</u>	\$3,316 <u>\$3,448</u>	\$3,690 <u>\$3,836</u>	\$4,063 <u>\$4,223</u>	\$4,436 <u>\$4,611</u>	\$2.20	\$2.45	\$2.70
K	\$1,108 <u>\$1,154</u>	\$1,492 <u>\$1,553</u>	\$1,875 <u>\$1,951</u>	\$2,259 <u>\$2,350</u>	\$2,642 <u>\$2,748</u>	\$3,026 <u>\$3,146</u>	\$3,409 <u>\$3,545</u>	\$3,793 <u>\$3,944</u>	\$4,176 <u>\$4,341</u>	\$4,560 <u>\$4,740</u>	\$2.45	\$2.70	\$2.95
L	\$1,139 <u>\$1,186</u>	\$1,532 <u>\$1,595</u>	\$1,926 <u>\$2,004</u>	\$2,320 <u>\$2,414</u>	\$2,714 <u>\$2,823</u>	\$3,108 <u>\$3,232</u>	\$3,502 <u>\$3,641</u>	\$3,896 <u>\$4,051</u>	\$4,290 <u>\$4,460</u>	\$4,684 <u>\$4,869</u>	\$2.70	\$2.95	\$3.20
M	\$1,170 <u>\$1,219</u>	\$1,575 <u>\$1,640</u>	\$1,980 <u>\$2,060</u>	\$2,385 <u>\$2,481</u>	\$2,790 <u>\$2,902</u>	\$3,195 <u>\$3,322</u>	\$3,600 <u>\$3,743</u>	\$4,005 <u>\$4,166</u>	\$4,410 <u>\$4,584</u>	\$4,815 <u>\$5,006</u>	\$2.95	\$3.20	\$3.45
N	\$1,202 <u>\$1,252</u>	\$1,618 <u>\$1,685</u>	\$2,034 <u>\$2,116</u>	\$2,450 <u>\$2,549</u>	\$2,866 <u>\$2,981</u>	\$3,282 <u>\$3,413</u>	\$3,698 <u>\$3,845</u>	\$4,114 <u>\$4,278</u>	\$4,530 <u>\$4,709</u>	\$4,946 <u>\$5,142</u>	\$3.20	\$3.45	\$3.70
O	\$1,236 <u>\$1,287</u>	\$1,664 <u>\$1,732</u>	\$2,091 <u>\$2,175</u>	\$2,519 <u>\$2,620</u>	\$2,947 <u>\$3,065</u>	\$3,374 <u>\$3,508</u>	\$3,802 <u>\$3,953</u>	\$4,230 <u>\$4,398</u>	\$4,657 <u>\$4,841</u>	\$5,085 <u>\$5,286</u>	\$3.45	\$3.70	\$3.95
P	\$1,270 <u>\$1,322</u>	\$1,709 <u>\$1,779</u>	\$2,148 <u>\$2,235</u>	\$2,588 <u>\$2,691</u>	\$3,027 <u>\$3,148</u>	\$3,466 <u>\$3,604</u>	\$3,905 <u>\$4,061</u>	\$4,345 <u>\$4,518</u>	\$4,784 <u>\$4,973</u>	\$5,223 <u>\$5,430</u>	\$3.70	\$3.95	\$4.20
Q	\$1,305 <u>\$1,359</u>	\$1,757 <u>\$1,829</u>	\$2,208 <u>\$2,297</u>	\$2,660 <u>\$2,767</u>	\$3,112 <u>\$3,237</u>	\$3,563 <u>\$3,705</u>	\$4,015 <u>\$4,174</u>	\$4,466 <u>\$4,644</u>	\$4,918 <u>\$5,112</u>	\$5,370 <u>\$5,582</u>	\$3.95	\$4.20	\$4.45
R	\$1,341 <u>\$1,396</u>	\$1,805 <u>\$1,879</u>	\$2,269 <u>\$2,360</u>	\$2,732 <u>\$2,842</u>	\$3,196 <u>\$3,325</u>	\$3,660 <u>\$3,806</u>	\$4,124 <u>\$4,288</u>	\$4,588 <u>\$4,771</u>	\$5,052 <u>\$5,251</u>	\$5,516 <u>\$5,734</u>	\$4.20	\$4.45	\$4.70
S	\$1,378 <u>\$1,435</u>	\$1,855 <u>\$1,931</u>	\$2,332 <u>\$2,426</u>	\$2,809 <u>\$2,922</u>	\$3,286 <u>\$3,418</u>	\$3,763 <u>\$3,912</u>	\$4,240 <u>\$4,408</u>	\$4,717 <u>\$4,904</u>	\$5,193 <u>\$5,398</u>	\$5,670 <u>\$5,894</u>	\$4.45	\$4.70	\$4.95
T	\$1,416 <u>\$1,475</u>	\$1,906 <u>\$1,984</u>	\$2,396 <u>\$2,492</u>	\$2,885 <u>\$3,001</u>	\$3,375 <u>\$3,511</u>	\$3,865 <u>\$4,019</u>	\$4,355 <u>\$4,528</u>	\$4,845 <u>\$5,038</u>	\$5,335 <u>\$5,546</u>	\$5,825 <u>\$6,055</u>	\$4.70	\$4.95	\$5.20
U	\$1,455 <u>\$1,516</u>	\$1,959 <u>\$2,040</u>	\$2,463 <u>\$2,562</u>	\$2,966 <u>\$3,085</u>	\$3,470 <u>\$3,609</u>	\$3,973 <u>\$4,131</u>	\$4,477 <u>\$4,655</u>	\$4,981 <u>\$5,179</u>	\$5,484 <u>\$5,701</u>	\$5,988 <u>\$6,225</u>	\$4.95	\$5.20	\$5.45
V	\$1,495 <u>\$1,557</u>	\$2,012 <u>\$2,095</u>	\$2,530 <u>\$2,631</u>	\$3,047 <u>\$3,169</u>	\$3,564 <u>\$3,707</u>	\$4,082 <u>\$4,244</u>	\$4,599 <u>\$4,782</u>	\$5,116 <u>\$5,320</u>	\$5,634 <u>\$5,856</u>	\$6,151 <u>\$6,394</u>	\$5.20	\$5.45	\$5.70
W	\$1,537 <u>\$1,601</u>	\$2,069 <u>\$2,154</u>	\$2,601 <u>\$2,705</u>	\$3,132 <u>\$3,258</u>	\$3,664 <u>\$3,811</u>	\$4,196 <u>\$4,363</u>	\$4,728 <u>\$4,916</u>	\$5,260 <u>\$5,469</u>	\$5,791 <u>\$6,020</u>	\$6,323 <u>\$6,573</u>	\$5.45	\$5.70	\$5.95
X	\$1,579 <u>\$1,644</u>	\$2,125 <u>\$2,212</u>	\$2,671 <u>\$2,779</u>	\$3,218 <u>\$3,347</u>	\$3,764 <u>\$3,915</u>	\$4,310 <u>\$4,481</u>	\$4,857 <u>\$5,050</u>	\$5,403 <u>\$5,618</u>	\$5,949 <u>\$6,184</u>	\$6,495 <u>\$6,752</u>	\$5.70	\$5.95	\$6.20
Y	\$1,623 <u>\$1,690</u>	\$2,185 <u>\$2,274</u>	\$2,746 <u>\$2,857</u>	\$3,308 <u>\$3,441</u>	\$3,869 <u>\$4,025</u>	\$4,431 <u>\$4,607</u>	\$4,993 <u>\$5,191</u>	\$5,554 <u>\$5,775</u>	\$6,116 <u>\$6,357</u>	\$6,677 <u>\$6,941</u>	\$5.95	\$6.20	\$6.45
Z	\$1,667 <u>\$1,736</u>	\$2,244 <u>\$2,336</u>	\$2,821 <u>\$2,934</u>	\$3,398 <u>\$3,534</u>	\$3,975 <u>\$4,134</u>	\$4,552 <u>\$4,732</u>	\$5,128 <u>\$5,332</u>	\$5,705 <u>\$5,932</u>	\$6,282 <u>\$6,530</u>	\$6,859 <u>\$7,130</u>	\$6.20	\$6.45	\$6.70
AA	\$1,714 <u>\$1,785</u>	\$2,307 <u>\$2,402</u>	\$2,900 <u>\$3,017</u>	\$3,493 <u>\$3,633</u>	\$4,086 <u>\$4,250</u>	\$4,679 <u>\$4,865</u>	\$5,272 <u>\$5,482</u>	\$5,865 <u>\$6,098</u>	\$6,458 <u>\$6,713</u>	\$7,051 <u>\$7,330</u>	\$6.45	\$6.70	\$6.95
BB	\$1,761 <u>\$1,834</u>	\$2,370 <u>\$2,467</u>	\$2,979 <u>\$3,099</u>	\$3,588 <u>\$3,732</u>	\$4,197 <u>\$4,366</u>	\$4,807 <u>\$4,997</u>	\$5,416 <u>\$5,631</u>	\$6,025 <u>\$6,264</u>	\$6,634 <u>\$6,896</u>	\$7,243 <u>\$7,530</u>	\$6.70	\$6.95	\$7.20

[Filed Emergency 5/13/09, effective 7/1/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7818B**WORKERS' COMPENSATION DIVISION[876]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 4, "Contested Cases," Iowa Administrative Code.

Item 1 provides that the agency may deliver notices, orders, rulings and decisions in contested case proceedings by E-mail. Items 2 to 4 specify that the agency filing fee is \$100 for filing certain original notice and petitions in contested case proceedings.

In compliance with Iowa Code section 17A.4(3), the Division of Workers' Compensation finds that notice and public participation prior to adoption of these amendments are unnecessary and contrary to the public interest, as Item 1 serves the public interest by allowing the agency to deliver notices, orders, rulings and decisions in contested case proceedings by E-mail, and Items 2 to 4 are intended to implement legislation.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments should be made effective on July 1, 2009, as the amendments confer a benefit to parties to a contested case proceeding by allowing for utilization of E-mail technology which will enhance the delivery of notices, orders, rulings and decisions in contested case proceedings and by informing parties the amount of the filing fee.

The Division has determined that these amendments will have no impact on small business within the meaning of Iowa Code section 17A.4A.

The Division has determined that these amendments will not necessitate additional annual expenditures exceeding \$100,000, or \$500,000 within five years, by political subdivisions or agencies which contract with political subdivisions within the meaning of Iowa Code section 25B.6. Therefore, no fiscal impact statement accompanies this rule making.

These amendments do not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

These amendments are also published herein under Notice of Intended Action as **ARC 7819B** to allow for public comment.

These amendments are intended to implement Iowa Code sections 17A.12 and 85.3 and 2009 Iowa Acts, Senate File 469, section 15, as amended by 2009 Iowa Acts, Senate File 478, section 194.

These amendments will become effective July 1, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 876—4.7(86,17A) as follows:

876—4.7(86,17A) Delivery of notice, orders, rulings and decisions. Delivery of the original notice shall be made by the petitioning party as provided in Iowa Code section 17A.12(1) except that a party may deliver the original notice on a nonresident employer as provided in Iowa Code section 85.3. A proposed or final decision, ~~or~~ order or ruling may be delivered by the division of workers' compensation to any party by regular mail. On or after July 1, 2009, a proposed or final decision, order or ruling may be delivered by the division of workers' compensation to any party by E-mail.

This rule is intended to implement Iowa Code sections 85.3 and 17A.12.

ITEM 2. Amend paragraph **4.8(2)"a"** as follows:

a. ~~On or after July 1, 1988, for~~ For all original notices and petitions for arbitration or review-reopening relating to weekly benefits filed on account of each injury, gradual or cumulative injury, occupational disease or occupational hearing loss alleged, a filing fee ~~of \$65~~ shall be paid at the time of filing. The filing fee for original notices and petitions filed on or after July 1, 1988, but before July 1, 2009, is \$65. The filing fee for petitions filed on or after July 1, 2009, is \$100. No filing fee is due for the filing of other actions where the sole relief sought is one of the following or a combination of any of them: medical and other benefits under Iowa Code section 85.27; burial benefits, Iowa Code section 85.28; determination of dependency, Iowa Code sections 85.42, 85.43, and 85.44;

WORKERS' COMPENSATION DIVISION[876](cont'd)

equitable apportionment, Iowa Code section 85.43; second injury fund, Iowa Code sections 85.63 to 85.69; vocational rehabilitation benefits, Iowa Code section 85.70; approval of legal, medical and other fees under Iowa Code section 86.39; commutation, Iowa Code sections 85.45 to 85.48; employee's examination, Iowa Code section 85.39; employee's examination or sanctions, Iowa Code section 85.39; application for alternate care, Iowa Code section 85.27; determination of liability, reimbursement for benefits paid and recovery of interest, Iowa Code section 85.21; interest, Iowa Code section 85.30; penalty, Iowa Code section 86.13; application for approval of third-party settlement, Iowa Code section 85.22; and petitions for declaratory orders or petitions for interventions filed pursuant to 876—Chapter 5. An amendment to a petition that was filed on or after July 1, 1988, that alleges an additional or alternate date of occurrence does not require payment of an additional filing fee if a filing fee was paid when the petition was filed.

ITEM 3. Amend paragraph **4.8(2)“b”** as follows:

b. One filing fee of ~~\$65~~ shall be required for as many original notices and petitions as are filed on the same day on account of one employee against a single alleged employer or against entities alleged to be employers in the alternative or alleged to be dual employers. If filing fees have been overpaid, the amount overpaid shall be refunded to the party who made the overpayment.

ITEM 4. Amend paragraph **4.8(2)“e”** as follows:

e. If the correct filing fee or fees are not paid at the time of filing of the original notice and petition, the workers' compensation commissioner shall enter an order requiring payment of the correct filing fee or fees. If the required correction is not made by a date specified in the order, the original notice and petition shall automatically be dismissed without prejudice without entry of further order. See rule 876—4.36(86). If correction is made within the specified time, the initial filing shall be sufficient to have tolled the statute of limitations.

If no filing fee is paid at the time of filing of the original notice and petition, the workers' compensation commissioner shall return the original notice and petition to the party filing it. Filing an original notice and petition without paying the fee shall not toll the statute of limitations. Tendering an amount less than \$65 required will be considered failure to pay a filing fee.

[Filed Emergency 5/12/09, effective 7/1/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7831B**EMPOWERMENT BOARD, IOWA[349]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 28.4, the Iowa Empowerment Board hereby amends Chapter 1, "Community Empowerment," Iowa Administrative Code.

The amendments to Chapter 1 add definitions and incorporate language placed into the Iowa Code during the 2006, 2007 and 2008 legislative sessions and update the rules overall. The amendments add definitions for "fiscal assessment," "home visitation," and "preschool programming support services"; rescind definitions for "community empowerment gifts and grants account" and "core functions"; amend definitions for "early childhood business committee," "first years first," "parent education," "state agency" and "state empowerment team"; update Iowa Empowerment Board membership; clarify language regarding the responsibility of community empowerment boards and the carryforward-of-funds process; and add references to the criteria for use of first years first funds.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7677B**. A public hearing was held on April 28, 2009, in Room 142 at the Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice.

These amendments were approved by the Iowa Empowerment Board on May 8, 2009.

These amendments will become effective on July 8, 2009.

These amendments are intended to implement Iowa Code chapter 28.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 1] is being omitted. These amendments are identical to those published under Notice as **ARC 7677B**, IAB 4/8/09.

[Filed 5/13/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7801B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

2009 Iowa Acts, Senate File 50, prohibits a candidate from using the candidate's campaign funds to pay the candidate, the candidate's spouse, or the candidate's dependent children a salary, gratuity, or other compensation. The amendments reflect this statutory change by eliminating the ability of a candidate to pay prohibited family members for campaign services and by eliminating the ability to charge interest of 5 percent on a loan the candidate personally makes to the candidate's own campaign.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.302(2) as amended by 2009 Iowa Acts, Senate File 50, section 1.

These amendments will become effective on July 8, 2009.

The following amendments are adopted.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

ITEM 1. Amend paragraph 4.25(1)“f” as follows:

l. Payment of salaries, fringe benefits, bonuses, and payroll taxes of paid campaign staff. ~~Family~~ As provided in Iowa Code section 68A.302(2) as amended by 2009 Iowa Acts, Senate File 50, section 1, family members who perform actual work or services for a campaign and are not the candidate, candidate’s spouse, or candidate’s dependent children may be compensated for such work or services.

ITEM 2. Amend paragraph 4.25(1)“u” as follows:

u. Repayment of campaign loans made to the committee. ~~Candidates~~ As provided in Iowa Code section 68A.302(2) as amended by 2009 Iowa Acts, Senate File 50, section 1, candidates who make loans to their own committees shall not charge interest on the loans in excess of 5 percent.

[Filed Without Notice 5/5/09, effective 7/8/09]

[Published 6/3/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7800B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

2009 Iowa Acts, Senate File 49, section 5, provides that a federal campaign committee or an out-of-state campaign committee that makes an independent expenditure in Iowa is not required to file an independent expenditure statement with the Board. The amendment reflects this statutory change.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board’s rules reflect current statutory requirements.

This amendment is intended to implement Iowa Code section 68A.404 as amended by 2009 Iowa Acts, Senate File 49, section 5.

This amendment will become effective on July 8, 2009.

The following amendment is adopted.

Amend rule 351—4.27(68A), introductory paragraph, as follows:

351—4.27(68A) Filing of independent expenditure statement. Pursuant to Iowa Code section 68A.404 as amended by ~~2008 Iowa Acts, House File 2700, sections 116 and 117~~ 2009 Iowa Acts, Senate File 49, section 5, any person except a candidate, ~~or a registered committee, a federal committee, or an out-of-state committee~~ that makes one or more independent expenditures in excess of \$100 in the aggregate shall file an independent expenditure statement.

[Filed Without Notice 5/5/09, effective 7/8/09]

[Published 6/3/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7802B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 7, “Personal Financial Disclosure,” Iowa Administrative Code.

2009 Iowa Acts, Senate File 52, section 5, removes the requirement that a candidate for statewide office file Form PFD with the Board within 30 days after the person becomes a candidate under Iowa

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Code section 43.11. The legislation did not affect the statutory directive of the Board to adopt rules related to when Form PFD is required to be filed with the Board. The amendments reflect these statutory directives by requiring a candidate for statewide office to file Form PFD on April 30, which is the same date that other persons are required to file the form.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68B.35(5) as amended by 2009 Iowa Acts, Senate File 52, section 5.

These amendments will become effective on July 8, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 7.3(3) as follows:

7.3(3) Statewide candidates. A person who is a candidate for statewide office shall file Form PFD with the board ~~no later than 30 days after the date on which a person is required to file nomination papers for state office under Iowa Code section 43.11~~ on or before April 30 of the year the candidate appears on the ballot. Once nomination papers or an affidavit of candidacy is filed, the board shall notify the person of the requirement to file Form PFD. The notification shall be sent by first-class mail and shall include a blank form or information on how to obtain a blank form for filing.

ITEM 2. Amend subrule 7.3(4) as follows:

7.3(4) Statewide candidates in a special election. ~~Pursuant to Iowa Code section 68B.35(5) a person who is a~~ A candidate for statewide office in a special election shall file Form PFD with the board within seven days after the certification of the candidate's name as the nominee under Iowa Code section 43.88.

[Filed Without Notice 5/5/09, effective 7/8/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7829B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services amends Chapter 11, "Collection of Public Assistance Debts," Iowa Administrative Code.

The amendments reflect the consolidation and simplification of forms used to notify households of public assistance overpayments. A notice of debt is issued to inform the debtor of the amount owed and the reason for the debt and to request the debtor to enter into a repayment agreement. Under these amendments, use of eleven notice of debt forms is discontinued. Three forms are retained, and the following forms are added to replace those discontinued:

- Form 470-4530, Notice of Child Care Assistance Overpayment;
- Form 470-4668, Notice of Food Assistance Overpayment;
- Form 470-4683, Notice of FIP or RCA Overpayment; and
- Form 470-4688, Notice of PROMISE JOBS Overpayment.

The existing forms have been revised to simplify the language, add the suggested minimum payment amounts, and add language that tells debtors to call the Department of Inspections and Appeals (DIA) to discuss other options if the debtor is unable to pay the suggested minimum amount. The revised forms are expected to reduce confusion for debtors who receive them and reduce the number of questions to the DIA.

These amendments do not provide for waivers in specified situations because they merely make technical changes. They do not affect the conditions for establishing or repaying a debt.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 25, 2009, as **ARC 7654B**. The Department received no comments on the Notice of Intended Action.

Due to the amount of time allowed for appeals of overpayment notices, appeals may still be filed after the effective date of these amendments based on discontinued forms issued for the Food Assistance, Family Investment, Refugee Cash Assistance, and PROMISE JOBS programs. However, the transition to the new form for Child Care Assistance will not result in any overlap in appeals, so it is not necessary to maintain references to those discontinued forms. Therefore, the Department has revised Item 2 to strike paragraphs 11.2(2)“g,” “h,” and “i,” and reletter the succeeding paragraphs accordingly.

The Council on Human Services adopted these amendments on May 13, 2009.

These amendments are intended to implement Iowa Code sections 217.34, 234.12, 239B.14, and 249A.5.

These amendments shall become effective on July 8, 2009.

The following amendments are adopted.

ITEM 1. Amend rule **441—11.1(217)**, definition of “Written notification,” as follows:

“*Written notification*” shall mean the notification sent to a debtor by the department on Form 470-1668, Notice of Setoff of an Iowa Income Tax Refund for Debts Owed the Department of Human Services, Form ~~427-0538~~ 470-4139, Notice of Income Offset Against State Warrants ~~for Debts Owed the Department of Human Services~~, and Form ~~427-0539~~ 470-4140, Notice of Income (Payroll) Offset Against State Warrants ~~for Debts Owed the Department of Human Services~~.

ITEM 2. Amend subrule 11.2(2) as follows:

11.2(2) Notice of debt. A claim is established when the first notice of the debt is issued to the household on one of the following forms:

- a. Form 470-0338, Demand Letter for Food Assistance Agency Error Overissuance (no longer issued).
- b. Form 470-2616, Demand Letter for FIP/RCA Agency Error Overissuance (no longer issued).
- c. Form 470-2891, ~~Demand Letter~~ Notice of Medical Assistance Overpayment.
- d. Form 470-3486, Demand Letter for Food Assistance Intentional Program Violation Overissuance (no longer issued).
- e. Form 470-3487, Demand Letter for Food Assistance Inadvertent Household Error Overissuance (no longer issued).
- f. Form 470-3490, Demand Letter for FIP/RCA Client Error Overissuance (no longer issued).
- ~~g.~~ Form 470-3627, Demand Letter for Child Care Assistance Provider Error Overissuance.
- ~~h.~~ Form 470-3628, Demand Letter for Child Care Assistance Agency Error Overissuance.
- ~~i.~~ Form 470-3807, Demand Letter for Child Care Assistance Client Error Benefit Overissuance.
- ~~j.~~ g. Form 470-3984, Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.
- ~~k.~~ h. Form 470-3990, Demand Letter for PROMISE JOBS Agency Error Overissuance (no longer issued).
- ~~l.~~ i. Form 470-3991, Demand Letter for PROMISE JOBS Client Error Overissuance (no longer issued).
- ~~m.~~ j. Form 470-3992, Demand Letter for PROMISE JOBS Provider Error Overissuance (no longer issued).
- ~~n.~~ k. Form 470-4179, Notice of Food Assistance ~~Trafficking~~ Debt.
- l. Form 470-4530, Notice of Child Care Assistance Overpayment.
- m. Form 470-4668, Notice of Food Assistance Overpayment.
- n. Form 470-4683, Notice of FIP or RCA Overpayment.

HUMAN SERVICES DEPARTMENT[441](cont'd)

o. Form 470-4688, Notice of PROMISE JOBS Overpayment.

[Filed 5/13/09, effective 7/8/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7830B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 58, "Emergency Assistance," and Chapter 153, "Funding for Local Services," Iowa Administrative Code.

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009, Public Law 110-329, appropriated \$600 million in additional funds to the Social Services Block Grant to address necessary expenses resulting from hurricanes, floods, and other natural disasters occurring during 2008 which the President declared major disasters and from Hurricanes Katrina and Rita. Iowa was awarded \$11,157,944 under this legislation.

The funds are administered through the Department of Human Services as the single state agency for the Social Services Block Grant, but have been allocated to three departments (Human Services, Public Health, and Elder Affairs) for qualifying expenditures. Of the \$4,979,944 allocated to the Department of Human Services, the Department's amendment to the Social Services Block Grant Pre-Expenditure Report provides that \$3,330,627 will be used to fund a new mental health counseling program for persons directly affected by the weather-related disasters of 2008.

These amendments adopt new Division V in Chapter 58 to implement this program, which is called Ticket to Hope. Under this program, people in need of mental health services may receive up to eight authorized 45- to 50-minute psychotherapy sessions with an approved mental health provider. Access to the program will be through the Iowa Concern Hotline, which will determine eligibility, authorize services, and submit claims to the Department of Human Services for payment. The services will be provided at no cost to the person receiving counseling.

These amendments do not provide for waivers in specified situations, since the changes benefit the persons affected by offering care that is not otherwise accessible. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

These amendments were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on March 25, 2009, as **ARC 7641B**. Notice of Intended Action on these amendments was published on the same date as **ARC 7642B** to solicit public comments. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Council on Human Services adopted these amendments on May 13, 2009.

These amendments are intended to implement Iowa Code section 234.6.

These amendments shall become effective on July 8, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [58.61 to 58.68, 153.8] is being omitted. These amendments are identical to those published under Notice as **ARC 7642B** and Adopted and Filed Emergency as **ARC 7641B**, IAB 3/25/09.

[Filed 5/13/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7833B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

These amendments adjust the premiums assessed for the coverage group "Medicaid for employed people with disabilities" (MEPD). Iowa Code section 249A.3, subsection 2, paragraph "a," specifies that a person in this group whose gross income exceeds 150 percent of the federal poverty level shall pay a premium based on a sliding fee schedule. The maximum premium must be commensurate with the cost of group health insurance for state employees. The Iowa State Plan for Medical Assistance, approved by the federal Centers for Medicare and Medicaid Services as a condition of federal funding, provides that the maximum premium shall be equal to 7.5 percent of the person's gross income.

The cost of state employee health insurance changes each year in January. The cost of state employee health insurance for 2009 has gone down. Therefore, premiums for MEPD members are being reduced. These amendments reflect smaller changes in the amount of the premium at lower income levels, where most premium payers fall, to ensure that low-income premium payers do not face large premium increases due to small increases in income. The changes to the poverty level increments are required to keep the top premium at 7.5 percent of income.

The U.S. Department of Health and Human Services announces new poverty level guidelines annually, usually in late January. The date on which the MEPD premiums will be revised is being changed because there is insufficient time to amend the premium amounts by April 1 without emergency rules.

These amendments do not provide for waivers in specific situations because all members should be subject to the same income-based premiums. A member who feels that exceptional circumstances justify a different premium may request a waiver under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7629B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 13, 2009.

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

These amendments shall become effective on August 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [75.1(39)] is being omitted. These amendments are identical to those published under Notice as **ARC 7629B**, IAB 3/11/09.

[Filed 5/13/09, effective 8/1/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7834B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

The amendments provide the Department's annual updates of the statewide average cost of nursing facility services to a private-pay resident and the statewide average charges or maximum Medicaid rate for various levels of institutional care.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The statewide average cost of nursing facility services to a private-pay resident is determined by a survey of nursing facilities, including freestanding facilities, hospital-based skilled nursing facilities, and facilities serving special populations. This monthly average cost has increased from \$4,342.03 to \$4,598.61 (equivalent to \$151.27 per day). This amount is used to determine the period of ineligibility for Medicaid payment of nursing facility care and other long-term care services that is required when a person has transferred assets for less than market value to obtain Medicaid eligibility. The amount transferred is divided by this monthly average cost to determine the number of months of ineligibility. Since the cost has gone up, the resulting periods of ineligibility will be slightly shorter.

Iowa Code chapter 633C requires the Department to determine annually and publish the statewide average charges or maximum Medicaid rate for various levels of institutional care. These amounts are used to regulate the disposition of funds in a medical assistance income (Miller-type) trust. A medical assistance income trust allows a person whose income is above the Medicaid income limit for long-term care (currently \$2,022 per month) but is less than the cost of care in a medical institution to attain eligibility by depositing the income in a trust. An increase in the average charge allows more people to qualify for Medicaid using this method.

Changes in the average charge or maximum figures are as follows:

- Nursing facility care: an increase to \$4,189 per month (previously \$3,923). This figure is based on data from freestanding facilities only, since the cost of special care is considered separately.
- ICF/MR care: an increase to \$20,960 per month (previously \$17,954).
- Mental health institute care: an increase to \$17,758 per month (previously \$16,363).
- Care in a psychiatric medical institution for children: an increase to \$5,044 per month (previously \$4,975).

These amendments do not provide for waivers in specified situations since the basis for the figures is set by statute.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7630B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 13, 2009.

These amendments are intended to implement Iowa Code section 249A.4 and Iowa Code chapter 633C.

These amendments shall become effective on July 8, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [75.23(3), 75.24(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 7630B**, IAB 3/11/09.

[Filed 5/13/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7835B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

The amendment updates references to the Code of Federal Regulations relating to payment methodology for prescription drugs. The regulations have been reorganized since the rule was last amended. The amendment does not represent a change in state policy.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment does not provide for waivers in specified situations because the Department does not have the authority to waive federal regulations.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7627B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on May 13, 2009.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment shall become effective on July 8, 2009.

The following amendment is adopted.

Amend subrule 79.1(8) as follows:

79.1(8) Drugs. The amount of payment shall be based on several factors, subject to the upper limits in 42 CFR ~~447.331-332~~ 447.500 to 447.520 as amended to ~~April 18, 2002~~ October 7, 2008. The Medicaid program relies on information published by Medi-Span to classify drugs as brand-name or generic.

a. Effective June 25, 2005, reimbursement for covered generic prescription drugs shall be the lowest of the following, as of the date of dispensing:

(1) No change.

(2) The maximum allowable cost (MAC), defined as the upper limit for multiple source drugs established in accordance with the methodology of Centers for Medicare and Medicaid Services as described in 42 CFR ~~447.332~~ 447.514, plus the professional dispensing fee specified in paragraph "g."

(3) and (4) No change.

b. to j. No change.

[Filed 5/13/09, effective 7/8/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7836B

INSURANCE DIVISION[191]

Adopted and Filed

Pursuant to the authority of Iowa Code section 522B.18, the Insurance Division hereby amends Chapter 10, "Licensing of Insurance Producers," Iowa Administrative Code.

The rules in Chapter 10 set out the requirements, procedures and fees relating to the qualification, licensure and appointment of insurance producers. The amendments implement electronic delivery of certain notices related to licensing, eliminate the mailing of paper licenses, and implement the electronic billing and payment for monthly and renewal appointments. Iowa insurance companies and producers will comply with the rules beginning July 8, 2009.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7711B**. A public hearing was held on May 4, 2009, at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. No comments were received at the hearing. No changes were made to the amendments as published under Notice.

These amendments are intended to implement Iowa Code chapter 522B.

INSURANCE DIVISION[191](cont'd)

These amendments will become effective July 8, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [10.2, 10.8, 10.15, 10.16, 10.18(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 7711B**, IAB 4/8/09.

[Filed 5/13/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7814B

NATURAL RESOURCES DEPARTMENT[561]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.4 and 456A.24, the Department of Natural Resources hereby adopts new Chapter 12, "Special Nonresident Deer and Turkey Licenses," Iowa Administrative Code.

This new chapter establishes the process by which the Department will issue special nonresident deer and turkey licenses to individuals as part of statewide or local efforts to promote the state and its natural resources.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 25, 2009, as **ARC 7652B**. No comments were received, and no changes to the Notice have been made.

These rules are intended to implement Iowa Code section 483A.24.

These rules shall become effective July 8, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 12] is being omitted. These rules are identical to those published under Notice as **ARC 7652B**, IAB 3/25/09.

[Filed 5/7/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7839B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135I.4, the Iowa Department of Public Health hereby amends Chapter 15, "Swimming Pools and Spas," Iowa Administrative Code.

Federal legislation entitled "The Virginia Graeme Baker Pool and Spa Safety Act" (VGB) (H.R. 6, 303-309, Title XIV) was signed into law on December 19, 2007. The legislation requires that the main drains and other outlets of public swimming pools and spas be modified within one year to prevent entrapment incidents. Iowa's rules relating to swimming pools and spas are amended to include the requirements of VGB to enable the Department and its local contractors to enforce the provisions of VGB.

Notice of Intended Action was published in the April 8, 2009, Iowa Administrative Bulletin as **ARC 7675B**. A public hearing was held on April 28, 2009. No comments were received. Since the Notice was published, changes were made to 15.4(4)"h"(1) and 15.51(4)"f"(2) to make additional cover/grates available for retrofits. Changes were also made to 15.4(4)"h"(3), 15.4(6)"f," 15.51(4)"f"(4), and 15.51(5)"e" to require that safety vacuum release systems (SVRS) be installed

PUBLIC HEALTH DEPARTMENT[641](cont'd)

according to manufacturer's instructions and be tested at least monthly for proper function, and to require that the results of the testing be recorded.

These amendments were adopted by the State Board of Health on May 13, 2009.

These amendments will become effective July 8, 2009.

These amendments are intended to implement Iowa Code chapter 135I.

The following amendments are adopted.

ITEM 1. Amend subrule **15.3(1)**, definition of "Equalizer," as follows:

"Equalizer" means an arrangement including a pipe from an opening below the water level in a swimming pool or spa to the body of a skimmer and a normally closed valve at the skimmer body. The arrangement is designed to automatically prevent air from being drawn into the pump when the water level drops below the skimmer inlet. The equalizer opening in a swimming pool or spa is a fully submerged outlet.

ITEM 2. Adopt the following **new** definitions of "Field fabricated," "Flow rating," "Fully submerged outlet," "Outlet system" and "Unblockable" in subrule **15.3(1)**:

"Field fabricated," when applied to a sump or a cover/grate for a fully submerged outlet, means constructed on site with conventional building materials or of a size and shape different from readily available commercial sumps or cover/grates.

"Flow rating," when applied to the cover/grate for a fully submerged outlet, means the maximum flow rate in gpm through the cover/grate that will not cause body or hair entrapment as determined by the test methods in the ASME standard.

"Fully submerged outlet" means an outlet that is completely under water when the water is at the normal operating level.

"Outlet system" means an arrangement of components associated with one or more connected fully submerged outlets including the cover/grate(s), the sump(s), the piping, and the pump(s) if one or more pumps are directly connected to the outlet(s).

"Unblockable," when applied to a cover/grate for a fully submerged outlet, means a size and shape that cannot be fully covered by an 18-inch by 23-inch mat with 4-inch-diameter rounded corners and the differential pressure generated by the flow through the uncovered open area is not enough to cause body entrapment. "Unblockable" is evaluated by the methods specified in the ASME standard.

ITEM 3. Adopt the following **new** abbreviation in subrule **15.3(2)**:

"ASME standard" means ASME/ANSI A112.19.8a-2008, "Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs." The standard sets performance requirements and test methods for pool and spa fittings, covers and grates for physical strength, ultraviolet light resistance, and hair and body entrapment prevention. The standard can be purchased from ANSI by calling (212)642-4980 or at <http://webstore.ansi.org/>.

ITEM 4. Rescind paragraph **15.4(4)“h”** and adopt the following **new** paragraph in lieu thereof:

h. Fully submerged outlets. Each outlet, including the main drain(s), shall be designed to prevent user entrapment. A swimming pool shall be closed if the cover/grate of a fully submerged outlet is missing or broken.

(1) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME standard by a testing agency approved by the department or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet shall have a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an outlet system with more than one fully submerged outlet shall be at least 200 percent of the maximum system flow rate.

The maximum system flow rate for a main drain system is at least the design filter flow rate, but may include play feature and water slide flow. The maximum system flow rate for other fully submerged outlets is the design flow rate of the pump(s) directly connected to the outlet system.

2. Fully submerged outlet cover/grates shall not be removable without the use of tools.

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3. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the cover/grate is purchased. If a field fabricated cover/grate is certified for compliance to the ASME standard by an engineer licensed in Iowa, a copy of the certification letter shall be kept at the facility for at least five years from the certification date.

(2) A swimming pool with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet does not have a cover/grate that complies with the ASME standard.

If a swimming pool has two or more fully submerged outlets on a single surface that are all less than 3 ft apart on center, are not unblockable, and are directly connected to a pump, the swimming pool is considered to have a single fully submerged outlet.

(3) A swimming pool with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet system is not equipped with a safety vacuum release system that is listed for compliance with ASME/ANSI A112.19.17-2002, "Manufactured Safety Vacuum Release Systems (SVRS) for Residential and Commercial Swimming Pool, Spa, Hot Tub, and Wading Pool Suction Systems," by a listing agency approved by the department; or another vacuum release system approved by the department.

1. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the SVRS is purchased or another approved system is installed.

2. An SVRS shall be installed in accordance with the manufacturer's instructions.

3. An SVRS shall be tested for proper function at the frequency recommended by the manufacturer, but at least once in each month the swimming pool is operated. The date and result of each test shall be recorded.

(4) In lieu of compliance with subparagraphs (1), (2) and (3) above, a fully submerged outlet in a swimming pool may be disabled with the approval of the department, except that an equalizer in a skimmer may be plugged without department approval. The management of the swimming pool shall submit to the department information including, but not necessarily limited to:

1. The area and volume of the pool;
2. The functional areas of the pool and the depths in those areas;
3. Detailed information about the inlet system, including the location of the inlets, the depth of the inlets, and the type of inlet fitting;
4. Detailed information about the overflow system, gutter or skimmer, number of skimmers, and pipe sizes;
5. Pump information and flow rates for the outlet system;
6. Filter type, number of filters, the size of the filter(s), and whether multiple filters are backwashed together or separately.

If the department approves the application to disable the outlet, the outlet valve shall be closed and the valve secured by removing the handle, by locking the handle closed, or by another method approved by the department. The outlet may be physically disconnected from the pump system at the option of the facility management.

ITEM 5. Adopt the following new subparagraph **15.4(6)"f"(8)**:

(8) If applicable, dates and results of tests of each SVRS installed at a facility.

ITEM 6. Amend paragraph **15.5(7)"d"** as follows:

d. Main drain piping. ~~The~~ If the main drains are connected to the recirculation system, the main drains and main drain piping shall be designed to convey at least 100 percent of the recirculation flow rate.

ITEM 7. Amend subparagraph **15.5(9)"a"(6)** as follows:

(6) If a swimming pool is not equipped with an automatic water level maintenance device, each skimmer that is a suction outlet shall have an operational equalizer. The equalizer opening in the swimming pool shall be covered with a fitting listed by a listing agency approved by the department as meeting the requirements of ~~ANSI/ASME A112.19.8M-1987~~ the ASME standard.

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ITEM 8. Rescind subrule 15.5(10) and adopt the following **new** subrule in lieu thereof:

15.5(10) Main drain system.

a. Main drains. Each swimming pool shall have a convenient means of draining the water from the pool for winterization and service.

b. Main drains for recirculation. If the main drain system is connected to the recirculation system, there shall be two or more main drains or a single main drain that is unblockable.

(1) Two main drains shall be at least 3 ft apart on center. If three or more main drains are installed, the distance between the drains farthest apart shall be at least 3 ft on center.

(2) Each main drain and its associated piping in a swimming pool shall be designed for the same flow rate. Multiple drains shall be plumbed in parallel, and the piping system shall be designed to equalize flow among the main drains.

(3) If one or two main drains are installed, each main drain cover/grate, sump and the associated piping shall be designed for at least 100 percent of the recirculation flow rate specified by 15.5(5) "b." If three or more main drains are installed, the combined flow rating of the cover/grates, the sumps and the associated piping shall be at least 200 percent of the recirculation flow rate. If water for water slides, fountains and play features is circulated through the main drain and overflow systems, the main drains shall be designed for the combined feature and recirculation flow.

(4) Manufactured main drain sumps shall be listed by a listing agency acceptable to the department for compliance with the ASME standard. Field fabricated sumps shall be designed in accordance with the ASME standard and shall be certified by an engineer licensed in Iowa.

(5) There shall be a control valve to adjust the flow between the main drain and the overflow system.

(6) Main drain covers. Each main drain shall be covered with a cover/grate that complies with the ASME standard.

1. The flow rating for each cover/grate shall comply with 15.5(10) "b"(3).

2. The mark of a listing agency acceptable to the department shall be permanently marked on the top surface of each manufactured cover/grate.

3. Field fabricated cover/grates shall be certified for compliance to the ASME standard by a professional engineer licensed in Iowa. A certificate of compliance shall be provided to the swimming pool owner and to the department.

4. The main drain cover/grate shall be designed to be securely fastened to the pool so that the cover/grate is not removable without tools.

c. Feature outlets. Where fully submerged outlets for play or decorative features or water slides are in the swimming pool, the outlets shall be designed in accordance with 15.5(10) "b."

ITEM 9. Rescind paragraph **15.5(14)"c."**

ITEM 10. Reletter paragraph **15.5(14)"d"** as **15.5(14)"c."**

ITEM 11. Amend paragraph **15.5(15)"f"** as follows:

f. Main drains. ~~A~~ The main drain system shall ~~be provided which complies~~ comply with the requirements of 15.5(10).

ITEM 12. Amend paragraph **15.5(17)"h"** as follows:

h. Suction outlets. If a fully submerged suction outlet is in a plunge pool or in a swimming pool, it shall be located away from normal water slide user traffic areas. ~~One of the following designs shall be used:~~ The suction outlet system shall be designed in accordance with 15.5(10) "b."

~~(1) Multiple outlets may be used. Outlets shall be at least 3 ft apart. The outlets shall be covered with grates or other protective covers approved by the department. Water velocity through the outlet covers shall not exceed 1½ ft/sec.~~

~~(2) The outlet shall have an area of at least 324 in². The outlet shall be covered by a grate or other protective cover approved by the department. Water velocity through the outlet cover shall not exceed 1½ ft/sec.~~

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ITEM 13. Rescind and reserve paragraph **15.5(17)“i.”**

ITEM 14. Amend paragraph **15.5(19)“d”** as follows:

d. Spray pad drains shall be gravity outlets. At least two drains shall be provided, or a single drain with an area of at least 324 in² that is unblockable shall be provided. ~~The drain cover shall meet the requirements for a main drain cover in 15.5(10)“b.”~~

(1) The drain system and associated piping shall be designed for 125 percent of the flow into the spray pad (play feature and recirculation, as applicable).

(2) Each drain cover/grate shall be flush with the spray pad surface and shall have no opening wider than ½ inch.

(3) Each drain cover/grate shall be designed to be securely fastened to the spray pad so that the drain cover/grate is not removable without tools.

(4) Drain cover/grates that are exposed to foot traffic shall:

1. Have a slip-resistant surface; and

2. Support a 300-pound concentrated load when tested in accordance with the ASME standard, Section 3.3. Structural strength shall be verified by documentation of test results from a testing agency approved by the department or by certification by an engineer licensed in Iowa; and

3. If the drain cover is exposed to sunlight, be resistant to ultraviolet light (UV) in accordance with the ASME standard, Section 3.2.2. UV resistance shall be verified by documentation of test results from a testing agency approved by the department or by certification by an engineer licensed in Iowa.

ITEM 15. Amend paragraph **15.5(20)“g”** as follows:

g. Outlets for the leisure river propulsion system shall be designed ~~as main drains as specified in 15.5(10).~~ accordance with 15.5(10)“b.”

ITEM 16. Rescind paragraph **15.51(4)“f”** and adopt the following **new** paragraph in lieu thereof:

f. Fully submerged outlets. Each fully submerged outlet shall be designed to prevent user entrapment. A spa shall be closed if the cover/grate of a fully submerged outlet is missing or broken.

(1) For a spa constructed prior to May 13, 1998, each pump that draws water directly from a fully submerged outlet shall be connected to two or more outlets or a single outlet with an area of at least 144 in².

(2) Each fully submerged outlet shall have a cover/grate that has been tested for compliance with the requirements of the ASME standard by a testing agency approved by the department or that is certified for compliance by an engineer licensed in Iowa.

1. The cover/grate for an outlet system with a single fully submerged outlet shall have a flow rating of at least 100 percent of the maximum system flow rate. The combined flow rating for the cover/grates for an outlet system with more than one fully submerged outlet shall be at least 200 percent of the maximum system flow rate.

The maximum system flow rate is the design flow rate for the pump(s) directly connected to the outlet(s) in an outlet system. In the absence of better information, the maximum system flow rate is the capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

2. Fully submerged outlet cover/grates shall not be removable without the use of tools.

3. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the cover/grate is purchased. If a field fabricated cover/grate is certified for compliance to the ASME standard by an engineer licensed in Iowa, a copy of the certification letter shall be kept at the facility for at least five years from the certification date.

(3) A spa with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet does not have a cover/grate that complies with the ASME standard.

If a spa has two or more fully submerged outlets on a single surface that are all less than 3 ft apart on center, are not unblockable, and are directly connected to a pump, the spa is considered to have a single fully submerged outlet.

(4) A spa with a single fully submerged outlet that is not unblockable and that is directly connected to a pump shall be closed if the outlet system is not equipped with a safety vacuum release system that is listed for compliance with ASME/ANSI A112.19.17-2002, “Manufactured Safety Vacuum Release

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Systems (SVRS) for Residential and Commercial Swimming Pool, Spa, Hot Tub, and Wading Pool Suction Systems,” by a listing agency approved by the department; or another vacuum release system approved by the department.

1. Purchase records and product information that demonstrate compliance shall be maintained by the facility for at least five years from the time the SVRS is purchased or another approved system is installed.

2. An SVRS shall be installed in accordance with the manufacturer’s instructions.

3. An SVRS shall be tested for proper function at the frequency recommended by the manufacturer, but at least once in each month the spa is operated. The date and result of each test shall be recorded.

(5) In lieu of compliance with subparagraphs (2), (3) and (4) above, a fully submerged outlet in a spa may be disabled with the approval of the department, except that an equalizer in a skimmer may be plugged without department approval. The management of the spa shall submit to the department information including, but not necessarily limited to:

1. The area and volume of the spa;

2. Detailed information about the inlet system, including the location of the inlets and the type of inlet fitting;

3. The number of skimmers and pipe sizes;

4. Pump information and flow rates for the outlet system; and

5. Filter type, number of filters, the size of the filter(s), and whether multiple filters are backwashed together or separately.

If the department approves the application to disable the outlet, the outlet valve shall be closed and the valve secured by removing the handle, by locking the handle closed, or by another method approved by the department. The outlet may be physically disconnected from the pump system at the option of the facility management.

ITEM 17. Adopt the following new subparagraph **15.51(5)“e”(10)**:

(10) If applicable, dates and results of tests of each SVRS installed at a facility.

ITEM 18. Amend paragraph **15.52(9)“e”** as follows:

e. Equalizers. If a spa is not equipped with an automatic water level maintenance device, each skimmer shall have an operational equalizer. The equalizer opening in the spa shall be covered with a fitting listed by a listing agency approved by the department as meeting the requirements of ~~ANSI/ASME A112.19.8M-1987~~ the ASME standard.

ITEM 19. Rescind subrule 15.52(10) and adopt the following new subrule in lieu thereof:

15.52(10) Main drain system. Each spa shall have a convenient means of draining the water from the spa for service. Spa main drains may be on the sidewall of a spa near the spa bottom.

a. Suction outlets. If a spa pump is directly connected to a main drain or another fully submerged outlet, the pump shall be connected to two or more fully submerged outlets or to a single fully submerged outlet that is unblockable. The recirculation system and the agitation system may use the same fully submerged outlet(s).

(1) Two fully submerged outlets that are directly connected to one or more pumps in the same outlet system shall be at least 3 ft apart on center or on different spa surfaces. If three or more fully submerged outlets that are all directly connected to one or more pumps in the same outlet system are installed, the distance between the outlets farthest apart shall be at least 3 ft on center or the outlets shall be installed on different spa surfaces.

(2) If there is only one fully submerged outlet in an outlet system, the flow rating of the outlet cover/grate, sump and the associated piping shall be at least 100 percent of the maximum system flow rate. If two or more fully submerged outlets are installed in an outlet system, the combined flow rating of the cover/grates, the sumps and the associated piping shall be at least 200 percent of the maximum system flow rate. Multiple outlets in an outlet system shall be plumbed in parallel.

The maximum system flow rate for the recirculation system is the flow rate specified in 15.52(5) “*b*” or the design flow rate, whichever is greater. The maximum system flow rate for the agitation system is

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the specified design flow rate. If a flow rate is not specified, the maximum system flow rate shall be the flow capacity of the pump(s) at 50 feet TDH, based on the manufacturer's published pump curves.

b. Control valve. If a main drain is connected to the recirculation system, there shall be a control valve to adjust the flow between the main drain and the overflow system.

c. Main drain covers. Each main drain or other fully submerged outlet shall be covered with a cover/grate that is listed as complying with the requirements of the ASME standard by a listing agency approved by the department. A listed cover/grate shall be used in accordance with its listing.

(1) The flow rating for the cover/grate(s) shall comply with 15.52(10) "a"(2).

(2) The mark of a listing agency acceptable to the department shall be permanently marked on the top surface of each manufactured cover/grate.

(3) Field fabricated cover/grates shall be certified for compliance to the ASME standard by a professional engineer licensed in Iowa. A certificate of compliance shall be provided to the spa owner and to the department.

(4) The fully submerged outlet cover/grate shall be designed to be securely fastened to the spa so that the cover/grate is not removable without tools.

d. For outlet systems with manufactured sumps, the sumps shall be listed by a listing agency acceptable to the department for compliance with the ASME standard. Field fabricated sumps shall be designed in accordance with the ASME standard and shall be certified by an engineer licensed in Iowa.

[Filed 5/13/09, effective 7/8/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7838B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 121, "Standard for Impact Resistance and Method of Testing," Iowa Administrative Code.

This amendment rescinds the rules that pertained to impact resistance and testing for protective eyewear. These rules were outdated and not enforceable. In addition, federal regulations address protective eyewear. The Legislature repealed Iowa Code section 135.30, pertaining to safety provisions of protective eyeglasses, effective July 1, 2009 (see 2009 Iowa Acts, House File 380, section 12). This removes the statutory authority for Chapter 121 in the rules of the Department.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the statutory authority for the rules being rescinded has been repealed.

This amendment was adopted by the State Board of Health on May 13, 2009.

This amendment shall become effective July 8, 2009.

This amendment is intended to implement 2009 Iowa Acts, House File 380, section 12.

The following amendment is adopted.

Rescind and reserve **641—Chapter 121**.

[Filed Without Notice 5/13/09, effective 7/8/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7826B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code section 17A.4 and chapter 476, the Utilities Board (Board) gives notice that on May 12, 2009, the Board issued an order in Docket No. RMU-08-6, In re: Amendments to Clarify the Status of Regulated, Deregulated, and Unregulated Telecommunications Services [199 IAC 22], “Order Adopting Amendments.” The order adopted amendments which were published under Notice of Intended Action in IAB Vol. XXXI, No. 11 (11/19/2008), p. 1300, as **ARC 7365B**, with revisions explained in the “Order Adopting Amendments.”

The amendments revise the Board’s rules at 199 IAC 22 to clarify the status of regulated, deregulated, and unregulated telecommunications services. The amendments also clarify and update several rules at 199 IAC 22 to reflect existing Board policies. The order adopting amendments contains a more thorough discussion of the amendments. The order is available on the Board’s Web site at www.state.ia.us/iub.

Changes to the noticed amendments were based on comments received from telecommunications service providers and the Board’s further consideration of the proposed amendments. The changes made to the noticed amendments are explained in detail in the Board’s “Order Adopting Amendments.”

Written comments were received from the Iowa Telecommunications Association (ITA); Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom); Qwest Corporation (Qwest); and MCImetro Access Transmission Services LLC, d/b/a Verizon Access Transmission Services, MCI Communications Services, Inc., d/b/a Verizon Business Services, Verizon Long Distance LLC, and Verizon Enterprise Solutions LLC (collectively, Verizon).

Qwest and Iowa Telecom objected to the proposal to include a list of deregulatory actions and orders in the Board’s administrative rules. The Board decided that including the list in the rules clarified the status of telecommunications service in Iowa and adopted the list as proposed, with one revision proposed by Iowa Telecom.

Qwest proposed extensive revisions which would have revised the Board’s proposed definition of the term “tariff,” defined the term “catalog,” and made the two terms interchangeable. The Board declined to make the revisions proposed by Qwest regarding the use of catalogs rather than tariffs. The Board also decided not to adopt proposed paragraph 22.1(6)“c,” which, as proposed, would have explained how deregulation has affected tariffing requirements. The Board will investigate issues relating to the use of catalogs rather than tariffs in a subsequent rule-making proceeding.

Extensive written comment was received relating to the Board’s request for comment on reserve power requirements. The Board decided not to adopt any changes to its current reserve power requirements.

These amendments will become effective on July 8, 2009.

These amendments are intended to implement Iowa Code section 17A.4 and chapter 476.

The following amendments are adopted.

ITEM 1. Amend paragraph **22.1(1)“c”** as follows:

c. To ensure that the ~~regulated rates~~ provision of service of local exchange utilities and the charges of alternative operator services companies for communications service, and regulated services rendered in connection therewith, will be reasonable and just.

ITEM 2. Amend subrule **22.1(3)**, definitions of “Customer provision” and “Tariff,” as follows:

“*Customer provision*” means customer purchase or lease of terminal equipment or ~~new~~ inside station wiring from the telephone company or from any other supplier.

“*Tariff*” means the entire body of ~~regulated rates, alternative operator services~~ rates, classifications, rules, procedures, policies, etc., adopted and filed with the board by a telephone utility, including an alternative operator services company, in fulfilling its role of furnishing communications services.

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ITEM 3. Adopt the following **new** definitions in subrule **22.1(3)**:

“*Competitive Local Exchange Carrier*” or “*CLEC*” means a utility, other than an incumbent local exchange carrier, that provides local exchange service pursuant to an authorized certificate of public convenience and necessity.

“*Incumbent Local Exchange Carrier*” or “*ILEC*” means a utility, or successor to such utility, that was the historical provider of local exchange service pursuant to an authorized certificate of public convenience and necessity within a specific geographic area described in maps approved by the board as of September 30, 1992.

ITEM 4. Rescind the definitions of “Fully allocated cost study,” “Fully distributed cost study,” “Regulated rates” and “Wide area service” in subrule **22.1(3)**.

ITEM 5. Amend subrule 22.1(4) as follows:

22.1(4) Abbreviations.

AOS—Alternative Operator Services

EAS—Extended Area Service

ESS—Electronic Switching System

FAC—Fully Allocated Cost

FDC—Fully Distributed Cost

PBX—Private Branch Exchange

ITEM 6. Amend subrule 22.1(6) as follows:

22.1(6) ~~Interutility services~~ Deregulation actions. ~~Rescinded IAB 12/21/05, effective 1/25/06.~~

a. The board, in the dockets shown in subparagraphs (1) to (14), deregulated the following services. Persons interested in determining the precise extent of deregulation in each docket should refer to the board dockets identified in this list. This list is provided for information only. Subsequent orders in these or other dockets may have modified the scope and manner of deregulation. Exclusion of an order or a statutory provision from this list in no way alters the effectiveness of such order or statutory provision.

(1) Inside station wiring including provisioning, repair, and maintenance. This included a revised definition of “demarcation point” in subrule 22.1(3). Docket No. RMU-81-19. Effective October 8, 1982.

(2) Terminal equipment including provision, installation, repair, and maintenance of all customer premises equipment. Docket No. RMU-82-1. Effective May 11, 1983.

(3) Centrex, Hi-Lo Capacity Intraexchange, and Hi Capacity Interexchange and Private Line. Docket No. RPU-84-8. Effective July 1, 1984.

(4) Coin-operated telephones. Pay telephones were determined to be a subset of deregulated terminal equipment. Docket Nos. RMU-85-6 and INU-84-6. Effective September 18, 1985.

(5) Riser cable (or cable for PBXs on the same premises) was found to be an extension of inside wiring. Ownership was transferred from the telephone utility to the premises owner. The telephone utility was compensated for the cable. Docket No. RMU-85-23. Effective April 30, 1986.

(6) Versanet Alarm Services Equipment. The remote module connecting an alarm panel to the local loop was determined to be deregulated terminal equipment. The Versanet equipment monitoring the signal was found to be competitive and deregulated. Docket No. INU-85-5. Effective May 16, 1986.

(7) Mobile telephone and paging services. Docket No. INU-86-2. Effective August 7, 1986.

(8) Billing and collection services (but not the recording function). Docket Nos. RMU-86-16 and INU-86-10. Effective October 15, 1986.

(9) InterLATA Interexchange Message Telecommunications Service (MTS), Wide Area Telecommunications Service (WATS), Channel Service (Private Line), and Custom Network Service (Software Defined Network Service, Megacom Services, Megacom 800 Service, and AT&T Readyline Service). Docket No. INU-88-2. Effective April 5, 1989, and July 19, 1990.

(10) Speed calling. Docket No. INU-88-8. Effective December 22, 1989.

(11) The recording function of billing and collection services. Docket No. INU-88-9. Effective January 9, 1990.

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(12) Competitive IntraLATA Interexchange Services, InterLATA and IntraLATA ISDN, Operator Services, Directory Services, and Voice Messaging Service. Docket No. INU-95-3. Effective June 24, 1996.

(13) Local directory assistance. Docket No. INU-00-3. Effective February 23, 2001.

(14) Local exchange services found to be competitive and deregulated in the following exchanges: Armstrong, Coon Rapids, Council Bluffs, Delmar, Forest City, Harlan, Laurens, Lowden, Mapleton, Oxford, Oxford Junction, Primghar, Saint Ansgar, Solon, Spencer, Stacyville, Stanwood, Storm Lake, Tiffin, and Whiting. Docket No. INU-04-1. Effective December 23, 2004.

b. Deregulation resulting from 2005 Iowa Acts, chapter 9, section 1. Effective July 1, 2005, Iowa Code section 476.1D(1) was amended to deregulate the retail rates for most business and residential local exchange services with the exception of single line flat-rated residential and business service rates, at the election of each telephone utility. The affected utilities opted for deregulation as follows:

(1) Approval of Qwest Corporation's replacement tariff. Qwest's replacement tariff removed the rates for most local exchange services from the tariff, with the exception of single line flat-rated residential and business service rates. Docket No. TF-05-167. Effective September 6, 2005.

(2) Approval of Frontier Communications of Iowa, Inc.'s replacement tariff. This replacement tariff removed the rates for most local exchange services from the tariff, with the exception of single line flat-rated residential and business service rates. Docket No. TF-05-181. Effective September 20, 2005.

(3) Approval of Iowa Telecommunications Services, Inc.'s, d/b/a Iowa Telecom, replacement tariff. This replacement tariff removed the rates for most local exchange services, with the exception of single line flat-rated residential and business service rates. Docket No. TF-05-182. Effective November 5, 2005.

(4) Single line flat-rated residential and business service rates were found to be competitive and deregulated in the following exchanges: Alta, Belle Plaine, Bennett, Cambridge, Carter Lake, Greene, Grundy Center, Guthrie Center, Hartley, Manning, Marble Rock, Marengo, Onawa, Orange City, Osage, Oyens, Paullina, Reinbeck, Slater, and Wapello. Docket No. INU-05-2. Effective December 5, 2005.

(5) Single line flat-rated residential and business service rates were deregulated pursuant to Iowa Code section 476.1D(1). Docket No. INU-08-1. Effective July 1, 2008.

ITEM 7. Amend subrule 22.2(3) as follows:

22.2(3) Tariffs to be filed with the board. The utility, including an alternative operator services company, shall file its tariff with the board, and shall maintain such tariff filing in a current status. A copy of the same tariff shall also be on file in all business offices of the telephone utility and shall be available for inspection by the public.

~~The schedules of regulated rates and alternative operator services rates shall be filed with the board and tariff shall be classified, designated, arranged, and submitted so as to conform to the requirements of current tariff or rate schedule circulars and special instructions which have been or may from time to time be issued by the board~~ this chapter or board order. Provisions of the schedules shall be definite and so stated as to minimize ambiguity or the possibility of misinterpretation. The form, identification, and content of tariffs shall be in accordance with these rules unless otherwise provided ~~in rule 22.14(476).~~

Utilities which are not subject to the rate regulation provided for by Iowa Code chapter 476 shall not file schedules of rates unless required by another rule or by board order. Nothing contained in these rules shall be deemed to relieve any utility of the requirement of furnishing any of these same schedules or contracts which are needed by the board in the performance of the board's duties upon request to do so by the board. Every telephone utility shall make the schedule of its rates readily available to customers on the utility's Web site, if the utility has one, or by mail, upon request.

ITEM 8. Amend paragraphs **22.2(5)“a”** and **“b”** as follows:

a. A table of contents ~~containing a list of regulated rates or alternative operator services rates and other listing tariff~~ sections in the order in which they appear showing the sheet number of the first page of each rate schedule or other section. In the event the utility filing the tariff elects to segregate a section such as general rules from ~~the section containing regulated rates, alternative operator services rates, or~~

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other sections, it may at its option prepare a separate table of contents or index for each such segregated section.

~~b. All regulated rates and alternative operator services rates shall be included in tariffs. Local exchange utilities shall file a map which shall clearly define the base rate boundary and any rural or special zones that are set forth in the tariff. The boundary line location on such maps shall be delineated from fixed reference points.~~

ITEM 9. Amend paragraph **22.3(1)“d”** as follows:

~~d. The directory shall contain such instructions concerning placing local and long distance calls, calls to repair and information services, and location of telephone company business offices as may be appropriate to the area served by the directory. A statement shall be included that the company will verify the condition of a line if requested by a customer and whether any charge will apply. Rates for basic transmission service for residential and business customers available from the utility shall also be included. The directory must indicate how to order 900 and 976 blocking and indicate that the first block is without charge. The directory shall contain descriptions of all current N11 services.~~

ITEM 10. Amend subrule 22.3(12) as follows:

~~22.3(12) Ordering and transferring of service. Telephone utilities shall permit the The terms and conditions for ordering and transferring of transmission local exchange service to be accomplished by telephone. A utility shall not volunteer prices or otherwise attempt to promote terminal equipment which is offered by an affiliated company when transmission service is ordered. A utility may not require customers to order transmission service through a company affiliated with that utility shall be contained in the telephone utility's tariff.~~

ITEM 11. Amend subparagraph **22.4(1)“a”(3)** as follows:

(3) Notify customers affected by a change in ~~regulated~~ rates or schedule classification.

ITEM 12. Amend paragraph **22.4(1)“b”** as follows:

~~b. Inquiries for information or complaints to a utility shall be resolved promptly and courteously. Employees who receive customer telephone calls and office visits shall be qualified and trained in screening and resolving complaints, to avoid a preliminary recitation of the entire complaint to employees without ability and authority to act. The employee shall provide identification to the customer which will enable the customer to reach that employee again if needed.~~

~~All Unless a customer agrees to an alternative form of notice, local exchange utilities shall notify their customers, by bill insert or notice on the bill form, of the address and telephone number where a utility representative qualified to assist in resolving the complaint can be reached. The bill insert or notice shall also include the following statement: “If (utility name) does not resolve your complaint, the service may be subject to state regulation. You may request assistance from the Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, (515)281-3839 or toll-free (877) 1-877-565-4450 or E-mail iubcustomer@iub.state.ia.us.”~~

~~The bill insert or notice on the bill will be provided no less than annually. Any utility which does not use the standard form contained herein shall file its proposed form in its tariff for approval. A telephone utility which provides local exchange service and issues an annual directory shall publish the information set forth above in its directory in addition to a mailing.~~

ITEM 13. Amend subrule 22.4(2), introductory paragraph, as follows:

~~22.4(2) Customer deposits. Each utility may require from any customer or prospective customer a deposit intended to guarantee payment of bills for service based on the customer's credit history. ~~The deposit required shall be confirmed in writing to the customer not later than the time of the next billing. The confirmation shall, in separate columns, itemize deposits for local exchange service and unregulated services. The confirmation shall state that no No deposit other than for local exchange service is required to obtain local exchange service. The confirmation deposit must also reflect the limits as to low-income customers in 199—subparagraph 39.3(2)“b”(4).~~~~

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ITEM 14. Amend paragraph 22.4(2)“b” as follows:

b. Interest on customer deposits. Interest shall be paid on deposits associated with regulated rates. Interest on such deposits shall be computed at ~~7.5~~ 4.0 percent per annum, compounded annually. Interest shall be paid for the period beginning with the date of deposit to the date of refund or to the date that the deposit is applied to the customer's account, or to the date the customer's bill becomes permanently delinquent. The date of refund is that date on which the refund or the notice of deposit refund is forwarded to the customer's last-known address. The date a customer's bill becomes permanently delinquent, relative to an account treated as an uncollectible account, is the most recent date the account became delinquent.

ITEM 15. Amend paragraph 22.4(2)“d” as follows:

d. Each utility shall issue a receipt of deposit to each customer from whom a deposit is received; ~~and. An itemized statement on the customer's bill may be considered an appropriate receipt.~~ Each utility shall also provide means whereby a depositor may establish claim if the receipt is lost.

ITEM 16. Amend paragraph 22.4(2)“h” as follows:

h. A new or additional deposit for local exchange service may be required to cover the amount provided in “a” above when a deposit has been refunded or the customer's payment history demonstrates a deposit is or continues to be appropriate. Written or verbal notice shall be ~~mailed~~ provided advising the customer of any new or additional deposit requirement. The customer shall have no less than 12 days from the date of ~~mailing~~ written or verbal notice to comply. The new or additional deposit ~~shall~~ may be payable electronically or by cash or check at any of the utility's business offices or local authorized agents. An appropriate receipt shall be provided. No written notice is required to be given of a deposit required as a prerequisite for commencing initial service.

ITEM 17. Amend subrule 22.4(3) as follows:

22.4(3) *Customer billing, timely payment, late payment charges, payment and collection efforts.* Each utility's tariff rules shall comply with these minimum standards.

a. Billing to customers shall be scheduled monthly except upon mutual agreement of the customer and utility. A utility with unusual circumstances may obtain authority from the board for billing at other than monthly intervals.

b. Rescinded IAB 2/6/91, effective 3/13/91.

c. Paper bills shall be issued and delivered via U.S. mail unless the customer agrees to electronic or other billing pursuant to terms specified by tariff or customer agreement. Except as otherwise noted, the requirements of this subrule apply to both paper and electronic bills. The bill form or a bill insert shall provide the following information:

(1) ~~The dates at the beginning and end of the billing period~~ bill date and the bill due date for transmission services local exchange services, service charges, and other telecommunications services and equipment.

(2) The last date for timely payment shall be clearly shown and shall be not less than 20 days after the bill is rendered. ~~The~~ For a paper bill, the bill shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. For an electronic bill, the bill shall be considered rendered to the customer on the date of transmission to the last-known E-mail address or as otherwise defined in an agreement between the customer and utility. If the delivery of a paper bill is by other than U.S. mail, the bill shall be considered rendered when delivered to the last-known address of the party responsible for payment. If a bill cannot be transmitted electronically, the utility shall issue a paper bill. The utility may charge an appropriate amount for the distribution of a paper bill so long as the same amount is discounted should the customer choose electronic billing. When a customer changes from paper billing to electronic billing, the utility shall be allowed one complete billing cycle to make adjustments for electronic billing credits.

(3) ~~The amount of the net charge, stated by category, for local transmission service, ancillary services and equipment, toll service, information service, sales tax and excise tax, and of any late payment charge together with the gross amount of the bill, with separate entries for total amounts current or in arrears. The utility shall comply with reasonable requests for bill detail.~~ Bills to customers

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shall be rendered regularly and shall contain a clear listing of all charges. A written, itemized listing of the services to which the customer subscribes and the monthly rates for those services shall be provided as part of the initial bill or when service is ordered and subsequently upon reasonable request of the customer.

(4) to (6) No change.

~~d. Late payment charges for services associated with regulated rates. Where net and gross amounts are billed to customers, the difference between net and gross is a late payment charge and is valid only when it is part of a delinquent bill payment. A late payment charge shall not exceed 1.5 percent per month of the past due amount. No collection fee may be levied in addition to this late payment charge. This does not prohibit cost justified charges for disconnection and reconnection of service.~~

~~e. If Unless the terms of a multistate customer contract state otherwise, when the customer makes a partial payment in a timely manner, and does not designate the service or product for which payment is made, the payment shall first be applied to the undisputed balance for basic local exchange service, with the remainder applied on a pro-rata basis to regulated utility services. If an amount remains, it may then be applied to deregulated and nonregulated other services. The late payment charge provision should be applied to only the outstanding balance for utility services, except interstate toll and related taxes.~~

~~f. and g. No change.~~

~~h. Maximum payment required for initial network access installation and activation of local exchange service shall comply with the total derived in accord with these rules and specified in the filed tariff.~~

~~(1) An applicant for network access local exchange service, who under the tariff credit rules is required to make a deposit to guarantee payment of bills, may be required to pay the service charges and deposit prior to access obtaining service. An applicant not required to make a deposit shall not be billed a service charge earlier than the first regular monthly bill.~~

~~(2) No change.~~

~~i. to k. No change.~~

~~l. Overcharges. The time period for which the utility is required to refund or credit the customer's bill shall not exceed five years unless otherwise ordered by the board. Refunds of \$25 or more shall be in the form of checks to current customers. Checks are to be issued to former customers where the refund exceeds \$10. Refunds to current customers of less than \$25 may be in the form of a bill credit. Refunds to current customers may be in the form of bill credits, unless the refund exceeds \$50 and the customer requests a refund in the same manner by which the bill was originally paid. Refunds to former customers may be made in the same manner by which the bill was originally paid. Refunds for local exchange service may not be applied to unpaid amounts for unregulated services.~~

ITEM 18. Amend paragraph 22.4(4)“a” as follows:

a. Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep a record of such complaint showing the name and address of the complainant, the date and nature of the complaint, its disposition, and all other pertinent facts dealing with the complaint, which will enable the utility to review and analyze its procedure and actions. The records maintained by the utility under this rule shall be available for a period of two years for inspection by the board or its staff upon request.

ITEM 19. Amend subrule 22.4(5) as follows:

22.4(5) Refusal or disconnection of service. Notice of a pending disconnection shall be rendered and ~~transmission~~ local exchange service shall be refused or disconnected as set forth in the tariff. The notice of pending disconnection required by these rules shall be a written notice setting forth the reason for the notice, and the final date by which the account is to be settled or specific action taken.

The notice shall be considered rendered to the customer when deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the notice shall be considered rendered when delivered to the last-known address of the person responsible for payment for the service. The final date shall be not less than five days after the notice is rendered.

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One written notice, including all reasons for the notice, shall be given where more than one cause exists for refusal or disconnection of service. This notice shall include a toll-free or collect number where a utility representative qualified to provide additional information about the disconnection can be reached. The notice shall also state the final date by which the account is to be settled or other specific action taken. In determining the final date, the days of notice for the causes shall be concurrent.

Service may be refused or disconnected for any of the reasons listed below. Unless otherwise stated, the customer shall be provided notice of the pending disconnection and the rule violation which necessitates disconnection. Furthermore, unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is disconnected. Except as provided in 22.4(5) "a," "b," "c," "d," and "e," no service shall be disconnected on the day preceding or the day on which the utility's local business office or local authorized agent is closed. Service may be refused or disconnected:

a. to h. No change.

ITEM 20. Amend subrule 22.4(7) as follows:

22.4(7) *Insufficient reasons for refusal, suspension, or discontinuance of service.* The following shall not constitute sufficient cause for refusal, suspension, or discontinuance of local exchange service to a present or prospective customer:

a. to f. No change.

~~g. — Use of an auxiliary directory cover.~~

~~h. — Failure to pay for information service not regulated by the board.~~

~~± g. Failure to pay for deregulated services other than local exchange service.~~

ITEM 21. Amend paragraphs **22.5(2)“a”** and **“b”** as follows:

a. Each local exchange utility, ~~interexchange utility,~~ and alternative operator services company shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available at all times, including average busy-hour of the busy-season.

b. Each local exchange utility, ~~interexchange utility,~~ and alternative operator services company shall conduct traffic studies, employ reasonable procedures for forecasting future service demand, and maintain records necessary to demonstrate to the board that sufficient equipment is in use and that an adequate operating force is provided.

ITEM 22. Rescind and reserve paragraph **22.5(3)“c.”**

ITEM 23. Amend subrule 22.5(4) as follows:

22.5(4) *Telecommunication circuits.* ~~All local exchange utilities shall provide full metallic, electronic, or lightwave circuits for telecommunication purposes.~~ All circuits shall be properly constructed and maintained to ensure trouble-free quality service.

ITEM 24. Amend subrule 22.5(5) as follows:

22.5(5) *Interexchange trunks.*

~~a. — When trunk lines or toll circuits for communication are furnished by one or more telephone utilities between exchanges, the circuits connecting such exchanges shall be nongrounded. No customer's instruments other than toll stations shall be regularly connected to those circuits.~~

~~b. Interexchange trunks Trunks for extended area service shall be provided so that at least 98 percent of telephone calls offered to the group will not encounter an all-trunks-busy condition. For toll connecting trunks, this figure shall be at least 98 percent. Unless otherwise authorized by the board, a provider of regulated toll services shall maintain sufficient switching and network channel capacity plus other necessary facilities so that 98 percent of properly dialed toll calls are correctly terminated.~~

~~c. — All interexchange utilities which use both line and trunk side connections for access shall order sufficient quantities of switched access service from the local exchange utility to maintain acceptable blocking probability for each type of access. Normally, the board shall consider a .01 blocking probability to be acceptable.~~

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ITEM 25. Rescind and reserve paragraph **22.5(10)“d.”**

ITEM 26. Amend subrule 22.5(14) as follows:

22.5(14) Information service access blocking. Each local exchange utility shall include in its tariff on file with the board a provision giving its subscribers the option of blocking access, ~~where facilities are available,~~ to all 900 and 976 prefix numbers, without charge for the first block.

~~a. — On or before April 1, 1992, each local exchange utility, by form letter and response card, postage prepaid, separate from any other mailing, shall notify all residential customers in exchanges where blocking is available of the availability of the first blocking without charge and that access to 900 and 976 prefix numbers will not be blocked unless the residential customer returns the card or otherwise informs the local exchange utility of the customer’s desire to block.~~

~~b. — Each local exchange utility with exchanges where facilities to provide blocking are unavailable must file a semiannual report to the board, on or before each April 1 and October 1, identifying the exchanges.~~

~~c. — On or before April 1, 1992, each local exchange utility shall notify all residential customers in exchanges where blocking is not available that blocking is not available. Within 30 days after blocking becomes available in an exchange where blocking was not available as of April 1, 1992, the local exchange company will notify the customers of that exchange, pursuant to the provisions of paragraph “a,” that blocking has become available.~~

~~d. — All local exchange utilities must state in their telephone directories which exchanges listed in the directory offer 900 and 976 prefix access service blocking. For those exchanges where blocking is available, the directory must state the method to order access blocking and that the first blocking is without charge.~~

~~e. — At the time of application or within one month of the date service is initiated, local exchange companies must provide or mail the appropriate notice under paragraph “a” or “c” to new residential customers.~~

ITEM 27. Rescind paragraphs **22.6(2)“e”** and **“f.”**

ITEM 28. Amend subrule 22.6(4) as follows:

22.6(4) Repair—missed appointments. When a utility makes an appointment for installation or repair within a given range of time, and misses that appointment by over an hour, the customer will receive one month’s primary local service free of charge. This is applicable to each missed appointment. ~~The expense incurred as a result of a missed appointment in providing free primary local service shall not be included in rates.~~

ITEM 29. Rescind and reserve subrules **22.12(2)** and **22.12(3).**

ITEM 30. Rescind and reserve rule **199—22.13(476).**

ITEM 31. Amend subparagraph **22.14(2)“d”(1)** as follows:

(1) Carrier common line charge. The rate for the intrastate carrier common line charge shall be three cents per access minute or fraction thereof for both originating and terminating segments of the communication, unless a different rate is required by numbered paragraphs “1” and “2.” The carrier common line charge shall be assessed to exchange access made by any interexchange telephone utility, including resale carriers. In lieu of this charge, interconnected private systems shall pay for access as provided in 22.14(1)“b.”

1. ~~Rate regulated Incumbent local exchange utility carrier intrastate access service tariffs shall include the carrier common line charges approved in the rate regulated local exchange utility’s price regulation plan or as otherwise approved by the board.~~

2. A competitive local exchange carrier that concurs with the Iowa Telephone Association (ITA) Access Service Tariff No. 1 and that offers service in exchanges where the incumbent local exchange carrier’s intrastate access rate is lower than the ITA access rate shall deduct the carrier common line charge from its intrastate access service tariff.

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ITEM 32. Amend subrule 22.14(4) as follows:

22.14(4) Notice of intrastate access service tariffs.

~~a. All~~ Each telephone ~~utilities~~ utility that ~~file~~ files new or changed tariffs relating to access charges, access service, or the recording function associated with billing and collection for access services shall give written notice of the new or changed tariffs to the utility's interexchange utility access customers, the board, and the consumer advocate and ~~to all interexchange utilities registered with the board under paragraph "b" of this subrule.~~ Notice shall be given on or before the date of filing of the tariff. The notice shall consist of ~~a copy of the tariff transmittal letter, a listing of affected tariff pages, and:~~ the file date, the proposed effective date, a description of the proposed changes, and the tariff section number where the service description is located. If two or more local exchange utilities concur in a single tariff filing, the local exchange utilities may send a joint written notice to the board, consumer advocate, and the interexchange utilities.

~~b. — To receive notice of new or changed access service tariffs, an interexchange utility shall register with the board. An interexchange utility registers by filing a specific written request for registration, stating its name and the address where notice is to be sent.~~

~~e. — Local exchange utilities shall file an affidavit listing all interexchange utilities notified of the proposed filing when the tariff is filed with the board.~~

~~d. b.~~ The board shall not approve any new or changed tariff described in paragraph "a" until after the period for resistance provided in subrule 22.14(5), paragraph "a."

ITEM 33. Amend subrule 22.15(1) as follows:

22.15(1) Interexchange utility service. An interexchange utility may provide interexchange service by complying with the laws of this state and the rules of this board. Any company or other entity accessing local exchange facilities or services in order to provide interexchange communication services to the public shall be considered to be an interexchange utility and subject to the rules herein, unless otherwise exempted. Such utilities are required to file ~~tariffs~~ a registration form, reports, and other items and are subject to service standards as specified in utilities division rules, ~~chapters 7, 16, and 22,~~ unless otherwise exempted.

ITEM 34. Amend subrule **22.20(3)**, introductory paragraph, as follows:

22.20(3) Map specifications. All ~~utilities~~ ILECs shall have on file with the board maps which identify their exchanges and both internal exchange boundaries where the utility's own exchanges abut and ultimate boundaries where the utility's exchanges abut other utilities. A CLEC shall either file its own exchange boundary map or adopt the exchange boundary map filed by the ILEC serving that exchange.

[Filed 5/12/09, effective 7/8/09]

[Published 6/3/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/3/09.

ARC 7825B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed

Pursuant to the authority of Iowa Code section 35A.5 and 2008 Iowa Acts, chapter 1130, section 3, the Iowa Department of Veterans Affairs hereby amends Chapter 1, "Organization and Procedures," Iowa Administrative Code.

The amendments to Chapter 1 establish the Iowa Veterans Cemetery; make technical corrections; comply with 2007 Iowa Acts, House File 817, that prescribes certain duties to the Iowa Department of Veterans Affairs; and comply with 2008 Iowa Acts, Senate File 2134, that establishes the county commission of veteran affairs account, training program, and minimum requirements to county commissions of veteran affairs.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 25, 2009, as **ARC 7659B**. A public hearing was held on April 17, 2009. Public comment was received, and the adopted amendments have been modified from those published under Notice of Intended Action in response to the public comment. Paragraph 1.3(4)“g” has been modified to include Merchant Marine forces in the permanent grave registry maintained by the Department. In addition, new Item 6 has been added, which rescinds rule 801—1.15(35A,35B) because the rule is replaced by new 801—Chapter 7, County Commissions of Veteran Affairs Fund and Training Program, adopted herein as **ARC 7824B**.

These amendments shall become effective July 8, 2009.

No fiscal impact is anticipated.

These amendments are intended to implement Iowa Code chapter 35A and section 35B.6 and 2008 Iowa Acts, chapter 1130.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [1.1 to 1.3, 1.5, 1.11, 1.15] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7659B**, IAB 3/25/09.

[Filed 5/12/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7824B**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 35A.5, 2008 Iowa Acts, chapter 1130, and 2009 Iowa Acts, House File 283, the Iowa Department of Veterans Affairs hereby adopts new Chapter 7, “County Commissions of Veteran Affairs Fund and Training Program,” Iowa Administrative Code.

This new chapter is established to comply with 2008 Iowa Acts, chapter 1130, and 2009 Iowa Acts, House File 283, both of which amend the structure of county commissions of veteran affairs, including revisions to the amount of funds distributed and the method of distribution; the creation of a county commission of veteran affairs training program; and the establishment of minimum requirements for county commissions of veteran affairs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 25, 2009, as **ARC 7660B**. A public hearing was held on April 17, 2009. Public comment was received, and the adopted rules have been modified from those published under Notice of Intended Action in response to public comment. Subrule 7.2(2) has been revised to make accreditation training optional for county office support staff. Subrule 7.2(2) now reads as follows:

“**7.2(2)** A county veteran service officer shall attend and support staff may attend an annual school of instruction provided by the department or a national school of accreditation provided by NACVSO. After attending the annual school of instruction or national school of accreditation, the county veteran service officer must present to the department a certificate of satisfactory completion of national accreditation training from NACVSO. The department shall certify the possession of a document indicating that the county veteran service officer has completed a course of accreditation and satisfactorily passed an examination for NACVSO accreditation. County veteran service officers shall be certified by the department by June 30, 2010, or within one year from the date of appointment.”

In addition, new paragraph 7.2(3)“c” has been added to provide a mechanism for removing county officers from their positions if they fail to comply with accreditation requirements, and to indicate what penalties are available for failure to comply with this rule. New paragraph 7.2(3)“c” reads as follows:

“c. County veteran service officers who fail to become accredited by June 30, 2010, or within one year of beginning their employment as provided for in Iowa Code section 35B.6 as amended by 2008 Iowa Acts, chapter 1130, and 2009 Iowa Acts, House File 283, shall be removed from their positions by

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

the chair of the county commission of veteran affairs. Knowing violation of this provision constitutes noncompliance as provided in paragraph 7.1(4)“c,” and individuals who knowingly fail to comply may be charged with a serious misdemeanor for nonfelonious misconduct in office as provided by Iowa Code section 721.2(6).”

Pursuant to 2008 Iowa Acts, chapter 1130, section 2, this new chapter is based on a \$1 million appropriation from the General Assembly for the fiscal year beginning July 1, 2009, and for each subsequent fiscal year.

These rules are intended to implement Iowa Code chapters 35A and 35B as amended by 2008 Iowa Acts, chapter 1130, and 2009 Iowa Acts, House File 283.

These rules shall become effective July 8, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 7] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 7660B**, IAB 3/25/09.

[Filed 5/12/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]

ARC 7823B**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 35A.5, the Department of Veterans Affairs hereby amends Chapter 14, “Veterans Trust Fund,” Iowa Administrative Code.

The amendments to Chapter 14 modify the availability of assistance through the trust fund and improve administration.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 25, 2009, as **ARC 7661B**. A public hearing was held on April 17, 2009. Public comment was received, but no change requests were indicated. These amendments are identical to those published under Notice of Intended Action.

No fiscal impact is anticipated.

These amendments are intended to implement Iowa Code section 35A.13.

These amendments shall become effective July 8, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [14.2, 14.3(1), 14.4, 14.5, 14.7] is being omitted. These amendments are identical to those published under Notice as **ARC 7661B**, IAB 3/25/09.

[Filed 5/12/09, effective 7/8/09]

[Published 6/3/09]

[For replacement pages for IAC, see IAC Supplement 6/3/09.]