



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 2368 to 2438 include ARC 2555C to ARC 2579C

AGRICULTURE AND LAND STEWARDSHIP

DEPARTMENT[21]

- Filed, Renewable fuel infrastructure program, 12.3(4), 12.4, 13.1, 14.2(3), 16.2, 16.3(2), 16.5(5), 85.48 ARC 2577C 2404
- Filed, Women, infants, and children/farmers' market nutrition program and senior farmers' market nutrition program, amendments to ch 50 ARC 2573C 2407
- Filed, Remediation of agrichemical sites, rescind ch 51 ARC 2576C 2408

ALL AGENCIES

- Agency identification numbers 2366
- Citation of administrative rules 2363
- Schedule for rule making 2364

COMMERCE DEPARTMENT[181]

- Notice, Organization and operation; petitions for rule making; declaratory orders, amend ch 1; rescind chs 2, 3 ARC 2575C 2368

EMPLOYMENT APPEAL BOARD[486]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

- Notice, Peace officer and capitol security appeals, 6.1 ARC 2578C 2370

ENVIRONMENTAL PROTECTION

COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Notice, Iowa antidegradation implementation procedure, 61.2(2)"e," 64.2(9)"a," 64.7(2)"f" ARC 2579C 2371

- Filed Emergency After Notice, NPDES General Permit No. 7 for discharge of pesticides, 64.3(4)"b"(7), 64.15(7) ARC 2572C 2395
- Filed, NPDES General Permit No. 5 for wastewater discharges from mines and quarries, 64.15(5) ARC 2571C 2409

HUMAN SERVICES DEPARTMENT[441]

- Filed, Medicaid for employed people with disabilities—premiums, 75.1(39)"b"(3) ARC 2557C 2410
- Filed Emergency After Notice, Child care assistance—eligibility, certification, payment to providers, 170.1 to 170.4 ARC 2555C 2396
- Filed Emergency After Notice, Child care assistance sliding fee schedule, 170.4(2)"a" ARC 2556C 2399

INSPECTIONS AND APPEALS

DEPARTMENT[481]

- Filed, Nursing facilities—dietary, 58.19(1), 58.24 ARC 2560C 2411

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Notice, Nursery stock prices, 71.3 ARC 2558C 2373
- Filed, Hunting—licenses, education, apprentice designation, amendments to ch 15 ARC 2561C 2416

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Filed, Compounded drug products—office use, 20.2, 20.15 ARC 2559C 2418

PUBLIC HEALTH DEPARTMENT[641]
 Notice Terminated, Informed consent for storage and release of residual newborn screening specimens, 4.3, 4.7(6)“e,” 4.11 **ARC 2568C** 2374
 Filed, Iowa get screened colorectal cancer program, amendments to ch 10 **ARC 2562C**... 2420
 Filed, Grants to counties for private well testing, reconstruction and plugging, 24.4(2), 24.5, 24.8(4), 24.12 **ARC 2563C** 2423
 Filed, Preparedness advisory committee, 114.1 to 114.9 **ARC 2564C** 2425
 Filed, Emergency medical services council, 130.1, 130.3 to 130.9 **ARC 2565C**.... 2429
 Filed, Trauma system advisory council, ch 138 **ARC 2566C** 2432
 Filed, Collection of delinquent debts, ch 179 **ARC 2567C**..... 2435

PUBLIC HEARINGS
 Summarized list 2365

REVENUE DEPARTMENT[701]
 Notice, Automobile rental excise tax, replacement tax and statewide property tax on rate-regulated water utilities—five-year review of rules, amendments to chs 27, 78 **ARC 2574C** 2374

TRANSPORTATION DEPARTMENT[761]
 Filed, Adopt-a-highway program—sponsor compliance with nondiscrimination laws, 121.4(3) **ARC 2570C** 2438

USURY
 Notice 2380

UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]“umbrella”
 Notice, Telecommunications services, amendments to ch 22 **ARC 2569C** 2381

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

Schedule for Rule Making 2016

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

PRINTING SCHEDULE FOR IAB

| <u>ISSUE NUMBER</u> | <u>SUBMISSION DEADLINE</u> | <u>ISSUE DATE</u> |
|---------------------|----------------------------|-------------------|
| 1 | Friday, June 17, 2016 | July 6, 2016 |
| 2 | Wednesday, June 29, 2016 | July 20, 2016 |
| 3 | Friday, July 15, 2016 | August 3, 2016 |

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the filing deadline 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*****

ENVIRONMENTAL PROTECTION COMMISSION[567]

Iowa antidegradation implementation procedure, 61.2(2)“e,” 64.2(9)“a,” 64.7(2)“f”
IAB 6/8/16 **ARC 2579C**

Conference Room 2 North, Second Floor
Wallace State Office Bldg.
Des Moines, Iowa

June 29, 2016
1 p.m.

Yard waste—disposal at landfills, separate collection by municipalities, 105.1, 113.8(1)“b”(13)
IAB 5/25/16 **ARC 2539C**

Fifth Floor East Conference Room
Wallace State Office Bldg.
Des Moines, Iowa

June 14, 2016
10 a.m.

NATURAL RESOURCE COMMISSION[571]

Nursery stock prices, 71.3
IAB 6/8/16 **ARC 2558C**

State Forest Nursery
2404 South Duff Ave.
Ames, Iowa

June 28, 2016
1 to 3 p.m.

E.B. Lyons Interpretive Center
Mines of Spain State Recreation Area
8991 Bellevue Heights Rd.
Dubuque, Iowa

June 29, 2016
1 to 3 p.m.

Loess Hills State Forest Visitor Center
206 Polk St.
Pisgah, Iowa

June 30, 2016
10 a.m. to 12 noon

TRANSPORTATION DEPARTMENT[761]

Outdoor advertising, logo signing, amendments to chs 117, 118
IAB 5/25/16 **ARC 2543C**

First Floor South Conference Room
DOT Administration Bldg.
800 Lincoln Way
Ames, Iowa

June 16, 2016
1 p.m.
(If requested)

Classes of driver’s licenses, amendments to ch 602
IAB 5/25/16 **ARC 2544C**

Motor Vehicle Division Offices
6310 SE Convenience Blvd.
Ankeny, Iowa

June 16, 2016
10 a.m.
(If requested)

UTILITIES DIVISION[199]

Telecommunications services, amendments to ch 22
IAB 6/8/16 **ARC 2569C**

Room 69, Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 9, 2016
9 a.m.

The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Soil Conservation and Water Quality Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE BOARD[249]
ECONOMIC DEVELOPMENT AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]

Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Child Advocacy Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Military Division[611]
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 2575C

COMMERCE DEPARTMENT[181]

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 546, the Department of Commerce proposes to amend Chapter 1, “Organization and Operation,” and to rescind Chapter 2, “Petitions for Rule Making,” and Chapter 3, “Declaratory Rulings,” Iowa Administrative Code.

The proposed amendments update information related to the Divisions of the Commerce Department as a result of location changes and statutory changes over a number of years.

The Department will fully consider any written suggestions or comments on these proposed amendments by any interested person on or before June 28, 2016. Written material should be directed to Jan Johnson, Iowa Credit Union Division, 200 East Grand Avenue, Suite 370, Des Moines, Iowa 50309-1827; fax (515)725-0519.

The proposed amendments are technical in nature and do not contain conditions for waiver.

After analysis and review of this rule making, the Department has determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code chapters 546 and 17A.

The following amendments are proposed.

ITEM 1. Amend rule 181—1.1(546,17A) as follows:

181—1.1(546,17A) Purpose. This chapter describes the organization and operation of the department of commerce (~~hereafter referred to as the “department”), including the offices where, and the means by which any interested person may obtain public information and make submittals or requests.~~

ITEM 2. Rescind and reserve rule **181—1.3(546,17A)**.

ITEM 3. Amend rule 181—1.4(546,17A) as follows:

181—1.4(546,17A) Duties of the department. The commerce department administers and coordinates the various regulatory, service, and licensing functions of the state ~~regarding relating to the conduct conducting of business and or commerce in the state.~~ The department consists of ~~the director’s office, an office of administrative services, and~~ the following divisions: banking, credit union, savings and loan, utilities, insurance, ~~and alcoholic beverages, and professional licensing and regulation.~~

~~1.4(1) Office of administrative services.~~ The office of administrative services coordinates personnel services and shared administrative support services for the department, coordinates the development of the department’s annual budget, and maintains monitoring and control systems for the department.

~~1.4(2)~~ **1.4(1) Banking division.** The banking division regulates and supervises state banks, regulated loan companies, industrial loan companies, mortgage bankers, mortgage brokers, real estate closing agents, debt management companies, money services companies, and delayed deposit service businesses and performs other duties assigned to it by law. In addition, as provided in Iowa Code section 546.10, the division administers and coordinates the activities of the following professional licensing boards: the engineering and land surveying examining board, the Iowa accountancy examining board, the real estate commission, the architectural examining board, the landscape architectural examining board, the real estate appraiser examining board, and the interior design examining board.

~~1.4(3)~~ **1.4(2) Credit union division.** The credit union division regulates and supervises the operation of credit unions within the state; the credit union review board performs duties assigned to it by Iowa Code chapter 533.

COMMERCE DEPARTMENT[181](cont'd)

~~1.4(4) Savings and loan division.~~ The savings and loan division regulates and supervises savings and loan associations and savings banks which operate within the state.

~~1.4(5) Gaming division.~~ Rescinded IAB 11/23/94, effective 11/4/94.

~~1.4(6)~~ **1.4(3)** *Utilities division.* The utilities division regulates and supervises all certain public utilities which operate within the state, and enforces or administers the laws promulgated under Iowa Code chapters 476, 476A, 476B, 476C, 477A, 477C, 478, and 479, 479A and 479B. The division performs other duties assigned to it by law.

~~1.4(7)~~ **1.4(4)** *Insurance division.* The insurance division regulates and supervises the conduct of the business of insurance within the state, and enforces the laws promulgated under Title XX, and Iowa Code chapters 502, 503, 505 to ~~523C~~ 523D, and ~~535C~~ 523I. The division performs other duties assigned to it by law.

~~1.4(8)~~ **1.4(5)** *Alcoholic beverages division.* The alcoholic beverages division supervises and regulates all matters relating to alcoholic beverages within the state, and enforces the laws promulgated under Iowa Code chapter 123.

~~1.4(9) Professional licensing and regulation division.~~ The professional licensing and regulation division coordinates and administers the licensing and regulation of the engineering and land surveying examining board, the accountancy examining board, the real estate commission, the architectural examining board, the real estate appraisers examining board, and the landscape architectural examining board. The commission and boards within this division retain the regulatory and licensing powers conferred upon them by the statutes creating the commission and boards.

ITEM 4. Amend rule **181—1.5(546,17A)**, definition of “Administrator of professional licensing and regulation,” as follows:

“Administrator of professional licensing and regulation” means the ~~chief administrative officer of the professional licensing and regulation division of the department of commerce~~ superintendent of banking.

ITEM 5. Rescind the definitions of “Administrator of public utilities” and “Superintendent of savings and loan associations” in rule **181—1.5(546,17A)**.

ITEM 6. Amend rule 181—1.6(546,17A) as follows:

181—1.6(546,17A) Central offices and communications. Correspondence and communications with the department of commerce shall be addressed or directed to the department’s ~~central office located at the Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319, (515)281-7405.~~ The central office is the principal custodian of departmental orders, statements of law or policy issued by the department, legal documents, and other public documents on file with the department director. The director is the division head appointed by the governor to fulfill the responsibilities and duties of the director in addition to the individual’s responsibilities and duties as the head of a division. The department’s Web site is <http://commerce.iowa.gov/>.

1.6(1) Correspondence and communications with the banking division shall be addressed or directed to its central office located at 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827, (515)281-4014. The division’s Web site is <http://www.idob.state.ia.us/>.

1.6(2) Correspondence and communications with the professional licensing and regulation ~~division~~ bureau of the banking division shall be addressed or directed to its ~~central~~ office located at ~~1918 S.E. Hulsizer, Ankeny, Iowa 50021, (515)281-3183~~ 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309-1827, (515)725-9022. The bureau’s Web site is <https://plb.iowa.gov/>.

1.6(3) Correspondence and communications with the alcoholic beverages division shall be addressed or directed to its central office located at 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021-3961, (515)281-7400. The division’s Web site is <https://abd.iowa.gov/>.

1.6(4) Correspondence and communications with the insurance division shall be addressed or directed to its central office located at ~~the Lucas State Office Building, East 12th and Grand Avenue, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319~~ 50309-3738, (515)281-5705. The division’s Web site is <http://www.iid.iowa.gov/>.

COMMERCE DEPARTMENT[181](cont'd)

1.6(5) Correspondence and communications with the utilities division shall be addressed or directed to its central office located at ~~the Lucas State Office Building, East 12th and Grand Avenue~~ 1375 East Court Avenue, Des Moines, Iowa 50319-0069, (515)281-5979 725-7300. The division's Web site is <https://iub.iowa.gov/>.

~~**1.6(6)** Correspondence and communications with the savings and loan division shall be addressed to 1918 S.E. Hulsizer, Ankeny, Iowa 50021.~~

~~**1.6(7)**~~ **1.6(6)** Correspondence and communications with the credit union division shall be addressed or directed to its central office located at 200 East Grand Avenue, Suite 370, Des Moines, Iowa 50309-1827, (515)281-6514 725-0505. The division's Web site is <https://creditunions.iowa.gov/>.

ITEM 7. Rescind subrules **1.7(1)** and **1.7(2)**.

ITEM 8. Amend subrule 1.8(5) as follows:

1.8(5) *Expenditure authorization.* Each division administrator may authorize expenditures from ~~any appropriation or trust~~ accounts for that division or office within the department of commerce revolving fund established on the behalf of the division in Iowa Code section 546.12, or otherwise use funds as permitted by Iowa Code section 546.12.

ITEM 9. Rescind and reserve **181—Chapter 2.**

ITEM 10. Rescind and reserve **181—Chapter 3.**

ARC 2578C

EMPLOYMENT APPEAL BOARD[486]

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 10A.601(6), the Employment Appeal Board hereby gives Notice of Intended Action to amend Chapter 6, “Peace Officer and Capitol Security Appeals,” Iowa Administrative Code.

The proposed amendments update two subrules regarding the types of notice sent to the Board by the Iowa Department of Public Safety. Subrule 6.1(1) currently refers only to the notice of intent to dismiss, but Iowa Code section 10A.601 refers to notices dealing with suspension, disciplinary demotions, or other disciplinary action resulting in the loss of pay. The amendment in Item 1 brings the rule into compliance with the statutory language.

The amendment in Item 2 establishes a deadline on appealing the proposed decision of an administrative law judge to the Board. Deadlines have been established for Occupational Safety and Health Administration (OSHA), Iowa Public Employees’ Retirement System (IPERS), and Department of Administrative Services (DAS) cases. Adding the language in Item 2 will provide consistency in decisions.

The Board approved the proposed amendments at its meeting on May 12, 2016.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 28, 2016. Such written materials should be addressed to the Chairman, Employment Appeal Board, Lucas State Office Building, Fourth Floor, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)281-7191; or e-mailed to rick.austry@dia.iowa.gov.

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

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

These amendments are intended to implement Iowa Code sections 10A.601 and 17A.4.

EMPLOYMENT APPEAL BOARD[486](cont'd)

The following amendments are proposed.

ITEM 1. Amend subrule 6.1(1) as follows:

6.1(1) *Form and time of appeal.* The department of public safety shall file with the employment appeal board notice of intent to dismiss or of intent to take other action, under the purview of Iowa Code section 80.15, regarding a member of the department, including capitol security officers covered under Iowa Code section 80.15. The notice of intent to dismiss shall become final unless within 30 days a request (hereafter called an appeal) to appear and defend the charges is filed by the person named. No notice of intent to take action need be filed for action not under the purview of Iowa Code section 80.15. Such personnel actions are effective without following the process of Iowa Code section 80.15.

ITEM 2. Amend subrule 6.1(6) as follows:

6.1(6) *Decisions.* If the hearing is conducted by the employment appeal board, the decision of the board shall be the final decision. If the hearing is conducted by an administrative law judge, the decision shall be a proposed decision, which shall become the final decision 30 days after the issue date of that decision, unless a further appeal is taken to the employment appeal board. The employment appeal board on further review may reverse, modify, or remand the proposed decision. The decision of the employment appeal board shall be by majority vote. The decision of the employment appeal board shall be a final agency decision unless subject to review through a petition for judicial review is filed within 30 days of the date of the employment appeal board decision in the appropriate district court.

ARC 2579C

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.105 and 455B.173, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 61, “Water Quality Standards,” and Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The primary purpose of the proposed amendments is to update the Iowa Antidegradation Implementation Procedure, which is currently incorporated by reference in 61.2(2)“e.” These amendments propose to rescind that paragraph and incorporate the Iowa Antidegradation Implementation Procedure in paragraph 64.2(9)“a” and new subparagraph 64.7(2)“f”(5). The Commission and the Department of Natural Resources (Department) received a petition for rule making from the Iowa Association of Municipal Utilities, the Iowa League of Cities, and the Iowa Association of Business and Industry on April 25, 2016. The petition was filed in response to concerns by petitioners regarding the Department’s cost-benefit analysis in its Iowa Antidegradation Implementation Procedure. Petitioners believe that without a bright-line standard to conduct this analysis, municipal and industrial permit applicants will face excessively burdensome costs to quantify, evaluate and compare environmental benefits with the costs of each treatment alternative being considered during the antidegradation review process. Because the Department has not developed a methodology to be utilized for such a comparison or a process and methodology for the review and approval of such an evaluation, the petitioners are urging the Commission to revise the Iowa Antidegradation Implementation Procedure to prevent the imposition of such a burdensome and expensive requirement.

This rule making proposes the replacement of the specific language which has been interpreted to be the basis for requiring the cost-benefit comparison with a bright-line standard for determining the appropriateness of requiring a less degrading wastewater treatment alternative. In addition to

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

requesting comments on the proposed change, the Commission specifically requests that comments be submitted proposing a methodology for a comparison of environmental benefits to costs and a process and methodology for review and approval of such an analysis.

The proposed changes to the Iowa Antidegradation Implementation Procedure are found on pages 4, 15, 16 and 17 of the document along with the applicable effective date. The primary revision concerns the last paragraph on page 15 which is proposed to read as follows:

Alternatives costing less than 115 percent of the base cost of the minimum level of pollution control are considered economically efficient. Alternatives greater than or equal to 115 percent of the base costs are not considered economically efficient.

Other changes to the document are intended to implement this revision. The proposed revision of the Iowa Antidegradation Implementation Procedure can be viewed at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards/Antidegradation>.

Any person may submit written suggestions or comments on the proposed amendments through June 29, 2016. Such written material should be submitted to Jon Tack, Bureau Chief, Water Quality Bureau, Iowa Department of Natural Resources, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by e-mail to jon.tack@dnr.iowa.gov. Persons who have questions may contact Jon Tack by e-mail or by telephone at (515)725-8401.

A public hearing will be held on Wednesday, June 29, 2016, at 1 p.m. in Conference Room 2 North, Second Floor, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa. Persons attending the hearing 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 content of the proposed amendments.

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

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

These amendments are intended to implement Iowa Code sections 455B.172, 455B.173, 455B.174, 455B.183, and 455B.197.

The following amendments are proposed.

ITEM 1. Rescind and reserve paragraph **61.2(2)“e.”**

ITEM 2. Amend paragraph **64.2(9)“a”** as follows:

a. Review of applications for construction permits shall be based on the criteria contained in the “Iowa Wastewater Facilities Design Standards,” the Ten States Standards, the “Iowa Antidegradation Implementation Procedure” as amended through [insert effective date], applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent of any conflict between the above criteria, the “Iowa Wastewater Facilities Design Standards” standards shall prevail.

ITEM 3. Adopt the following **new** subparagraph **64.7(2)“f”(5)**:

(5) Any limitation necessary to comply with the antidegradation policy requirements of 567—subrule 61.2(2) implemented according to procedures hereby incorporated by reference and known as the “Iowa Antidegradation Implementation Procedure,” effective [insert effective date]. This document may be obtained on the department’s Web site at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards>.

ARC 2558C**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455A.13, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 71, “Nursery Stock Sale to the Public,” Iowa Administrative Code.

The proposed amendment will raise the price of tree and shrub seedlings sold from the State Forest Nursery (Nursery). Demand for seedlings has declined, and despite the Department of Natural Resources’ (Department) cost containment strategies, the Nursery has not been able to meet the Iowa Code obligation for covering Nursery costs. The change is being proposed to bring Nursery operations into compliance with Iowa Code section 455A.13, which states that “the department of natural resources shall adopt administrative rules establishing a range of prices of plant material grown at the state forest nurseries to cover all expenses related to the growing of the plants.”

Any interested person may make written suggestions or comments on the proposed amendment on or before June 30, 2016. Such written materials should be directed to Paul Tauke, Chief, State Forestry Bureau, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034; or by fax at (515)725-8201; or by e-mail to paul.tauke@dnr.iowa.gov.

Three public hearings will be held, at which persons may present their views either orally or in writing. At the hearings, persons will be asked to state their names and addresses for the record and to confine their remarks to the subject of the amendment. The hearings will be held as follows:

| | | |
|---------------|--------------------|---|
| June 28, 2016 | 1 to 3 p.m. | State Forest Nursery 2404 South Duff Ave. Ames |
| June 29, 2016 | 1 to 3 p.m. | Mines of Spain State Recreation Area E. B. Lyons Interpretive Center 8991 Bellevue Heights Rd. Dubuque |
| June 30, 2016 | 10 a.m. to 12 noon | Loess Hills State Forest Visitor Center 206 Polk St. Pisgah |

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

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

This amendment is intended to implement Iowa Code sections 455A.13, 456A.17, 456A.20 and 456A.21.

The following amendment is proposed.

Amend rule 571—71.3(456A,461A) as follows:

571—71.3(456A,461A) Nursery stock prices.

71.3(1) Prices for hardwoods shall be as follows:

- a. Aspen, oak, hickory, walnut, pecan and basswood, 6" to 16"—~~\$40~~ \$65 per hundred plants.
- b. Aspen, oak, hickory, walnut, pecan and basswood, 17" and larger—~~\$55~~ \$90 per hundred plants.

NATURAL RESOURCE COMMISSION[571](cont'd)

- c. Other hardwood tree species, 6" to 16"—~~\$37~~ \$65 per hundred plants.
- d. Other hardwood tree species, 17" and larger—~~\$52~~ \$90 per hundred plants.

71.3(2) Prices for shrubs shall be as follows:

- a. Elderberry, buttonbush, dogwood, and Nanking cherry, 6" to 16"—~~\$37~~ \$65 per hundred plants.
- b. Elderberry, buttonbush, dogwood, and Nanking cherry, 17" and larger—~~\$52~~ \$90 per hundred plants.
- c. Other shrub species, 6" to 16"—~~\$40~~ \$70 per hundred plants.
- d. Other shrub species, 17" and larger—~~\$55~~ \$90 per hundred plants.

71.3(3) Prices for conifers shall be as follows:

- a. Conifers, 6" to 16"—~~\$25~~ \$50 per hundred plants.
- b. Conifers, 17" and larger—~~\$40~~ \$80 per hundred plants.

71.3(4) Prices for wildlife packets shall be ~~\$140~~ \$190 each.

71.3(5) Prices for songbird packets shall be ~~\$25~~ \$45 each.

~~71.3(6) Prices for walnut seed shall be \$3 per pound.~~

~~71.3(7)~~ **71.3(6)** For promotion of conservation plantings, nursery stock may be provided to schools and conservation and education groups to use for Arbor Day and other special events.

ARC 2568C

PUBLIC HEALTH DEPARTMENT[641]

Notice of Termination

Pursuant to the authority of Iowa Code section 136A.8, the Department of Public Health hereby terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin as **ARC 2305C** on December 9, 2015, proposing to amend Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

The proposed amendments would have updated Chapter 4, revised the time line for the development of policies and procedures for obtaining informed consent for the storage and release of residual newborn screening specimens, and clarified the use of linked specimens in feasibility studies approved by the Congenital and Inherited Disorders Advisory Committee (CIDAC) for the purpose of incorporating new tests or evaluating new test methodologies when the clinical validity and reliability of the test methodologies have previously been determined. After reviewing the options for implementing policies and procedures for obtaining informed consent, CIDAC wishes to terminate the rule making at this time to allow CIDAC and the Department of Public Health more time to review the viability of storing and releasing residual newborn screening specimens for research. The Department of Public Health will review CIDAC's recommendations and notice rule changes at a future date.

It is not anticipated that this Notice of Termination will have any impact on jobs.

ARC 2574C

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 section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 27, "Automobile Rental Excise Tax," and Chapter 78, "Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities," Iowa Administrative Code.

REVENUE DEPARTMENT[701](cont'd)

This rule making is part of the Department's review of rules that takes place every five years. The amendments make nonsubstantive changes and update Iowa Code references.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 28, 2016. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by June 28, 2016.

After analysis and review of this rule making, the Department finds no fiscal impact.

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.

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

These amendments are intended to implement Iowa Code sections 423C.1 to 423C.5 and 437B.1 to 437B.21.

The following amendments are proposed.

ITEM 1. Amend **701—Chapter 27** as follows:

CHAPTER 27
AUTOMOBILE RENTAL EXCISE TAX

701—27.1(~~422,422C,423~~ 423C) Definitions and characterizations. For the purposes of this chapter, the following definitions and characterizations of words apply.

“Automobile” means a motor vehicle subject to registration in any state and designed primarily for carrying nine or fewer passengers. Excluded from the meaning of the term “automobile” are delivery trucks designed primarily to carry cargo rather than passengers and motorcycles and motorized bicycles.

“Lessor” is a person engaged in the business of renting automobiles to users. Included within the meaning of the term “lessor” are motor vehicle dealers licensed under Iowa Code chapter 322 to sell new and used automobiles who also rent automobiles to users. A person need not be engaged in a profit-making enterprise to be in the business of renting automobiles.

“Rental” is a transfer of possession or right of possession to an automobile to a user for a valuable consideration for a period of 60 days or less.

“Rental price” means the total amount of consideration valued in money for renting an automobile.

“User” is any person to whom possession or right of possession of an automobile is transferred for a valuable consideration for a period of 60 ~~or fewer~~ days or less.

701—27.2(~~422,422C,423~~ 423C) Tax imposed upon rental of automobiles. ~~On and after July 1, 1992,~~ a A tax at the rate of 5 percent is imposed on the rental price of any automobile if the rental transaction is taxed under Iowa sales or Iowa use tax law. The tax imposed is in addition to the Iowa state sales or use tax.

See rule 701—26.68(422) for a description of automobile rentals which are subject to Iowa sales tax and rule 701—33.8(423) for a description of automobile rentals which are subject to Iowa use tax. These rules should be used with care since they involve vehicles other than an “automobile” as that word is defined for the purpose of this chapter. For instance, rule 701—26.68(422) is concerned with boats and recreational vehicles as well as automobiles and other vehicles subject to registration. Summarizing the essential content of those rules regarding automobiles:

27.2(1) and **27.2(2)** No change.

701—27.3(~~422,422C,423~~ 423C) Lessor's obligation to collect tax. The lessor shall collect this automobile rental excise tax from the user or from any other person paying the rental price for an automobile. The lessor shall collect the tax by adding the tax to the rental price of the automobile.

REVENUE DEPARTMENT[701](cont'd)

When collected, the tax shall be stated on any billing or invoice as a distinct item separate and apart from the rental price of the automobile and separate and apart from any state or local option sales or service tax or any state use tax.

701—27.4(422,422C,423 423C) Administration of tax. The excise tax on automobile rental is levied in addition to the state sales and use taxes imposed by Iowa Code ~~chapters 422 and~~ chapter 423. The director of revenue is required to administer this excise tax on motor vehicle rental as nearly as possible in the fashion in which the state sales tax is administered. However, as an exception to this requirement, the director is to require only the filing of quarterly reports for motor vehicle excise tax. Quarterly, the correct amount of tax collected and due shall accompany the tax form prescribed by the department. No permit, other than an Iowa sales or use tax permit, will be required to collect the tax imposed under this chapter. However, the director may require all persons responsible for collecting and remitting motor vehicle rental excise tax to register with the department. For other aspects concerning the details of administering the tax imposed under this chapter, see 701—Chapters 10, 11, 12, 13 and 14.

These rules are intended to implement Iowa Code ~~chapters 422C and 423~~ chapter 423C.

ITEM 2. Amend **701—Chapter 78** as follows:

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

701—78.1(85GA,SF451 437B) Who must file return. Beginning with property tax years and replacement tax years beginning on or after January 1, 2013, each taxpayer, as defined in ~~2013 Iowa Acts, Senate File 451, section 11(13)~~ Iowa Code section 437B.2, shall file a true and accurate return with the director. The return shall include all of the information prescribed in ~~2013 Iowa Acts, Senate File 451, section 13(1) “a” and “b,”~~ Iowa Code sections 437B.4(1) “a” and “b” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

701—78.2(85GA,SF451 437B) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after the due date for filing. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.3(85GA,SF451 437B) Form for filing. Returns must be made by taxpayers on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for proper forms to the department in ample time to have the taxpayers' returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer's return so as to fully and clearly set forth

REVENUE DEPARTMENT[701](cont'd)

the data required. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state “see schedule attached,” “no tax due,” or some other conclusionary statement are not considered to be properly filed returns and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return’s being filed after the due date.

701—78.4(85GA, SF451 437B) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall not be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer’s replacement tax obligation.

701—78.5(85GA, SF451 437B) Statute of limitations.

78.5(1) to 78.5(4) No change.

701—78.6(85GA, SF451 437B) Billings.

78.6(1) No change.

78.6(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) “b,” no agreement is reached and the taxpayer does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A)₂ or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in ~~2013 Iowa Acts, Senate File 451, section 19(1) “b,”~~ Iowa Code section 437B.10(1) “b” for filing such claims.

78.6(3) No change.

701—78.7(85GA, SF451 437B) Refunds.

78.7(1) No change.

78.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of ~~2013 Iowa Acts, Senate File 451, section 13(5),~~ Iowa Code section 437B.4(5) are applicable.

78.7(3) to 78.7(7) No change.

701—78.8(85GA, SF451 437B) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director’s decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

701—78.9(85GA, SF451 437B) Taxpayers required to keep records.

78.9(1) Records required by taxpayers taxed under ~~2013 Iowa Acts, Senate File 451, sections 10 to 30~~ Iowa Code chapter 437B. The records required in this rule must be made available for examination upon request by the director or the director’s authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the total number of gallons of water carried through the taxpayer’s distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of water carried through the

REVENUE DEPARTMENT[701](cont'd)

taxpayer's distribution system is calculated as though ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B was in effect for such calendar year.

b. Records associated with the total amount of nonrevenue water, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(9)~~ Iowa Code section 437B.2(9), carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of nonrevenue water carried through the taxpayer's distribution system is calculated as though ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B was in effect for such calendar year.

c. Records associated with the total taxable gallons of water delivered by the taxpayer to consumers, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(2)~~ Iowa Code section 437B.2(2), within the service area during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total taxable gallons delivered by the taxpayer to consumers by the water utility is the difference between the gallons of water calculated in paragraphs 78.9(1) "a" and "b."

d. For tax years 2013, 2014, and 2015, records associated with property tax amounts due and payable as the result of assessment years 2010 and 2011.

e. Records associated with the taxpayer's calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

f. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the replacement delivery tax rates are subject to recalculation under the provisions of ~~2013 Iowa Acts, Senate File 451, section 13(5)~~ Iowa Code section 437B.4(5).

g. All work papers associated with any of the records described in this subrule.

h. Records pertaining to any additions or deletions of property described as exempt from local property tax in ~~2013 Iowa Acts, Senate File 451, section 24~~ Iowa Code section 437B.12.

i. Records associated with allocation of property described in paragraph 78.9(1) "h" above among local taxing districts.

78.9(2) No change.

701—78.10(~~85GA, SF451~~ 437B) Credentials. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

701—78.11(~~85GA, SF451~~ 437B) Audit of records. The director or the director's authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed or of information presented or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

701—78.12(~~85GA, SF451~~ 437B) Information confidential. ~~2013 Iowa Acts, Senate File 451, sections 19(2) and 19(3),~~ Iowa Code sections 437B.10(2) and 437B.10(3) apply generally to the director, deputies, auditors, and present or former officers and employees of the department. Disclosure of the gallons of water delivered by a taxpayer taxed under ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B in a service area disclosed on a tax return, return information, or investigative or audit information is prohibited. Other persons having acquired this confidential information will be bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

REVENUE DEPARTMENT[701](cont'd)

STATEWIDE PROPERTY TAX

701—78.13(85GA,SF451 437B) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in ~~2013 Iowa Acts, Senate File 451, section 26,~~ Iowa Code section 437B.17 and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect.

701—78.14(85GA,SF451 437B) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.15(85GA,SF451 437B) Form for filing. Rule 701—78.3(85GA,SF451 437B) is incorporated herein by reference.

701—78.16(85GA,SF451 437B) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent.

701—78.17(85GA,SF451 437B) Statute of limitations. Rule 701—78.5(85GA,SF451 437B) is incorporated herein by reference.

701—78.18(85GA,SF451 437B) Billings.

78.18(1) Notice of adjustments. Subrule 78.6(1) is incorporated herein by reference.

78.18(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A)₂ or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the director and file a refund claim with the director within the applicable period provided in ~~2013 Iowa Acts, Senate File 451, sections 19 and 27,~~ Iowa Code sections 437B.10 and 437B.18 for filing such claims.

78.18(3) Supplemental assessments. Subrule 78.6(3) is incorporated herein by reference.

701—78.19(85GA,SF451 437B) Refunds. Subrules 78.7(1) to 78.7(3), 78.7(5) and 78.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.

701—78.20(85GA,SF451 437B) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to the statewide property tax.

REVENUE DEPARTMENT[701](cont'd)

701—78.21(85GA,SF451 437B) Taxpayers required to keep records.

78.21(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. to d. No change.

e. Records associated with the transfer or disposal of all operating property, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(10)~~ Iowa Code section 437B.2(10), in the preceding calendar year, by local taxing district.

f. to i. No change.

78.21(2) No change.

701—78.22(85GA,SF451 437B) Credentials. Rule 701—78.10(85GA,SF451 437B) is incorporated herein by reference.

701—78.23(85GA,SF451 437B) Audit of records. Rule 701—78.11(85GA,SF451 437B) is incorporated herein by reference.

These rules are intended to implement ~~2013 Iowa Acts, Senate File 451~~ Iowa Code chapter 437B.

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, 2015 — June 30, 2015 | 4.00% |
| July 1, 2015 — July 31, 2015 | 4.25% |
| August 1, 2015 — August 31, 2015 | 4.25% |
| September 1, 2015 — September 30, 2015 | 4.25% |
| October 1, 2015 — October 31, 2015 | 4.25% |
| November 1, 2015 — November 30, 2015 | 4.25% |
| December 1, 2015 — December 31, 2015 | 4.00% |
| January 1, 2016 — January 31, 2016 | 4.25% |
| February 1, 2016 — February 29, 2016 | 4.25% |
| March 1, 2016 — March 31, 2016 | 4.00% |
| April 1, 2016 — April 30, 2016 | 3.75% |
| May 1, 2016 — May 31, 2016 | 4.00% |
| June 1, 2016 — June 30, 2016 | 3.75% |

ARC 2569C**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 Iowa Code section 17A.4, the Utilities Board gives notice that on May 18, 2016, the Board issued in Docket No. RMU-2015-0002, In re: Amendments to Telecommunications Service Regulations [199 IAC 22], an “Order Commencing Rulemaking,” proposing to update the Board’s rules regarding the provision of telecommunications services.

To develop these proposed amendments to Chapter 22, the Board sought early input from stakeholders. On October 2, 2015, the Board issued an “Order Scheduling Workshop” in the abovementioned docket to initiate the process of amending its administrative rules to address modifications that would apply technology-neutral standards to all telecommunications services as well as to update generally all of the rules in Chapter 22.

The Board held a workshop on October 27, 2015, and invited interested persons and Board staff to discuss issues relating to changes to the rules in the chapter. At the conclusion of the workshop, the Board invited participants to file written comments memorializing their positions on issues discussed at the workshop, responding to new issues raised at the workshop, or responding to the positions of other participants expressed at the workshop. Postworkshop comments were received from eight participants.

After reviewing the postworkshop comments, the Board issued an “Order Seeking Additional Comments” on January 29, 2016. In that order, the Board proposed specific rule changes and identified general issues where additional stakeholder comment was sought. Additional comments were received from nine participants.

In addition to comments on these proposed amendments, the Board seeks additional comments regarding its continued regulatory approach to voice over Internet protocol (VoIP) and whether the proposed amendments to Chapter 22 achieve a neutral regulatory application to varying technologies providing local exchange services. Specifically, the Board is interested in receiving comments that may include, but are not limited to, information regarding the status of local exchange service competition in Iowa, the availability of VoIP services throughout Iowa, whether investment in IP networks has been inhibited by the Board’s current regulatory approach over VoIP services, the functional differences between nomadic and nonnomadic VoIP services, and whether the proposed amendments to Chapter 22 create a more level regulatory field for the provision of local exchange service regardless of the technology used to provide that service.

The order approving this Notice of Intended Action and commencing this rule making can be found on the Board’s Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2015-0002.

Pursuant to Iowa Code sections 17A.4(1)“a” and 17A.4(1)“b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before July 1, 2016. The statement should be filed electronically through the Board’s EFS Web site. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must 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 Docket No. RMU-2015-0002. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

UTILITIES DIVISION[199](cont'd)

An opportunity for interested persons to present oral comments on the proposed amendments will be held at 9 a.m. on Tuesday, August 9, 2016, 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 Board at (515)725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on jobs in Iowa.

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

The following amendments are proposed.

ITEM 1. Amend subrule 22.1(3) as follows:

22.1(3) Definitions. For administration and interpretation of these rules, the following words and terms shall have the meaning indicated below:

"Active account" refers to a customer who is currently receiving telephone service, or one whose service has been temporarily disconnected (vacation, nonpayment, storm damage, etc.).

"Adjacent exchange service" is local telephone service, including extended area service, provided to a customer via direct facility connection to an exchange contiguous to the exchange in which the customer is located.

~~*"Average busy season, busy-hour traffic"* means the average traffic volume for the busy season, busy hours.~~

"Board" means the Iowa utilities board.

"Business service" means the service furnished to customers where the use is substantially of a business, professional, institutional, or occupational nature, rather than a social and domestic nature.

~~*"Busy-hour"* means the two consecutive half hours during which the greatest volume of traffic is handled in the office.~~

~~*"Busy season"* means that period of the year during which the greatest volume of traffic is handled in the office.~~

"Calls" means telephone messages attempted by customers or users.

~~*"Central office"* means a unit in a telephone system which provides service to the general public, having the necessary equipment and operating arrangements for terminating and interconnecting customer lines and trunks or trunks only. There may be more than one central office in a building.~~

~~*"Central office access line"* means a circuit extending from the central office equipment to the demarcation point.~~

~~*"Channel"* means an electrical path suitable for the transmission of communications.~~

"Check of service" or *"service check"* means an examination, test or other method utilized to determine the condition of customer-provided terminal equipment and existing or new inside station wiring.

"Class of service" means the various categories of service generally available to customers, such as business or residence.

~~*"Competitive Local Exchange Carrier 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.

"Customer" means any person, firm, association, corporation, agency of the federal, state or local government, or legal entity responsible by law for payment for communication service from the telephone utility.

"Customer provision" means customer purchase or lease of terminal equipment or inside station wiring from the telephone utility or from any other supplier.

~~*"Delinquent or delinquency"*~~ or *"delinquency"* means an account for which a bill or payment agreement for regulated services or equipment has not been paid in full on or before the last day for timely payment.

~~*"Demarcation point"* means the point of connection provided and maintained by the telephone utility to which inside station wiring becomes dedicated to an individual building or facility. For an individual~~

UTILITIES DIVISION[199](cont'd)

~~dwelling, this point of connection will generally be immediately adjacent to, or within 12 inches of, the protector or the dwelling side of the protector. The drop and block, including the protector, will continue to be provided by and remain the property of the telephone utility. In the instance where a physical protector does not exist at the point of cable entrance into the building or facility, the demarcation point is defined as the entrance point of the cable into the building or facility~~ the physical point at which a utility's public network ends and the customer's personal network begins. The demarcation point defines where the utility's responsibility for maintenance ends and the consumer's responsibility begins.

"Disconnect" means the disabling of circuitry preventing both outgoing and incoming communications.

"Due date" means the last day for payment without unpaid amounts being subject to a late payment charge or additional collection efforts.

"Exchange" means a unit established by a telephone utility for the administration of communication services.

"Exchange service" means communication service furnished by means of exchange plant and facilities.

"Exchange service area" or *"exchange area"* means the general area in which the telephone utility holds itself out to furnish exchange telephone service.

~~*"Extended area service"* means telephone service, furnished at flat rates, between end user customers located within an exchange area and all of the end user customers of an additional exchange area. Extended area service is only for calls both originating and terminating within the defined extended area.~~

"Foreign exchange service" means exchange service furnished a customer from an exchange other than the exchange regularly serving the area in which the customer is located.

"Former account" refers to a customer whose service has been permanently disconnected, and the final bill either has been paid or has been written off to the reserve for uncollectible accounts.

~~*"Held order for primary service"* means an application for establishment of primary service to a local exchange utility using its existing facilities to provide service not filled within five business days of the customer-requested date, or within 15 business days of the customer-requested date, where no facilities are available. During the period a local exchange utility provides equivalent alternative service, the customer's order for primary service shall not be considered a held order.~~

~~*"Held order for secondary service"* means an application for establishment of secondary service to a local exchange utility using its facilities to provide service not filled within 30 business days or the customer-requested date, whichever is later.~~

"High-volume access service (HVAS)" or *"HVAS"* is any service that results in an increase in total billings for intrastate exchange access for a local exchange utility in excess of 100 percent in less than six months. By way of illustration and not limitation, HVAS typically results in significant increases in interexchange call volumes and can include chat lines, conference bridges, call center operations, help desk provisioning, or similar operations. These services may be advertised to consumers as being free or for the cost of a long-distance call. The call service operators often provide marketing activities for HVAS in exchange for direct payments, revenue sharing, concessions, or commissions from local service providers.

"Inactive account" refers to a customer whose service has been permanently disconnected and whose account has not been settled either by payment or refund.

~~*"Incumbent Local Exchange Carrier"*~~ *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.

"Interexchange service" is the provision of intrastate telecommunications services and facilities between local exchanges, ~~and does not include EAS.~~

"Interexchange utility" means a utility, a resale carrier or other entity that provides intrastate telecommunications services and facilities between exchanges within Iowa, without regard to how such

UTILITIES DIVISION[199](cont'd)

traffic is carried. A local exchange utility that provides exchange service may also be considered an interexchange utility.

"InterLATA toll service" means toll service that originates and terminates between local access transport areas.

"IntraLATA toll service" means toll service that originates and terminates within the same local access transport area.

"Intrastate access services" are services of telephone utilities which provide the capability to deliver intrastate telecommunications services which originate from end-users to interexchange utilities and the capability to deliver intrastate telecommunications services from interexchange utilities to end-users.

"Local exchange service" means telephone service furnished between customers or users located within an exchange area.

"Local exchange utility" means a telephone utility that provides local exchange service under an authorized certificate of public convenience and necessity. The utility may also provide other services and facilities such as access services.

"Message" means a completed telephone call by a customer or user.

~~*"Outside plant"* means the telephone equipment and facilities installed on, along, or under streets, alleys, highways, and private rights-of-way between customer locations, central offices or the central office and customer location.~~

~~*"Percentage of fill"* means the ratio of circuits and equipment in use to the total available multiplied by 100.~~

"Premises" means the space occupied by an individual customer in a building, in adjoining buildings occupied entirely by that customer, or on contiguous property occupied by the customer separated only by a public thoroughfare, a railroad right-of-way, or a natural barrier.

~~*"Primary service"* means the initial access to the public switched network.~~

~~*"Protector"* means a utility-owned electrical device located in the central office, at a customer's premises or anywhere along any telephone facilities which protects both the telephone utility's and the customer's property and facilities from over-voltage and over-current by shunting such excessive voltage and currents to ground.~~

"Rates" shall mean amounts billed to customers for local exchange service and alternative operator services.

"Retail services" means those communications services furnished by a telephone utility directly to end-user customers. For an alternative operator services ~~company~~ utility, the terms and conditions of its retail services are addressed in an approved intrastate tariff. For a local exchange utility, the terms and conditions of its retail services are typically addressed in a retail catalog or other format, which is not subject to board approval.

~~*"Secondary service"* means services or facilities not classified as primary service.~~

"Suspend Suspension" means temporary disconnection or impairment of service which shall disable either outgoing or incoming communications, or both.

"Switching service" means switching performed for service lines.

"Tariff" means the entire body of rates, classifications, rules, procedures, policies, etc., adopted and filed with the board by a local exchange utility for wholesale services, not governed by an interconnection agreement or commercial agreement, or by an alternative operator services company for retail services, in fulfilling its role of furnishing communications services.

~~*"Telephone station"* means the telephone instrument connected to the network.~~

"Telephone utility" or *"utility"* means any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for furnishing communications service to the public for compensation.

~~*"Terminal equipment"* means all telephone instruments, including pay telephone equipment, the common equipment of large and small key and PBX systems and other devices and apparatus, and associated wirings, which are intended to be connected electrically, acoustically or inductively to the telecommunication system of the telephone utility.~~

UTILITIES DIVISION[199](cont'd)

“*Timely payment*” is a payment on a customer’s account made on or before the due date shown: (1) ~~On~~ on a current bill for rates and charges, or (2) by an agreement between the customer and a utility for a series of partial payments to settle a delinquent account.

~~“Toll connecting trunks” means a general classification of trunks carrying toll traffic and ordinarily extending between a local office and a toll office.~~

“*Toll message*” means a message made between different exchange areas for which a charge is made, excluding message rate service charges.

“*Traffic*” means telephone call volume, based on number and duration of calls.

~~“Traffic grade of service” means the decimal fraction representing the probability of a call being blocked by an all trunks busy condition during the average busy season, busy hour.~~

“*Transitional intrastate access service*” means annual reductions affecting terminating end office access service that was subject to intrastate access rates as of December 31, 2011; terminating tandem-switched transport access service subject to intrastate access rates as of December 31, 2011; and originating and terminating dedicated transport access service subject to intrastate access rates as of December 31, 2011.

“*Trouble report*” means any call or written statement from a customer or user of telephone service relating to a physical defect or to difficulty or dissatisfaction with the operation of telephone facilities.

“*Wholesale services*” means those communications services furnished by one telephone utility to another provider of communications services. The terms and conditions of wholesale services may be addressed in a telephone utility’s approved intrastate access tariff, local interconnection tariff, interconnection agreement reached under Sections 251 and 252 of the federal Telecommunications Act, or in a commercial agreement reached between the providers.

ITEM 2. Amend subrule 22.1(4) as follows:

22.1(4) Abbreviations.

AOS—Alternative Operator Services

EAS—Extended Area Service

PBX—Private Branch Exchange

ITEM 3. Amend paragraph **22.1(6)“a”** as follows:

a. The board, in the dockets shown in subparagraphs (1) to (14) ~~(14)~~ (15), 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) to (14) No change.

(15) Telecommunications services provided by voice over Internet protocol. Docket No. RMU-2015-0002. Effective [effective date of these amendments].

ITEM 4. Amend subrule 22.2(6) as follows:

22.2(6) Information to be filed with the board.

~~a.~~ Each utility shall file with the board the name, title, address, and telephone number of the person who is authorized to receive, act upon, and respond to communications from the board in connection with the following:

~~(1)~~ a. General management duties.

~~(2)~~ b. Customer relations (complaints).

~~(3)~~ c. Engineering operations.

~~(4) Outages, including those occurring during nonoffice hours, pursuant to paragraph 22.2(8)“d.”~~

~~b.~~—A copy of a new directory being distributed to customers.

ITEM 5. Amend rule 199—22.3(476) as follows:

199—22.3(476) General service requirements. The requirements of this rule do not apply to intrastate access service.

UTILITIES DIVISION[199](cont'd)

~~22.3(1) Directories.~~ All directories published after the effective date of these rules shall conform to the following:

~~a.~~—Telephone directories shall be published not less than annually, except for good cause shown, listing the name, address and telephone number of all customers unless otherwise requested by the customer. A local exchange carrier serving an exchange may choose not to publish a telephone directory if the local exchange carrier makes arrangements for publication in a directory that is commonly available in the local exchange in question.

~~b.~~—Upon issuance, a copy of each directory shall be distributed without charge to all of the utility's customers locally served by that directory.

~~c.~~—The year of issue or effective dates shall appear on the front cover and, if space permits, on the binding. Information pertaining to emergency calls, such as for the police and fire departments, for each exchange listed in the directory shall appear conspicuously on the front side of the first page of the directory. The directory shall also show a summary of the names of listed exchanges.

~~d.~~—The directory shall contain such instructions concerning placing local and long distance calls, calls to repair and information services, and location of telephone utility business offices as may be appropriate to the area served by the directory. A statement shall be included that the utility will verify the condition of a line if requested by a customer and whether any charge will apply. 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.

~~e.~~—Directory assistance or intercept operators shall maintain records of all telephone numbers (except telephone numbers not listed or published at customer request) in the area for which they are responsible for furnishing information service.

~~f.~~—In the event of an error or omission in the name or number listing of a customer, that customer's correct name and telephone number shall be furnished to the calling party either upon request to or interception by the telephone utility.

~~g.~~—When additions or changes in plant, records, or operations which will necessitate a large group of number changes are scheduled, reasonable notice shall be given to all customers so affected even though the additions or changes may be coincident with a directory issue.

~~h.~~—For any exchange in which an extended area call can terminate, the terminating exchange telephone utility shall provide all recently compiled directory listings, except listings for nonpublished or nonlisted customers, to the utility from which the extended area call originates. The telephone utility shall provide the directory listing without charge, within 30 days of receipt of a written request for those listings.

~~i.~~—In addition to the serving exchange directory listing required under 22.3(1)"a," upon the customer's request, an Iowa customer served by an out-of-state exchange shall be included in the directory list of one contiguous Iowa exchange of the customer's choice. Any charge for such Iowa listing shall be paid by the serving exchange.

~~22.3(2) Service check.~~ Upon the individual customer's request, each telephone utility shall perform a service checkup to the demarcation point, without charge to the customer.

~~22.3(3) Class of service.~~ Rescinded IAB 12/21/05, effective 1/25/06.

~~22.3(4) Compliance.~~ Rescinded IAB 12/21/05, effective 1/25/06.

~~22.3(5) Pay telephone services and facilities.~~ All telephone utilities shall make available to customers provisions for the interconnection of pay telephone equipment. A separate access line shall not be required for pay telephone equipment.

~~22.3(6) Extension plan.~~ Each utility shall develop a plan, acceptable to the board, for the extensions of facilities, where they are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the cost. The cost required to be paid by the customer shall be the revenue received by the telephone utility for the extension of plant and shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability. This plan must be related to the investment that prudently can be made for the probable revenue. No utility shall make or refuse to make any extensions except as permitted by the approved extension plan.

UTILITIES DIVISION[199](cont'd)

~~22.3(7)~~ Reserved.

~~22.3(8)~~ *Traffic rules.* Rescinded IAB 12/21/05, effective 1/25/06.

~~22.3(9)~~ *"Directory assistance."* Rescinded IAB 12/21/05, effective 1/25/06.

~~22.3(10)~~ 22.3(1) *Nonworking numbers.* All nonworking numbers shall be placed upon an adequate intercept where existing equipment allows.

~~22.3(11)~~ 22.3(2) *Assignment of numbers.* Numbers shall be assigned in accordance with applicable Federal Communications Commission rules.

a.—No telephone number shall be reassigned to a different customer within 60 days from the date of permanent disconnect.

b.—For customers assigned a new number within the exchange, the former working number intercept shall provide the new number to a calling party for not less than 60 days or until the issuance of a new directory. No new number information shall be provided if the customer so requests.

EXCEPTION: When a change in number is required by a telephone utility due to nonpayment of yellow page advertising, the intercept is not required to volunteer the new number to callers. The new number shall be provided to callers of the directory assistance operator.

c.—If the number assigned a customer results in wrong number calls sufficient in volume to be a nuisance, the number shall be changed at no charge.

~~22.3(12)~~ 22.3(3) *Ordering and transferring of service.* All local exchange utilities shall establish terms and conditions for ordering and transferring local exchange service.

~~22.3(13)~~ *Basic local service.* Rescinded IAB 12/21/05, effective 1/25/06.

~~22.3(14)~~ 22.3(4) *Adjacent exchange service.* All local exchange utilities shall allow customers to establish adjacent exchange service.

a. to c. No change.

ITEM 6. Amend rule 199—22.4(476) as follows:

199—22.4(476) Customer relations.

22.4(1) *Customer information.*

a. Each utility shall:

(1) Maintain up-to-date maps, plans, or records of its entire exchange ~~systems~~ system. These maps shall be available for board examination at a location within Iowa during regular office hours and will be provided to the board upon request. These are not the same maps as the boundary maps described in subrule 22.20(3).

(2) ~~Whenever a residential customer or prospective residential customer requests local exchange service from a utility, and the customer indicates a desire to be informed of the lowest priced service alternatives available for local exchange service, the utility shall inform that customer of the lowest priced alternative available from that utility, based only on monthly recurring rates for flat-rated services, at the relevant location.~~ Upon their request, inform residential or prospective residential customers who request local exchange service of the lowest priced alternative available for local exchange service, based only on monthly recurring rates for flat-rated services at the relevant location.

(3) Notify customers affected by a change in rates or schedule classification.

(4) On a monthly basis, track service connection, held order, and service interruption performance by wire centers. Records will be provided upon request of the board and will be retained by the utility for two years.

(5) Keep records on repair intervals for out-of-service trouble reports on voice services. When interruptions in service occur, service restoration priority shall be given to a residential customer who states that telephone service is essential due to an existing medical emergency of the customer, a member of the customer's family, or any permanent resident of the premises where service is rendered.

(4) (6) Furnish such additional information as the customer may reasonably request.

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

UTILITIES DIVISION[199](cont'd)

employees without ability and authority to act. The employee shall provide identification to the customer.

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 by writing to Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069, by calling (515)725-7321 or toll-free 1-877-565-4450, or by E-mail to customer@iub.iowa.gov."

The bill insert or notice on the bill will be provided no less than annually. 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.

c. A telephone utility that chooses to no longer provide or distribute a printed directory shall develop a plan to help requesting customers transition from the printed directory to digital, online, or other alternative at no cost to the customer. The plan shall include a link to the directory and shall be made available to the board upon request.

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. No deposit other than for local exchange service is required to obtain local exchange service. ~~The deposit must reflect the limits as to low income customers in 199—subparagraph 39.3(2)“b”(4).~~ Pursuant to 47 CFR § 54.401(c), utilities may not collect a deposit in order to initiate voice-only Lifeline service to qualifying customers.

a. Deposits for local exchange service shall not be more in amount than the maximum charge for two months of local exchange service, or as may reasonably be required by the utility in cases involving service for short periods of time or special occasions. ~~The deposit amounts must also reflect the limits as to low income customers in 199—subparagraph 39.3(2)“b”(4).~~ Pursuant to 47 CFR § 54.401(c), utilities may not collect a deposit in order to initiate voice-only Lifeline service to qualifying customers.

b. Interest on customer deposits. Interest on such deposits shall be computed at ~~4.0~~ 7.5 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.

c. to i. No change.

22.4(3) Customer billing, timely payment, late payment charges, payment and collection efforts. Each utility shall comply with these minimum standards.

a. to l. No change.

22.4(4) No change.

22.4(5) Refusal or disconnection of service. Notice of a pending disconnection shall be rendered and local exchange service shall be refused or disconnected as set forth in these rules. 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.

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.

UTILITIES DIVISION[199](cont'd)

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.

22.4(6) to 22.4(8) No change.

ITEM 7. Rescind and reserve rule **199—22.5(476)**.

ITEM 8. Amend rule 199—22.6(476) as follows:

199—22.6(476) Standards of quality of service. ~~The local exchange utility using its facilities to provide primary service will measure its service connection, held order, and service interruption performance monthly according to subrules 22.6(1), 22.6(2), and 22.6(3). Records of the measurements and any summaries thereof, by individual wire centers, will be provided upon request of the board. Records of these measurements will be retained by the utility for two years.~~

22.6(1) Service connection. ~~Each local exchange utility using its facilities to provide~~ providing local exchange service shall make all reasonable efforts to maintain a five-business-day standard for primary the connection of voice service or within by the customer-requested voice service connection date. All reasonable efforts to maintain the above standard shall be measured by the following:

~~*a.*—Eighty five percent of all customers provided service within five business days of the request or the customer-requested date, whichever is later. Compliance will be measured based on a three-month rolling average.~~

~~*b.*—Ninety five percent of all customers provided service within ten business days of the request or the customer-requested date, whichever is later. Compliance will be measured based on a three-month rolling average.~~

~~*c.*—Ninety nine percent of all customers provided service within 30 business days of the request or the customer-requested date, whichever is later. Compliance will be measured based on a three-month rolling average.~~

22.6(2) Held orders.

a. During such period of time as a local exchange utility using its facilities to provide voice service may not be able to supply ~~primary~~ telephone service to prospective customers within five business days after the date applicant desires service, the telephone utility shall keep a record, by exchanges, showing the name and address of each applicant for service, the date of application, the date that service was requested, and the class of service applied for, together with the reason for the inability to provide new service to the applicant.

b. When, because of a shortage of facilities, a utility is unable to supply ~~primary telephone voice~~ service on the date requested by ~~applicants~~ the applicant, first priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the board may require establishment of a priority plan, subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made.

~~*c.*—When the local exchange utility using its facilities to provide service fails to provide primary local exchange service to any customer requesting service within 15 business days, the local exchange utility shall provide the customer with an alternative form of service until primary local exchange service can be provided. The alternative form of service provided shall be wireless telephone service unless the customer agrees otherwise.~~

~~*d.*—If an alternative form of primary service is provided, the local exchange utility is authorized to charge the customer the regular rates (if applicable) for the alternative primary service ordered, if such rates are less than the regulated rate for primary local exchange service. Otherwise, the customer will be charged the regulated rate for primary local exchange service. Where an alternative form of service is~~

UTILITIES DIVISION[199](cont'd)

~~impossible to provide, the facilities-based local exchange utility shall waive all usual installation charges and, once primary local exchange service is provided, shall credit the customer's account in an amount equal to the pro-rata monthly primary local exchange charge for each day service was not provided.~~

~~22.6(3) Service interruption.~~

~~a. Each telephone utility using its facilities to provide primary providing local exchange service shall make all reasonable efforts to prevent interruptions of service. When interruptions are reported or found by the utility to occur, the utility shall reestablish service with the shortest possible delay. Priority shall be given to a residential customer who states that telephone service is essential due to an existing medical emergency of the customer, a member of the customer's family, or any permanent resident of the premises where service is rendered. All reasonable efforts shall be measured by the following:~~

~~(1) Eighty-five percent of all out-of-service trouble reports cleared within 24 hours. Compliance will be measured based on a three-month rolling average.~~

~~(2) Ninety-five percent of all out-of-service trouble reports cleared within 48 hours. Compliance will be measured based on a three-month rolling average.~~

~~(3) One hundred percent of all out-of-service trouble reports cleared within 72 hours.~~

~~(4) The response time for all utilities responsible to test and attempt to correct any interexchange trunk problem, except a total outage, shall be within 24 hours after the problem is reported. If the problem is not corrected within that time, the utility responsible for doing so shall keep all other affected telephone utilities advised as to the current status on a daily basis. For a total outage, the response time shall be immediate.~~

~~b. Arrangements shall be made to have adequate personnel and equipment available to receive and record trouble reports and also to clear trouble of an emergency nature at all times.~~

~~c. Calls directed to the published telephone numbers for service repair or the business offices of the telephone utility shall be acknowledge within 20 seconds for 85 percent of all such calls and within 40 seconds for 100 percent of all such calls.~~

~~d. If a customer's service must be interrupted due to maintenance, the utility shall notify the affected customer, in advance, if possible. The company shall perform the work to minimize inconvenience to the customer and strive to avoid interruptions when there is conversation on the line.~~

~~e. Each telephone utility shall keep a written record showing all interruptions affecting service in a major portion of an exchange area for a minimum of six years. This record shall show the date, time, duration, time cleared and extent and cause of the interruption. This record shall be available to the board upon request.~~

~~f. Whenever a trouble report is received, a record shall be made by the company and if repeated within a 30-day period by the same customer, the case shall be referred to an individual for permanent correction.~~

~~g. When a customer's service is reported or is found to be out of order, it shall be restored as promptly as possible.~~

~~h. Each local exchange utility using its facilities to provide service shall maintain its network to reasonably minimize customer trouble reports. The rate of customer trouble reports on the company side of the demarcation point will not exceed four per 100 access lines per month per wire center.~~

~~i. When a subscriber's service is interrupted and remains out of service for more than 24 consecutive hours after being reported to the local exchange company or being found by the company to be out of order, whichever occurs first, the company shall make appropriate adjustments to the subscriber's account. This rule does not apply if the outage occurs as a result of:~~

~~(1) A negligent or willful act on the part of the subscriber;~~

~~(2) A malfunction of subscriber-owned telephone equipment;~~

~~(3) Disasters or acts of God; or~~

~~(4) The inability of the company to gain access to the subscriber's premises.~~

~~The adjustment, either a direct payment or a bill credit, shall be the proportionate part of the monthly charges for all services and facilities rendered inoperative during the interruption. The adjustment shall~~

UTILITIES DIVISION[199](cont'd)

~~begin with the hour of the report or discovery of the interruption. Adjustments not in dispute shall be rendered within two billing periods after the billing period in which the interruption occurred.~~

~~**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.~~

~~**22.6(5) 22.6(4) Emergency operation.**~~

~~a. Each telephone utility shall make reasonable provisions to meet emergencies resulting from failures of power service, climate control, sudden and prolonged increases in traffic, illness of operators, or from fire, explosion, water, storm, or acts of God, and each telephone utility shall inform affected employees, at regular intervals not to exceed one year, of procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telephone service.~~

~~b.—All central offices shall have adequate provision for emergency power. Each central office shall contain a minimum of two hours of battery reserve. For offices without permanently installed emergency power facilities, there shall be access to a mobile power unit with enough capacity to carry the load which can be delivered on reasonably short notice and which can be readily connected.~~

~~c.—An auxiliary power unit shall be permanently installed in all toll centers and at all exchanges exceeding 4,000 access lines.~~

~~d. b. Each local exchange utility shall maintain and make available for board inspection, upon request, its current plans for emergency operations, including the names and telephone numbers of the local exchange utility's disaster services coordinator and alternates.~~

~~**22.6(6) Business offices.**~~

~~a.—Each local exchange utility shall have one or more business offices or customer service centers staffed to provide customer access to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and, generally, to act as representatives of the local exchange utility. If one business office serves several exchanges, toll-free calling from those exchanges to that office shall be provided.~~

~~b.—Upon the closing of any local exchange utility's public business office, the company must provide to the board, in writing, at least 30 days prior to the closing of the office the following information:~~

- ~~(1) The exchange(s) and communities affected by the closing;~~
- ~~(2) The date of the closing;~~
- ~~(3) A listing of other methods and facility locations available for payment of subscribers' bills in the affected exchanges; and~~
- ~~(4) A listing of other methods and locations available for obtaining public business office services.~~

ITEM 9. Amend rule 199—22.7(476) as follows:

199—22.7(476) Safety Protective measures.

~~**22.7(1) Protective measures.**~~

~~a. **22.7(1)** Each utility shall exercise reasonable care to reduce the hazards to which its employees, its customers or users and the general public may be subjected.~~

~~b. **22.7(2)** The utility shall give reasonable assistance to the board in the investigation of the cause of accidents and in the determination of suitable means of preventing accidents.~~

~~c. **22.7(3)** Each utility shall maintain a summary of all reportable accidents arising from its operations.~~

~~**22.7(2) Safety program.** Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program should:~~

~~a.—Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.~~

~~b.—Instruct employees in safe methods of performing their work.~~

~~c.—Instruct employees who, in the course of their work, are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.~~

UTILITIES DIVISION[199](cont'd)

ITEM 10. Rescind and reserve rule **199—22.8(476)**.

ITEM 11. Rescind and reserve rule **199—22.9(476)**.

ITEM 12. Rescind and reserve rule **199—22.10(476)**.

ITEM 13. Rescind and reserve rule **199—22.11(476)**.

ITEM 14. 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 the originating segments of the communication unless a lower rate is required by the transitional intrastate access service reductions or if numbered paragraphs paragraph “1” and “2” are is applicable. The carrier common line charge shall be assessed to exchange access made by an 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. Incumbent local exchange carrier intrastate access service tariffs shall include the originating carrier common line charges approved by the board.

~~2. A competitive local exchange carrier shall deduct the carrier common line charge from its intrastate access service tariff.~~

ITEM 15. Amend subrule 22.14(4) as follows:

22.14(4) Notice of intrastate access service tariffs.

a. Each telephone utility that files new or changed tariffs relating to access charges, or 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. Notice shall be given on or before the date of the filing of the tariff. The notice shall consist of: 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. No change.

ITEM 16. Amend subrule 22.17(1) as follows:

22.17(1) Any landlord, owner, tenant association, or otherwise affiliated group shall be permitted to provide communications services within or between one or more buildings with a community of interest. The provision of this service will be treated as a deregulated service, if the following requirements are met:

a. No person within a building or facility providing resale services shall be denied access to the local exchange carrier. The local exchange carrier shall provide service ~~at normal tariffed rates~~ to the point of demarcation. The end-user shall be responsible for service beyond that point. However, no person shall unreasonably inhibit the end-user’s access to the local exchange carrier.

~~b. Telephone rates charged to resale providers of communications services under this rule shall be made on the same basis as business service.~~

~~c.~~ b. “Community of interest” will normally be indicated by joint or common ownership, but any other relevant factors may be considered.

ITEM 17. Amend subrule 22.20(1) as follows:

22.20(1) Issuance of certificates of authority to utilities on or prior to September 30, 1992. The initial nonexclusive certificate of authority will be issued by the board on or before September 30, 1992, to each land-line telephone utility providing local telecommunications service in Iowa. The certificate will authorize service within the territory as shown by boundary maps in effect on January 1, 1992, but will reference and include modifications approved by the board prior to the issuance of the certificate. ~~The certificate will be in the form of an order issued by the board and may be modified only by subsequent board orders.~~

UTILITIES DIVISION[199](cont'd)

If a utility disputes the boundary identified in the January 1, 1992, maps or in a certificate, it may file an objection with the board. After notice to interested persons and an opportunity for hearing, the board will determine the boundary.

ITEM 18. Amend subrule 22.20(2) as follows:

22.20(2) Procedures to revise maps and modify certificates. All territory in the state shall be served by a local exchange utility and inappropriate overlaps of service territories are to be avoided.

a. No change.

b. The boundary filing must include the name of each affected customer and justification for the proposed boundary, including a detailed statement of why the proposal is in the public interest. Prior to filing with the board, the serving utilities must notify interested persons of a convenient location where they can view the current and proposed maps, or copies of the maps covering their location must be mailed to them. The notice shall state the nature of the boundary filing and that any objections must be filed with the board through its electronic filing system or mailed to the board postmarked within 14 days of the mailing of the notice by the utility. The utility's filing shall also include a copy of the notice and the date on which the notice was mailed to customers.

c. No change.

d. If the utilities cannot agree on the boundary, or if an interested person timely files in the board's electronic filing system or mails material objections to the proposed boundary, the board will resolve the issues in contested case proceedings to revise the maps and modify the certificates after notice of the proceedings to all affected utilities and interested persons.

e. and f. No change.

ITEM 19. Amend paragraph **22.20(3)“a”** as follows:

a. ~~If a utility files~~ The scale of a paper boundary map, the map shall be on a scale of one inch to the mile. If a utility files a boundary map in an electronic format, the relevant scale shall be noted in the filing. Any revisions to a utility's boundary map shall be filed in an electronic format. Boundary maps shall include information equivalent to the county maps which are available from the Iowa department of transportation, showing all roads, railroads, waterways, plus township and range lines outside the municipalities. A larger scale shall be used where necessary to clarify areas. All map details shall be clean-cut and readable.

(1) to (4) No change.

ITEM 20. Rescind and reserve rule **199—22.21(476)**.

ITEM 21. Amend subrule 22.23(2) as follows:

22.23(2) Prohibition of unauthorized changes in telecommunications service. Unauthorized changes in telecommunications service, including but not limited to cramming and slamming, are prohibited.

a. *Verification required.* No service provider shall submit a preferred carrier change order or other change in service order to another service provider unless and until the change has first been confirmed in accordance with one of the following procedures:

(1) to (5) No change.

b. *Letter of agency form and content.*

(1) No change.

(2) The letter of agency shall be a separate document (or an easily separable document) ~~containing~~ or located on a separate screen or Web page and contain only the authorizing language described in subparagraph (5) below having the sole purpose of authorizing a service provider to initiate a preferred service provider change. The letter of agency must be signed and dated by the customer to the telephone line(s) requesting the preferred service provider change.

(3) The letter of agency shall not be combined on the same document, screen, or Web page with inducements of any kind.

(4) to (8) No change.

c. No change.

UTILITIES DIVISION[199](cont'd)

d. Preferred carrier freezes.

(1) to (3) No change.

(4) Solicitation and imposition of preferred service provider freezes.

1. No change.

2. No local exchange carrier shall implement a preferred service provider freeze unless the customer's request to impose a freeze has first been confirmed in accordance with one of the following procedures:

- The local exchange carrier has obtained the customer's written ~~and~~ or electronically signed authorization in a form that meets the requirements of 22.23(2) "d"(4)"3"; or

- The local exchange carrier has obtained the customer's electronic authorization, placed from the telephone number(s) on which the preferred service provider freeze is to be imposed, to impose a preferred service provider freeze. The electronic authorization shall confirm appropriate verification data and the information required in 22.23(2) "d"(4)"3." Service providers electing to confirm preferred service provider freeze orders electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number(s) will connect a customer to a voice response unit, or similar mechanism that records the required information regarding the preferred service provider freeze request, including automatically recording the originating automatic numbering identification; or

- An appropriately qualified independent third party has obtained the customer's oral authorization to submit the preferred service provider freeze and confirmed the appropriate verification data and the information required in 22.23(2) "d"(4)"3." The independent third party must not be owned, managed, or directly controlled by the service provider or the service provider's marketing agent; must not have any financial incentive to confirm preferred service provider freeze requests for the service provider or the service provider's marketing agent; and must operate in a location physically separate from the service provider or the service provider's marketing agent. The content of the verification must include clear and conspicuous confirmation that the customer has authorized a preferred service provider freeze.

3. No change.

(5) All local exchange service providers who offer preferred service provider freezes must, at a minimum, offer customers the following procedures for lifting a preferred service provider freeze:

1. A local exchange service provider administering a preferred service provider freeze must accept a customer's written ~~and~~ or electronically signed authorization stating the intention to lift a preferred service provider freeze; and

2. No change.

e. Procedures in the event of sale or transfer of customer base. A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's customer base without obtaining each customer's authorization in accordance with 199 IAC 22.23(2) "a," provided that the acquiring carrier complies with the following procedures. A telecommunications carrier may not use these procedures for any fraudulent purpose, including any attempt to avoid liability for violations under 199 IAC 22.23(2) "a."

(1) to (3) No change.

ITEM 22. Amend paragraph **22.23(5)"c"** as follows:

c. Collection. A civil penalty collected pursuant to this subrule shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the ~~general~~ revolving fund of the state and to be used only for consumer education programs administered by the board.

ARC 2572C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 455B.173(11), the Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

These amendments reissue the existing National Pollutant Discharge Elimination System (NPDES) Pesticides General Permit known as General Permit No. 7 (GP7). This general permit allows for the discharge of pesticides to waters of the United States. The previous general permit was issued on March 30, 2011, and expired on March 29, 2016. Pesticide applications covered under GP7 include those for control of aquatic nuisance insects; weeds, algae, fungi, bacteria, and fish parasites in water and at water's edge; aquatic nuisance animals; and forest canopy pests at water's edge. Irrigation return flows and agricultural storm water discharges are not covered under GP7 because they are specifically exempted from the Clean Water Act's permitting requirements. There are no fees associated with GP7.

In addition to renewing GP7, the Commission further reduced the regulatory burden on pesticide applicators by removing the requirement that large applicators must submit a Notice of Intent (NOI) for coverage under GP7. Under the renewed permit, all pesticide applications meeting the eligibility criteria will be automatically covered, without the need to submit an NOI. The Commission removed all requirements that were specific to large applicators, including the development and implementation of integrated pest management plans and the creation of annual reports.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 16, 2016, as **ARC 2441C**. A public hearing was held in Des Moines on April 5, 2016, with notice of the hearing sent to various individuals, organizations, and associations and to statewide news network organizations. No comments were received. These amendments are identical to those published under Notice of Intended Action. GP7 is unchanged except that the effective and expiration dates on the cover page of the General Permit have been updated to reflect the effective date of the amendments.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective May 18, 2016. These amendments confer a benefit to or remove a restriction on the regulated public in that they simplify requirements for permit coverage and minimize the length of time the permit must be administratively extended.

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

These amendments are intended to implement Iowa Code sections 455B.173(11) and 455B.186.

These amendments became effective May 18, 2016.

The following amendments are adopted.

ITEM 1. Rescind subparagraph **64.3(4)"b"(7)**.

ITEM 2. Amend subrule 64.15(7) as follows:

64.15(7) "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States ~~From from~~ the Application of Pesticides," NPDES General Permit No. 7, effective ~~March 30, 2011~~ May 18, 2016, to March 29, 2016 May 17, 2021.

[Filed Emergency After Notice 5/18/16, effective 5/18/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2555C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

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

These amendments revise Chapter 170 to reflect new federal Child Care and Development Block Grant (CCDBG) rules regarding child care assistance eligibility. The amendments make the following changes:

- Allow for 12-month certification instead of 6-month certification.
- Establish new exit eligibility criteria for families with income exceeding 145 percent of the federal poverty level (FPL).
- Expand the period for job search from 1 month to 3 months for families who experience a temporary change in employment or education.
 - Allow for assistance to continue for 12 months regardless of temporary changes.
 - Provide that family assistance may only be canceled after a nontemporary change (after 3-month job search period).
- Add a family resource/asset limit of \$1 million.
- Change the provider rate table to add higher rates for Quality Rating System (QRS) Level 5 providers.

These amendments also allow payments to out-of-state providers without the need for the family to request an exception to policy.

Families receiving assistance will get annual eligibility certifications. Families will be able to keep child care benefits during temporary breaks in employment or education. By utilizing the new exit eligibility criteria, families will also be able to keep child care benefits if their income exceeds program limits. Child care providers who are participating in QRS and are rated at Level 5 will be reimbursed at a higher rate than other providers.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2462C** on March 16, 2016. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 11, 2016.

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2016, because the amendments confer a benefit on the public. These amendments increase eligibility levels for participants and increase provider reimbursement amounts. These amendments are also federally mandated by the reauthorization of the CCDBG (42 U.S.C. 9858).

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

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

These amendments are intended to implement Iowa Code section 234.6 and the Child Care and Development Block Grant (42 U.S.C. 9858).

These amendments will become effective July 1, 2016.

The following amendments are adopted.

ITEM 1. Amend rule **441—170.1(237A)**, definition of “Child with special needs,” as follows:

“*Child with special needs*” means a child with one or more of the following conditions:

1. No change.
2. The child has been determined by a qualified ~~mental-retardation~~ intellectual disability professional to have a condition which impairs the child’s intellectual and social functioning.
3. No change.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend paragraph **170.2(1)“a”** as follows:

a. *Income limits.* For initial and ongoing eligibility, ~~a~~ an applicant family’s nonexempt gross monthly income as established in paragraph 170.2(1)“c” cannot exceed: the amounts in subparagraphs 170.2(1)“a”(1) to (3). If, at the time of eligibility redetermination as described in subrule 170.3(5), a family’s nonexempt gross monthly income exceeds the limits established in 170.2(1)“a”(1) or (2) but not (3), the family shall remain eligible for an additional 12-month period or until their income exceeds that stated in (3), whichever comes first.

(1) to (3) No change.

ITEM 3. Adopt the following **new** paragraph **170.2(1)“g”**:

g. *Resource limits.* For initial and ongoing eligibility, family resources may not exceed \$1 million.

ITEM 4. Amend paragraph **170.2(2)“a”** as follows:

a. *Age.* Child care shall be provided only to children up to age 13, unless they are children with special needs, in which case child care shall be provided up to age 19. When a child reaches the age of 13, or, as applicable, the age of 19, during the certification period, eligibility shall continue until the end of the approved certification period.

ITEM 5. Amend paragraph **170.2(2)“b”** as follows:

b. *Need for service.* Except for assistance provided under subparagraph 170.2(2)“b”(3), assistance shall be provided to a two-parent family only during the parents’ coinciding hours of participation in training, employment, or job search. Each parent in the household shall meet one or more of the following requirements:

(1) to (3) No change.

(4) The parent is absent from the home due to inpatient hospitalization or outpatient treatment because of physical or mental illness, or is present but due to medical incapacity is unable to care for the child or participate in work or training, as verified by a physician.

1. Eligibility under this paragraph is limited to parents who become medically incapacitated while eligible for child care assistance based on the need criteria in subparagraph 170.2(2)“b”(1) or 170.2(2)“b”(2).

2. Child care assistance shall continue to be available for up to ~~30~~ 90 consecutive days after the parent becomes medically incapacitated. Assistance beyond ~~30~~ 90 days may be approved by the service area manager or designee if extenuating circumstances are verified by a physician.

3. The number of units of service authorized shall be determined as follows:

- For a ~~single-parent~~ single-parent family or for a two-parent family where both parents are incapacitated, the number of units authorized for the period of incapacity shall not exceed the number of units authorized for the family before the onset of incapacity.

- For a two-parent family where only one parent is incapacitated, the units of service authorized shall be based on the need of the parent who is not incapacitated.

(5) The parent is looking for employment. Child care for job search hours shall be limited to only those hours the parent is actually looking for employment including travel time.

1. ~~A~~ For applicants, a job search plan shall be approved by the department and be limited to a maximum of 30 consecutive calendar days in a 12-month period. EXCEPTION: Additional job search hours may be paid for PROMISE JOBS participants if approved by the PROMISE JOBS worker.

2. ~~Documentation of job search contacts shall be furnished to the department. The department may enter into a nonfinancial coordination agreement for information exchange concerning job search documentation.~~ For ongoing participants, job search shall be limited to a maximum of 90 consecutive calendar days.

(6) to (8) No change.

(9) Family eligibility shall continue during an approved certification period when a temporary lapse in need for service for a parent established under this subparagraph occurs. A temporary lapse is defined as a period of not more than 3 consecutive months, and the lapse is due to one or more of the following reasons:

1. Maternity leave.

HUMAN SERVICES DEPARTMENT[441](cont'd)

2. Family Medical Leave Act (FMLA) situations for household members.
3. Participation in a treatment/rehabilitation program.
4. Employment or education/training hours fall below the minimum number required at 170.2(2) "b"(1), (2) or (8).

5. Normal breaks between school terms.

(10) Family eligibility shall be canceled if the lapse in need is not temporary because the family eligibility will continue for more than 3 consecutive months.

ITEM 6. Adopt the following **new** paragraph **170.2(4)“c”**:

c. Exception: Changes in income do not need to be reported during the approved certification period unless the family's gross monthly income exceeds 85 percent of Iowa's median family income.

ITEM 7. Amend paragraph **170.3(1)“d”** as follows:

d. Families who are determined eligible for child care assistance shall be approved for a certification period of ~~no longer than six~~ at least 12 months. Families who fail to complete the review and redetermination process as described at subrule 170.3(5) will lose eligibility at the end of the certification period.

ITEM 8. Amend subrule 170.3(5) as follows:

170.3(5) Review and redetermination. The department shall redetermine a family's financial and general eligibility for child care assistance at least every ~~six~~ 12 months. EXCEPTION: The department shall redetermine only general eligibility for recipients of the family investment program (FIP), persons whose earned income was taken into account in determining the needs of FIP recipients, and parents who have children with protective needs, because these families are deemed financially eligible so long as the FIP eligibility or need for protective services continues.

a. to c. No change.

d. Families who ~~are receiving~~ apply for child care assistance because the parent is seeking employment are not subject to review requirements because eligibility is limited to 30 consecutive calendar days. This waiver of the review requirement applies only when the parent who is seeking employment does not have another need for service.

ITEM 9. Adopt the following **new** paragraph **170.4(3)“c”**:

c. *Out-of-state provider.* A child care provider who is not located in Iowa may be selected by the parent so long as the out-of-state child care provider verifies that the provider meets all of the requirements to be a provider in the state in which the provider operates.

ITEM 10. Amend paragraph **170.4(7)“a”** as follows:

a. *Rate of payment.* The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7)“d,” shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider's declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider's declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child's service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child's special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

HUMAN SERVICES DEPARTMENT[441](cont'd)

| Age Group | Child Care Center | | Child Development Home Category A or B | | Child Development Home Category C | | Nonregistered Family Home |
|--------------------|-------------------|----------------|---|----------------|--------------------------------------|----------------|------------------------------|
| | Basic | QRS 5 | Basic | QRS 5 | Basic | QRS 5 | |
| Infant and Toddler | \$16.78 | <u>\$20.50</u> | \$12.98 | <u>\$13.75</u> | \$12.44 | <u>\$15.00</u> | \$8.19 |
| Preschool | \$13.53 | <u>\$17.50</u> | \$12.18 | <u>\$13.50</u> | \$12.18 | <u>\$13.75</u> | \$7.19 |
| School Age | \$12.18 | <u>\$14.75</u> | \$10.82 | <u>\$12.50</u> | \$10.82 | <u>\$13.00</u> | \$7.36 |

| Age Group | Child Care Center | Child Development Home Category A or B | Child Development Home Category C | Nonregistered Family Home |
|--------------------|-------------------|---|--------------------------------------|---------------------------|
| Infant and Toddler | \$51.94 | \$17.05 | \$13.40 | \$10.24 |
| Preschool | \$30.43 | \$15.83 | \$13.40 | \$ 8.99 |
| School Age | \$30.34 | \$14.61 | \$12.18 | \$ 9.20 |

The following definitions apply in the use of the rate tables:

(1) "Child care center" shall mean those providers as defined in 170.4(3) "~~a.~~" and "~~g.~~" "Registered child development home" shall mean those providers as defined in 170.4(3) "~~b.~~" "Nonregistered family child care home" shall mean those providers as defined in 170.4(3) "~~f.~~" "e."

(2) No change.

(3) "QRS 5" shall mean a provider who has achieved a rating of Level 5 under the quality rating system.

[Filed Emergency After Notice 5/11/16, effective 7/1/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2556C

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

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

This amendment revises the child care assistance (CCA) fee chart based on the new federal poverty levels recently received by the Department.

The annual poverty level increase will allow families that have received raises to maintain eligibility for CCA without paying increased fees.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2449C** on March 16, 2016. The Department received no comments during the public comment period. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on May 11, 2016.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2016, because the amendment confers a benefit on the public. The annual poverty level increase will allow families that have received increased income to maintain eligibility for child care assistance without paying increased fees.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

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

This amendment is intended to implement Iowa Code section 234.6.

This amendment will become effective July 1, 2016.

The following amendment is adopted.

Amend paragraph **170.4(2)“a”** as follows:

a. Sliding fee schedule.

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2015~~ 2016:

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 | 11 | 12 | 13+ | 1 | 2 | 3 or more |
| A | <u>\$932</u> | <u>\$1,262</u> | <u>\$1,591</u> | <u>\$1,920</u> | <u>\$2,250</u> | \$2,579 | \$2,908 | \$3,238 | \$3,567 | \$3,896 | <u>\$4,226</u> | <u>\$4,555</u> | <u>\$4,884</u> | \$0.00 | \$0.00 | \$0.00 |
| | <u>\$941</u> | <u>\$1,268</u> | <u>\$1,596</u> | <u>\$1,924</u> | <u>\$2,252</u> | | | | | | <u>\$4,226</u> | <u>\$4,555</u> | <u>\$4,884</u> | | | |
| B | <u>\$981</u> | <u>\$1,328</u> | <u>\$1,675</u> | <u>\$2,021</u> | <u>\$2,368</u> | \$2,715 | \$3,061 | \$3,408 | \$3,755 | \$4,101 | <u>\$4,448</u> | <u>\$4,795</u> | <u>\$5,141</u> | \$0.20 | \$0.45 | \$0.70 |
| | <u>\$990</u> | <u>\$1,335</u> | <u>\$1,680</u> | <u>\$2,025</u> | <u>\$2,370</u> | | | | | | <u>\$4,448</u> | <u>\$4,795</u> | <u>\$5,141</u> | | | |
| C | <u>\$1,008</u> | <u>\$1,365</u> | <u>\$1,722</u> | <u>\$2,078</u> | <u>\$2,434</u> | \$2,791 | \$3,147 | \$3,503 | \$3,860 | \$4,216 | <u>\$4,573</u> | <u>\$4,929</u> | <u>\$5,285</u> | \$0.45 | \$0.70 | \$0.95 |
| | <u>\$1,018</u> | <u>\$1,372</u> | <u>\$1,727</u> | <u>\$2,082</u> | <u>\$2,436</u> | | | | | | <u>\$4,573</u> | <u>\$4,929</u> | <u>\$5,285</u> | | | |
| D | <u>\$1,036</u> | <u>\$1,402</u> | <u>\$1,769</u> | <u>\$2,134</u> | <u>\$2,501</u> | \$2,867 | \$3,232 | \$3,599 | \$3,965 | \$4,331 | <u>\$4,697</u> | <u>\$5,064</u> | <u>\$5,429</u> | \$0.70 | \$0.95 | \$1.20 |
| | <u>\$1,045</u> | <u>\$1,410</u> | <u>\$1,774</u> | <u>\$2,138</u> | <u>\$2,503</u> | | | | | | <u>\$4,697</u> | <u>\$5,064</u> | <u>\$5,429</u> | | | |
| E | <u>\$1,065</u> | <u>\$1,442</u> | <u>\$1,818</u> | <u>\$2,194</u> | <u>\$2,571</u> | \$2,947 | \$3,323 | \$3,700 | \$4,076 | \$4,452 | <u>\$4,829</u> | <u>\$5,205</u> | <u>\$5,581</u> | \$0.95 | \$1.20 | \$1.45 |
| | <u>\$1,075</u> | <u>\$1,449</u> | <u>\$1,824</u> | <u>\$2,198</u> | <u>\$2,573</u> | | | | | | <u>\$4,829</u> | <u>\$5,205</u> | <u>\$5,581</u> | | | |
| F | <u>\$1,094</u> | <u>\$1,481</u> | <u>\$1,868</u> | <u>\$2,254</u> | <u>\$2,641</u> | \$3,028 | \$3,413 | \$3,800 | \$4,187 | \$4,573 | <u>\$4,960</u> | <u>\$5,347</u> | <u>\$5,733</u> | \$1.20 | \$1.45 | \$1.70 |
| | <u>\$1,104</u> | <u>\$1,489</u> | <u>\$1,873</u> | <u>\$2,258</u> | <u>\$2,643</u> | | | | | | <u>\$4,960</u> | <u>\$5,347</u> | <u>\$5,733</u> | | | |
| G | <u>\$1,125</u> | <u>\$1,522</u> | <u>\$1,920</u> | <u>\$2,317</u> | <u>\$2,715</u> | \$3,112 | \$3,509 | \$3,907 | \$4,305 | \$4,701 | <u>\$5,099</u> | <u>\$5,497</u> | <u>\$5,893</u> | \$1.45 | \$1.70 | \$1.95 |
| | <u>\$1,135</u> | <u>\$1,530</u> | <u>\$1,926</u> | <u>\$2,321</u> | <u>\$2,717</u> | | | | | | <u>\$5,099</u> | <u>\$5,497</u> | <u>\$5,893</u> | | | |
| H | <u>\$1,155</u> | <u>\$1,564</u> | <u>\$1,972</u> | <u>\$2,380</u> | <u>\$2,789</u> | \$3,197 | \$3,605 | \$4,013 | \$4,422 | \$4,829 | <u>\$5,238</u> | <u>\$5,647</u> | <u>\$6,054</u> | \$1.70 | \$1.95 | \$2.20 |
| | <u>\$1,166</u> | <u>\$1,572</u> | <u>\$1,978</u> | <u>\$2,385</u> | <u>\$2,791</u> | | | | | | <u>\$5,238</u> | <u>\$5,647</u> | <u>\$6,054</u> | | | |
| I | <u>\$1,188</u> | <u>\$1,608</u> | <u>\$2,028</u> | <u>\$2,447</u> | <u>\$2,867</u> | \$3,287 | \$3,706 | \$4,126 | \$4,546 | \$4,964 | <u>\$5,385</u> | <u>\$5,805</u> | <u>\$6,223</u> | \$1.95 | \$2.20 | \$2.45 |
| | <u>\$1,198</u> | <u>\$1,616</u> | <u>\$2,034</u> | <u>\$2,451</u> | <u>\$2,869</u> | | | | | | <u>\$5,385</u> | <u>\$5,805</u> | <u>\$6,223</u> | | | |
| J | <u>\$1,220</u> | <u>\$1,651</u> | <u>\$2,083</u> | <u>\$2,513</u> | <u>\$2,945</u> | \$3,376 | \$3,806 | \$4,238 | \$4,669 | \$5,100 | <u>\$5,531</u> | <u>\$5,963</u> | <u>\$6,393</u> | \$2.20 | \$2.45 | \$2.70 |
| | <u>\$1,231</u> | <u>\$1,660</u> | <u>\$2,089</u> | <u>\$2,518</u> | <u>\$2,947</u> | | | | | | <u>\$5,531</u> | <u>\$5,963</u> | <u>\$6,393</u> | | | |
| K | <u>\$1,254</u> | <u>\$1,698</u> | <u>\$2,141</u> | <u>\$2,584</u> | <u>\$3,027</u> | \$3,471 | \$3,913 | \$4,357 | \$4,800 | \$5,243 | <u>\$5,686</u> | <u>\$6,130</u> | <u>\$6,572</u> | \$2.45 | \$2.70 | \$2.95 |
| | <u>\$1,266</u> | <u>\$1,707</u> | <u>\$2,148</u> | <u>\$2,589</u> | <u>\$3,030</u> | | | | | | <u>\$5,686</u> | <u>\$6,130</u> | <u>\$6,572</u> | | | |
| L | <u>\$1,288</u> | <u>\$1,744</u> | <u>\$2,200</u> | <u>\$2,654</u> | <u>\$3,110</u> | \$3,565 | \$4,020 | \$4,475 | \$4,931 | \$5,385 | <u>\$5,841</u> | <u>\$6,297</u> | <u>\$6,751</u> | \$2.70 | \$2.95 | \$3.20 |
| | <u>\$1,300</u> | <u>\$1,753</u> | <u>\$2,206</u> | <u>\$2,659</u> | <u>\$3,112</u> | | | | | | <u>\$5,841</u> | <u>\$6,297</u> | <u>\$6,751</u> | | | |
| M | <u>\$1,324</u> | <u>\$1,793</u> | <u>\$2,261</u> | <u>\$2,728</u> | <u>\$3,197</u> | \$3,665 | \$4,132 | \$4,601 | \$5,069 | \$5,536 | <u>\$6,005</u> | <u>\$6,473</u> | <u>\$6,940</u> | \$2.95 | \$3.20 | \$3.45 |
| | <u>\$1,336</u> | <u>\$1,802</u> | <u>\$2,268</u> | <u>\$2,734</u> | <u>\$3,199</u> | | | | | | <u>\$6,005</u> | <u>\$6,473</u> | <u>\$6,940</u> | | | |
| N | <u>\$1,360</u> | <u>\$1,842</u> | <u>\$2,323</u> | <u>\$2,803</u> | <u>\$3,284</u> | \$3,765 | \$4,245 | \$4,726 | \$5,207 | \$5,687 | <u>\$6,168</u> | <u>\$6,649</u> | <u>\$7,129</u> | \$3.20 | \$3.45 | \$3.70 |
| | <u>\$1,373</u> | <u>\$1,851</u> | <u>\$2,330</u> | <u>\$2,808</u> | <u>\$3,286</u> | | | | | | <u>\$6,168</u> | <u>\$6,649</u> | <u>\$7,129</u> | | | |
| O | <u>\$1,398</u> | <u>\$1,893</u> | <u>\$2,388</u> | <u>\$2,881</u> | <u>\$3,376</u> | \$3,870 | \$4,364 | \$4,858 | \$5,353 | \$5,846 | <u>\$6,341</u> | <u>\$6,835</u> | <u>\$7,329</u> | \$3.45 | \$3.70 | \$3.95 |
| | <u>\$1,411</u> | <u>\$1,903</u> | <u>\$2,395</u> | <u>\$2,887</u> | <u>\$3,379</u> | | | | | | <u>\$6,341</u> | <u>\$6,835</u> | <u>\$7,329</u> | | | |
| P | <u>\$1,437</u> | <u>\$1,945</u> | <u>\$2,453</u> | <u>\$2,959</u> | <u>\$3,468</u> | \$3,976 | \$4,482 | \$4,991 | \$5,499 | \$6,005 | <u>\$6,513</u> | <u>\$7,022</u> | <u>\$7,528</u> | \$3.70 | \$3.95 | \$4.20 |
| | <u>\$1,450</u> | <u>\$1,955</u> | <u>\$2,460</u> | <u>\$2,965</u> | <u>\$3,471</u> | | | | | | <u>\$6,513</u> | <u>\$7,022</u> | <u>\$7,528</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 | 11 | 12 | 13+ | 1 | 2 | 3 or more |
| Q | <u>\$1,477</u> | <u>\$1,999</u> | <u>\$2,521</u> | <u>\$3,042</u> | <u>\$3,565</u> | \$4,087 | \$4,608 | \$5,130 | \$5,653 | \$6,173 | <u>\$6,696</u> | <u>\$7,218</u> | <u>\$7,739</u> | \$3.95 | \$4.20 | \$4.45 |
| | <u>\$1,490</u> | <u>\$2,010</u> | <u>\$2,529</u> | <u>\$3,048</u> | <u>\$3,568</u> | | | | | | | | | | | |
| R | <u>\$1,517</u> | <u>\$2,054</u> | <u>\$2,590</u> | <u>\$3,125</u> | <u>\$3,662</u> | \$4,198 | \$4,733 | \$5,270 | \$5,807 | \$6,342 | <u>\$6,878</u> | <u>\$7,415</u> | <u>\$7,950</u> | \$4.20 | \$4.45 | \$4.70 |
| | <u>\$1,531</u> | <u>\$2,064</u> | <u>\$2,598</u> | <u>\$3,131</u> | <u>\$3,665</u> | | | | | | | | | | | |
| S | <u>\$1,559</u> | <u>\$2,111</u> | <u>\$2,663</u> | <u>\$3,213</u> | <u>\$3,764</u> | \$4,316 | \$4,866 | \$5,418 | \$5,969 | \$6,519 | <u>\$7,071</u> | <u>\$7,622</u> | <u>\$8,172</u> | \$4.45 | \$4.70 | \$4.95 |
| | <u>\$1,574</u> | <u>\$2,122</u> | <u>\$2,671</u> | <u>\$3,219</u> | <u>\$3,767</u> | | | | | | | | | | | |
| T | <u>\$1,602</u> | <u>\$2,169</u> | <u>\$2,735</u> | <u>\$3,300</u> | <u>\$3,867</u> | \$4,433 | \$4,998 | \$5,565 | \$6,132 | \$6,697 | <u>\$7,263</u> | <u>\$7,830</u> | <u>\$8,395</u> | \$4.70 | \$4.95 | \$5.20 |
| | <u>\$1,617</u> | <u>\$2,180</u> | <u>\$2,743</u> | <u>\$3,307</u> | <u>\$3,870</u> | | | | | | | | | | | |
| U | <u>\$1,647</u> | <u>\$2,229</u> | <u>\$2,812</u> | <u>\$3,393</u> | <u>\$3,975</u> | \$4,558 | \$5,138 | \$5,721 | \$6,303 | \$6,884 | <u>\$7,467</u> | <u>\$8,049</u> | <u>\$8,630</u> | \$4.95 | \$5.20 | \$5.45 |
| | <u>\$1,662</u> | <u>\$2,241</u> | <u>\$2,820</u> | <u>\$3,399</u> | <u>\$3,978</u> | | | | | | | | | | | |
| V | <u>\$1,692</u> | <u>\$2,290</u> | <u>\$2,888</u> | <u>\$3,485</u> | <u>\$4,083</u> | \$4,682 | \$5,278 | \$5,877 | \$6,475 | \$7,072 | <u>\$7,670</u> | <u>\$8,269</u> | <u>\$8,865</u> | \$5.20 | \$5.45 | \$5.70 |
| | <u>\$1,707</u> | <u>\$2,302</u> | <u>\$2,897</u> | <u>\$3,492</u> | <u>\$4,087</u> | | | | | | | | | | | |
| W | <u>\$1,739</u> | <u>\$2,354</u> | <u>\$2,969</u> | <u>\$3,583</u> | <u>\$4,198</u> | \$4,813 | \$5,426 | \$6,041 | \$6,656 | \$7,270 | <u>\$7,885</u> | <u>\$8,500</u> | <u>\$9,113</u> | \$5.45 | \$5.70 | \$5.95 |
| | <u>\$1,755</u> | <u>\$2,367</u> | <u>\$2,978</u> | <u>\$3,590</u> | <u>\$4,201</u> | | | | | | | | | | | |
| X | <u>\$1,786</u> | <u>\$2,418</u> | <u>\$3,050</u> | <u>\$3,680</u> | <u>\$4,312</u> | \$4,944 | \$5,574 | \$6,206 | \$6,838 | \$7,468 | <u>\$8,100</u> | <u>\$8,732</u> | <u>\$9,362</u> | \$5.70 | \$5.95 | \$6.20 |
| | <u>\$1,803</u> | <u>\$2,431</u> | <u>\$3,059</u> | <u>\$3,687</u> | <u>\$4,316</u> | | | | | | | | | | | |
| Y | <u>\$1,836</u> | <u>\$2,486</u> | <u>\$3,136</u> | <u>\$3,783</u> | <u>\$4,433</u> | \$5,082 | \$5,730 | \$6,380 | \$7,029 | \$7,677 | <u>\$8,326</u> | <u>\$8,976</u> | <u>\$9,624</u> | \$5.95 | \$6.20 | \$6.45 |
| | <u>\$1,853</u> | <u>\$2,499</u> | <u>\$3,145</u> | <u>\$3,791</u> | <u>\$4,437</u> | | | | | | | | | | | |
| Z | <u>\$1,886</u> | <u>\$2,554</u> | <u>\$3,221</u> | <u>\$3,886</u> | <u>\$4,554</u> | \$5,221 | \$5,886 | \$6,553 | \$7,221 | \$7,886 | <u>\$8,553</u> | <u>\$9,221</u> | <u>\$9,886</u> | \$6.20 | \$6.45 | \$6.70 |
| | <u>\$1,904</u> | <u>\$2,567</u> | <u>\$3,231</u> | <u>\$3,894</u> | <u>\$4,557</u> | | | | | | | | | | | |
| AA | <u>\$1,939</u> | <u>\$2,625</u> | <u>\$3,311</u> | <u>\$3,995</u> | <u>\$4,681</u> | \$5,367 | \$6,051 | \$6,737 | \$7,423 | \$8,107 | <u>\$8,793</u> | <u>\$9,479</u> | <u>\$10,163</u> | \$6.45 | \$6.70 | \$6.95 |
| | <u>\$1,957</u> | <u>\$2,639</u> | <u>\$3,321</u> | <u>\$4,003</u> | <u>\$4,685</u> | | | | | | | | | | | |
| BB | <u>\$1,992</u> | <u>\$2,697</u> | <u>\$3,401</u> | <u>\$4,104</u> | <u>\$4,809</u> | \$5,513 | \$6,216 | \$6,920 | \$7,625 | \$8,328 | <u>\$9,000</u> | <u>\$10,000</u> | <u>\$11,000</u> | \$6.70 | \$6.95 | \$7.20 |
| | <u>\$3,000</u> | <u>\$4,000</u> | <u>\$5,000</u> | <u>\$6,000</u> | <u>\$7,000</u> | <u>\$8,000</u> | <u>\$8,000</u> | <u>\$8,000</u> | <u>\$8,000</u> | <u>\$8,500</u> | | | | | | |

HUMAN SERVICES DEPARTMENT[441](cont'd)

- (2) To use the chart:
1. No change.
 2. Move across the monthly income table to the column headed by that number. (~~See paragraph "5" if the family has more than ten members.~~)
 3. and 4. No change.
 5. ~~When a family has more than ten members, determine the income level by multiplying the figures in the four-member column for the rows closest to the family's income level by 0.03. Round the numbers to the nearest dollar and multiply by the number of family members in excess of ten. Add the results to the amounts in the ten-member column to determine the threshold amounts.~~

[Filed Emergency After Notice 5/11/16, effective 7/1/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2577C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5(7), the Agriculture and Land Stewardship Department hereby amends Chapter 12, “Renewable Fuels and Coproducts,” Chapter 13, “Renewable Fuel Infrastructure Board—Organization,” Chapter 14, “Renewable Fuel Infrastructure Program for Retail Motor Fuel Sites,” Chapter 16, “Renewable Fuel Infrastructure Program Administration,” and Chapter 85, “Weights and Measures,” Iowa Administrative Code.

These amendments expand the Renewable Fuel Infrastructure Program for retail motor fuel sites by allowing funds to be used for the storing and dispensing of E-15. These amendments also set a minimum size of a renewable fuel pump decal and update label requirements for ethanol flex fuels. The new decals will need to be in place by January 1, 2018.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2479C** on March 30, 2016.

The Iowa Corn Growers Association, the Iowa Renewable Fuels Association and Kum & Go wrote in support of the noticed amendments. The Iowa Renewable Fuels Association made some technical suggestions. The Petroleum Marketers and Convenience Stores of Iowa suggested specific changes to the provisions for “American Ethanol” labels and flex fuel labels, super/plus designations, and grant program eligibility.

The adopted amendments allow grant payments for dispensing and storing ethanol blended gasoline at or between E-15 and E-85. Changes were made that specified that the label has the name of the renewable fuel. The language was amended related to labels requiring the use of flex fuel cars. A technical change was made specifying that certain labels applied only to ethanol by volume. An outdated provision on tank wagons was rescinded.

After analysis and review of this rule making, a positive impact on jobs and the economy has been found because increased use of biofuels helps farmers, renewable fuels producers, and consumers.

These amendments are intended to implement Iowa Code sections 159.20(1) and 159A.14 and 2015 Iowa Acts, Senate File 510, division IX.

These amendments will become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 12.3(4):

12.3(4) E-15 ethanol infrastructure must be used to store and dispense E-15 gasoline as a registered fuel recognized by the United States Environmental Protection Agency for nonsummer months from September 16 to May 31.

ITEM 2. Amend rule 21—12.4(159A) as follows:

21—12.4(159A) Renewable fuels motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent of a renewable fuel ethanol by volume shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30” and 50” above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

12.4(1) ~~The only two sizes~~ minimum design size of decals ~~department-approved are the following:~~ decals is 1.25” by 2.5”.

a. ~~A design of 1.25” by 4”.~~

b. ~~A design of 2” by 6”.~~

12.4(2) ~~All labels shall~~ Labels may have the word “with” in letters a minimum of .1875” high, and shall have the name of the renewable fuel in letters a minimum of .5” high.

12.4(3) ~~The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party, including the~~

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

~~weights and measures bureau of the department, in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording of the decal to promote the use of renewable fuels.~~

~~12.4(4)~~ 12.4(3) All ~~black and white ethanol~~ fuel pump stickers shall be replaced by ~~department-approved colorful~~ "American Ethanol" fuel pump decals effective ~~July~~ January 1, 1995 ~~2018~~.

ITEM 3. Amend rule ~~21—13.1(159A)~~, definition of "Project," as follows:

"Project" means the installation of equipment for motor fuel storage, dispensing and distribution of E-15 or E-85 gasoline, biodiesel or biodiesel blend.

ITEM 4. Amend paragraphs ~~14.2(3)"b"~~ to "f" as follows:

~~b. The fuel storage tank may be on a tank vehicle or transport if regularly parked overnight in Iowa.~~

~~c. The storage tank must, however, be used exclusively for retail delivery to the final consumer.~~

~~d. If a tank has multiple compartments, at least one of the compartments must be used exclusively for the storage and dispensing of ethanol blended gasoline at or between E-15 and E-85 gasoline, biodiesel or biodiesel blended fuel at retail. The compartment used exclusively for the storage of ethanol blended gasoline at or between E-15 and E-85 gasoline, biodiesel or biodiesel blended fuel is considered the tank for purposes of this program.~~

~~e. The tank and ancillary equipment must be approved for ethanol blended gasoline at or between E-15 and E-85 gasoline, biodiesel or biodiesel blended fuel use by either the Iowa department of natural resources or the state fire marshal, as evidenced by the most recent IDNR checklist.~~

~~f. The dispenser and dispenser components must be described by type and model in a written statement listed by an independent testing laboratory, approved by the manufacturer of the dispenser. The manufacturer's written statement must be signed by a responsible official on behalf of the manufacturer and must be provided either to the applicant or to the Iowa department of natural resources or approved by the state fire marshal as compatible with ethanol blended gasoline at or between E-15 and E-85. If provided to the applicant, the statement must be kept on file on the premises of the applicant for the five-year term of the agreement. The written statement must state that:~~

~~(1) The dispenser is, in the opinion of the manufacturer, not incompatible with E-85 gasoline; and~~

~~(2) The manufacturer has initiated the process of applying to an independent testing laboratory for listing of the equipment used in dispensing E-85 gasoline.~~

~~An Iowa-licensed installer has been identified to perform the installation.~~

ITEM 5. Amend subparagraph ~~16.2(3)"a"(3)~~ as follows:

~~(3) Supplemental financial incentives. A person may be granted supplemental financial incentives as an amendment to the cost-share agreement.~~

~~1. No change.~~

~~2. Supplemental award for additional tank and associated infrastructure. A person may request a supplemental financial incentive for tank and associated infrastructure, as an amendment to the subsequent cost-share agreement(s). The purpose of an award for an additional tank(s) and associated infrastructure is to accelerate the installation of an additional tank(s) and associated infrastructure at an additional retail motor fuel site after an initial grant award is provided. To be eligible, the initial grant award must be awarded to the person on or after May 12, 2008. The maximum award amount available as a supplemental financial incentive is \$6,000 per supplemental site. The person is limited to four supplemental financial incentive awards within the 12-month period following the completion of the initial retail motor fuel site project.~~

ITEM 6. Amend subparagraph ~~16.2(3)"b"(2)~~ as follows:

~~(2) Biodiesel fuel B99/B100 for year-round distribution.~~

~~1. Duration. The duration of a cost-share agreement is five years.~~

~~2. Maximum award amount. The maximum award amount is 50 percent of the actual cost of making the improvements or \$100,000, whichever is less.~~

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

3. ~~Application acceptance begins January 1, 2009. Grant applications for B99/B100 projects will be accepted beginning January 1, 2009.~~

4. 3. Lifetime cap amount. The maximum or lifetime cap for B99/B100 biodiesel terminal grants is \$800,000 per person.

ITEM 7. Rescind and reserve paragraph **16.2(3)“c.”**

ITEM 8. Amend subrule 16.2(7) as follows:

16.2(7) Exhaustion of funds. In the event funding is exhausted at the end of the fiscal year ~~or June 30, 2012~~, the board shall approve remaining applications based on criteria implemented by the board.

ITEM 9. Amend subparagraph **16.3(2)“b”(2)** as follows:

(2) Assurance that all equipment funded by the grant is designed and will be used exclusively to store or dispense E-15 or E-85 gasoline, biodiesel or biodiesel blended fuel, respectively, for the period specified in the agreement.

ITEM 10. Amend subparagraph **16.5(5)“a”(2)** as follows:

(2) Waiver due to demonstration of financial hardship (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a “good faith” effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-15 or E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds shall be repaid as follows:

1. and 2. No change.

ITEM 11. Amend subrule 85.48(10) as follows:

85.48(10) Weights and measures motor vehicle fuels decals. All motor vehicle fuel kept, offered or exposed for sale or sold at retail containing over 1 percent ~~of a renewable fuel ethanol by volume~~ shall be identified with a decal located on front of the motor vehicle fuel pump and placed between 30” and 50” above the driveway level or in an alternative location approved by the department. The appearance of the decal shall conform to the following standards adopted by the renewable fuels and coproducts advisory committee:

a. ~~The only two sizes~~ minimum design size of decals department-approved are the following: decals is 1.25” by 2.5”.

(1) ~~A design of 1.25” by 4”.~~

(2) ~~A design of 2” by 6”.~~

b. ~~All labels shall~~ Labels may have the word “with” in letters a minimum of .1875” high, and shall have the name of the renewable fuel in letters a minimum of .5” high.

c. ~~The use of color, design and wording shall be approved by the renewable fuels and coproducts advisory committee. The coordinator may receive input from any party including the weights and measures bureau of the department in recommending the color, design, and wording. The advisory committee shall approve the color, design, and wording to promote the use of renewable fuels.~~

d. ~~All black and white ethanol fuel pump stickers shall be replaced by~~ department-approved colorful “American Ethanol” fuel pump decals effective July January 1, 1995 2018.

e. to g. No change.

ITEM 12. Amend subrule 85.48(11) as follows:

85.48(11) Ethanol blended gasoline classified as higher than E-15 shall have a department-approved visible, legible “for flex fuel vehicle only” sticker on the pump or pump handle. The updated decals need to be in place by January 1, 2018.

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

ITEM 13. Adopt the following **new** subrule 85.48(13):
85.48(13) Ethanol blended gasoline classified with an octane rating of 87 or higher may be labeled or advertised as “super” or “plus.”

[Filed 5/18/16, effective 7/13/16]

[Published 6/8/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2573C**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(10) and 175B.5, the Department of Agriculture and Land Stewardship hereby amends Chapter 50, “Women, Infants, and Children/Farmers’ Market Nutrition Program and Senior Farmers’ Market Nutrition Program,” Iowa Administrative Code.

These amendments make technical changes and update references. Computerization has resulted in the replacement of the certified vendor identification card with an electronic authorization letter and with the issuance of an e-mail confirmation of certification as an alternative to the department-vendor agreement.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2486C** on April 13, 2016. No comments were received by the public. The adopted amendments are identical to the noticed amendments.

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

These amendments are intended to implement Iowa Code chapters 159 and 175B.

These amendments will become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Amend rules **21—50.1(159)** to **21—50.14(159)**, parenthetical implementation statute, as follows:

(159,175B)

ITEM 2. Amend rule 21—50.1(159,175B) as follows:

21—50.1(159,175B) Authority and scope. This chapter establishes procedures to govern the administration of a farmers’ market special supplemental food program by the department of agriculture and land stewardship for implementing the applicable agreement and guidelines set forth by the United States Department of Agriculture, Food and Nutrition Service Agreement, in accordance with ~~2007 Iowa Acts, House File 846~~ Code chapter 175B.

Information may be obtained by contacting the ~~Horticulture and Farmers’~~ Agricultural Diversification and Market Development Bureau, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, telephone (515)281-5321.

ITEM 3. Rescind the definition of “Certified vendor identification card” in rule **21—50.3(159,175B)**.

ITEM 4. Amend subrule 50.9(1) as follows:

50.9(1) Vendor certification shall not be in effect and vouchers shall not be accepted until the applicant receives ~~a certified vendor identification card~~, a certified vendor identification sign, a certified vendor stamp, ~~a copy of the vendor application form~~, and either e-mail confirmation of certification or the applicant copy of the department-vendor agreement signed by both parties.

ITEM 5. Amend rule 21—50.10(159,175B) as follows:

21—50.10(159,175B) Certified vendor obligations. A certified vendor shall be responsible for, but not limited to, all of the following:

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

1. to 13. No change.

14. Immediately informing the department in the event of loss, destruction, or theft of the ~~certified vendor identification card~~, certified vendor identification sign, or certified vendor stamp so that a replacement may be issued.

15. to 21. No change.

ITEM 6. Amend subrules 50.11(5) and 50.11(6) as follows:

50.11(5) Suspension. Suspension of a certified vendor from participation in FMNP/SFMNP shall remain in effect for the balance of the current year and the following year. During the suspension period, the cited vendor shall refrain from participating in FMNP/SFMNP. The department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of the suspension notification. The suspended vendor is required to return the certified vendor identification sign(s), ~~certified vendor identification card~~, and certified vendor stamp to the department within 15 days of receipt of the suspension notice. At the conclusion of a suspension period, the vendor must reapply for and receive certification in order to resume participation in FMNP/SFMNP.

50.11(6) Disqualification. Disqualification shall be without reinstatement. The disqualified vendor is required to return the certified vendor identification sign(s), ~~certified vendor card~~, and certified vendor stamp to the department within 15 days of receipt of the disqualification notice. In the event of a disqualification, the department shall have the right to reimbursement from the vendor of an amount equal in value to vouchers deposited after the official date of disqualification notification.

ITEM 7. Amend ~~21~~—**Chapter 50**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 159 and 175B.

[Filed 5/18/16, effective 7/13/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2576C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5(10), the Department of Agriculture and Land Stewardship hereby rescinds Chapter 51, "Remediation of Agrichemical Sites," Iowa Administrative Code.

This amendment rescinds the rules on the Agrichemical Remediation Board. The Board had responsibility for executing remediation agreements and determining eligibility for site remediation. Legislative action appropriated unobligated moneys from the Agricultural Remediation Fund in 2009. Legislative action in 2011 eliminated statutory provisions and authorized the Executive Council to pay outstanding claims. No claims have been made.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2495C** on April 13, 2016. No comments were received from the public. This amendment is identical to that published under Notice.

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

This amendment is intended to implement 2011 Iowa Acts, House File 532, division III.

This amendment will become effective July 13, 2016.

The following amendment is adopted.

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

Rescind and reserve **21—Chapter 51**.

[Filed 5/18/16, effective 7/13/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2571C**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.173(11), the Environmental Protection Commission (Commission) hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

The amendment reissues the existing National Pollutant Discharge Elimination System (NPDES) General Permit known as General Permit No. 5 (GP5), which authorizes wastewater discharges from mines and quarries to waters of the United States throughout Iowa. GP5 became effective on July 20, 2011, and expires on July 19, 2016. The amendment contains minor revisions to the permit including updating and correcting references to the Iowa Administrative Code, clarifying terms and adding definitions, updating procedures for submitting a Notice of Intent (NOI) for coverage, and easing sulfate sampling requirements.

The Department of Natural Resources (Department) must either reissue GP5 or issue individual NPDES permits for each mine or quarry discharge. Compared to general permits, individual NPDES permits have more complicated application requirements, have higher fees, and take longer to issue. Permittees will benefit from the Department's reissuance of GP5 compared to having to apply for an individual NPDES permit.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 16, 2016, as **ARC 2442C**. A public hearing was held on April 7, 2016. There were three attendees, but no comments for the record. One written comment was received; it was supportive of the rule making.

No modifications have been made to the amendment as published in the Notice of Intended Action. However, GP5, cited in subrule 64.15(5), has changed. Two typographical errors were corrected, and three references were corrected.

After analysis and review of this rule making, it has been determined that there will be no impact on private sector jobs and employment opportunities in Iowa. There are no proposed changes to GP5 that will cause an impact on jobs. The complete jobs impact statement is available from the Department upon request.

This amendment is intended to implement Iowa Code section 455B.173(11).

This amendment shall become effective July 20, 2016.

The following amendment is adopted.

Amend subrule 64.15(5) as follows:

64.15(5) "Discharge from Mining and Processing Facilities," NPDES General Permit No. 5, effective ~~July 20, 2011~~ July 20, 2016, to July 19, 2021.

[Filed 5/18/16, effective 7/20/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2557C**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

This amendment increases premiums for applicants and recipients under the Medicaid for Employed People with Disabilities (MEPD) program with income over 150 percent of the federal poverty level (FPL). These changes to the premiums are necessary due to the annual changes in the federal poverty level.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2469C** on March 30, 2016. The Department received no comments during the public comment period. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on May 11, 2016.

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

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

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

This amendment will become effective August 1, 2016.

The following amendment is adopted.

Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

| IF THE INCOME OF THE APPLICANT IS ABOVE: | THE MONTHLY PREMIUM IS: |
|--|-------------------------|
| 150% of Federal Poverty Level | \$32 <u>\$33</u> |
| 165% of Federal Poverty Level | \$44 <u>\$46</u> |
| 180% of Federal Poverty Level | \$53 <u>\$55</u> |
| 200% of Federal Poverty Level | \$62 <u>\$64</u> |
| 225% of Federal Poverty Level | \$73 <u>\$76</u> |
| 250% of Federal Poverty Level | \$84 <u>\$88</u> |
| 300% of Federal Poverty Level | \$106 <u>\$110</u> |
| 350% of Federal Poverty Level | \$130 <u>\$135</u> |
| 400% of Federal Poverty Level | \$153 <u>\$158</u> |
| 450% of Federal Poverty Level | \$177 <u>\$183</u> |
| 550% of Federal Poverty Level | \$221 <u>\$228</u> |
| 650% of Federal Poverty Level | \$268 <u>\$276</u> |
| 750% of Federal Poverty Level | \$316 <u>\$324</u> |
| 850% of Federal Poverty Level | \$375 <u>\$383</u> |

HUMAN SERVICES DEPARTMENT[441](cont'd)

| IF THE INCOME OF THE APPLICANT IS ABOVE: | THE MONTHLY PREMIUM IS: |
|--|-------------------------------|
| 1000% of Federal Poverty Level | \$451 <u>\$460</u> |
| 1150% of Federal Poverty Level | \$530 <u>\$539</u> |
| 1300% of Federal Poverty Level | \$612 <u>\$622</u> |
| 1480% of Federal Poverty Level | \$707 <u>\$718</u> |
| <u>1530% of Federal Poverty Level</u> | <u>\$735</u> |
| <u>1590% of Federal Poverty Level</u> | <u>\$767</u> |

[Filed 5/11/16, effective 8/1/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2560C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 58, "Nursing Facilities," Iowa Administrative Code.

The amendment in Item 1 adds a new subparagraph 58.19(1)"n"(8), which relates to resident hydration. The amendment in Item 2 rescinds the current dietary rule 481—58.24(135C) and replaces it with a new dietary rule, which adopts by reference the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2 and requires nursing facilities to handle, prepare and serve food in accordance with the most current Food Code. Provisions in the current rule that were duplicative of Food Code requirements are removed. Provisions related to nutritional status, hydration and therapeutic diets are added.

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

The State Board of Health initially reviewed the proposed amendments at its November 12, 2015, meeting and approved them at its May 11, 2016, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 9, 2015, as **ARC 2303C**. Comments were received from the Iowa Academy of Nutrition and Dietetics and the Iowa chapter of the American Heart Association. One cross reference was corrected in 58.24(2)"a"(1). Changes were made to 58.24(2)"a"(5) and 58.24(3)"b," which permit the use of other suitable diet manuals when planning resident meals and increase the time from 12 to 24 months for the completion of an approved dietary manager training program.

Additionally, language in 58.24(4)"b" pertaining to who is authorized to prescribe therapeutic diets has been amended so that only the resident's physician may prescribe such diets. The federal Centers for Medicare and Medicaid Services (CMS) is currently rewriting the requirements for long-term care facilities, sections of which will address the prescribing of therapeutic diets by other than a resident's physician. The current federal regulations stipulate that only the resident's attending physician may prescribe therapeutic diets.

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

These amendments are intended to implement Iowa Code section 135C.14.

These amendments shall become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subparagraph **58.19(1)"n"(8)**:

(8) Sufficient fluid intake to maintain proper hydration and health; (I, II, III)

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

ITEM 2. Rescind rule 481—58.24(135C) and adopt the following new rule in lieu thereof:

481—58.24(135C) Dietary.

58.24(1) Organization of dietetic services. The facility shall meet the needs of the residents and provide the services listed in this standard. If a service is contracted out, the contractor shall meet the same standard. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

a. There shall be written policies and procedures for dietetic services that include staffing, nutrition, menu planning, therapeutic diets, preparation, food service, ordering, receiving, storage, sanitation, and staff hygiene. The policies and procedures shall be made available for use by dietetic services. (III)

b. There shall be written job descriptions for each position in dietetic services. The job descriptions shall be made available for use by dietetic services. (III)

58.24(2) Dietary staffing.

a. The facility shall employ a qualified dietary supervisor who:

(1) Is a qualified dietitian as defined in 58.24(2) "f"; or

(2) Is a graduate of a dietetic technician training program approved by the Academy of Nutrition and Dietetics; or

(3) Is a certified dietary manager certified by the certifying board for dietary managers of the Association of Nutrition and Foodservice Professionals and maintains that credential through 45 hours of ANFP-approved continuing education; or

(4) Has completed an ANFP-approved course curriculum necessary to take the certification examination required to become a certified dietary manager; or

(5) Has documented evidence of at least two years' satisfactory work experience in food service supervision and who is in an approved dietary manager association program and will successfully complete the program within 24 months of the date of enrollment; or

(6) Has completed the 90-hour training course approved by the department and is a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program. (II, III)

b. The supervisor shall have overall supervisory responsibility for dietetic services and shall be employed for a sufficient number of hours to complete management responsibilities that include:

(1) Participating in regular conferences with the consultant dietitian, the administrator and other department heads; (III)

(2) Writing menus with consultation from the dietitian and seeing that current menus are posted and followed and that menu changes are recorded; (III)

(3) Establishing and maintaining standards for food preparation and service; (II, III)

(4) Participating in selection, orientation, and in-service training of dietary personnel; (II, III)

(5) Supervising activities of dietary personnel; (II, III)

(6) Maintaining up-to-date records of residents identified by name, location and diet order; (III)

(7) Visiting residents to learn individual needs and communicating with other members of the health care team regarding nutritional needs of residents when necessary; (II, III)

(8) Keeping records of repairs of equipment in dietetic services. (III)

c. A minimum of one person with supervisory and management responsibility and the authority to direct and control food preparation and service shall be a certified food protection manager who has received training from and passed a test that is part of an American National Standards Institute (ANSI)-accredited Certified Food Protection Manager Program.

d. The facility shall employ sufficient supportive personnel to carry out the following functions:

(1) Preparing and serving adequate amounts of food that are handled in a manner to be bacteriologically safe; (II, III)

(2) Washing and sanitizing dishes, pots, pans and equipment at temperatures required by procedures described in the Food Code as defined in Iowa Code section 137F.2; (II, III)

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

(3) Serving therapeutic diets as prescribed by the physician and following the planned menu. (II, III)

e. The facility may assign simultaneous duties in the kitchen and laundry, housekeeping, or nursing service to appropriately trained personnel. Proper sanitary and personal hygiene procedures shall be followed as outlined under the rules pertaining to staff hygiene. (II, III)

f. If the dietetic service supervisor is not a licensed dietitian, a consultant dietitian is required. The consultant dietitian shall be licensed by the state of Iowa pursuant to Iowa Code chapter 152A.

g. Consultants' visits shall be scheduled to be of sufficient duration and at a time convenient to:

(1) Record, in the resident's medical record, any observations, assessments and information pertinent to medical nutrition therapy; (I, II, III)

(2) Work with residents and staff on resident care plans; (III)

(3) Consult with the administrator and others on developing and implementing policies and procedures; (III)

(4) Write or approve general and therapeutic menus; (III)

(5) Work with the dietetic supervisor on developing procedures, recipes and other management tools; (III)

(6) Present planned in-service training and staff development for food service employees and others. Documentation of consultation shall be available for review in the facility by the department. (III)

h. In facilities licensed for more than 15 beds, dietetic services shall be available for a minimum of a 12-hour span extending from the time of preparation of breakfast through supper. (III)

58.24(3) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of each resident in accordance with the physician's orders and in consideration of the resident's choices and preferences. (II, III)

b. Menus shall be planned to provide 100 percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. A current copy of the Simplified Diet Manual or other suitable diet manual shall be available and used in the planning and serving of all meals. (II)

c. At least three meals or their equivalent shall be served daily at regular hours. (II)

(1) There shall be no more than a 14-hour span between a substantial evening meal and breakfast except as provided in subparagraph (3) below. (II, III)

(2) The facility shall offer snacks at bedtime daily. (II, III)

(3) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast of the following day. The current resident group must agree to this meal span and a nourishing snack must be served. (II)

d. Menus shall include a variety of foods prepared in various ways. (III)

e. Menus shall be written at least one week in advance. The current menu shall be located in an accessible place in the dietetic services department for easy use by persons purchasing, preparing and serving food. (III)

f. Records of menus as served shall be filed and maintained for 30 days and shall be available for review by department personnel. When substitutions are necessary, they shall be of similar nutritive value and recorded. (III)

g. A file of tested recipes adjusted to the number of people to be served in the facility shall be maintained. (III)

h. Alternate foods shall be offered to residents who refuse the food served. (II, III)

58.24(4) Therapeutic diets and nutritional status.

a. The facility shall ensure that each resident has a nutritional assessment completed by the licensed dietitian within 14 days of admission that addresses the residents' medical condition and therapeutic dietary needs, desires and rights in regard to their nutritional plan. (I, II, III)

b. Therapeutic diets shall be prescribed by the resident's physician. A current edition of the Simplified Diet Manual or other suitable diet manual shall be readily available to physicians, nurses

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

and dietetic services personnel. A current diet manual shall be used as a guide for writing menus for therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food. (II, III)

c. Personnel responsible for planning, preparing and serving therapeutic diets shall receive instructions on those diets. (II, III)

d. The facility shall ensure that each resident maintains acceptable parameters of nutritional status, such as body weight, unless the resident's clinical condition demonstrates that this is not possible. (I, II, III)

58.24(5) Food handling, preparation and service. All food shall be handled, prepared and served in compliance with the requirements of the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2. (I, II, III) In addition, the following shall apply.

a. Methods used to prepare foods shall be those which conserve nutritive value and flavor and meet the taste preferences of the residents. (III)

b. Foods shall be attractively served. (III)

c. Foods shall be cut up, chopped, ground or blended to meet individual needs. (I, II, III)

d. Self-help devices shall be provided as needed. (II, III)

e. Disposables shall not be used routinely. Plasticware, china and glassware that are unsightly, unsanitary or hazardous because of chips, cracks or loss of glaze shall be discarded. (II, III)

f. All food that is transported through public corridors shall be covered. (III)

g. Residents may be allowed in the food preparation area. (III)

h. The food preparation area may be used as a dining area for residents, staff or food service personnel if the facility engages in person-directed care. (III)

i. There shall be effective written procedures established for cleaning all work and serving areas. (III)

j. A schedule of cleaning duties to be performed daily shall be posted. (III)

k. An exhaust system and hood shall be clean, operational and maintained in good repair. (III)

l. The food service area shall be located so it will not be used as a passageway by residents, guests or non-food service staff. (III)

58.24(6) Paid nutritional assistants. A paid nutritional assistant means an individual who meets the requirements of this subrule and who is an employee of the facility or an employee of a temporary employment agency employed by the facility. A facility may use an individual working in the facility as a paid nutritional assistant only if that individual has successfully completed a state-approved training program for paid nutritional assistants. (I, II, III)

a. *Training program requirements.*

(1) A state-approved training program for paid nutritional assistants must include, at a minimum, eight hours of training in the following areas:

1. Feeding techniques.

2. Assistance with feeding and hydration.

3. Communication and interpersonal skills.

4. Appropriate responses to resident behavior.

5. Safety and emergency procedures, including the Heimlich maneuver.

6. Infection control.

7. Resident rights.

8. Recognizing changes in residents that are inconsistent with their normal behavior and reporting these changes to the supervisory nurse.

(2) In addition to the training program requirements specified in subparagraph (1), the training program must include at least four hours of classroom study, two hours of supervised laboratory work, and two hours of supervised clinical experience.

(3) A facility that offers a paid nutritional assistant training program must provide sufficient supplies in order to teach the objectives of the course.

(4) All paid nutritional assistant training program instructors shall be registered nurses. Other qualified health care professionals may assist the instructor in teaching the classroom portion and clinical

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

or laboratory experience. The ratio of students to instructor shall not exceed ten students per instructor in the clinical setting.

(5) Each individual enrolled in a paid nutritional assistant training program shall complete a 50-question multiple choice written test and must obtain a score of 80 percent or higher. In addition, the individual must successfully perform the feeding of a resident in a clinical setting. A registered nurse shall conduct the final competency determination.

(6) If an individual does not pass either the written test or competency demonstration, the individual may retest the failed portion a second time. If the individual does not pass either the written test or competency demonstration portion the second time, the individual shall not be allowed to retest.

b. Program approval. A facility or other entity may not offer or teach a paid nutritional assistant training program until the department has approved the program. Individuals trained in a program not approved by the department will not be allowed to function as paid nutritional assistants.

(1) A facility or other institution offering a paid nutritional assistant training program must provide the following information about the training program to the department before offering the program or teaching paid nutritional assistants:

1. Policies and procedures for program administration.
2. Qualifications of the instructors.
3. Maintenance of program records, including attendance records.
4. Criteria for determining competency.
5. Program costs and refund policies.
6. Lesson plans, including the objectives to be taught, skills demonstrations, assignments, quizzes, and classroom, laboratory and clinical hours.

(2) The facility or other institution offering a paid nutritional assistant training program must submit the materials specified in subparagraph (1) for department review. The department shall, within ten days of receipt of the material, advise the facility or institution whether the program is approved, or request additional information to assist the department in determining whether the curriculum meets the requirements for a paid nutritional assistant training program. Before approving any paid nutritional assistant training program, the department shall determine whether the curriculum meets the requirements specified in this subrule. The department shall maintain a list of facilities and institutions eligible to provide paid nutritional assistant training. (I, II, III)

(3) A facility shall maintain a record of all individuals who have successfully completed the required training program and are used by the facility as paid nutritional assistants. The individual shall complete the training program with a demonstration of knowledge and competency skills necessary to serve as a paid nutritional assistant. (I, II, III)

(4) The facility or other institution providing the training shall, within ten calendar days of an individual's successful completion of the training program, provide the individual with a signed and dated certificate of completion. A facility that employs paid nutritional assistants shall maintain on file copies of the completed certificate and skills checklist for each individual who has successfully completed the training program. (I, II, III)

c. Working restrictions.

(1) A paid nutritional assistant must work under the supervision of a registered nurse or a licensed practical nurse. In an emergency, a paid nutritional assistant must call a supervisory nurse on the resident call system for help. (I, II, III)

(2) A facility must ensure that a paid nutritional assistant feeds only residents who have no complicated feeding problems. Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube, parenteral or intravenous feedings. The facility must

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

base resident selection on the charge nurse's assessment and the resident's latest assessment and plan of care. (I, II, III)

[Filed 5/13/16, effective 7/13/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2561C**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.39, 481A.134, 481A.135, 483A.27, and 483A.27A, the Natural Resource Commission (Commission) hereby amends Chapter 15, "General License Regulations," Iowa Administrative Code.

The Commission amends Chapter 15 to implement the new hunter apprentice program created by the passage of 2015 Iowa Acts, Senate File 392, signed by Governor Branstad on April 8, 2015, and to make other minor amendments, as follows:

1. 2015 Iowa Acts, Senate File 392, established an apprentice hunting license that will be available for interested persons 16 years of age or older. This program allows an eligible person to purchase, up to two times, a hunting license without having completed the hunter education program. 2015 Iowa Acts, Senate File 392, also changed the name of the "hunter safety and ethics education program" to the "hunter education program" to align with a national rebranding effort underway. This rule making adopts and implements these legislative changes (see rules 567—15.27(483A), 567—15.41(483A), and 567—15.42(483A));

2. A reference to Iowa Code chapter 456A is added to the list of chapters for which disposition reports are required (see subrule 15.16(2));

3. The definition of multiple offender included in the introductory paragraph to subrule 15.16(3) is stricken because "multiple offender" is already a defined term in subrule 15.16(1);

4. Paddlefish are added to the license conviction point list contained in subrule 15.16(3) due to the creation of a paddlefish season in Iowa Code section 483A.6A;

5. The type of broadhead for use with crossbows during the regular bow season is updated to be the same type as that required for archery equipment during the late muzzleloader deer season as found in 571—Chapter 106 (see subrule 15.22(5));

6. Subrule 15.42(2) is stricken so that the chapter accurately reflects the statutory parameters of the program as contained in Iowa Code section 483A.27(2); namely, that although individuals typically must complete the hunter education course, pass the test, and demonstrate safe handling of a firearm, demonstration of safe handling of a firearm is optional for residents 18 years of age or older; and

7. Rule 571—15.43(321G,462A,483A) is rescinded because the requirements of this rule are also found in 571—Chapter 12 and are therefore duplicative and unnecessary.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 30, 2016, as **ARC 2478C**. The Commission accepted public comment through April 20, 2016, the same day on which a public hearing was held. No comments were received, and no one attended the public hearing. Accordingly, no changes have been made from the Notice.

These amendments will have a positive impact on jobs in this state. The Commission is anticipating increased license sales due to the hunter apprentice program, which will likely result in positive economic benefits to the following businesses that rely on outdoor recreation: hunting equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

These amendments are intended to implement Iowa Code chapters 456A, 481A, and 483A.

These amendments shall become effective July 13, 2016.

NATURAL RESOURCE COMMISSION[571](cont'd)

The following amendments are adopted.

ITEM 1. Amend subrule 15.16(2), introductory paragraph, as follows:

15.16(2) Record-keeping procedures. For the purpose of administering this rule, it shall be the responsibility of the clerk of district court for each county to deliver, on a weekly basis, disposition reports of each charge filed under Iowa Code chapters 456A, 481A, 481B, 482, 483A, 484A, 484B, and 716 to the department. Dispositions and orders of the court of all cases filed on the chapters listed in this subrule shall be sent to the department regardless of the jurisdiction or the department of the initiating officer.

ITEM 2. Amend subrule 15.16(3) as follows:

15.16(3) Point values assigned to convictions. ~~For the purposes of defining a multiple offender, the person shall be classified as a multiple offender when the person equals or exceeds a total of five points during a consecutive three-year period using the values attached to the following offenses. Point values for convictions shall be assessed as stated in this subrule.~~ Multiple citations and convictions of the same offense will be added as separate convictions:

a. Convictions of the following offenses shall have a point value of three ~~attached to them~~:

(1) to (10) No change.

(11) The unlawful taking of any fish, game, or fur-bearing animal ~~by illegal methods~~.

(12) to (20) No change.

(21) Violation of Iowa Code ~~section~~ sections 483A.27(7) and 483A.27A.

(22) Any violation of Iowa Code ~~Supplement~~ section 716.8 as amended by 2008 Iowa Acts, House File 2612, section 21, while hunting deer.

b. Convictions of the following offenses shall have a point value of two ~~attached to them~~:

(1) to (7) No change.

(8) No valid resident license relating to deer, ~~or~~ turkey, or paddlefish.

(9) to (15) No change.

(16) Attempting to unlawfully take any fish, game, or fur-bearing animals ~~by illegal methods~~.

(17) to (20) No change.

(21) Failure to tag deer, ~~or~~ turkey, or paddlefish.

(22) to (24) No change.

c. All other convictions of provisions in Iowa Code chapters 481A, 481B, 482, 483A, 484A, and 484B shall have a point value of one ~~attached to them~~.

ITEM 3. Amend subrule 15.22(5) as follows:

15.22(5) Restrictions. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer or turkey. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead ~~with at least three blades~~.

ITEM 4. Adopt the following new rule 571—15.27(483A):

571—15.27(483A) Apprentice hunter designation.

15.27(1) A person who is 16 years of age or older and meets all the requirements of Iowa Code section 483A.27A may purchase, up to two times, a hunting license with an apprentice hunter designation on the license without first completing a hunter education course.

15.27(2) A hunting license with an apprentice hunter designation issued pursuant to Iowa Code section 483A.27A is valid from the date issued to January 10 of the succeeding calendar year.

ITEM 5. Amend rule 571—15.41(483A), introductory paragraph, as follows:

571—15.41(483A) Hunter safety and ethics education program. This division clarifies the term “hunting license” as used in Iowa Code section 483A.27 in relation to the hunter ~~safety and ethics~~ education course requirement, clarifies the need for exhibiting a hunter ~~safety and ethics~~ education course certificate when applying for a deer or wild turkey license, and explains the requirements for individuals who wish to demonstrate their knowledge of hunter ~~safety and ethics~~ education so as to be

NATURAL RESOURCE COMMISSION[571](cont'd)

eligible to qualify for purchase of an Iowa hunting license. For the purpose of this division, a hunting license, pursuant to Iowa Code sections 483A.1 and 483A.24, includes:

ITEM 6. Amend rule 571—15.42(483A) as follows:

571—15.42(483A) Testing procedures.

15.42(1) General testing procedures.

a. Upon completion of the required curriculum, each person shall score a minimum of 75 percent on the written or oral test provided by the department and demonstrate safe handling of a firearm. Based on the results of the written or oral test and demonstrated firearm safe handling techniques as prescribed by the department, the volunteer instructor shall determine the persons who shall be issued a certificate of completion.

b. Notwithstanding paragraph 15.42(1)“a” above, a resident who is 18 years of age or older may obtain a certificate of completion without demonstrating the safe handling of a firearm.

~~15.42(2) Special testing out provisions. Any person born after January 1, 1972, who does not complete the required ten-hour hunter safety and ethics course (as described in Iowa Code section 483A.27, subsection (1)), must meet the following requirements to be eligible to purchase an Iowa hunting license:~~

~~*a.* To comply with Iowa Code section 483A.27, subsection (5), an individual must pass a written examination compiled by the department of natural resources under the direct supervision of a state conservation officer or certified hunter safety instructor.~~

~~*b.* If the applicant does not pass the examination by a score of 95 percent or more, the applicant must then wait seven days to take the examination again.~~

~~*c.* If the applicant does not pass the second examination with a score of 95 percent or more, the applicant must successfully complete the ten-hour safety and ethics course to obtain a certificate of completion (as described in Iowa Code section 483A.27, subsection (2)).~~

~~15.42(3) 15.42(2) Exemptions. The following groups of individuals do not need hunting licenses and therefore do not need to satisfactorily complete a hunter safety and ethics education course:~~

~~*a.* and *b.* No change.~~

~~15.42(4) 15.42(3) Deer and wild turkey license applications. Individuals are not required to exhibit a certificate showing satisfactory completion of a hunter safety and ethics education course only when applying for a deer or wild turkey license.~~

ITEM 7. Rescind and reserve rule **571—15.43(321G,462A,483A)**.

[Filed 5/16/16, effective 7/13/16]

[Published 6/8/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2559C

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 20, “Compounding Practices,” Iowa Administrative Code.

The amendments define the term “office use” as it relates to compounded drug products that are distributed to a qualified practitioner for administration to the practitioner’s patient in the course of the practitioner’s professional practice. The amendments also clarify that a practitioner receiving a compounded product for office use is not restricted to administration of the product to the practitioner’s patient within the brick-and-mortar confines of the practitioner’s office. If the practitioner’s practice is not confined by office walls, the practitioner may administer to a patient a product distributed to the

PHARMACY BOARD[657](cont'd)

practitioner for office use if the administration occurs in the course of the practitioner's professional practice.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the February 17, 2016, Iowa Administrative Bulletin as **ARC 2418C**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the May 4, 2016, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code sections 124.303, 124.306, 124.308, 126.9, 126.10, 155A.2, 155A.13, 155A.28, and 155A.35.

These amendments will become effective on July 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition of "Office use" in rule **657—20.2(124,126,155A)**:

"*Office use*" means that a compounded product has been prepared and distributed to a practitioner for administration to a patient by the practitioner in the course of the practitioner's professional practice. A compounded product distributed to a practitioner for "office use" shall not require a patient-specific prescription and may not be further distributed to another practitioner or dispensed to a patient for self-administration.

ITEM 2. Amend rule 657—20.15(124,126,155A) as follows:

657—20.15(124,126,155A) Compounding for office use.

20.15(1) Human compounded preparations. Only an FDA-registered outsourcing facility properly licensed in Iowa may distribute to a practitioner for office use human compounded preparations without a patient-specific prescription.

20.15(2) Veterinary compounded preparations. Veterinary compounded preparations may be sold to a practitioner for office use if compounded by an Iowa-licensed pharmacy and sold directly to the practitioner by the compounding pharmacy.

20.15(3) Office ~~administration~~ use. Compounded preparations distributed for office use pursuant to subrule 20.15(1) or 20.15(2) and in accordance with the labeling requirements of subrule 20.15(4) do not require a patient-specific prescription but do require that the compounded preparation be administered to ~~an individual~~ a patient in the course of the practitioner's office professional practice. Compounded preparations distributed for office use pursuant to this rule shall not be further distributed to other practitioners or dispensed to ~~patients for administration outside of the office~~ a patient for self-administration.

20.15(4) Labeling. Compounded preparations for office use, in addition to the labeling requirements specified in rule 657—20.19(124,126,155A), shall include on the prescription label the practitioner's name in place of the patient's name. The label shall state "For Office Use Only—Not for Resale." If the sterility or integrity of the compounded preparation cannot be maintained after the initial opening of the container, the label shall state "Single-Dose Only."

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ARC 2562C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 10, "Iowa Get Screened Colorectal Cancer Program," Iowa Administrative Code.

These amendments remove references to the Centers for Disease Control and Prevention (CDC), its screening guidelines, and data requirements. This change is the result of a change in funding priority made by the CDC for the five-year period beginning June 30, 2015. This funding change also removed the requirement of the Medical Advisory Board (MAB), and these amendments remove reference to the MAB and its associated definitions. The amendments change the program's screening eligibility requirements for income levels up to 300 percent of the federal poverty level (FPL) from 250 percent of the FPL and for the screening age from 64 years of age to 75 years of age to encourage access to services. The amendments remove references to IowaCare and replace them with references to the health insurance marketplace and Medicaid. The amendments allow for contractor calls instead of site visits for the provision of technical assistance and evaluations. The amendments also remove requirements to reflect current programming, such as professional development, in-reach at Federally Qualified Health Centers, and coalition development.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2446C** on March 16, 2016. A public hearing was held on April 5, 2016.

Two comments were received from the American Cancer Society's Cancer Action Network. The first comment related to language regarding in-reach that was struck from renumbered subrule 10.3(6). The commenter noted that it is important for the Iowa Get Screened Program to continue to have an in-reach process in place. No changes were made to the amendments based on this comment. In-reach is a method that will continue to be used for recruitment of participants. The language in the referenced subrule pertains only to in-reach targeted at Federally Qualified Health Centers. The second comment supported raising the eligibility requirements of the program to help ensure access to services.

These amendments are identical to those published under Notice of Intended Action.

The Department adopted these amendments on May 11, 2016.

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

These amendments are intended to implement Iowa Code section 135.11 and 2015 Iowa Acts, Senate File 505, section 3(3h).

These amendments will become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 641—10.1(135) as follows:

641—10.1(135) Purpose. The Iowa get screened (IGS): colorectal cancer program ~~was established in 2009 through a cooperative agreement with the Centers for Disease Control and Prevention and~~ is administered by the department. The goal of the IGS program is to reduce the incidence, mortality and prevalence of colorectal cancer in Iowa by increasing the number of men and women who receive colorectal cancer screenings. Through the program, fecal immunochemical tests (FITs) and colonoscopies ~~will be~~ are provided to eligible Iowans. Along with providing screenings, the program also facilitates supportive services and referral for diagnosis and treatment to Iowans with abnormal screening results. Iowans who are eligible to enter the program must be 50 to ~~64~~ 75 years of age, be underinsured or uninsured, have incomes of up to ~~250~~ 300 percent of the federal poverty level (FPL) and have an average or increased risk for developing colorectal cancer.

ITEM 2. Amend the following definitions in rule **641—10.2(135)**:

"Colorectal cancer data elements" or *"CCDE"* means a set of standardized data elements ~~developed by the Centers for Disease Control and Prevention, Division of Cancer Prevention and Control,~~ used to ensure that consistent and complete information is collected on participants whose screening or diagnosis was paid for through the IGS program with ~~federal~~ state funding.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“Eligibility criteria” means a set of questions that a potential participant is asked to ensure the participant meets program qualifying standards including targeted age, income guidelines, level of risk for colorectal cancer and screening determination guidelines. Qualifying standards ~~are outlined in the CDC’s Colorectal Control Cancer Program Policies and Procedures~~ and are based on recommendations from the United States Preventive Services Task Force (USPSTF).

“In-reach” means the method that will be used in the local program to recruit participants. In-reach targets existing clients through the Iowa care for yourself program ~~and federally qualified health centers.~~

“Iowa get screened: colorectal cancer program” or *“IGS program”* means the state program which provides limited screening services to eligible Iowans and funded through the federal Colorectal Cancer Control Program (CRCCP). ~~This program requires policy and systems change, public education and awareness and limited screening activities. The IGS program has been made possible in Iowa through a cooperative agreement awarded to the department through the competitive bid grants procurement process by the United States Department of Health and Human Services, Division of the Centers for Disease Control and Prevention.~~

“Polyp” means a growth from a mucous membrane commonly found in organs such as the colon and rectum, the uterus and the nose. Certain types of polyps, such as adenomas, may develop into cancer.

“Underinsured” means an individual with income at ~~250~~ 300 percent of the federal poverty guideline or lower with health insurance that has unreasonably high copayments, deductibles or coinsurance.

ITEM 3. Rescind the definitions of “Federally qualified health center,” “Medical advisory board” and “Radiologist” in rule **641—10.2(135)**.

ITEM 4. Amend subparagraph **10.3(2)“a”(2)** as follows:

(2) Colonoscopy every 10 years from initial screen or as prescribed by a physician ~~for surveillance~~ in accordance with USPSTF recommendations;

ITEM 5. Amend subparagraph **10.3(2)“b”(4)** as follows:

(4) Surgery or surgical staging, ~~unless specifically required and approved by the IGS program’s MAB to provide a histological diagnosis of cancer;~~

ITEM 6. Amend subparagraph **10.3(2)“b”(11)** as follows:

(11) Use of propofol as anesthesia during endoscopy, unless specifically required and approved by the IGS ~~program’s MAB~~ program in cases where the participant cannot be sedated with standard moderate sedation; and

ITEM 7. Amend paragraphs **10.3(5)“e”** to **“i”** as follows:

e. Accurate data collection and documentation.

~~(1) Colorectal cancer data elements (CCDEs) are reported to CDC semiannually by the department.~~

~~(2) Site visits Contractor calls are conducted at local program sites with staff to provide technical assistance, give feedback on program performance, evaluate case management process and if needed conduct a walk-through of current services to provide feedback.~~

f. Evaluation Program evaluation. ~~Workplans shall be reviewed and surveys conducted in the community and with program partners. Reports on progress and face-to-face meetings shall be conducted routinely and on an as-needed basis to assess how the IGS program is meeting CDC program objectives.~~

~~*g.* Process improvement and systems change activities.~~

~~*h.* Adherence to CDC policies and guidelines.~~

~~*i.* Approval and utilization of additions to the local program allowable procedures list.~~

ITEM 8. Amend subrules 10.3(6) to 10.3(10) as follows:

~~**10.3(6)** Professional development shall be provided by the IGS program and contracted local program staff through a variety of channels including educational activities that enable professionals to perform their jobs competently, to identify needs and resources, and to ensure that health care delivery systems provide appropriate clinical outcomes for colorectal cancer screening services.~~

~~**10.3(7)**~~ **10.3(6)** The IGS program and contracted local program staff shall provide in-reach education and recruitment that involve the systematic design and delivery of clear and consistent messages about colorectal cancer (CRC) and the benefits of early detection using a variety of methods

PUBLIC HEALTH DEPARTMENT[641](cont'd)

and strategies. In-reach activities shall focus on men and women who have never or rarely been screened for CRC and shall work toward the removal of barriers to care screening (e.g., ~~by providing respite care, interpreter services and transportation~~) through collaborative activities with other community organizations. ~~In-reach shall be targeted toward the participants already being served through the IA-CFY program and patients at FQHCs. Public education and outreach activities for community awareness of CRC are supported and mandatory for the project.~~

~~10.3(8)~~ The IGS program may develop coalitions and partnerships to establish a common agreement for sharing resources and responsibilities to achieve the common goal of reducing colorectal cancer mortality.

~~10.3(9)~~ 10.3(7) The IGS program shall conduct surveillance utilizing continuous, proactive, timely and systematic collection, analysis, interpretation and dissemination of colorectal cancer screening prevalence, survival and mortality rates. Studies shall be conducted utilizing minimum data elements and other data sources to establish trends of disease, diagnosis, treatment, and research needs. IGS program planning, implementation and evaluation shall be based on the data.

~~10.3(10)~~ 10.3(8) Evaluation ~~by the IGS program evaluator~~ shall be conducted through documentation of services, operation processes at the state and local program levels and outcomes of the IGS program. ~~The evaluation shall include face-to-face interviews with state and local IGS program staff involved in IGS program delivery. IGS program evaluation shall include suggestions to help IGS and local program staff meet the recommendations as set in the CRCCP program manual. Recommendations shall then be incorporated into the program workplan by the state staff.~~

ITEM 9. Rescind and reserve rule 641—10.4(135).

ITEM 10. Amend rule 641—10.5(135) as follows:

641—10.5(135) Participant eligibility criteria. An applicant for the IGS program must satisfy the criteria outlined in this rule. If an applicant does not meet these criteria, the applicant shall be provided information by contracted local program staff regarding IowaCare, free care the health insurance marketplace, Medicaid or sliding-fee clinics available in the area in which the applicant lives.

10.5(1) Age. Individuals 50 through ~~64~~ 75 years of age shall be the target population to receive colorectal cancer screening.

10.5(2) Income.

a. The IGS program income guidelines are based upon ~~250~~ 300 percent of the federal poverty level (FPL), which is set annually by the Centers for Medicare and Medicaid Services (CMS). New IGS program income guidelines will be adjusted following any change in CMS guidelines.

b. Self-declaration of income may be accepted.

c. Eligibility shall be based on net income for the household.

d. Assets shall not affect income status and shall not be counted when eligibility under the IGS program is determined.

10.5(3) Insurance.

a. The IGS program shall determine individuals to be uninsured if they do not have health insurance coverage.

b. The IGS program shall determine individuals to be underinsured if they have health insurance with unreasonably high copayments, deductibles or coinsurance or the insurance does not cover the IGS program's covered services.

c. Individuals who have Medicaid or Medicare Part B are not eligible. ~~Individuals who have IowaCare, Medicaid with spend-down, or Iowa family planning network may be eligible.~~

10.5(4) Residency.

a. Individuals must reside in the state of Iowa.

b. Individuals shall have an established address and contact information as needed for program staff to provide screening results, rescreens, and follow-up services.

10.5(5) Risk level. Individuals with an average or increased risk for developing colorectal cancer as defined by the recommendations of the USPSTF may qualify for IGS program services.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

10.5(6) Ineligible. The IGS program does not provide coverage for:

- a. Individuals with Medicare Part B coverage.
- b. Individuals 49 years of age and younger.
- c. Individuals ~~65~~ 76 years of age and older.
- d. Individuals who do not have a primary care provider.
- e. Individuals at high risk for developing colorectal cancer. Individuals at high risk include:
 - (1) A genetic diagnosis of familial adenomatous polyposis (FAP) or hereditary nonpolyposis colorectal cancer (HNPCC),
 - (2) A clinical diagnosis or suspicion of FAP or HNPCC, or
 - (3) A history of inflammatory bowel disease (ulcerative colitis or Crohn's disease).
- f. Individuals experiencing the following gastrointestinal symptoms:
 - (1) Rectal bleeding, bloody diarrhea, or very dark blood in the stool within the past six months;
 - (2) Prolonged change in bowel habits;
 - (3) Persistent/ongoing abdominal pain;
 - (4) Recurring symptoms of bowel obstruction; or
 - (5) Significant unintentional weight loss.

ITEM 11. Amend subrule 10.7(1) as follows:

10.7(1) In the event the IGS program director certifies that there are inadequate funds to meet participants' needs, either attributable to a reduction in federal funding ~~from the CDC~~ or to a projected enrollment of participants in excess of anticipated enrollment, the program director may restrict new applicants' participation in the IGS program. First priority shall be given to individuals who have never been screened for CRC.

ITEM 12. Amend rule 641—10.9(135) as follows:

641—10.9(135) Colorectal cancer treatment. The IGS program does not pay for colorectal cancer treatment services. ~~A participant will be assisted with enrolling in the IowaCare program, in the event treatment services are needed.~~ If a participant needs treatment, the local program coordinator will refer the participant to an American Cancer Society patient navigator to identify and coordinate resources for the participant who may require physical, emotional, financial or other support through the cancer journey. The patient navigator and IGS program staff will work together to assist a participant needing treatment. It is an expectation of the cooperative agreement that a participant gets help obtaining treatment services free or at an affordable cost based on the participant's annual income and ability to pay for the services.

ITEM 13. Amend **641—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~sections~~ section 135.11(1) and ~~135.39 and 42~~ U.S.C. Section 241(a), as amended 2015 Iowa Acts, Senate File 505, section 3(3h).

[Filed 5/17/16, effective 7/13/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2563C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11(26), the Department of Public Health hereby amends Chapter 24, "Private Well Testing, Reconstruction, and Plugging—Grants to Counties," Iowa Administrative Code.

The following paragraphs summarize the amendments:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Item 1 adds language for the Department to be able to reallocate funds that are not being spent. This change was made due to a request from the Legislature in 2015 to better utilize these funds. All counties participating in the grant program will receive an original appropriation, and only those counties that demonstrate an underutilization of funding (based on current and historical practices) will receive a midcontract reduction in funding. Midyear reallocations will allow for a more effective and complete use of funding for private well services while at the same time direct funding to areas of Iowa that have demonstrated a need for additional funding.

Item 2 clarifies training, training reimbursement, and the costs that will be reimbursed to the well owner, cistern owner and the county.

Item 3 allows the Department to receive the 28E agreements between counties that have multicounty applications.

Item 4 rescinds the rule pertaining to record-keeping and retention requirements because these requirements are outlined in the general conditions of the contract.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2461C** on March 16, 2016. A public hearing was held on April 5, 2016. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

The Department adopted these amendments on May 11, 2016.

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

These amendments are intended to implement Iowa Code sections 455E.11 and 135.11(26).

These amendments will become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 24.4(2) as follows:

24.4(2) Allocation of funds.

a. During each fiscal year, the amount granted each eligible applicant shall be the total funds available as defined in Iowa Code section 455E.11 divided by the number of eligible counties applying.

b. The department will annually determine the potential for unused funds from contracts. If funds are available, reallocation of the funds to eligible counties for grant purposes shall be at the discretion of the department.

ITEM 2. Amend rule 641—24.5(135) as follows:

641—24.5(135) Eligible grant costs. The following are annual eligible costs for which the department will reimburse participating counties:

24.5(1) ~~Up~~ Actual costs up to \$1,000 will be paid to the participating county for private water well-related training expenses, including registration, mileage, and per diem lodging, and meals for employees attending department-approved trainings. Training approval is granted to water well-related training sponsored by the department, the Iowa Environmental Health Association, the Iowa Public Health Association, the Iowa Water Well Association, the Iowa department of natural resources, or the Iowa Ground Water Association. The annual conference sponsored by the Iowa Onsite Waste Water Association is also approved. Other trainings must receive approval of the department before a voucher for expenses is submitted.

24.5(2) ~~Up~~ Actual costs up to \$500 will be paid to the participating county for supplies related to the grants to counties program. Eligible supplies include, but are not limited to, Global Positioning System (GPS) units, private water well data software, inspection supplies, cameras, and sampling equipment.

24.5(3) ~~Up~~ Actual costs up to \$1,000 will be paid to the participating county for advertising and promotional expenses to educate county residents about the availability of funds for private water well testing, abandoned well plugging, and private water well reconstruction.

24.5(4) Actual costs will be paid to the participating county for each private water well test conducted under the program, including \$60 for administrative expenses. At a minimum, well sampling shall include analyses for total nitrate (including nitrite) and total coliform bacteria. Optional analyses may also include arsenic.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

24.5(5) ~~Up~~ The total maximum reimbursement to the county for a well plugging is \$575. Actual costs up to \$575 \$500 will be paid for each abandoned private water well plugging conducted in accordance with 567—Chapter 39, including \$75 for administrative expenses. The county shall directly reimburse these costs to the well owner. An administrative expense of \$75 shall be retained by the participating county. Private water well plugging must be conducted by a certified individual as defined in 567—Chapter 82 or by the well owner under direct supervision by the county.

24.5(6) ~~Up~~ The total maximum reimbursement to the county for a cistern plugging is \$375. Actual costs up to \$375 \$300 will be paid for each cistern plugging but only for those cisterns deemed by the administrative authority to impact groundwater, including \$75 for administrative expenses. The county shall directly reimburse these costs to the cistern owner. An administrative expense of \$75 shall be retained by the participating county. Cistern plugging must be conducted by a certified individual as defined in 567—Chapter 82 or by the well owner under direct supervision by the county.

24.5(7) ~~Up~~ The total maximum reimbursement to the county for a well reconstruction is \$1,330. Actual costs up to \$1,000 in reconstruction costs plus will be paid for each reconstruction. The county shall directly reimburse these costs to the well owner. An administrative expense of 33 percent of the actual reconstruction costs for administrative purposes will be paid for each private water well reconstruction will be retained by the participating county. Grant funds may be used to conduct reconstruction intended to preclude contamination due to surface water intrusion by coliform or other infectious bacteria. Examples include repairs of casing, well caps, or pitless adapters and elimination of well pits.

ITEM 3. Amend subrule 24.8(4) as follows:

24.8(4) For multicounty applications, signed Iowa Code chapter 28E agreements between each participating county and the applicant upon request from the department.

ITEM 4. Rescind and reserve rule ~~641—24.12(135)~~.

[Filed 5/17/16, effective 7/13/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2564C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code chapter 135, the Department of Public Health hereby amends Chapter 114, "Preparedness Advisory Committee," Iowa Administrative Code.

These amendments are being made to align rules associated with the councils and committees that advise the Department's Bureau of Emergency and Trauma Services. The existing rules relating to the Preparedness Advisory Committee reference Committee memberships from regions that no longer exist. These amendments clarify and update the Committee membership provisions as well as:

- Update definitions.
- Expand the purpose of the Committee to include a reference to the hospital preparedness program.
- Refine language related to absences.
- Refine the duties of Committee officers.
- Outline meeting requirements, including removing the reference to Robert's Rules of Order, defining a quorum, and updating the process used to present information to the Committee.
- Allow the Committee additional flexibility in identifying subcommittees.
- Remove the reference to gender balance and instead reference Iowa Code chapter 69 to define the Committee's composition.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The Preparedness Advisory Committee reviewed and approved the proposed amendments on January 27, 2016. Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2443C** on March 16, 2016. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

The Department adopted these amendments on May 11, 2016.

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

These amendments are intended to implement Iowa Code chapter 135.

These amendments will become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Amend rule 641—114.1(135) as follows:

641—114.1(135) Definitions. For the purpose of these rules, the following definitions shall apply:

“Chairperson” means the chairperson of the preparedness advisory committee, who has been elected by a majority of advisory committee members.

“Department” means the Iowa department of public health.

“Designee” means the individual designated by the director.

“Director” means the director of the Iowa department of public health.

“PAC” means the preparedness advisory committee.

~~*“Quorum”* means a simple majority of the voting membership of the preparedness advisory committee.~~

~~*“Regions”* means the six multicounty geographic areas of the state as identified by the preparedness advisory committee or the department to provide support services to the public health and hospital preparedness programs.~~

ITEM 2. Amend rule 641—114.2(135) as follows:

641—114.2(135) Purpose. The preparedness advisory committee (PAC) shall provide technical assistance and make recommendations for the planning and implementation of the public health emergency preparedness ~~program~~ and hospital preparedness programs for the department. The committee shall advise the department on matters of policy, plan development, funding allocations, and coordination of state, regional and local entities that are responsible for promoting and protecting the health and safety of all Iowans prior to, during, or after a public health emergency or disaster.

ITEM 3. Amend rule 641—114.3(135) as follows:

641—114.3(135) Appointment and membership.

114.3(1) The voting members of the PAC shall be appointed by the director ~~or designee as nominated by the member organizations.~~

114.3(2) The appointments shall be for three-year staggered terms, which shall expire on June 30.

114.3(3) Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

~~**114.3(4) Absences:**~~

~~*a.*—If a member is unable to attend a scheduled meeting, an alternate may be designated by the member organization to serve in the absence of the regular member.~~

~~*b.*—Three consecutive unexcused absences shall be grounds for the director or designee to request nomination of an alternate representative to fill the position.~~

~~*e.*—The chairperson of the preparedness advisory committee shall be charged with providing notification of absences to the department.~~

114.3(4) Membership. The voting membership of the PAC shall be comprised of individuals nominated from, but not limited to, the following organizations:

a. American Red Cross.

b. Indian Health Services.

c. Upper Midwest Preparedness and Emergency Response Learning Center.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

d. Three representatives identified by the Iowa Counties Public Health Association representing one small, one midsized, and one large public health agency.

e. Two representatives identified by the Iowa Environmental Health Association.

f. Iowa Emergency Management Association.

g. Iowa Emergency Medical Services Association.

h. Six representatives identified by the Iowa Hospital Association representing two rural, two regional, and two urban hospitals.

i. Iowa Medical Society.

j. Iowa Primary Care Association.

k. Iowa Nurses Association.

l. Iowa Osteopathic Medical Association.

m. Iowa Pharmacy Association.

n. Iowa Poison Control Center.

o. Three representatives identified by the Iowa Public Health Association representing one small, one midsized, and one large public health agency.

p. Iowa National Guard.

q. State hygienic laboratory.

r. Veterans Health Administration.

s. Safeguard Iowa Partnership.

t. School Administrators of Iowa.

u. A mental health association.

v. American Academy of Pediatrics.

114.3(5) The PAC may also include, as nonvoting members, representation from the following agencies:

a. The Iowa department of public health.

b. The Iowa department of human services.

c. The Iowa homeland security and emergency management department.

d. The Iowa department of natural resources.

e. The Iowa department of agriculture and land stewardship.

f. The Iowa department on aging.

g. The Iowa department of education.

114.3(6) Absences.

a. Three unexcused absences in a 12-month period shall be grounds for the director to request nomination of an alternate representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson of the PAC shall be charged with providing notification of absences to the department.

ITEM 4. Rescind rule **641—114.4(135)**.

ITEM 5. Renumber rules **641—114.5(135)** to **641—114.9(135)** as **641—114.4(135)** to **641—114.8(135)**.

ITEM 6. Amend renumbered rule 641—114.4(135) as follows:

641—114.4(135) Officers.

114.4(1) Officers of the PAC shall consist of a chairperson and a vice chairperson, who shall be elected at the first meeting of each fiscal year.

a. Officers may serve no more than three consecutive terms as chairperson or vice chairperson.

~~a.~~ ~~b.~~ Vacancies in the office of chairperson shall be filled by elevation of the vice chairperson.

~~b.~~ ~~c.~~ Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

114.4(2) Duties of officers.

a. The chairperson shall:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- (1) Preside at all meetings of the ~~advisory committee~~ PAC,
- (2) Appoint such subcommittees as deemed necessary, and
- (3) ~~Ratify~~ Designate the chairperson of each subcommittee ~~following elections.~~

b. The vice chairperson shall:

- (1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.
- (2) Perform such other duties as may be assigned by the chairperson.

ITEM 7. Amend renumbered rule 641—114.5(135) as follows:

641—114.5(135) Meetings.

114.5(1) The PAC shall establish a meeting schedule on an annual basis to conduct its business. There shall be a minimum of four meetings per year.

a. Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date unless action is required by the PAC on an emergency basis.

b. ~~A four-week notice~~ Notice given four weeks in advance is encouraged to accommodate the schedules of professional members.

114.5(2) Any PAC member who is unable to attend the meeting will notify the chairperson.

~~114.5(2) 114.5(3) Robert's Rules of Order shall govern all meetings. A majority of appointed members constitutes a quorum.~~

114.5(4) When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership shall be conducted without a quorum present.

114.5(5) Persons wishing to make a presentation to the PAC shall submit the request to the chairperson not less than 14 days prior to the meeting. Presentations may be made at the discretion of the chairperson.

114.5(6) Persons wishing to submit written materials should do so at least 14 days in advance of the scheduled meeting to ensure that PAC members have adequate time to receive and evaluate the materials.

114.5(7) The PAC may conduct meetings by electronic means pursuant to Iowa Code section 21.8.

ITEM 8. Amend renumbered rule 641—114.6(135) as follows:

641—114.6(135) Subcommittees. The PAC may designate one or more subcommittees to perform such duties as may be deemed necessary.

~~114.6(1) The PAC may designate one or more subcommittees pertinent to the priorities and activities of the public health and hospital preparedness program. Subcommittee members shall perform such duties as may be deemed necessary.~~

~~*a.* Each subcommittee shall include one voting member of the PAC.~~

~~*b.* The chairperson of each subcommittee shall be elected by the subcommittee membership and ratified by the PAC.~~

~~114.6(2) The designated subcommittees shall include but are not limited to:~~

~~*a.* Planning,~~

~~*b.* Epidemiology,~~

~~*c.* Lab,~~

~~*d.* Communications/information technology,~~

~~*e.* Risk communication, and~~

~~*f.* Education/exercises.~~

~~114.6(3) The PAC may establish ad hoc subcommittees for a specified time of duration for special projects or where special expertise is needed.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 9. Amend renumbered rule 641—114.8(135) as follows:

~~641—114.8(135) Gender balance Committee composition. All advisory committees of the department appointed by the governor, director or designee, if not otherwise provided by law, shall be gender balanced. The committee's composition shall be developed and maintained pursuant to Iowa Code chapter 69.~~

[Filed 5/17/16, effective 7/13/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2565C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 130, "Emergency Medical Services Advisory Council," Iowa Administrative Code.

These amendments are being made to align rules associated with the councils and committees that advise the Department's Bureau of Emergency and Trauma Services. The amendments:

- Update definitions.
- Clarify and update provisions pertaining to Council membership.
- Refine language related to absences.
- Refine the duties of Council officers.
- Clearly outline meeting requirements, including removing the reference to Robert's Rules of Order, defining a quorum, and updating the process used to present information to the Council.
- Remove the reference to gender balance and instead reference Iowa Code chapter 69 to define the Council's composition.

The Emergency Medical Services Advisory Council reviewed and unanimously approved the proposed amendments on January 13, 2016. Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2444C** on March 16, 2016. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

The Department adopted these amendments on May 11, 2016.

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

These amendments are intended to implement Iowa Code sections 147A.2 and 147A.3.

These amendments will become effective July 13, 2016.

The following amendments are adopted.

ITEM 1. Amend rule **641—130.1(147A)**, definitions of "Emergency medical care provider" and "Emergency medical services," as follows:

~~"Emergency medical care provider" means an individual who has been trained to provide emergency and nonemergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist, or other certification level recognized by the department before 1984 and who has been issued a certificate by the department~~ emergency medical care provider as defined in rule 641—131.1(147A).

~~"Emergency medical services" or "EMS" means an integrated medical care delivery system to provide emergency and nonemergency medical care at the scene or during out-of-hospital patient transportation in an ambulance~~ emergency medical services as defined in rule 641—131.1(147A).

ITEM 2. Amend rule 641—130.3(147A) as follows:

641—130.3(147A) Appointment and membership.

130.3(1) The EMS advisory council shall be appointed by the director.

130.3(2) The appointments shall be for three-year staggered terms, which shall expire on June 30.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

130.3(3) Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

~~130.3(2)~~ **130.3(4)** Membership of the council shall be comprised of individuals nominated from, but not limited to, the following state or national organizations:

a. One physician from each of the following organizations:

- (1) Iowa Osteopathic Medical Association.
- (2) Iowa Medical Society.
- (3) American College of Emergency Physicians.
- (4) Iowa Academy of Family Physicians.
- (5) University of Iowa Hospitals and Clinics.
- (6) American Academy of Emergency Medicine.
- (7) American Academy of Pediatrics.

b. ~~Representatives~~ A representative from each of the following organizations:

- (1) Iowa Physician Assistant Society.
- (2) EMS Education Programs Committee.
- ~~(3) Rescinded IAB 2/9/11, effective 3/16/11.~~
- (4) ~~(3)~~ Iowa Nurses Association.
- ~~(5)~~ ~~(4)~~ Iowa Hospital Association.
- ~~(6)~~ ~~(5)~~ Iowa State Association of Counties.

c. Two out-of-hospital emergency medical care providers from the Iowa ~~Firemen's~~ Firefighters Association.

d. One out-of-hospital emergency medical care provider from the Iowa Professional Firefighters.

e. Three out-of-hospital emergency medical care providers, with at least one representing volunteer EMS and one representing a private service program, from the Iowa EMS Association.

f. Two at-large volunteer emergency medical care providers.

130.3(5) Absences.

a. Three unexcused absences in a 12-month period shall be grounds for the director to request nomination of an alternative representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson shall be charged with providing notification of absences to the department.

ITEM 3. Rescind rule ~~641—130.4(147A)~~.

ITEM 4. Renumber rules ~~641—130.5(147A)~~ to ~~641—130.9(147A)~~ as ~~641—130.4(147A)~~ to ~~641—130.8(147A)~~.

ITEM 5. Amend renumbered rule ~~641—130.4(147A)~~ as follows:

~~641—130.4(147A) Officers.~~

~~130.4(1)~~ Officers of the advisory council shall be a chairperson and a vice chairperson, who shall be elected at the first meeting of each fiscal year ~~unless they are designated as officers at the time of their appointment.~~

a. Officers may serve no more than three consecutive terms as ~~an officer~~ chairperson or vice chairperson.

b. Vacancies in the office of chairperson shall be filled by the vice chairperson.

c. Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

~~130.4(2)~~ Duties of officers. ~~The chairperson shall preside at all meetings of the advisory council, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice chairperson shall perform the duties of the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all the restrictions upon the chairperson. The vice chairperson shall also perform such other duties as may be assigned by the chairperson.~~

a. The chairperson shall:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- (1) Preside at all meetings of the advisory council,
- (2) Appoint such subcommittees as deemed necessary, and
- (3) Designate the chairperson of each subcommittee.

b. The vice chairperson shall:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all the restrictions upon the chairperson.

(2) Perform such other duties as may be assigned by the chairperson.

ITEM 6. Amend renumbered rule 641—130.5(147A) as follows:

641—130.5(147A) Meetings.

130.5(1) ~~The advisory council shall establish a meeting schedule on an annual basis to conduct business. There shall be a minimum of four meetings per year. Meetings may be scheduled as business requires, but notice to members must be at least five working days prior to the meeting date. Four weeks' notice is encouraged to accommodate the schedules of professional members.~~

a. Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date.

b. Notice given four weeks in advance is encouraged to accommodate the schedules of professional members.

~~**130.5(2)** Robert's Rules of Order shall govern all meetings. Any advisory council member who is unable to attend a meeting will notify the chairperson.~~

~~**130.5(3)** A majority of appointed members shall be considered constitutes a quorum.~~

~~**130.5(4)** Any advisory council member who is unable to attend a meeting will notify the chairperson; there may not be a meeting if a quorum is not present.~~

~~**130.5(5)** **130.5(4)** When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership shall be conducted without a quorum present.~~

~~**130.5(6)** **130.5(5)** Persons wishing to make a presentation to the advisory council shall submit the request to the chairperson not less than 14 days prior to the meeting. Presentations may be made either at the discretion of the chairperson or upon matters appearing on the agenda.~~

~~**130.5(7)** **130.5(6)** Persons wishing to submit written materials should do so at least 14 days in advance of the scheduled meeting to ensure that advisory council members have adequate time to receive and evaluate the materials.~~

~~**130.5(8)** **130.5(7)** The advisory council may conduct a meeting by electronic means ~~only in circumstances in which an in-person meeting is impossible or impractical,~~ pursuant to Iowa Code section 21.8.~~

ITEM 7. Amend renumbered rule 641—130.8(147A) as follows:

~~**641—130.8(147A) Gender balance Council composition.** If not otherwise provided by law, all advisory bodies of the department appointed by the governor, director or designee shall be gender-balanced. The council's composition shall be developed and maintained pursuant to Iowa Code chapter 69.~~

[Filed 5/17/16, effective 7/13/16]

[Published 6/8/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2566C**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147A.27, the Department of Public Health hereby rescinds Chapter 138, “Trauma System Evaluation Quality Improvement Committee,” and adopts a new Chapter 138, “Trauma System Advisory Council,” Iowa Administrative Code.

Iowa Code section 147A.25, which provided for the creation of the Trauma System Evaluation Quality Improvement Committee, was repealed by 2013 Acts, chapter 129, section 57. Relevant sections pertaining to confidentiality and documentation were added to Iowa Code section 147A.24, which establishes the Trauma System Advisory Council. New Chapter 138:

- Defines the purpose and duties of the Trauma System Advisory Council.
- Outlines appointment to and membership of the Council.
- Identifies parameters for meetings and subcommittees and the duties of Council officers.
- Outlines confidentiality requirements and documentation associated with data and peer review.
- Identifies reimbursable expenses of Council members.
- Defines Council composition.

The new chapter provides the Council structure and direction to serve in an advisory role to the Department.

The Trauma System Advisory Council reviewed and unanimously approved the proposed new chapter on January 19, 2016. Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2448C** on March 16, 2016. No public comment was received. These rules are identical to those published under Notice of Intended Action.

The Department adopted these rules on May 11, 2016.

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

These rules are intended to implement Iowa Code section 147A.24.

These rules will become effective July 13, 2016.

The following amendment is adopted.

Rescind 641—Chapter 138 and adopt the following **new** chapter in lieu thereof:

CHAPTER 138
TRAUMA SYSTEM ADVISORY COUNCIL

641—138.1(147A) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Department*” means the Iowa department of public health.

“*Director*” means the director of the Iowa department of public health.

“*Emergency medical care provider*” means emergency medical care provider as defined in rule 641—131.1(147A).

“*Trauma care system*” means an organized approach to providing personnel, facilities, and equipment for effective and coordinated trauma care.

“*TSAC*” means the trauma system advisory council established pursuant to Iowa Code section 147A.24.

641—138.2(147A) Purpose and duties.

138.2(1) The TSAC shall advise the department on issues and strategies to achieve optimal trauma care delivery throughout the state.

138.2(2) Duties of the TSAC shall include, but not be limited to:

a. Annually reviewing Iowa Administrative Code rules related to the trauma care system to make recommendations to the department for changes to further promote optimal trauma care, including but not limited to review of this chapter and the following chapters:

- (1) 641—Chapter 134, Trauma Care Facility Categorization and Verification.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(2) 641—Chapter 135, Trauma Triage and Transfer Protocols.

(3) 641—Chapter 136, Trauma Registry.

(4) 641—Chapter 137, Trauma Education and Training.

b. Assisting the department in development and implementation of an Iowa trauma care plan inclusive of all aspects of the statewide trauma system utilizing a system assessment and annual benchmarking.

c. Developing and maintaining criteria for the categorization of all hospitals and emergency care facilities according to their trauma care capabilities. These categories shall be for Levels I, II, III, and IV, based on the most current guidelines published by the American College of Surgeons' committee on trauma, the American College of Emergency Physicians, and the model trauma care plan of the U.S. Department of Health and Human Services' Health Resources and Services Administration. These criteria are established in 641—Chapter 134, and TSAC shall, pursuant to paragraph 138.2(2) "a," annually review the criteria.

d. Developing and maintaining a process for the verification of the trauma care capacity of each facility and the issuance of a certificate of verification. This process is established in 641—Chapter 134, and TSAC shall, pursuant to paragraph 138.2(2) "a," annually review the process.

e. Developing and maintaining standards for medical direction, trauma care, and triage and transfer protocols. These standards are established in 641—Chapter 135, and TSAC shall, pursuant to paragraph 138.2(2) "a," annually review these standards.

f. Developing and maintaining standards for trauma registries. These standards are established in 641—Chapter 136, and TSAC shall, pursuant to paragraph 138.2(2) "a," annually review these standards.

g. Collaborating with the department to develop trauma standards for medical direction, procedures, and protocols to support a statewide trauma system.

h. Developing, implementing, and conducting trauma care system evaluation, quality assessment, and quality improvement in coordination with the department.

i. Partnering with the department to promote public information and educational activities for injury prevention and in support of the statewide trauma system.

641—138.3(147A) Appointment and membership.

138.3(1) The members of TSAC shall be appointed by the director from the recommendations of the organizations listed in subrule 138.3(4).

138.3(2) Appointments shall be for two-year staggered terms, which shall expire on June 30.

138.3(3) Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

138.3(4) Membership. The voting membership of the TSAC shall be comprised of one representative nominated from each of the following organizations:

a. American Academy of Pediatrics.

b. American College of Emergency Physicians, Iowa chapter.

c. American College of Surgeons, Iowa chapter.

d. Department of public health.

e. Governor's traffic safety bureau.

f. Iowa Academy of Family Physicians.

g. Iowa Emergency Medical Services Association.

h. Iowa Emergency Nurses Association.

i. Iowa Hospital Association representing rural hospitals.

j. Iowa Hospital Association representing urban hospitals.

k. Iowa Medical Society.

l. Iowa Osteopathic Medical Society.

m. Iowa Physician Assistant Society.

n. Iowa Society of Anesthesiologists.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

- o.* Orthopedic System Advisory Council of the American Academy of Orthopedic Surgeons, Iowa representative.
- p.* Rehabilitation services delivery representative.
- q.* Iowa's Medicare quality improvement organization.
- r.* State medical examiner.
- s.* Trauma nurse coordinator representing a trauma registry hospital.
- t.* University of Iowa, Injury Prevention Research Center.

138.3(5) Absences.

- a.* Three unexcused absences in a 12-month period shall be grounds for the director to request nomination of an alternate representative to fill the position.
- b.* Absences may be excused by notification provided to the chairperson prior to the meeting.
- c.* The chairperson of the TSAC shall be charged with providing notification of absences to the department.

641—138.4(147A) Officers.

138.4(1) Officers of the TSAC shall consist of a chairperson and a vice chairperson, who shall be elected at the first meeting of each fiscal year.

- a.* Officers may serve no more than three consecutive terms as chairperson or vice chairperson.
- b.* Vacancies in the office of chairperson shall be filled by elevation of the vice chairperson.
- c.* Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

138.4(2) Duties of officers.

- a.* The chairperson shall:
 - (1) Preside at all meetings of the TSAC,
 - (2) Appoint such subcommittees as deemed necessary, and
 - (3) Designate the chairperson of each subcommittee.
- b.* The vice chairperson shall:
 - (1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.
 - (2) Perform such other duties as may be assigned by the chairperson.

641—138.5(147A) Meetings.

138.5(1) The TSAC shall establish a meeting schedule on an annual basis to conduct its business. There shall be a minimum of four meetings per year.

- a.* Meetings may be scheduled as business requires, but notice to members must be given at least five working days prior to the meeting date.
- b.* Notice given four weeks in advance is encouraged to accommodate the schedules of professional members.

138.5(2) Any TSAC member who is unable to attend the meeting will notify the chairperson.

138.5(3) A majority of appointed members constitutes a quorum.

138.5(4) When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership shall be conducted without a quorum present.

138.5(5) Persons wishing to make a presentation to the TSAC shall submit the request to the chairperson not less than 14 days prior to the meeting. Presentations may be made at the discretion of the chairperson.

138.5(6) Persons wishing to submit written materials should do so at least 14 days in advance of the scheduled meeting to ensure that TSAC members have adequate time to receive and evaluate the materials.

138.5(7) TSAC may conduct meetings by electronic means pursuant to Iowa Code section 21.8.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

641—138.6(147A) Subcommittees. TSAC may designate one or more subcommittees to perform such duties as may be deemed necessary.

641—138.7(147A) Confidentiality.

138.7(1) The data collected by and furnished to the department pursuant to Iowa Code section 147A.26 are confidential records of the condition, diagnosis, care, or treatment of patients or former patients, including outpatients, and shall not be public record under Iowa Code chapter 22. The confidentiality of patients is to be protected, and the laws of this state shall apply with regard to patient confidentiality.

138.7(2) Proceedings, records, and reports reviewed or developed pursuant to Iowa Code section 147A.24 constitute peer review records under Iowa Code section 147.135 and are not subject to discovery by subpoena or admissible as evidence. All information and documents received from a hospital or emergency care facility under Iowa Code chapter 147A shall be confidential pursuant to Iowa Code section 272C.6(4).

138.7(3) TSAC or subcommittees of TSAC may enter into closed session proceeding pursuant to Iowa Code section 21.5.

138.7(4) All council and subcommittee members shall sign a confidentiality agreement not to divulge or discuss information obtained during a TSAC or subcommittee closed session proceeding. The signed confidentiality statements shall be kept on file at the department.

641—138.8(147A) Documentation.

138.8(1) The department, pursuant to Iowa Code section 21.3, shall keep minutes of open session proceedings.

138.8(2) The department, pursuant to Iowa Code section 21.5, shall also maintain minutes and tape recordings of closed session proceedings.

641—138.9(147A) Expenses of advisory council members. The following may be considered necessary expenses for reimbursement of TSAC members when the expenses are incurred on behalf of TSAC business and are subject to established state reimbursement rates:

1. Reimbursement for travel in a private car.
2. Actual lodging and meal expenses, including sales tax on lodging and meals.
3. Actual expense of public transportation.

641—138.10(147A) Council composition. The council's composition shall be developed and maintained pursuant to Iowa Code chapter 69.

These rules are intended to implement Iowa Code chapter 147A.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.

ARC 2567C

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.504, the Department of Public Health hereby adopts Chapter 179, "Collection of Delinquent Debts," Iowa Administrative Code.

The Department currently does not have rules established for the collection of delinquent debts owed to the Department. These rules outline the Department's procedures for collection of debt owed to the Department and will allow the Department to participate in the Department of Administrative Services' income offset program. The rules also outline the appeal process for a person or entity that receives notification of pending collection.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2457C** on March 16, 2016. No public comment was received. These rules are identical to those published under Notice of Intended Action.

The Department adopted these rules on May 11, 2016.

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

These rules are intended to implement Iowa Code section 8A.504.

These rules will become effective July 13, 2016.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 179:

CHAPTER 179
COLLECTION OF DELINQUENT DEBTS

641—179.1(8A) Authorization. The department may participate in the department of administrative services' income offset program.

641—179.2(8A) Definitions. For purposes of this rule, the following definitions apply:

"Debtor" means any person who owes a debt to the department.

"Department" means the Iowa department of public health.

"Income offset program" means the program established in Iowa Code section 8A.504 through which the department of administrative services coordinates with state agencies to satisfy liabilities owed to those state agencies.

"Liability" or *"debt"* means a "qualifying debt" as defined in Iowa Code section 8A.504(1) or any liquidated sum due, owing, and payable by a debtor to the department. Such liquidated sum may be accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum.

"Liquidated" means that the amount of the claim or debt is definite, determined, and fixed by agreement of the parties, by operation of law, or through court or administrative proceedings.

"Notification of offset" means receipt of actual notice by the department from the department of administrative services that the debtor is entitled to a payment that qualifies for offset.

"Offset" means to set off liabilities owed by a person to the department against claims owed to persons by public agencies.

"Person" means an individual, corporation, business trust, estate, trust, partnership or association, or any other legal entity, but does not include a state agency.

"Preoffset notice" means the notice required by rule 641—179.4(8A).

641—179.3(8A) Liability file. The department may provide the department of administrative services a liability file.

179.3(1) Contents. With respect to each individual debtor, the liability file shall contain the following:

a. Information relevant to the identification of the debtor, as required by the department of administrative services and including the debtor's name and social security number or federal identification number,

b. The amount of liability, and

c. A written statement declaring the debt to have occurred.

179.3(2) Certification. The department shall certify the liability file at least semiannually, as required by the department of administrative services.

179.3(3) Updates. The department shall update the liability file:

a. When necessary to reflect new debtors, and

b. When the status of a debt changes due to payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

179.3(4) Due diligence.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. Before submitting debtor information to the outstanding liability file, the department shall make a good-faith attempt to collect from the debtor. Such attempt shall include at least all of the following:

- (1) A telephone call requesting payment.
- (2) A letter to the debtor's last discernible address requesting payment within 15 days.

b. The department shall document due diligence and retain such documentation.

641—179.4(8A) Notification of offset. Within 10 calendar days of receiving notification from the department of administrative services that the debtor is entitled to a payment, the department shall:

179.4(1) Send a preoffset notice to the debtor. The preoffset notice shall inform the debtor of the amount the department intends to claim and shall include all of the following information:

- a.* The department's right to the payment in question.
- b.* The department's right to recover the payment through the offset procedure.
- c.* The basis of the department's case in regard to the debt.
- d.* The right of the debtor to request, in accordance with rule 641—179.5(8A) and within 15 days of the mailing of the preoffset notice, a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.

e. The debtor's right to appeal the offset, in accordance with rule 641—179.6(8A) and within 15 days of the mailing of the preoffset notice, and the procedure to follow in that appeal.

f. The department's contact information, including a telephone number, for the debtor to contact in case of questions.

179.4(2) Notify the department of administrative services that the preoffset notice has been sent to the debtor and supply a copy of the preoffset notice to the department of administrative services.

641—179.5(8A) Request to divide a jointly or commonly owned right to payment.

179.5(1) A debtor who receives a preoffset notice may request release of a joint or common owner's share if the request is received by the department within 15 days of the date the preoffset notice is mailed.

179.5(2) In conjunction with such a request, the debtor shall provide to the department the full name and social security number of any joint or common owner.

179.5(3) Upon receipt of such a request, the department shall notify the department of administrative services of the request.

641—179.6(8A) Appeal process.

179.6(1) A debtor who receives a preoffset notice may request an appeal of the existence or amount of the underlying debt if such request is made within 15 days of the date the preoffset notice is mailed.

179.6(2) Request for appeal must be submitted in writing to the Iowa Department of Public Health, Bureau of Finance, Attn: Offset Appeals, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

179.6(3) If a request for appeal is timely made, the department shall issue a notice of hearing to the debtor and provide a copy of the notice of hearing to the assistant attorney general for the department.

179.6(4) The appeal shall be conducted as a contested case proceeding pursuant to 641—Chapter 173.

179.6(5) If a request for appeal is timely made, the department shall notify the department of administrative services within 45 days of the notification of offset. The department shall hold a payment in abeyance until the final disposition of the contested liability or offset.

641—179.7(8A) Notice of offset. Once any offset has been completed, the department shall notify the debtor of the action taken, and of what balance, if any, still remains owing to the department.

These rules are intended to implement Iowa Code section 8A.504.

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ARC 2570C**TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.12 and 307A.2, the Iowa Department of Transportation, on May 18, 2016, adopted an amendment to Chapter 121, "Adopt-a-Highway Program," Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the April 13, 2016, Iowa Administrative Bulletin as **ARC 2487C**.

The amendment adds a new subrule requiring eligible sponsors to comply with all applicable laws prohibiting discrimination.

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

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

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

This amendment is intended to implement Iowa Code section 307.24.

This amendment will become effective July 13, 2016.

Rule-making action:

Adopt the following **new** subrule 121.4(3):

121.4(3) *Discrimination prohibited.* Eligible sponsors must comply with all applicable laws prohibiting discrimination based on age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.

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