



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2012

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
2	Friday, July 6, 2012	July 25, 2012
3	Friday, July 20, 2012	August 8, 2012
4	Friday, August 3, 2012	August 22, 2012

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, July 10, 2012, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Definition of "attest"; removal of reference to biennial renewal, 1.1, 12.3, 13.6(1) Filed **ARC 0174C** 6/13/12

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Information technology enterprise; human resources enterprise, amendments to chs 1, 20, 50

to 54, 56 to 61, 63 Notice **ARC 0180C** 6/27/12

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Dramshop policy requirements, 5.8, 12.2(12) Notice **ARC 0157C** 6/13/12

BLIND, DEPARTMENT FOR THE[111]

Organization and procedures; personnel; library services; vocational and independent living

rehabilitation services, amendments to chs 1 to 3, 6, 8 to 11, 13 Notice **ARC 0181C** 6/27/12

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

Washington, D.C., internship grant, rescind ch 16 Notice **ARC 0160C** 6/13/12

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure; fees, 15.1 Filed Emergency **ARC 0164C** 6/13/12

Dental assistants, 20.2, 20.4, 20.6 Notice **ARC 0170C** 6/13/12

EARLY CHILDHOOD IOWA STATE BOARD[249]

Online guidelines and standards for services, 1.4(2)"d" Filed **ARC 0179C** 6/27/12

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Land surveyors—title change to professional land surveyor, amendments to chs 1 to 9, 11,

12 Notice **ARC 0156C** 6/13/12

Land surveyor licensure by comity; unethical or illegal conduct, 5.2, 8.2(6)"a" Notice **ARC 0159C** 6/13/12

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Emission standards, 23.1 Notice **ARC 0165C** 6/13/12

Hazardous waste, rescind chs 140, 141, 148, 150, 151 Filed **ARC 0161C** 6/13/12

FAIR BOARD[371]

State fair—general practices, year-round activities, amendments to chs 1, 3 to 8 Filed **ARC 0163C** 6/13/12

HUMAN SERVICES DEPARTMENT[441]

Family investment and food assistance programs—determination of self-employment

income, 40.27(4)"b," 41.27(2), 65.29(1) Filed **ARC 0148C** 6/13/12

Medicaid for employed people with disabilities—premiums, reopening of cases canceled for

nonpayment, 75.1(39)"b" Filed **ARC 0149C** 6/13/12

Medicaid eligibility determination—telephone scheduling of interviews, 76.2(1) Filed **ARC 0150C** 6/13/12

IowaCare premiums—annual update, 92.7(1)"a" Filed Without Notice **ARC 0151C** 6/13/12

Child care assistance—fee schedule for state fiscal year 2013, 170.4(2)"a"

Filed Without Notice **ARC 0152C** 6/13/12

IOWA FINANCE AUTHORITY[265]

Shelter assistance fund, 41.2, 41.6, 41.8, 41.10(3), 41.12(2)"a" Filed **ARC 0183C** 6/27/12

Emergency solutions grant program, amendments to ch 42 Filed **ARC 0186C** 6/27/12

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

OSHA standards for general industry and construction—adoption by reference, 10.20, 26.1

Filed **ARC 0173C** 6/13/12

OSHA regulations—adoption by reference, 10.20, 26.1 Notice **ARC 0175C** 6/27/12

Elevator safety board—update of ASME codes, checklist for installation of new conveyances, technical changes, amendments to chs 66, 68, 69, 71, 72 Filed **ARC 0168C** 6/13/12
 Elevator safety board—temporary removal of elevator from service, fee, 71.7(1), 71.16, 71.20 Notice **ARC 0171C** 6/13/12

MANAGEMENT DEPARTMENT[541]

Early childhood Iowa initiative—definition of “audit,” 9.1 Filed **ARC 0178C** 6/27/12

MEDICINE BOARD[653]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Mandatory reporting—hospital action, 22.5 Notice **ARC 0176C** 6/27/12
 Grounds for discipline—failure to report hospital action, 23.1(48) Notice **ARC 0177C** 6/27/12

NATURAL RESOURCES DEPARTMENT[561]

Groundwater hazard statement, 9.2(1) Filed **ARC 0167C** 6/13/12

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Transfer of prescriptions, 6.9(3) Notice **ARC 0155C** 6/13/12
 Drugs in emergency medical programs, 11.1, 11.4(2), 11.11(1), 11.20 Notice **ARC 0172C** 6/13/12
 Pseudoephedrine tracking system, 100.2, 100.3(4), 100.4(2) Filed **ARC 0153C** 6/13/12

REGENTS BOARD[681]

Parking at universities, 4.26, 4.31(2) Filed **ARC 0185C** 6/27/12

SECRETARY OF STATE[721]

Absentee ballot receipt deadline; canvass date adjustment, 21.12, 21.13 Notice **ARC 0154C** 6/13/12

TRANSPORTATION DEPARTMENT[761]

License suspension for a serious violation—passing a stopped school bus, 615.17 Notice **ARC 0158C** 6/13/12

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Merlin Bartz
 2081 410th Street
 Grafton, Iowa 50440

Representative David Heaton
 510 East Washington Street
 Mt. Pleasant, Iowa 52641

Senator Thomas Courtney
 2609 Clearview
 Burlington, Iowa 52601

Representative Jo Oldson
 4004 Grand Avenue, #302
 Des Moines, Iowa 50312

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

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

Senator John P. Kibbie
 P.O. Box 190
 Emmetsburg, Iowa 50536

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

Senator James Seymour
 901 White Street
 Woodbine, Iowa 51579

Representative Guy Vander Linden
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Administrative Rules Coordinator
 Governor’s Ex Officio Representative
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 Des Moines, Iowa 50319
 Telephone (515)281-5211

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Information technology enterprise; human resources enterprise, amendments to chs 1, 20, 50 to 54, 56 to 61, 63 IAB 6/27/12 ARC 0180C	Room 329, Third Floor Hoover State Office Bldg. Des Moines, Iowa	July 31, 2012 1 to 2 p.m.
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ALCOHOLIC BEVERAGES DIVISION[185]

Dramshop policy requirements, 5.8, 12.2(12) IAB 6/13/12 ARC 0157C	Division Board Room 1918 SE Hulsizer Rd. Ankeny, Iowa	July 3, 2012 10 to 11 a.m.
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BLIND, DEPARTMENT FOR THE[111]

Organization and procedures; personnel; library services; vocational and independent living rehabilitation services, amendments to chs 1 to 3, 6, 8 to 11, 13 IAB 6/27/12 ARC 0181C	Director's Conference Room, First Floor Department for the Blind 524 4th St. Des Moines, Iowa	September 15, 2012 10 a.m.
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CAPITAL INVESTMENT BOARD, IOWA[123]

Verification of tax credits for investment in fund of funds, 4.2, 4.5 IAB 6/13/12 ARC 0169C (See ARCs 0077C and 0076C , IAB 4/4/12)	Fourth Floor Conference Room Hoover State Office Bldg. Des Moines, Iowa	July 19, 2012 10 a.m.
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DENTAL BOARD[650]

Dental assistants, 20.2, 20.4, 20.6 IAB 6/13/12 ARC 0170C	Board Office, Suite D 400 SW 8th St. Des Moines, Iowa	July 12, 2012 11 a.m.
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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Land surveyors—title change to professional land surveyor, amendments to chs 1 to 9, 11, 12 IAB 6/13/12 ARC 0156C	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	July 5, 2012 9 to 11 a.m.
Land surveyor licensure by comity; unethical or illegal conduct, 5.2, 8.2(6)“a” IAB 6/13/12 ARC 0159C	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	July 5, 2012 9 to 11 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Compliance and enforcement procedures, ch 17 IAB 6/27/12 ARC 0182C (See ARC 0051C , IAB 3/21/12)	Room 263, Kirkwood Community College Credit Center, Main Campus Bldg. 1816 Lower Muscatine Rd. Iowa City, Iowa	July 18, 2012 1 to 2:30 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)

	Rooms NC180 E & F North Iowa Area Community College Conference Center Bldg. 500 College Dr. Mason City, Iowa	July 31, 2012 1 to 2:30 p.m.
	Rooms 142-144 Des Moines Area Community College 906 N. Main St. Carroll, Iowa	August 7, 2012 1 to 2:30 p.m.
Emission standards, 23.1 IAB 6/13/12 ARC 0165C	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	July 16, 2012 1 p.m.

LABOR SERVICES DIVISION[875]

OSHA regulations—adoption by reference, 10.20, 26.1 IAB 6/27/12 ARC 0175C	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	July 18, 2012 8:30 a.m. (If requested)
Elevator safety board—temporary removal of elevator from service, fee, 71.7(1), 71.16, 71.20 IAB 6/13/12 ARC 0171C	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	July 12, 2012 8:30 a.m. (If requested)

MEDICINE BOARD[653]

Mandatory reporting—hospital action, 22.5 IAB 6/27/12 ARC 0176C	Board Office, Suite C 400 SW 8th St. Des Moines, Iowa	July 17, 2012 11 a.m.
Grounds for discipline—failure to report hospital action, 23.1(48) IAB 6/27/12 ARC 0177C	Board Office, Suite C 400 SW 8th St. Des Moines, Iowa	July 17, 2012 11 a.m.

TRANSPORTATION DEPARTMENT[761]

License suspension for a serious violation—passing a stopped school bus, 615.17 IAB 6/13/12 ARC 0158C	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	July 6, 2012 1 p.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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ARC 0180C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 8A.104(5), the Department of Administrative Services (DAS) proposes to amend Chapter 1, “Department Organization,” Chapter 20, “Information Technology Governance,” Chapter 50, “Human Resources Definitions,” Chapter 51, “Coverage and Exclusions,” Chapter 52, “Job Classification,” Chapter 53, “Pay,” Chapter 54, “Recruitment, Application and Examination,” Chapter 56, “Filling Vacancies,” Chapter 57, “Appointments,” Chapter 58, “Probationary Period,” Chapter 59, “Promotion, Transfer, Temporary Assignment, Reassignment and Voluntary Demotion,” Chapter 60, “Separations, Disciplinary Actions and Reduction in Force,” Chapter 61, “Grievances and Appeals,” and Chapter 63, “Leave,” Iowa Administrative Code.

The Department of Administrative Services is undertaking a comprehensive review of all existing DAS rules. This Notice of Intended Action is the first installment related to this review and encompasses amendments related to the Information Technology Enterprise (ITE) and the Human Resources Enterprise (HRE) within DAS. The HRE rules relating to benefits were previously reviewed and updated in 2009. DAS intends to adopt additional amendments relating to ITE operations as well as the operations of the General Services Enterprise and the State Accounting Enterprise.

These amendments make several necessary improvements to existing rules including but not limited to the following: (1) amending certain definitions to reflect existing statutes, eliminate unnecessary terms, and make various technical and grammatical changes; and (2) conforming the Information Technology Enterprise rules with current statutory law by deleting obsolete terminology, replacing the Technology Governance Board with the Technology Advisory Council, and providing for the state Chief Information Officer.

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

Interested persons may make written comments on the proposed amendments until 4:30 p.m. on July 31, 2012. Comments should be directed to Caleb Hunter, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by E-mail to Caleb.Hunter@iowa.gov.

A public hearing will be held on July 31, 2012, from 1 to 2 p.m. in Room 329, Third Floor, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Administrative Services of their specific needs by calling (515)281-3351.

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

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

The following amendments are proposed.

ITEM 1. Amend subrule 1.4(3) as follows:

1.4(3) *Information technology enterprise.* The mission of the information technology enterprise is to provide high-quality, customer-focused information technology services and business solutions to government and to citizens. The director appoints ~~the chief information officer for the state, who also serves as~~ the chief operating officer of the enterprise. The following bureaus have been established within the information technology enterprise:

a. to c. No change.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

d. Information security office. The information security office is responsible for developing, implementing and maintaining information security policies, standards, and practices that enhance the confidentiality, integrity and availability of computer systems and electronic data resources and for ensuring enterprisewide compliance with security requirements. This office includes the chief information security officer for state government.

e. IowaAccess. IowaAccess is established as a service to the citizens of this state that is the gateway for one-stop electronic access to government information and transactions, whether federal, state, or local.

d. f. Advisory groups Technology advisory council.

~~(1) Technology governance board. The technology governance board operates pursuant to 2005 Iowa Acts, House File 839. The technology advisory council operates pursuant to Iowa Code section 8A.204.~~

~~(2) IowaAccess advisory council. The IowaAccess advisory council is established within the department for the purpose of creating and providing to the citizens of this state a gateway for one-stop electronic access to government information and transactions, whether federal, state, or local.~~

ITEM 2. Amend subrule 1.4(5) as follows:

1.4(5) Central administration.

a. No change.

~~b. Information security office. The information security office is responsible for developing, implementing and maintaining information security policies, standards, and practices that enhance the confidentiality, integrity and availability of computer systems and electronic data resources, and for ensuring enterprise-wide compliance with security requirements. This office includes the chief information security officer for state government.~~

b. Chief information officer. The chief information officer (CIO) is appointed by the governor to serve at the pleasure of the governor and is subject to confirmation by the senate. The CIO is located in the department of administrative services and attached to the department of management. The CIO, in consultation with the director, shall do all of the following as it relates to information technology services:

(1) Advise the director concerning the adoption of information technology standards and rules.

(2) Develop and recommend legislative proposals deemed necessary for the continued efficiency of the department in performing information technology functions, and review legislative proposals generated outside of the department which are related to matters within the department's purview.

(3) Provide advice to the governor on issues related to information technology.

(4) Consult with agencies and other governmental entities on issues related to information technology.

(5) Work with all governmental entities in an effort to achieve the information technology goals established by the department.

(6) Coordinate the internal operations of the department as they relate to information technology and develop and implement policies and procedures designed to ensure the efficient administration of the department as they relate to information technology.

(7) Recommend to the director for adoption rules deemed necessary for the administration of Iowa Code chapter 8A, subchapter II, in accordance with Iowa Code chapter 17A.

(8) Advise the director concerning contracts for the receipt and provision of information technology services as deemed necessary.

(9) Exercise and perform such other powers and duties related to information technology as may be delegated by the director or as may be prescribed by law.

c. No change.

ITEM 3. Amend **11—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 8A and sections 7E.1 through 7E.5 and 17A.3, and 2005 Iowa Acts, House File 776 and House File 839.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 4. Amend rule 11—20.1(81GA,ch90) as follows:

11—20.1(81GA,ch90 8A) General provisions Technology advisory council established.

20.1(1) Establishment. The technology ~~governance board~~ advisory council is established within the department of administrative services by 2005 Iowa Acts, chapter 90 Iowa Code section 8A.204.

20.1(2) Mission. The mission of the technology governance board is to set priorities for statewide technology investments and initiatives and to assist the department of management and the state's chief information officer in developing a statewide information technology budget. The budget shall reflect the total information technology spending of the executive branch, resulting in better decision making and financial investment performance reporting.

ITEM 5. Amend rule 11—20.2(81GA,ch90) as follows:

11—20.2(81GA,ch90 8A) Definitions. For the purpose of this chapter, the following definitions apply:

"Agency" or "state agency" means a participating agency as defined in Iowa Code section 8A.201, unit of state government, which is an authority, board, commission, committee, council, department, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code section 7E.5. However, "agency" or "state agency" does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.
2. The general assembly, or any office or unit under its administrative authority.
3. The judicial branch, as provided in Iowa Code section 602.1102.
4. A political subdivision of the state or its offices or units, including but not limited to a county,

city, or community college.

"Board" means the technology governance board.

"Council" means the technology advisory council established in Iowa Code section 8A.204.

"Department" means the department of administrative services, including the information technology enterprise.

"Director" means the director of the department of administrative services.

"Low Access advisory council" means the council established pursuant to Iowa Code section 8A.221.

"Large agency" means a state agency with more than 700 full-time, year-round employees.

"Medium-sized agency" means a state agency with 70 or more full-time, year-round employees, but not more than 700 full-time, year-round employees.

"Participating agency" means any state agency except the state board of regents and institutions operated under the authority of the state board of regents.

"Small agency" means a state agency with less than 70 full-time, year-round employees.

ITEM 6. Amend rule 11—20.3(81GA,ch90) as follows:

11—20.3(81GA,ch90 8A) Membership of the board council.

20.3(1) Composition. The technology ~~governance board~~ advisory council is composed of ten members as follows:

a. The ~~director~~ state chief information officer.

b. and *c.* No change.

d. A director, deputy director, ~~chief financial officer or the equivalent~~ or employee with information technology expertise is preferred as an appointed representative for each of the agency categories of membership pursuant to paragraph 20.3(1) "*c.*"

e. Appointments of public members to the ~~board~~ council are subject to Iowa Code sections 69.16 and 69.16A governing balance in political affiliation and gender of members of ~~appointed boards.~~

20.3(2) Length of term. Members appointed to the ~~board~~ council pursuant to paragraph 20.3(1) "*c.*" shall serve two-year fixed terms.

a. Initial member terms. In order to stagger terms of board council members so that one-half of the terms expire each year, ~~four~~ three of the ~~eight~~ six agency members appointed by the governor shall serve initial terms of no longer than one year. ~~Designation of which members are appointed to the initial~~

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~~staggered terms shall be at the discretion of the governor.~~ The three members serving an initial term of no longer than one year will include one member from a large agency, one member from a medium-sized agency, and one member from a small agency. The terms of the public members shall be staggered at the discretion of the governor.

b. No change.

c. *Public member terms.* The public members of the ~~board~~ council are subject to Iowa Code section 69.19, requiring senate confirmation and terms that expire on April 30 of the year of term expiration. New terms of the public members shall begin on May 1.

ITEM 7. Amend rule 11—20.5(8A) as follows:

11—20.5(8A) Officers of the ~~board~~ council. ~~The technology governance board~~ technology advisory council annually shall elect a chairperson and a vice chairperson from among the members of the ~~board~~ council, by majority vote, to serve one-year terms.

ITEM 8. Amend rule 11—20.6(81GA,ch90) as follows:

11—20.6(81GA,ch90 8A) Meetings of the ~~board~~ council.

20.6(1) Meetings of the ~~board~~ council shall be held at the call of the chairperson or at the request of three members. ~~However, the board shall meet no less than monthly for the one-year period following the appointment of all members.~~

20.6(2) A majority of the members of the ~~board~~ council shall constitute a quorum.

20.6(3) Meetings of the ~~board~~ council are subject to the open meetings provisions of Iowa Code section 21.3.

ITEM 9. Amend rule 11—20.7(81GA,ch90) as follows:

11—20.7(81GA,ch90 8A) Correspondence and communications. The office of the ~~technology governance board~~ technology advisory council is maintained in the office of the department of administrative services. Correspondence and communications to the ~~board~~ council shall be directed in care of the Iowa Department of Administrative Services, Information Technology Enterprise, Hoover State Office Building, Level B, Des Moines, Iowa 50319.

ITEM 10. Rescind rule 11—20.8(81GA,ch90) and adopt the following new rule in lieu thereof:

11—20.8(8A) Powers and duties of the council. The powers and duties of the technology advisory council as they relate to information technology services shall include, but are not limited to, all of the following:

20.8(1) Advise the chief information officer in developing and adopting information technology standards pursuant to Iowa Code sections 8A.203 and 8A.206 applicable to all agencies.

20.8(2) Make recommendations to the chief information officer regarding all of the following:

- a. Technology utility services to be implemented by the department.
- b. Improvements to information technology service levels and modifications to the business continuity plan for information technology operations developed by the department for agencies.
- c. Improvements to maximize the value of information technology investments by the state.
- d. Technology initiatives for the executive branch.

20.8(3) Advise the department regarding rates to be charged for access to and for value-added services performed through IowaAccess.

ITEM 11. Amend **11—Chapter 20**, implementation sentence, as follows:

These rules are intended to implement 2005 Iowa Acts, ~~chapter 90~~ Iowa Code chapter 8A, subchapter II.

ITEM 12. Amend the following definitions in rule **11—50.1(8A)**:

“Agency” means a department, independent agency, or statutory office ~~provided for in the Iowa Code section 7E.2.~~

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"Certification" means the referral of ~~available~~ qualified names from an eligible list to an agency for the purpose of making a selection in accordance with these rules.

"Class" or *"job classification"* or *"job class"* means one or more positions so similar in duties, responsibilities, and qualifications that each may be assigned to the same job title and pay plan.

"Classification plan" means the ~~printed~~ published list of job classifications and the related elements assigned to each. The classification plan is published annually by the department and revised as necessary.

"Grievance" means ~~an expressed difference, dispute, or controversy between an employee and the appointing authority, with respect to circumstances or conditions of employment~~ a written complaint alleging a specific violation of these rules or of Iowa Code chapter 8A, subchapter IV.

"Merit system" means ~~those positions or employees in the state personnel system determined by the director to be covered by the provisions of 2003~~ the system of human resource administration based on merit principles and scientific methods to govern the appointment, compensation, promotion, welfare, development, transfer, layoff, removal, and discipline of its civil employees and other instances of state employment established pursuant to Iowa Code Supplement chapter 8A as it pertains to qualifications, examinations, probation, and just cause discipline and discharge hearings.

"Minimum qualifications" means the minimum education, experience, or other background required to be considered eligible to apply for, or otherwise perform the duties of a particular job classification. ~~Minimum qualifications are published in classification descriptions, and pertain only to positions covered by merit system provisions.~~

"Overtime" means those hours that exceed 40 in a workweek for which an eligible employee is entitled to be compensated unless otherwise specified in a collective bargaining agreement.

"Pay increase" means ~~a periodic step or percentage~~ an increase in pay within the pay range ~~for the class based on time spent, performance, or both.~~

"Permanent employee" means any executive branch employee (except board of regents employees) who has completed at least six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in 2003 Iowa Code Supplement section 8A.411, ~~it~~ "permanent employee" further means those employees who have completed the period of probationary status provided for in 2003 Iowa Code Supplement section 8A.413. For peace officers employed by the department of public safety, "permanent employee" means a peace officer who has completed a 12-month probationary period after appointment.

"Premium overtime rate of compensation" means compensation equal to one and one-half hours for each hour of overtime.

"Probationary employee" means any executive branch employee (except board of regents employees) who has completed less than six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in 2003 Iowa Code Supplement section 8A.411, ~~it~~ "probationary employee" further means those employees who have not completed the period of probationary status provided for in 2003 Iowa Code Supplement section 8A.413. For peace officers employed by the department of public safety, "probationary employee" means a peace officer who has completed less than 12 months continuous nontemporary employment following appointment to a peace officer classification.

"Reassignment" means the movement of an employee ~~and the position the employee occupies~~ within the same organizational unit or to another organizational unit at the discretion of the appointing authority. A reassignment may include a change in duties, work location, days of work or hours of work, and may be temporary or permanent. A reassignment may result in a change ~~from~~ from the employee's previous job classification.

"Same pay grade" means those pay grades in the various pay plans having the same pay grade number as well as those pay grades using a three-step pay range where those steps correspond to the top three steps of a six-step range. ~~A three-step pay grade shall be considered the same as the corresponding six-step pay grade in determining whether an action is a promotion, demotion, or transfer.~~

"Standby" means those times when eligible employees are required by the appointing authority to restrict their activities during off-duty hours so as to be immediately available for duty ~~when required~~

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~~by the appointing authority, and is other than simply the requirement to leave word of their whereabouts in case of the need to be contacted.~~

ITEM 13. Rescind the definitions of “Fee-for-services contractor,” “Immediate family” and “Job classification” in rule **11—50.1(8A)**.

ITEM 14. Amend rule 11—51.2(8A) as follows:

11—51.2(8A) Merit system. The merit system shall include and apply to those positions in the state personnel system which have been determined by the director to be covered by ~~the provisions of 2003 Iowa Code Supplement~~ section 8A.411 as it pertains to qualifications, examinations, probation, and just cause discipline and discharge hearings, ~~hereafter~~ hereinafter referred to as merit system provisions. Whenever the director determines that a position should be covered by or not covered by merit system provisions, the director shall notify the appointing authority in writing of the decision and the effective date.

51.2(1) Exclusion of division administrators and policy-making positions. The appointing authority of each agency shall submit to the director for approval the position number and title of each position referred to in ~~2003 Iowa Code Supplement~~ section 8A.412, and proposed for exclusion from coverage by the merit system provisions referred to in ~~2003 Iowa Code Supplement~~ section 8A.411(4). Subsequent changes in the number or duties of these positions shall be submitted to the director for exclusion approval.

51.2(2) No change.

51.2(3) Other exclusions. For further information regarding exclusions from merit system coverage, refer to ~~2003 Iowa Code Supplement~~ section 8A.412.

ITEM 15. Amend **11—Chapter 51**, implementation sentence, as follows:

These rules are intended to implement ~~2003 Iowa Code Supplement~~ section 8A.413 and Iowa Code chapters 19B and 70A.

ITEM 16. Amend subrule 52.4(5) as follows:

52.4(5) The maximum time periods in the position classification review process may be extended when mutually agreed to in writing ~~and signed~~ by the parties.

ITEM 17. Amend subrule 52.5(1) as follows:

52.5(1) If, following a position classification review request, a decision notice is not issued within the time limit provided for in these rules, or the appointing authority or the incumbent does not agree with the department’s final position classification review decision, the appointing authority or the incumbent may request a classification appeal committee hearing. The request shall be in writing and shall be ~~mailed~~ submitted to: Classification Appeal Committee Chair, Department of Administrative Services—Human Resources Enterprise, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0150. The classification appeal hearing process is a contested case as defined by Iowa Code chapter 17A.

ITEM 18. Amend paragraph **52.5(4)“a”** as follows:

a. The classification appeal committee shall schedule a hearing ~~within 30 calendar days following receipt of the request for a hearing unless otherwise mutually agreed to in writing and signed by the parties pursuant to Iowa Code section 17A.12.~~

ITEM 19. Amend subrule 52.6(1) as follows:

52.6(1) Position classification changes shall not be retroactive and shall become effective only after approval by the director. Position classification changes approved by the director that are not made effective by the appointing authority within 90 calendar days following the date approved shall be void. Position classification changes that will have a budgetary impact shall not become effective until approved by the department of management. If the appointing authority decides not to implement the change or the department of management does not approve funding for the change, duties commensurate with the current job classification shall be restored by the appointing authority within three pay periods following the date of that decision.

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ITEM 20. Amend **11—Chapter 52**, implementation sentence, as follows:

These rules are intended to implement 2003 Iowa Code Supplement section 8A.413 and Iowa Code chapters 19B and 70A.

ITEM 21. Amend rule 11—53.2(8A) as follows:

11—53.2(8A) Pay plan content. Pay plans shall have numbered pay grades showing minimum and maximum salaries ~~and intermediate salary steps, if applicable.~~

ITEM 22. Amend subrule 53.4(1) as follows:

53.4(1) Employees. The director shall assign classes to pay plans and grades and shall assign employees to classes. Employees shall be paid ~~either at one of the established steps or~~ at a rate between the minimum and maximum of the pay grade of the class to which the employee is assigned. Pay decisions shall be at the discretion of the appointing authority; unless otherwise provided for in this chapter or by the director.

ITEM 23. Amend subrule 53.4(6) as follows:

53.4(6) General pay increases. The director shall administer general pay increases for employees that have been authorized by the legislature and approved by the governor. An employee in a ~~noncontract class position~~ whose pay has been red-circled above the maximum pay rate of the class to which the employee is assigned shall not receive a general pay increase; unless specifically authorized by the Acts of the general assembly or otherwise provided for in these rules.

ITEM 24. Amend subrule 53.4(7) as follows:

53.4(7) Pay corrections. An employee's pay shall be corrected if it is found to be in violation of these rules or a collective bargaining agreement. ~~If the correction is the result of an error or omission, the pay may be corrected within 12 pay periods following the date the employee's pay was incorrectly set or the transaction that should have occurred was omitted.~~ Corrections shall be made on the first day of a pay period.

a. Retroactive pay. An employee may receive retroactive pay ~~for a period of up to 90 calendar days preceding the date the error was corrected or the omission occurred in the same fiscal year for which the pay should have been paid.~~ A request for retroactive pay must be received and processed no later than August 31 following the close of the fiscal year for which the request is made. Requests for retroactive pay ~~beyond 90 calendar days or which extend into a previous fiscal year~~ are not made in a timely fashion must be submitted to the state appeal board.

b. No change.

ITEM 25. Amend subrule 53.5(1) as follows:

53.5(1) Individual advanced appointment rate. For new hires, reinstatements, or promotions ~~and upward reclassifications~~ of employees in contract classes, the appointing authority may ~~grant steps or request pay rates~~ in excess of the minimum based on education and experience directly related to duties that exceed the minimum qualifications of the class. The appointing authority shall maintain a written record of the justification for the advanced appointment rate. The record shall be a part of the official employee file. All employees possessing equivalent qualifications in the same class and with the same appointing authority may be adjusted to the advanced rate. Individual advanced appointment rates are subject to prior approval by the department.

ITEM 26. Amend subrule 53.5(5) as follows:

53.5(5) Temporary, seasonal, and internship. When an appointment is made to a class on a temporary, seasonal, or internship basis, the employee may be paid at any rate within the pay grade to which the class is assigned. Such employees may be given authorized, noncontract salary, across-the-board adjustments within the minimum and maximum rates of the pay grade. Temporary, seasonal and internship employees are not eligible for within-grade increases based on performance or time in service.

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ITEM 27. Amend subrule 53.6(4) as follows:

53.6(4) Pay plan changes. If a transaction results in an employee's being paid from a different pay plan without steps, the employee shall be paid at the employee's current pay rate, except as provided in subrules 53.6(1) and 53.6(2). ~~When the transaction results in an employee's being paid from a pay plan with steps, the employee shall be paid at a step in the pay plan that is closest to but not less than the employee's current pay rate, except that for~~ For demotions, the employee's pay shall be at the discretion of the appointing authority so long as ~~the employee's pay~~ the employee's pay is not greater than it was prior to the demotion. For setting eligibility dates, see subrule 53.7(5).

ITEM 28. Amend paragraph **53.6(6)“b”** as follows:

b. Contract classes. If an employee is promoted to a contract-covered class ~~without steps~~, the employee shall receive a 5 percent pay increase. ~~If promoted to a contract-covered class with steps, the employee shall receive a one-step pay increase,~~ except as provided in subrules 53.5(1), 53.6(1), 53.6(2), and 53.6(4).

ITEM 29. Amend subrule 53.6(7) as follows:

53.6(7) Demotion. If an employee demotes voluntarily or is disciplinarily demoted, the employee may be paid at any ~~step or~~ pay rate that does not exceed the employee's pay at the time of demotion, except as provided in subrules 53.6(1), 53.6(2) and 53.6(4). For setting eligibility dates, see subrule 53.7(5).

ITEM 30. Amend subrule 53.6(10) as follows:

53.6(10) Return from leave. If an employee returns from an authorized leave, the employee shall be paid at the same ~~step or~~ pay rate as prior to the leave, including any pay grade, pay plan, class or general salary increases for which the employee would have been eligible if not on leave, except as provided for in subrules 53.6(1) and 53.6(2). For setting eligibility dates, see subrule 53.7(5).

ITEM 31. Amend subrule 53.6(12) as follows:

53.6(12) Reinstatement. When an employee is reinstated, the employee may be paid at any ~~step or~~ pay rate for the class to which the employee is reinstated.

ITEM 32. Amend subrule 53.7(1) as follows:

53.7(1) General. An employee, upon completion of a minimum pay increase eligibility period, may receive a periodic ~~step or percentage~~ increase in base pay that is within the pay grade and pay plan of the class to which the employee is assigned upon completion of a minimum pay increase eligibility period.

a. Pay increase eligibility periods. The minimum pay increase eligibility period for employees ~~paid from pay plans without steps~~ shall be 52 weeks, except that it shall be 26 weeks for new hires and employees who receive an increase in base pay as a result of a promotion, reclassification or pay grade change. ~~Minimum pay increase eligibility periods for employees paid from pay plans with steps shall be the number of weeks in the pay plan that corresponds to the employee's step.~~

b. Noncreditable periods. Except for required educational and military leave, periods of leave without pay exceeding 30 calendar days shall not count toward an employee's pay increase eligibility period.

c. Reduction of time periods. The director may authorize a reduction in the pay increase eligibility periods for classes a position where there are is an unusual recruitment and retention ~~circumstances~~ circumstance.

ITEM 33. Amend subrule 53.7(5) as follows:

53.7(5) Eligibility dates. An employee's pay increase eligibility date shall be set at the time of hire, and if the employee starts on the first working day of the pay period, it shall be the first day of the pay period following completion of the employee's minimum pay increase eligibility period. Otherwise, it shall be the first day of the pay period following the date the employee starts work.

a. General. A new eligibility date shall be set when an employee receives an increase in base pay, except when transferring in the same pay grade to a different pay plan. ~~The following pay increase eligibility periods shall be used to set these dates.~~

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~~(1) Fifty-two~~ Such date will be set at 52 weeks ~~for employees paid from pay plans without steps,~~ except that for new hires and employees who receive a pay increase as a result of a promotion, reclassification or pay grade change. The date for such employees shall be 26 weeks following the effective date of the action.

~~(2) For employees paid from pay plans with steps, it shall be the number of weeks in the pay plan that corresponds to the employee's pay step after the pay increase.~~

b. to d. No change.

~~*e. Prior service credit.* If a transfer or demotion results in an employee's having a longer pay increase eligibility period, credit shall be given for the time served toward completion of the employee's new pay increase eligibility period.~~

~~*f. e. Administrative changes.* The director may change eligibility dates when economic or other pay adjustments are made to the classification plan or pay plans.~~

ITEM 34. Amend subrule 53.8(1) as follows:

53.8(1) Leadworker. An employee who is temporarily assigned lead work duties, as defined in rule 11—50.1(8A), may be given additional pay of up to 15 percent unless otherwise provided in an applicable collective bargaining agreement.

ITEM 35. Amend subrule 53.9(4) as follows:

53.9(4) Discretionary payments. A lump sum payment for exceptional job performance may be given to an employee ~~whenever the appointing authority deems it appropriate.~~ A written explanation setting forth the reasons shall first be submitted to the director for approval.

ITEM 36. Amend subrule 54.2(6) as follows:

54.2(6) Disqualification or removal of applicants. The director may refuse to place an applicant on a list of eligibles, refuse to refer an applicant for a vacancy, refuse to approve the appointment of an applicant, or remove an applicant from a list of eligibles for a position if it is found that the applicant:

a. to g. No change.

h. Has resigned in lieu of discharge for cause.

~~*i.*~~ *i.* Has been convicted of a crime that is shown to have a direct relationship to the duties of a job class or position.

~~*j.*~~ *j.* Is proven to be an unrehabilitated substance abuser who would be unable to perform the duties of the job class or who would constitute a threat to state property or to the safety of others.

~~*k.*~~ *k.* Is not a United States citizen and does not have a valid permit to work in the United States under regulations issued by the U.S. Immigration and Naturalization Service.

Applicants disqualified or removed under this subrule shall be notified in writing by the director within five workdays following removal. Applicants may informally request that the director reconsider their disqualification or removal by submitting additional written evidence of their qualifications or reasons why they should not be removed in accordance with rule 11—61.3(8A). Formal appeal of disqualification or removal shall be in accordance with 11—subrule 61.2(4).

ITEM 37. Amend subrule 54.3(3) as follows:

54.3(3) Background checks. Background checks and investigations, including, but not limited to, checks of arrest or conviction records, fingerprint records, driving records, financial or credit records, and child or dependent adult abuse records, constitute an examination or test within the meaning of this subrule, ~~and Iowa Code chapter 19A 8A and 161—subrule 8.1(1).~~ Confidential documents provided to the director by other agencies in conjunction with the administration of this rule shall continue to be maintained in ~~their~~ the documents' confidential status. The director is subject to the same policies and penalties regarding the confidentiality of the documents as any employee of the agency providing the documents.

Background checks shall be conducted only after receiving approval from the director concerning the areas to be checked and the standards to be applied in evaluating the information gathered. Background checks are subject to the following limitations and requirements:

a. and b. No change.

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c. The ~~director~~ appointing authority shall provide a statement that shall be presented ~~by the appointing authority~~ to each applicant ~~that~~ who is to be investigated under this subrule. This statement shall inform the applicant that the applicant is subject to a background check as a condition of employment and the topics to be covered in the background check. It shall also inform the applicant that all information gathered will be treated as confidential within the meaning of Iowa Code section 22.7, but that all such information gathered shall be available to the applicant upon request through the agency authorized to release such information, unless otherwise specifically provided by law. The statement shall be signed and dated by the applicant and shall include authorization from the applicant for the appointing authority to conduct the background check as part of the application and selection process ~~and to share the information gathered with the director.~~

~~d. Information obtained from a background check is not necessarily a bar to an applicant's employment.~~

~~e. Appointing authorities shall send information periodically to the director on forms prescribed by the director. This information shall include the following:~~

- ~~(1) The total number of applicants for each position who were eligible for a background check.~~
- ~~(2) A list of all applicants for whom background checks were conducted, by organizational unit, name, social security number, type of background check, and result (pass or fail).~~
- ~~(3) Documentation of specific business necessity and job relatedness when any inequitable rejection rate is identified by the director.~~

ITEM 38. Amend subrule 54.4(2) as follows:

54.4(2) Examination administration. The director or appointing authority shall arrange for suitable locations and conditions to conduct examinations. Locations in various areas of the state and out of state may be used. Examinations may be postponed, canceled, or rescheduled.

a. *Examination of persons with disabilities.* Persons with disabilities may request specific examination accommodations. Reasonable accommodations will be granted in accordance with policies for accommodations established by the department. ~~Persons in the certified disability program or any other formal waiver program established by the department may be exempt from examinations.~~

~~b. Special admittance. Requests for special admittance after the closing date for application shall be submitted in writing to the director or the appointing authority. The request shall explain why the applicant seeks special admittance.~~

~~c. b. Retaking examinations.~~ Applicants may not retake aptitude, psychological, video-based or other examinations for 60 calendar days following the last date the examination was taken except as provided for in rule 11—54.6(8A). Violation of the waiting period for an examination shall result in the voiding of the current examination score being voided and the imposition of an additional 60-calendar-day waiting period being imposed.

Keyboard examinations, such as typing, may be retaken at any time without a waiting period, ~~if equipment is available.~~

The most recent examination score shall determine the applicant's qualification for the corresponding eligible lists.

Applicants who are required to take examinations covered by the rules or procedures of other agencies are subject to applicable rules or procedures on retakes for such examinations of that agency.

ITEM 39. Amend rule 11—54.6(8A) as follows:

11—54.6(8A) Review of written examination questions. Applicants may request to review their incorrectly answered questions on department-administered written examinations except that aptitude, psychological, and video-based examinations are not subject to review. An applicant who reviews written examination questions may not retake that examination or an examination with the same or similar content for 60 calendar days following the review ~~and then only if the class is open for recruitment.~~ Violation of this waiting period shall result in the voiding of the current examination score being voided and the imposition of an additional 60-calendar-day waiting period being imposed.

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ITEM 40. Amend rule 11—56.6(8A) as follows:

11—56.6(8A) Incomplete lists. If the number of names available on a nonpromotional list is less than six, the appointing authority will be granted provisional appointment authority.

ITEM 41. Amend rule 11—57.1(8A) as follows:

11—57.1(8A) Filling vacancies. Unless otherwise provided for in these rules or the Iowa Code, the filling of all vacancies shall be subject to the provisions of these rules. No vacant position in the executive branch shall be filled until the position has been classified in accordance with Iowa Code ~~Supplement~~ chapter 8A and these rules.

An employee who has participated in the phased retirement program shall not be eligible for permanent employment for hours in excess of those worked at the time of retirement. ~~An A former~~ employee who has participated in ~~the any~~ early retirement or early termination program shall not be eligible for any state employment, except as provided for in the applicable program.

A person who has served as a commissioner or board member of a regulatory agency shall not be eligible for employment with that agency until two years after termination of the appointment.

ITEM 42. Amend rule 11—57.5(8A), introductory paragraph, as follows:

11—57.5(8A) Reinstatement. A permanent employee who left employment for other than just cause may be reinstated with permanent or probationary status to any class for which qualified at the discretion of an appointing authority. Reinstatement shall not require appointment from a list of eligibles. Former employees who retired and applied for retirement benefits under an eligible state retirement system or program are not eligible for reinstatement.

ITEM 43. Amend rule 11—58.1(8A), introductory paragraph, as follows:

11—58.1(8A) Duration. All original full-time or part-time appointments to permanent positions shall require a six-month period of probationary status. Appointments to peace officer positions at the department of public safety require a 12-month probationary period following appointment. Employees with probationary status shall not be eligible for promotion, reinstatement following separation, or other rights to positions unless provided for in this chapter, nor have reduction in force, recall, or appeal rights.

ITEM 44. Amend rule 11—58.4(8A) as follows:

11—58.4(8A) Promotion during the period of probationary status. A probationary employee who is promoted during the period of probationary status to a position covered by merit system provisions shall be hired in accordance with 11—subrule 56.3~~(2)~~(3). The total required probationary period shall include the probationary service in the class from which the employee is promoted. The rate of pay shall be set in accordance with 11—subrule 53.6(6).

ITEM 45. Amend rule 11—59.1(8A) as follows:

11—59.1(8A) Promotion.

~~59.1(1)~~ An appointing authority may promote an employee with permanent status if the employee meets the minimum qualifications and other promotional screening requirements for the position. The employee must be on the list of eligibles for the position and available under the conditions stated on the list request.

~~59.1(2) Agencies shall collect and forward to the director data on the characteristics of applicants considered for promotion in accordance with the director's requirements and these rules.~~

ITEM 46. Amend rule 11—59.2(8A) as follows:

11—59.2(8A) Reassignment. An appointing authority may reassign an employee. Reassignments may be intra-agency or interagency. Interagency reassignments require the approval of both the sending and the receiving appointing authorities.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

An employee who refuses a reassignment may be discharged in accordance with rule 11—60.2(8A), except as provided for in the ~~second unnumbered paragraph~~ of this rule.

If the reassignment of an employee would result in the loss of merit system coverage, an appointing authority may not reassign that employee without the employee's written consent regarding the change in merit system coverage. A copy of the consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement.

ITEM 47. Amend paragraph **60.1(1)“a”** as follows:

a. To resign or retire in good standing, an employee must give the appointing authority at least 14 calendar days' prior notice unless the appointing authority agrees to a shorter period. A written notice of resignation or retirement shall be given by the employee to the appointing authority, with a copy forwarded to the director by the appointing authority at the same time. An employee who fails to give this prior notice may, at the request of the appointing authority, be barred from certification or appointment to that agency for a period of up to two years. Resignation or retirement shall not be subject to appeal under 11—Chapter 61 unless it is alleged that it was submitted under duress.

Employees who are absent from duty for three consecutive workdays without proper authorization from the appointing authority may be considered to have voluntarily terminated employment. The appointing authority shall notify the employee ~~by registered letter (return receipt requested) that they must return to work within two workdays following receipt of the notification or be removed from the payroll. If the appointing authority receives notice from the U.S. post office that the letter was undeliverable, the employee may be removed from the payroll five days following receipt of that notice.~~ of the authority's decision to remove the employee from the payroll. Notification shall be sent to the employee's last-known address, with delivery confirmation required. The appointing authority shall consider requests to review circumstances.

ITEM 48. Rescind subrule 60.1(3) and adopt the following **new** subrule in lieu thereof:

60.1(3) Early retirement incentive program—1992. This early retirement incentive program is provided for in 1992 Iowa Acts, chapter 1220. Employees who participated in this program are not eligible to accept any further employment with the state of Iowa. This prohibition does not apply to a program participant who is later elected to public office.

ITEM 49. Rescind subrule 60.1(4) and adopt the following **new** subrule in lieu thereof:

60.1(4) Sick leave and vacation incentive program—2002. This termination incentive program is provided for in 2001 Iowa Acts, Second Extraordinary Session, chapter 5. An employee who elected participation in this program is not eligible to accept any further permanent employment with the state of Iowa from the date of termination from employment. This prohibition does not apply to a program participant who is later elected to public office.

ITEM 50. Rescind subrule 60.1(5) and adopt the following **new** subrule in lieu thereof:

60.1(5) Sick leave and vacation incentive program—Fiscal Year 2003. This termination incentive program is provided for in 2002 Iowa Acts, Second Extraordinary Session, chapter 1001. An employee who elected participation in this program is not eligible to accept any further permanent part-time or full-time employment with the state of Iowa from the date of termination from employment. This prohibition does not apply to a program participant who is later elected to public office.

ITEM 51. Rescind subrule 60.1(6) and adopt the following **new** subrule in lieu thereof:

60.1(6) Sick leave and vacation incentive program—Fiscal Year 2005. This termination incentive program is provided for in 2004 Iowa Acts, chapter 1035. An employee who elected participation in this program is not eligible to accept any further permanent part-time or full-time employment with the state of Iowa from the date of termination from employment. This prohibition does not apply to a program participant who is later elected to public office.

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ITEM 52. Amend rule 11—60.2(8A), introductory paragraph, as follows:

11—60.2(8A) Disciplinary actions. Except as otherwise provided, in addition to less severe progressive discipline measures, any employee is subject to any of the following disciplinary actions when the action is based on a standard of just cause: suspension, reduction of pay within the same pay grade, disciplinary demotion, or discharge. Disciplinary action involving employees covered by collective bargaining agreements shall be in accordance with the provisions of the agreement. Disciplinary action shall be based on any of the following reasons: inefficiency, insubordination, less than competent job performance, refusal of a reassignment, failure to perform assigned duties, inadequacy in the performance of assigned duties, dishonesty, improper use of leave, unrehabilitated substance abuse, negligence, conduct which adversely affects the employee's job performance or the agency of employment, conviction of a crime involving moral turpitude, conduct unbecoming a public employee, misconduct, or any other just cause.

ITEM 53. Amend subrule 60.2(2) as follows:

60.2(2) Reduction of pay within the same pay grade. An appointing authority may reduce the pay of an employee who is covered by the overtime provisions of the federal Fair Labor Standards Act to a lower ~~step or~~ rate of pay within the same pay grade assigned to the employee's class for any number of pay periods considered appropriate. A written statement of the reasons for the reduction and its duration shall be sent to the employee within 24 hours after the effective date of the action, and a copy shall be sent to the director by the appointing authority at the same time.

Employees who are exempt from the overtime provisions of the federal Fair Labor Standards Act will not be subject to reductions of pay within the same pay grade except for infractions of safety rules of major significance, and then only after the appointing authority receives prior approval from the director.

ITEM 54. Amend paragraph **60.3(2)“d”** as follows:

d. The appointing authority shall develop a plan for the reduction in force and shall submit that plan to the director for approval in advance of the effective date. The plan must be approved by the director before it can become effective. The plan shall include the reason(s) for and the effective date of the reduction in force, the reduction in force unit(s), the reason(s) for choosing the unit(s) if the unit(s) is smaller than a bureau, the number of permanent merit system covered employees by class to be eliminated or reduced in hours, the cutoff date for length of service and performance credits to be utilized in determining retention points, and any other information requested by the director. ~~The appointing authority shall post each approved reduction in force plan for 60 calendar days in conspicuous places throughout the reduction in force unit. The posting shall include the names of all permanent merit system covered employees for each affected job class in the reduction in force unit by retention point order.~~

ITEM 55. Amend subrule 60.3(3), introductory paragraph, as follows:

60.3(3) Retention points. The reduction in force shall be in accordance with total retention points made up of a combination of points for length of service and points for performance record. The director, at the request of the appointing authority, may approve specific exemptions from reduction in force where special skills or abilities are required and have been previously documented in the records of the department as essential for performance of the assigned job functions. An employee with greater retention points who has received a rating of less than “meets expectations” on the most recent performance review given within the last 12 months, or who has a disciplinary suspension or demotion within the last 12 months, may be subject to reduction in force before the employee with the next lowest retention points, subject to approval of the director. A cutoff date shall be set by the appointing authority beyond which no points shall be credited. Length of service and performance credits shall be calculated as follows:

ITEM 56. Amend subrule 60.3(4), introductory paragraph, as follows:

60.3(4) Order of reduction in force. Permanent merit system covered employees in the approved reduction in force unit shall be placed on a list in descending order by class beginning with the employee having the highest total retention points in the class in the layoff unit. Reduction in force selections shall be made from the list in inverse order regardless of full-time or part-time status, except as provided in

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subrule 60.3(3). If two or more employees have the same combined total retention points, the order of reduction shall be determined by giving preference in the following sequence:

ITEM 57. Amend paragraphs **60.3(5)“b”** and **“c”** as follows:

b. Employees who choose to exercise bumping rights must do so to a position in the applicable reduction in force unit. Bumping may be to a lower class in the same series or to a lower formerly held class (or its equivalent if the class has been retitled) in which the employee had nontemporary status while continuously employed in the state service. Bumping shall not be permitted to classes from which employees were voluntarily or disciplinarily demoted. Bumping by nonsupervisory employees shall be limited to positions in nonsupervisory classes. Bumping to classes that have been designated as collective bargaining exempt shall be limited to persons who occupy classes with that designation at the time of the reduction in force. Bumping shall be limited to positions covered by merit system provisions and positions covered by a collective bargaining agreement.

The director may, at the request of the appointing authority, approve specific exemptions from the effects of bumping where special skills or abilities are required and have been previously documented in the records of the department of administrative services as essential for performance of the assigned job functions. An employee with greater retention points who has received a rating of less than “meets expectations” on the most recent performance review given within the last 12 months, or who has a disciplinary suspension or demotion within the last 12 months, may be subject to reduction in force before the employee with the next lowest retention points, subject to approval of the director.

c. When bumping as set forth in paragraph 60.3(5)“b,” ~~of this subrule,~~ the employee shall indicate the class, but the appointing authority shall designate the specific position assignment within the reduction in force unit. The appointing authority may designate a vacant position if the department of management certifies that funds are available and after all applicable contract transfer and recall provisions have been exhausted. The appointing authority shall notify the employee in writing of the exact location of the position to which the employee will be assigned. After receipt of the notification, the employee shall have five calendar days in which to notify the appointing authority in writing of the acceptance of the position or be laid off.

Bumping to another noncontract class in lieu of layoff shall be based on retention points regardless of full-time or part-time status and shall not occur if the result would be to cause the removal or reduction of an employee with more total retention points except as provided for in this subrule. If bumping occurs, the employee with the fewest total retention points in the class shall then be subject to reduction in force.

Pay upon bumping shall be in accordance with 11—subrule 53.6(11).

ITEM 58. Amend paragraph **60.3(6)“g”** as follows:

g. Notice of recall shall be sent ~~by certified mail, restricted delivery~~ with delivery confirmation. Employees must respond to an offer of recall within five calendar days following the date the notice was received. A notice that is undeliverable to the most recent address of record will be considered a declination of recall. The declination of a recall offer shall be documented in writing by the appointing authority, with a copy to the director.

ITEM 59. Amend rule 11—61.1(8A) as follows:

11—61.1(8A) Grievances. The grievance procedure is an informal process. It is not a contested case.

All employees shall have the right to file grievances. The right to file a grievance and the grievance procedure provided for in these rules shall be made known and available to employees throughout the agency by the appointing authority through well-publicized means. Employees covered by a collective bargaining agreement may use this grievance procedure for issues that are not covered by their respective collective bargaining agreements.

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

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

~~Employees covered by collective bargaining agreements shall be governed by the terms of their contract grievance procedures for those provisions contained in the contract. Otherwise, the provisions of this rule shall apply.~~

61.1(1) to 61.1(5) No change.

ITEM 60. Rescind paragraph **61.2(1)“d.”**

ITEM 61. Amend subrule 61.2(5) as follows:

61.2(5) *Appeal of grievance decisions.* An employee who has alleged a violation of 2003 Iowa Code Supplement sections 8A.401 to 8A.458 or the rules adopted to implement 2003 Iowa Code Supplement sections 8A.401 to 8A.458 may, within 30 calendar days after the date the director's response at the third step of the grievance procedure was issued or should have been issued, file an appeal with the public employment relations board. A nontemporary, noncontract employee covered by merit system provisions who is suspended, reduced in pay within the same pay grade, disciplinarily demoted, or discharged, except during the employee's period of probationary status, may, if not satisfied with the decision of the director, request an appeal hearing before the public employment relations board within 30 calendar days after the date the director's decision was issued or should have been issued. However, when the grievance concerns allegations of discrimination within the meaning of Iowa Code chapter 216, the Iowa civil rights commission procedures shall be the exclusive remedy for appeal and shall, in such instances, constitute final agency action. In all other instances, decisions by the public employment relations board constitute final agency action.

ITEM 62. Amend subrule 63.3(12) as follows:

63.3(12) If an absence because of illness, injury or other proper reason for using sick leave provided for in this rule extends beyond the employee's accrued sick leave, the appointing authority may require or permit additional time off to be charged to any other accrued leave ~~except that employees. Employees~~ shall, upon request, be paid accrued ~~vacation and~~ compensatory leave in a lump sum ~~to prevent delay of long-term disability benefits.~~ When all accrued sick leave has been used, the employee may be granted leave without pay or terminated except as provided in subrule 63.5(4). ~~Leave without pay for temporary disabilities for medically related reasons shall be in accordance with rule 11—63.5(8A), prior to termination.~~

ITEM 63. Amend subrule 63.4(1), introductory paragraph, as follows:

63.4(1) It is the appointing authority's responsibility to designate leave as FMLA leave. The appointing authority shall designate leave as FMLA leave when the leave qualifies for FMLA leave, even if the employee makes no request for FMLA leave or does not want the leave to be counted as FMLA leave. When both spouses are employed by the state, they shall be limited to a combined total of 12 weeks of FMLA leave taken in accordance with paragraph “a” or “c” below. The hourly equivalent for part-time employees shall be prorated based upon the average number of hours worked during the previous ~~six~~ 12 months. Leave may be for one or more of the following reasons:

ITEM 64. Amend subrule 63.5(4), introductory paragraph, as follows:

63.5(4) When requested in writing and verified by the employee's physician or other licensed practitioner, an employee shall be granted sick leave, either paid, unpaid or a combination of the two at the discretion of the employee, for at least an eight-week period when the purpose is to provide recovery from a medically related disability ~~except that leave without pay shall not be granted unless accrued sick leave has been exhausted.~~ If the employee's accrued sick leave is exhausted prior to completion of the eight-week period, the employee shall be granted additional leave, paid or unpaid, for the remainder of the period, in accordance with these rules. The appointing authority may grant leave in excess of the eight-week period. Paid leave shall not be granted in excess of that accrued. At any time during the period of leave the appointing authority may require that the employee submit written verification of continuing disability from the employee's physician or other licensed practitioner. In addition to the reason listed, subrule 63.5(2) shall also apply under the following circumstances:

ARC 0181C**BLIND, DEPARTMENT FOR THE[111]****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 216B.6, the Department for the Blind hereby gives Notice of Intended Action to amend Chapter 1, “Administrative Organization and Procedures,” Chapter 2, “Personnel,” Chapter 3, “Department Procedure for Rule Making,” Chapter 6, “Library for the Blind and Physically Handicapped,” Chapter 8, “Appeals Process—Business Enterprises Program,” Chapter 9, “Adult Orientation and Adjustment Center,” Chapter 10, “Vocational Rehabilitation Services,” Chapter 11, “Independent Living Rehabilitation Services,” and Chapter 13, “Public Records and Fair Information Practices,” Iowa Administrative Code.

The proposed amendments update the rules by making technical and substantive changes and by eliminating subrule 1.13(4) related to tobacco use, which is now addressed by Iowa Code chapter 142D. The changes include updating the Department’s business hours, updating references to the Code of Federal Regulations, revising rule language to reflect current terminology and to delete superfluous text, revising a minimum age requirement, and making other changes to clarify existing text and procedure.

Any interested person may offer written suggestions or comments on the proposed amendments on or before September 15, 2012. Written comments should be addressed to Bruce K. Snethen, Iowa Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309-2364. Comments may also be submitted by facsimile to (515)281-1263 or by electronic mail to Bruce.Snethen@blind.state.ia.us.

A public hearing will be held on September 15, 2012, at 10 a.m. in the Director’s Conference Room, First Floor, Department for the Blind, 524 Fourth Street, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of 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 chapters 17A, 216B and 216D.

The following amendments are proposed.

ITEM 1. Amend rule 111—1.3(216B) as follows:

111—1.3(216B) Location and information. The central office of the department is located at 524 Fourth Street, Des Moines, Iowa 50309-2364, telephone (515)281-1333, (incoming WATS number (800)362-2587). ~~District offices are located at 411 Third Street SE, Suite 745, Cedar Rapids, Iowa 52401-1811, telephone (319)365-9111, (incoming WATS number (888)346-9557); 2915 McClain Drive, Suite A, Cedar Falls, Iowa 50613-5266, telephone (319)268-2981, (incoming WATS number (888)378-4397). Information concerning department services may be obtained by contacting any of these offices.~~

ITEM 2. Amend rule **111—1.4(216B)**, definitions of “Division” and “Program administrator,” as follows:

“*Division*” means one of the ~~four~~ principal subunits of the department for the blind.

“*Program administrator*” means the chief of each of the ~~four~~ divisions of the department for the blind.

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ITEM 3. Amend rule 111—1.12(216B) as follows:

111—1.12(216B) Procurement.

1.12(1) The procurement of goods and services for clients of the department shall be in accordance with the requirements of informed choice as defined in 34 CFR 361.52 (~~effective March 13, 1997~~) (as published in the Federal Register on January 22, 2001).

1.12(2) Procurement of goods. Except as provided in 1.12(1) above, the procurement of goods shall be conducted in accordance with procurement standards and procedures established at 34 CFR 80.36 (~~effective March 5, 2001~~ July 6, 2004) for state government grantees.

ITEM 4. Rescind subrule **1.13(4)**.

ITEM 5. Amend paragraph **2.1(2)“b”** as follows:

b. An individual may obtain full certification as a vocational rehabilitation counselor by demonstrating competency in the following areas.

~~1- (1)~~ Knowledge, understanding, and implementation of the department's positive philosophy of blindness.

~~2- (2)~~ Knowledge of the department's programs.

~~3- (3)~~ Skills in career planning and development.

~~4- (4)~~ Knowledge of placement techniques and practices.

~~5- (5)~~ Knowledge of occupational information, job site evaluation, and job analysis.

~~6- (6)~~ Knowledge of and ~~ability to develop~~ development of alternative techniques of blindness.

~~7- (7)~~ Knowledge of rehabilitation technology services.

~~8- (8)~~ ~~Disability knowledge and issues~~ Knowledge of disability and related issues.

~~9- (9)~~ Advocacy role.

~~10- (10)~~ Case management.

(11) Adjustment to blindness counseling.

(12) Assessment of consumer needs.

(13) Public education and outreach.

(14) Teamwork and problem solving.

ITEM 6. Amend subrule 2.1(3) as follows:

2.1(3) ~~Service specialist for the blind 2~~ *Senior service specialist for the blind 1 (vocational rehabilitation teacher)*. Certification shall be required of all vocational rehabilitation teachers employed by the department.

a. No change.

b. An individual may obtain full certification as a vocational rehabilitation teacher by demonstrating competency in the following areas.

~~1- (1)~~ Knowledge, understanding, and implementation of the department's positive philosophy of blindness.

~~2- (2)~~ Knowledge of the department's programs.

~~3- (3)~~ Assessment of consumer needs.

~~4- (4)~~ Teaching skills and practices.

~~5- (5)~~ ~~Ability to teach and develop~~ Knowledge and development of alternative techniques of blindness.

~~6- (6)~~ ~~General knowledge~~ Knowledge of rehabilitation technology services.

~~7- (7)~~ Knowledge and development of community resources.

~~8- (8)~~ ~~Disability knowledge and issues~~ Knowledge of disability and related issues.

~~9- (9)~~ Advocacy role.

~~10- (10)~~ Case management.

(11) Adjustment to blindness counseling.

(12) Public education and outreach.

(13) Teamwork and problem solving.

c. No change.

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ITEM 7. Amend paragraph **2.1(4)“b”** as follows:

b. An individual may obtain full certification as an orientation center teacher by demonstrating competency in the following areas.

~~1. (1)~~ Knowledge, understanding, and implementation of the department's positive philosophy of blindness.

~~2. (2)~~ Knowledge of the department's programs.

~~3. (3)~~ ~~Ability to teach and develop~~ Knowledge and development of alternative techniques of blindness.

~~4. (4)~~ Technical knowledge of subject area(s) taught.

~~5. (5)~~ Teaching skills and practices.

~~6. (6)~~ Adjustment to blindness counseling ~~skills~~.

~~7. (7)~~ Understanding of career planning and development.

~~8. (8)~~ Knowledge of rehabilitation technology services.

~~9. (9)~~ ~~Disability knowledge and issues~~ Knowledge of disability and related issues.

~~10. (10)~~ Advocacy ~~role~~.

~~11. (11)~~ Teamwork and problem-solving ~~skills~~.

(12) Assessment of consumer needs.

(13) Public education and outreach.

ITEM 8. Amend subrule 3.4(1) as follows:

3.4(1) Contents.

a. At least 35 days before the adoption of a rule, the department shall cause a Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

~~a. (1)~~ A brief explanation of the purpose of the proposed rule.

~~b. (2)~~ The specific legal authority for the proposed rule.

~~c. (3)~~ Except to the extent impracticable, the text of the proposed rule.

~~d. (4)~~ Where, when and how persons may present their views on the proposed rule.

~~e. (5)~~ Where, when and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

b. Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the department shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the department for the resolution of each of those issues.

c. To facilitate transcription into ~~the alternative medium of braille, cassette tape or large-type format~~ media, the complete text of the proposed rule shall be published in the Notice of Intended Action whenever possible.

ITEM 9. Amend subrule 3.4(4) as follows:

3.4(4) Provision in alternative media. Mailed copies of Notices of Intended Action shall be provided in standard print format, unless an individual requests provision of the notices in ~~the alternative medium of braille, cassette tape or large-type format~~ media. Notices in the alternative media shall be provided in a timely manner.

ITEM 10. Amend subrule **3.12(3)**, second unnumbered paragraph, as follows:

To facilitate transcription into ~~the alternative medium of braille, cassette tape or large-type format~~ media, the complete text of the proposed rule shall be published in the Notice of Intended Action whenever possible.

ITEM 11. Amend **111—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202,~~ and Iowa Code section 25B.6.

BLIND, DEPARTMENT FOR THE[111](cont'd)

ITEM 12. Amend rule 111—6.2(216B) as follows:

111—6.2(216B) Services. Services include, but are not limited to, provision and circulation of books, magazines and videos in braille, ~~recorded disc~~, recorded cassette, digital audio, digital cartridge, electronic text, descriptive video, or large-type formats; provision and maintenance of playback equipment; transcription, production and duplication of standard print material into braille, ~~recorded cassette~~ digital audio, large print, or electronic text formats; and research, acquisition by loan or purchase, or production of instructional materials.

6.2(1) Transcription of standard print reading materials into alternative media. Transcription of standard print reading materials into the alternative media of braille, ~~cassette tape~~ digital audio, large print, or electronic text shall be provided to the extent that resources are available and following research of the library for the blind and physically handicapped and other libraries, volunteer production agencies, and vendors which confirm that the requested item is not available in any alternative media which can be effectively used by the library patron; or that the item exists, but cannot be acquired by loan, purchase, or duplication. Priority will be given to requests which enable persons to meet a vocational or educational need. Transcription is one method of providing access to standard print reading materials, and will be used in combination with other resources in order to provide as much support as possible to each person requesting transcription services.

Other requests will be honored contingent upon availability of resources.

6.2(2) Reserved.

ITEM 13. Amend subrule 6.4(3) as follows:

6.4(3) Applicants who use only large print materials ~~need not~~ must obtain the certification of a competent authority.

ITEM 14. Amend subrule 8.1(1) as follows:

8.1(1) Step 1: Informal conciliation. This is the necessary first step in the process to resolve any grievance. Either the vendor or the staff can commence informal conciliation. Informal conciliation must occur before any other steps in the grievance process can be used.

Informal conciliation occurs all the time and is not usually given a name by the participants, but is sometimes called administrative review. It can, but does not necessarily, involve a personal meeting between the vendor and the staff. Informal conciliation occurs when either the vendor or the staff is dissatisfied with the action of the other and contacts the other to try to work out the dissatisfaction. This contact can be by phone, by letter, or in person and usually involves discussion and negotiation of the point over a period of time. Both the vendor and staff have an interest in working out grievances informally since this is the least costly, least time-consuming, and least disruptive way of resolving differences. However, both the vendor and the staff have the right to ~~stick~~ adhere to their opinion and to move to the next step in the grievance process if informal conciliation does not resolve the grievance in a manner satisfactory to them. If either the vendor or the staff remains dissatisfied after a good-faith effort by both to resolve the grievance, then either the vendor or staff can move to the next allowable step.

ITEM 15. Amend **111—Chapter 8**, implementation sentence, as follows:

~~This rule is~~ These rules are intended to implement Iowa Code chapter 216D.

ITEM 16. Amend rule 111—9.2(216B) as follows:

111—9.2(216B) Eligibility.

9.2(1) Enrollment in the adult orientation and adjustment center shall be limited to persons ~~46~~ 17 years of age or older.

9.2(2) Clients of vocational rehabilitation services or independent living rehabilitation services shall be eligible for admission to the adult orientation and adjustment center as specified in their individual ~~written rehabilitation plan~~ for employment.

9.2(3) No change.

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ITEM 17. Amend rule 111—10.2(216B) as follows:

111—10.2(216B) State plan. The state plan for vocational rehabilitation of the blind of Iowa is developed by the department pursuant to federal regulations and submitted to the United States Department of Education, rehabilitation services administration. The state plan delineates the scope of vocational rehabilitation services to individuals and to groups, ensures that written policies are maintained, and provides guidelines for expenditure of funds.

In accordance with Section 34 CFR 361.29 of the federal regulations (as published in the Federal Register on January 22, 2001), reports of statewide studies and evaluations are available to the public for review.

ITEM 18. Amend subrule 10.4(2) as follows:

10.4(2) Whenever changed circumstances, such as a decrease in fiscal or personnel resources or an increase in its program costs, indicate that the department may no longer be able to provide a full range of services, as appropriate, to all eligible applicants, the department will invoke an order of selection policy based upon Section 34 CFR 361.36 of the federal regulations (as published in the Federal Register on January 22, 2001).

ITEM 19. Amend subrule 10.6(3) as follows:

10.6(3) The following services are exempt from a consideration of comparable services and benefits under subrule 10.6(1) above: (1) assessment for determining eligibility and vocational rehabilitation needs; (2) counseling and guidance; (3) referral services to other agencies; (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services; (5) rehabilitation technology services; ~~and~~ (6) postemployment services; and (7) training in the adult orientation and adjustment center.

ITEM 20. Amend subrule 10.7(3) as follows:

10.7(3) For those individuals who have been determined incapable of achieving an employment outcome, their circumstances will be reviewed annually, if requested, unless they have refused services, are no longer in the state, their whereabouts are unknown, or they have a medical condition which is rapidly progressive or terminal.

ITEM 21. Amend paragraph **10.8(3)“b”** as follows:

~~b. The department, in conjunction with the Iowa department of education, division of vocational rehabilitation services, will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services. Potential mediators will be identified by the division of vocational rehabilitation services utilizing three primary sources: mediators used by the department of education, the Iowa peace institute, and the Iowa extension service. The department and the division of vocational rehabilitation services will train potential mediators in the laws and regulations governing vocational rehabilitation.~~

ITEM 22. Amend paragraph **10.8(3)“e”** as follows:

~~e. All agreements reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement. This agreement shall be prepared by the mediator and mailed within seven days to all parties. The decision and a record of any action resulting from the decision shall be entered into the case file.~~

ITEM 23. Amend paragraph **10.8(4)“e”** as follows:

~~e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant's or eligible individual's representative, and to the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the tape-recorded transcript of the hearing upon written request to the director. The decision and a record of any action resulting from the decision shall be entered into the case file.~~

BLIND, DEPARTMENT FOR THE[111](cont'd)

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan, the federal Vocational Rehabilitation Act of 1973, federal vocational rehabilitation regulations, and state rules and policies.

ITEM 24. Amend subrule 10.8(5) as follows:

10.8(5) Documents provided. Transcripts, notices, responses, and other documents which are an integral part of the dispute resolution process shall be provided to involved parties in standard print format. An applicant or eligible individual, or representative of an applicant or eligible individual, or other involved party may request provision of documents in the an alternative medium of braille, cassette tape, or large-type format. Documents in the alternative medium shall be provided in a timely manner.

ITEM 25. Amend rule 111—10.10(17A) as follows:

111—10.10(17A) Forms. The following forms are used by the vocational rehabilitation services program:

1. Application for rehabilitation services—used for application for vocational rehabilitation services from the department. ~~Also contains statement of compliance with the Civil Rights Act of 1964 and release of information form.~~

2. Individual plan for employment (IPE)—used by the counselor/teacher and individual to develop a blind person's program for rehabilitation. ~~Printed on the form are~~ The IPE must contain the following statements: mutual agreement and understanding between individual and counselor; department's program responsibilities; individual responsibilities; review and evaluation of progress toward objectives and goal; and individual rights and remedies. In addition, the IPE provides for mutual development of a vocational goal, summary of planned services, accepted criteria for review and evaluation purposes and individual acceptance and response.

ITEM 26. Amend rule 111—11.2(216B) as follows:

111—11.2(216B) Services. ~~In addition to appropriate vocational rehabilitation services enumerated in rule 111—10.5(216B), independent~~ Independent living rehabilitation services may include, but are not limited to: teaching alternative techniques of blindness; guidance and counseling; orientation and mobility training; referral; recreational activities; provision and instruction in the use of telecommunication, sensory and other technological aids and devices; and provision of technical assistance through consultation with health care providers and other agencies and organizations who serve blind persons.

Joint planning between the eligible individual and the staff will be employed in the development of an independent living rehabilitation plan (ILRP) in order to identify independent living objectives and services that will be most beneficial in achieving an eligible individual's independence. Eligible individuals will be given the option of waiving the right to a formal, detailed ILRP and may choose to simply list their independent living objectives.

ITEM 27. Amend rule 111—11.4(216B) as follows:

111—11.4(216B) Application for independent living services for older individuals who are blind. The application delineates expenditure of funds, establishes program goals, identifies the scope and extent of services, and defines a plan of operation. The application is submitted to the U.S. Department of Education, Rehabilitation Services Administration. The application assures compliance with federal regulations governing the administration of this program, identifies reporting requirements, and ensures that the following activities will be conducted:

1. Needed services that contribute to the maintenance of, or the increased independence of, older individuals who are blind;

2. Capacity-building efforts, including collaboration with other agencies and organizations; and

3. Outreach to promote community awareness, involvement, and assistance.

~~11.4(1) to 11.4(4) Rescinded IAB 6/26/02, effective 7/31/02.~~

BLIND, DEPARTMENT FOR THE[111](cont'd)

ITEM 28. Amend paragraph **11.9(3)“b”** as follows:

b. The department ~~in conjunction with the Iowa department of education, division of vocational rehabilitation services,~~ will maintain a list of individuals who are impartial, qualified mediators and knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation and independent living rehabilitation services. ~~Potential mediators will be identified by the division of vocational rehabilitation services utilizing three primary sources: mediators used by the department of education, the Iowa peace institute, and the Iowa extension services. The department and the division of vocational rehabilitation services will train potential mediators in the laws and regulations governing vocational rehabilitation and independent living rehabilitation services.~~

ITEM 29. Amend paragraph **11.9(4)“e”** as follows:

e. Within 30 days of the completion of the formal hearing, the decision of the impartial hearing officer shall be mailed to the applicant or eligible individual or, if appropriate, the applicant's or eligible individual's representative and to the director. A representative of the Iowa client assistance program who has attended the formal hearing shall also receive a copy of the decision. The applicant or eligible individual may receive a copy of the ~~tape-recorded~~ transcript of the hearing upon written request to the director.

The decision of the impartial hearing officer shall be based upon the provisions of the approved state plan for independent living, the federal Rehabilitation Act, and state rules and policies.

ITEM 30. Amend subrule 13.3(2) as follows:

13.3(2) *Office hours.* Open records shall be made available during all customary office hours, which are between 8 a.m. and 5 4:30 p.m. daily, excluding Saturdays, Sundays and legal holidays.

ARC 0182C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.105, the Department of Natural Resources (Department) hereby gives notice of additional public hearings for new Chapter 17, “Compliance and Enforcement Procedures,” Iowa Administrative Code. Further, in response to public comments already received, the Department is providing more information about how the Department intends to implement Chapter 17.

The original Notice of Intended Action for proposed Chapter 17 was published in the Iowa Administrative Bulletin on March 21, 2012, as **ARC 0051C**, and a public hearing was held on April 23, 2012. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on May 16, 2012, as **ARC 0126C**, extending the public comment period to August 16, 2012. The Department is not proposing any changes to the rule language proposed for Chapter 17 as published in **ARC 0051C**.

The Department is holding three additional hearings to allow the public further opportunity to provide input. The public hearings will be held as follows:

July 18, 2012	1 to 2:30 p.m.	Kirkwood Community College Iowa City Campus, Room 263 Credit Center, Main Campus Bldg. 1816 Lower Muscatine Road Iowa City, Iowa
July 31, 2012	1 to 2:30 p.m.	North Iowa Area Community College Conference Center Bldg. Rooms NC180 E & F 500 College Drive Mason City, Iowa

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

August 7, 2012 1 to 2:30 p.m. Des Moines Area Community College
Carroll Campus, Rooms 142-144
906 N. Main Street
Carroll, Iowa

Any person who intends to attend a public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)242-5154 or by E-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

Any person may make written suggestions or comments on proposed Chapter 17 on or before August 16, 2012. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324; fax (515)242-5094; or by E-mail to christine.paulson@dnr.iowa.gov. All comments must be received no later than 4:30 p.m. on Thursday, August 16, 2012.

As described in the original Notice, the purpose of proposed Chapter 17 is to affirm the variety of compliance and enforcement options the Department may consider in responding to possible violations of environmental statutes, rules, permits, licenses, certifications, and plans. The Department has used these or similar procedures for many years, and this chapter simply formalizes this practice.

During the comment period and at the public hearing held on April 23, 2012, the Department received comments asserting that the proposed chapter weakens the Department's ability to enforce environmental requirements. The commenters expressed concern that the proposed rules favor large industrial or agricultural interests and that the Department will not fine or penalize those who violate rules or permits established to protect public health and the environment. The commenters were particularly concerned about manure spills, fish kills, and impacts to water quality but also expressed concern about weakened enforcement of all environmental regulations.

The Department intends to continue taking appropriate enforcement action in response to violations, including entering into administrative consent orders or issuing administrative orders that assess penalties and require corrective action, and recommending that the Environmental Protection Commission (Commission) refer violations to the Attorney General. The proposed chapter simply illustrates how the Department already works with regulated entities to ensure that regulated entities understand how environmental requirements apply to them; how to comply with these requirements; and what the consequences are if they violate these requirements.

As noted in the preamble of the original Notice and in proposed Chapter 17, the compliance and enforcement activities listed in Chapter 17 in no way preclude further enforcement specified in 567—Chapter 10, referral to the Attorney General or other Department enforcement actions specified under Iowa statute. The listed activities are not intended to be a hierarchy of the Department's actions in response to a specific violation or enforcement case, nor are these activities intended to be mutually exclusive. The listed activities are meant to be tools that the Department may use, and use of these tools is solely at the Department's discretion.

If the Department has information that an environmental violation has occurred, the Department needs to ensure that there has in fact been a violation and procure the pertinent facts in the case. Investigating a possible violation may include meeting with the responsible party(ies) or sending a letter. As appropriate or as specified under Iowa statute, the Department may issue a Notice of Violation to the responsible party(ies). In these meetings or letters, the Department will typically request that the responsible party(ies) initiates corrective action as expeditiously as possible. Meeting with regulated entities or sending letters in no way precludes the Department from taking the formal enforcement actions prescribed in Chapter 10 or from recommending referral to the Attorney General. In some cases, such as a case that involves a clear and serious violation or a repeat violation, the Department may forego meetings or letters and take administrative action or recommend an Attorney General referral.

The Department has long-standing procedures for each environmental program area to ensure appropriate enforcement actions. The Department continues to improve these procedures to ensure consistency within environmental program areas and in the field. However, the Department must also have enforcement discretion to respond appropriately to the different circumstances of each violation.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

As proposed in Chapter 17, the types of compliance activities the Department may use to respond to possible environmental violations are:

Informal Meeting: As needed or upon request, the Department will meet with company representatives, organizations, members of the public, consultants, or other interested stakeholders about any issue the Department oversees. In fact, the Department frequently corresponds with regulated entities to answer questions, explain regulations, request information, and make recommendations. Meetings are often helpful to the regulated party(ies) because the meetings facilitate clear communication and provide compliance assistance. Further, meetings are often an important step for the Department to determine if a violation has, in fact, occurred.

Some examples of the informal meetings that may occur between the Department and a regulated party include, but are not limited to, the following:

- General: An “exit interview” with facility staff following an onsite inspection;
- Animal feeding operations: A meeting with the owner or operator of a facility to explain manure management plan and construction permit requirements;
- Animal feeding operations: A meeting with the owner or operator of a proposed facility to determine if the facility is classified as a “medium” or “large” operation, if the facility is required to obtain a National Pollution Discharge and Elimination System (NPDES) permit, or if the facility satisfies minimum manure control requirements;
- Air quality: A conference call with a facility manager and company consultant to explain the emissions monitoring and record-keeping requirements of a new air construction permit;
- Solid waste: A meeting with the owner or operator of a sanitary disposal project to discuss the regulatory requirements (e.g., special waste authorizations, monitoring and record keeping); and
- Underground storage tanks: A meeting with an underground storage tank owner to discuss certification requirements, spill prevention or proper tank closure.

The examples provided are meant to illustrate the types of meetings the Department may have with regulated entities and are not an exhaustive list of the kinds of meetings that may occur. Holding meetings with owners or operators of regulated facilities does not prevent the Department from pursuing administrative penalties or other enforcement actions to address environmental violations.

Letter of Inquiry (LOI): The Department may send an LOI to request additional information from an owner or operator if the Department suspects that a violation has occurred, especially if a meeting would be impractical or is insufficient. If there is already sufficient information to determine that a violation has occurred or is occurring, the Department may not send an LOI. If, following the LOI, the Department verifies that a violation exists, the Department may proceed with issuing a letter of noncompliance, notice of violation, or administrative order or may proceed with other enforcement action.

Some examples of instances in which the Department would send an LOI include, but are not limited to, the following:

- Animal feeding operations: To determine the regulatory status of a confinement feeding operation, the Department may send an LOI requesting that the owner or operator provide information on the facility ownership, the facility’s animal unit capacity, or the initial construction date(s) of buildings at the facility;
- Animal feeding operations: The Department may send an LOI to request information from a confinement feeding operation about updates to the operation’s manure management plan;
- Air quality: A company informs the Department that the company has switched spray coatings on one of its facility’s paint lines and is now using a coating with a higher volatile organic compound (VOC) content. The Department may send an LOI to request material safety data sheets and usage records to determine if the facility is in compliance with its permitted VOC limit;
- Air quality: A company submits emissions inventory data showing actual air emissions greater than the potential to emit listed in the permit. The Department may send an LOI to inform the owner or operator of this issue and to request additional information;
- Solid waste: The Department receives a Notice of Cancellation on a financial assurance mechanism for a sanitary disposal project. The Department may send an LOI to inform the facility

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

of this issue and to request additional documentation to ensure that adequate financial assurance is maintained;

- Solid waste: Following an investigation or inspection, the Department may send an LOI requesting that an owner or operator of a sanitary disposal project verify proper solid waste disposal by providing the Department with documentation of the origin of waste and the waste disposal receipts;
- Underground storage tanks: The Department may send an LOI to request documentation indicating that the vapor recovery system test at a gasoline-dispensing facility has been completed and is in compliance with air quality and underground storage tank requirements; and
- Underground storage tanks: The Department may send an LOI to request financial assurance documentation for an underground storage tank.

The examples provided are for illustrative purposes only and are not an exhaustive list of potential situations for which the Department may send an LOI. Sending an LOI does not limit the Department's enforcement discretion.

Letter of Noncompliance (LNC): The Department intends to use the LNC to respond to a first-time minor violation, such as a late report or missed notification. In most cases, the Department will not use an LNC for a violation that results in documented or predicted harm to public health or the environment, a repeat violation, or a violation that continues for a long period of time.

Some examples of violations for which the Department may send an LNC to the responsible party(ies) include, but are not limited to, the following:

- Animal feeding operations: First-time failure of an owner or operator of an animal confinement feeding operation to properly maintain an earthen basin or storage structure or to provide adequate freeboard in a manure storage structure, which does not result in a manure release;
- Air quality: A company voluntarily discloses that it installed a new piece of equipment without obtaining the required air quality construction permit. The disclosure is made before the Department discovers the violation through an inspection or other investigation. It is determined that the installation was not subject to another air quality program such as Prevention of Significant Deterioration (PSD), Title V, or federal air toxics standards, and there was no predicted impact to ambient air quality standards. It is also the first time the company violated this requirement;
- Air quality: A company is required to operate a continuous emissions monitoring system (CEMS) on an air emissions source, such as a utility boiler. The Department discovers that the CEMS was not operational for greater than 5 percent of the emissions source operating time. However, the source's total operating time was minimal, and the CEMS downtime did not substantially interfere with determining compliance with the emission limit;
- Solid waste: Failure to submit report(s) as required by the date specified in the sanitary disposal project permit or applicable administrative rule;
- Solid waste: Following an investigation or inspection, the Department may send an LNC to notify the public or private agency that applicable separation distances for the burial of farm waste, farm buildings or farm animals were not met;
- Underground storage tanks: Failure to submit a report(s) for tiered site assessment, corrective action, or site monitoring for a leaking underground storage tank site;
- Wastewater: First-time failure of an owner or operator to maintain a wastewater treatment facility provided that the failure does not result in a water quality violation;
- Water supply: First instance of submission of a public water supply (PWS) required report or fee payment a few days after the due date;
- Storm water: First-time failure of an owner or operator to comply with the site's source water protection plan (SWPP) provided that the failure does not cause a water quality violation; and
- Flood plains: First-time failure of an owner or operator to obtain the required flood plain development permit before initiating construction.

These examples are for illustrative purposes only and are not an exhaustive list of potential violations for which the Department may send an LNC. Sending an LNC does not limit the Department's enforcement discretion. In some situations, these violations may result in further enforcement.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Notice of Violation (NOV): An NOV is one of the actions the Department may take to respond to more significant violations or repeat violations or when the regulated party does not respond to an LNC to correct violations. In general, the Department will issue an NOV for a violation of a standard or permit condition that is meant to protect public health or the environment.

Some examples of violations for which the Department may send an NOV to the responsible party(ies) include, but are not limited to, the following:

- General: Violation of any consent decree or administrative order;
- Animal feeding operations: A manure discharge that results in a water quality violation or fish kill;
- Animal feeding operations: An unpermitted or unauthorized manure discharge to waters of the state;
- Animal feeding operations: Failure of a medium or large animal feeding operation to have the required NPDES permit;
- Animal feeding operations: Manure discharged to waters of the state from an overflow from a confinement feeding operation's storage basin or due to misapplication of manure;
- Animal feeding operations: Failure of a confinement feeding operation to submit an annual manure management plan update or failure to submit a complete manure management plan every four years, including providing an updated phosphorus index and updated soil samples;
- Animal feeding operations: Failure of a confinement feeding operation to contain manure between periods of manure application;
- Air quality: Violation of an air pollutant emission limit detected during a stack test;
- Air quality: Violation of an air quality testing, monitoring, record-keeping, or reporting requirement if the violation substantially interferes with the Department's ability to determine compliance with air pollutant emissions limits or air quality standards;
- Air quality: Failure to obtain an air quality PSD or New Source Review permit or failure to apply for a Title V Operating Permit;
- Solid waste: Constructing or operating a sanitary disposal project without a permit or modifying an existing sanitary disposal project without first obtaining the required permit;
- Solid waste: Discovery during a Department inspection or site visit that a business has improperly disposed of solid waste (e.g., trade waste or asbestos);
- Underground storage tanks: Failure to report a petroleum release at an underground storage tank facility;
- Wastewater: A wastewater facility's significant noncompliance with effluent limits;
- Water supply: Violation of the Safe Drinking Water Act standards, including failure to collect required drinking water samples, failure to comply with provisions of a drinking water operation permit, or exceeding maximum contaminant levels in drinking water sample results;
- Storm water: Storm water runoff resulting in a water quality violation; and
- Flood plains: Repeat instance of an owner or operator constructing in the regulatory flood plain without Department approval.

These examples are for illustrative purposes only and are not an exhaustive list of potential violations for which the Department may send an NOV. Sending an NOV does not limit the Department's enforcement discretion. In some situations, these violations may result in further enforcement. The Department may follow an NOV with the administrative procedures specified in Chapter 10, may recommend that the Commission refer the case to the Attorney General, or may pursue any other enforcement action allowed under Iowa statute.

The Department typically finds that no two violations are identical. It is difficult, if not impossible, for the Department to predict what enforcement action will be necessary or appropriate before a violation occurs. This is why proposed rule 567—17.4(455B) clearly reiterates the Department's enforcement discretion in addressing all violations. The Department intends that the procedures described in proposed Chapter 17 inform the regulated community and the public of the possible compliance and enforcement activities that have been, and continue to be, available to the Department.

ARC 0175C

LABOR SERVICES DIVISION[875]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, “General Industry Safety and Health Rules,” and Chapter 26, “Construction Safety and Health Rules,” Iowa Administrative Code.

The proposed amendments adopt by reference changes to federal occupational safety and health standards. The federal standard changes make corrections and technical amendments to the general industry and construction standards. The federal Occupational Safety and Health Administration determined that these changes were not subject to the procedures for public notice and comment found in federal law because no stakeholder is likely to object and the changes do not impact existing rights or duties.

The changes correct references in the process safety management standard; hazardous waste operations and emergency response standard; permit required confined space standard; sawmill standard; pulp, paper, and paperboard mill standard; bloodborne pathogens standard; and the medical services and first-aid standard. The federal rule-making document removes a records transfer provision concerning professional diving operations and removes incorrect references in the 13 carcinogens standard. The federal rule-making document adds to the standard pertaining to grain handling facilities a reference to a 1985 compliance directive. Other changes concern the poster requirements for the servicing of tires and wheels; how to file reports of employees injured by mechanical power presses; and the correction of typographical errors in the air contaminants standard.

The principal reasons for adoption of these amendments are to implement legislative intent, protect the safety and health of Iowa workers, and make Iowa’s regulations current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1) and 29 CFR 1953.5, Iowa must adopt changes to the federal occupational safety and health standards.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on July 17, 2012, a public hearing will be held on July 18, 2012, at 8:30 a.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than July 18, 2012, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

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

After analysis and review of this rule making, jobs could be impacted. However, these amendments are implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

These amendments are intended to implement Iowa Code section 88.5 and 29 CFR 1953.5.

The following amendments are proposed.

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:

76 Fed. Reg. 80738 (December 27, 2011)

LABOR SERVICES DIVISION[875](cont'd)

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:
76 Fed. Reg. 80738 (December 27, 2011)

ARC 0176C**MEDICINE BOARD[653]****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 147.76 and 272C.2, the Board of Medicine hereby proposes to amend Chapter 22, “Mandatory Reporting,” Iowa Administrative Code.

The purpose of Chapter 22 is to establish that certain occurrences must be reported by licensees to the Board of Medicine. The proposed amendment requires licensees to report any action taken which results in a limitation, restriction, suspension or revocation of their hospital privileges or any voluntary limitation, restriction, suspension or revocation of hospital privileges to avoid a hospital investigation or hospital action.

The Board approved this Notice of Intended Action during a regularly scheduled meeting on April 19, 2012.

Any interested person may present written comments on the proposed amendment not later than 4:30 p.m. on July 17, 2012. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to mark.bowden@iowa.gov.

There will be a public hearing on July 17, 2012, at 11 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

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

This amendment is intended to implement Iowa Code chapters 148 and 272C.

The following amendment is proposed.

Adopt the following new rule 653—22.5(272C):

653—22.5(272C) Mandatory reporting—hospital action. Each licensee, including a licensee holding an inactive license, shall file with the board a written report describing any action taken which results in a limitation, restriction, suspension or revocation of the licensee’s hospital privileges or any voluntary limitation, restriction, suspension or revocation of the licensee’s hospital privileges to avoid an investigation or a hospital action. A licensee is not required to report a limitation, restriction, suspension or revocation of the licensee’s privileges of less than ten days if the action is the result of delinquent medical records. The written report and a copy of the hospital action or licensee’s voluntary action must be filed with the board within ten days of the date of the action. Failure to file the written report and a copy of the action in accordance with the requirements of this rule shall constitute a basis for action against the licensee.

ARC 0177C**MEDICINE BOARD[653]****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 147.76 and 272C.2, the Board of Medicine hereby proposes to amend Chapter 23, “Grounds for Discipline,” Iowa Administrative Code.

The purpose of Chapter 23 is to establish the grounds for discipline that apply to physicians and acupuncturists. The proposed amendment gives the Board authority to impose discipline for a licensee’s failure to report to the Board any actions taken against the licensee’s hospital privileges.

The Board approved this Notice of Intended Action during a regularly scheduled meeting on April 19, 2012.

Any interested person may present written comments on the proposed amendment not later than 4:30 p.m. on July 17, 2012. Such written materials should be sent to Mark Bowden, Executive Director, Board of Medicine, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa 50309-4686; or sent by e-mail to mark.bowden@iowa.gov.

There will be a public hearing on July 17, 2012, at 11 a.m. in the Board office, at which time persons may present their views either orally or in writing. The Board office is located at 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

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

This amendment is intended to implement Iowa Code chapters 148 and 272C.

The following amendment is proposed.

Adopt the following **new** subrule 23.1(48):

23.1(48) Failure to file with the board a written report and a copy of the hospital action within ten days of any hospital action or the licensee’s voluntary action to avoid a hospital investigation or a hospital action, as required by rule 653—22.5(272C).

TREASURER OF STATE**Notice—Public Funds Interest Rates**

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

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

TREASURER OF STATE(cont'd)

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

New official state interest rates, effective June 11, 2012, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	.....	Minimum .05%
32-89 days	.....	Minimum .05%
90-179 days	.....	Minimum .05%
180-364 days	.....	Minimum .05%
One year to 397 days	.....	Minimum .05%
More than 397 days	.....	Minimum .30%

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

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

ARC 0179C

EARLY CHILDHOOD IOWA STATE BOARD[249]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 256I.4, the Early Childhood Iowa State Board hereby amends Chapter 1, "Early Childhood Iowa Initiative," Iowa Administrative Code.

The Early Childhood Iowa Initiative was established by the General Assembly to create a partnership between communities and state-level partners to improve the efficiency and effectiveness of early care, education, health, and human services to support children zero through age five and their families.

The amendment to Chapter 1 adds specificity for the public regarding the location of Early Childhood Iowa State Board adopted guidelines and standards for services provided under a school ready children grant.

No waiver provision is included because the Early Childhood Iowa State Board has adopted a waiver policy for the initiative.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on April 4, 2012, as **ARC 0058C**. The Early Childhood Iowa State Board received no comments on the Notice of Intended Action during the public comment period; therefore, no changes were made to the amendment as published under Notice of Intended Action.

The Early Childhood Iowa State Board adopted this amendment on June 1, 2012.

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

This amendment is intended to implement Iowa Code section 256I.4(17c).

This amendment shall become effective on August 1, 2012.

The following amendment is adopted.

Amend paragraph **1.4(2)"d"** as follows:

d. Adopt guidelines and standards for services provided under a school ready children grant. All guidelines and standards shall be found in the online toolkit available on the official Web site of early childhood Iowa at www.earlychildhoodiowa.org.

[Filed 6/1/12, effective 8/1/12]

[Published 6/27/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/27/12.

ARC 0183C

IOWA FINANCE AUTHORITY[265]**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(1)"r" and 16.40, the Iowa Finance Authority hereby amends Chapter 41, "Shelter Assistance Fund," Iowa Administrative Code.

These amendments revise rules relating to the administration of the Shelter Assistance Fund to conform the rules to recent changes in federal regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 18, 2012, as **ARC 0096C**. The Authority received public comment on the proposed amendments but made no changes to the amendments based on those comments.

The Iowa Finance Authority adopted these amendments on June 6, 2012.

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

These amendments are intended to implement Iowa Code sections 16.5 and 16.40.

These amendments will become effective on August 1, 2012.

The following amendments are adopted.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 1. Amend rule ~~265—41.2(16)~~, definitions of “ESG program” and “Homeless,” as follows:
“ESG program” or “ESGP” means the Emergency Shelter Grants Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“Homeless” or “homeless individual” shall have the meaning set forth in ~~42 U.S.C. Section 11302~~ 24 CFR Part 91.

ITEM 2. Rescind the definition of “HUD ESG Desk Guide” in rule ~~265—41.2(16)~~.

ITEM 3. Amend rule ~~265—41.6(16)~~ as follows:

~~265—41.6(16)~~ Application procedures. IFA ~~will~~ may issue requests for proposals from eligible applicants as often as the state expects funding from HUD for the ESG program. Requests for proposals ~~will~~ may combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match for the ESG program, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

ITEM 4. Amend rule ~~265—41.8(16)~~ as follows:

~~265—41.8(16)~~ Matching requirement. Subrecipients ~~are not~~ may be required to provide a match for SAF program funds. The rules of each competition will specify what, if any, match is required.

ITEM 5. Amend subrule 41.10(3) as follows:

~~41.10(3)~~ Participation by homeless individuals and families. To the maximum extent possible, SAF program subrecipients must involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with SAF funds, in providing services assisted with SAF funds, and in providing services for occupants of facilities assisted with SAF funds.

~~*a.* SAF program recipients and subrecipients must certify that homeless individuals and families are involved, through employment, volunteer services, or otherwise, in constructing, renovating, maintaining, and operating assisted facilities and in providing services.~~

~~*b.* Subrecipients must have the participation of at least one homeless person or formerly homeless person on their board of directors or equivalent policymaking entity. The Secretary of HUD may issue a waiver to the subrecipient if the subrecipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.~~

ITEM 6. Amend paragraph ~~41.12(2)~~“a” as follows:

~~*a.* Records for any assisted activity shall be retained for three~~ five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

[Filed 6/7/12, effective 8/1/12]

[Published 6/27/12]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/27/12.

ARC 0186C

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority hereby amends Chapter 42, “Emergency Shelter Grants Program,” Iowa Administrative Code.

These amendments revise rules relating to the administration of the Emergency Shelter Grants program (renamed the “Emergency Solutions Grant” program by these amendments) to conform the rules to recent changes in federal regulations.

IOWA FINANCE AUTHORITY[265](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 18, 2012, as **ARC 0095C**. The Authority received public comment on the proposed amendments but made no changes to the amendments based on those comments.

The Iowa Finance Authority adopted these amendments on June 6, 2012.

After analysis and review of this rule making, there should be no adverse impact on jobs. Although homeless shelters and nonprofits may now be required to match the funds they receive, these organizations will receive a credit for all employee salaries. Therefore, this rule making encourages the hiring of full-time employees.

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 24 CFR Parts 91, 576, 582, and 583.

These amendments will become effective on August 1, 2012.

The following amendments are adopted.

ITEM 1. Amend **265—Chapter 42**, title, as follows:

EMERGENCY SHELTER GRANTS SOLUTIONS GRANT PROGRAM

ITEM 2. Amend rule 265—42.1(16) as follows:

265—42.1(16) Purpose. The ~~emergency shelter grants program~~ Emergency Solutions Grant Program is designed to improve the quality of services to the homeless and to prevent individuals and families from becoming homeless. The program will make available needed services and help meet the costs of providing essential social services so that homeless individuals and families have access not only to safe and sanitary shelter but also to the supportive services and other types of assistance the individuals and families need to improve their situations.

ITEM 3. Amend rule **265—42.2(16)**, definitions of “Emergency shelter,” “ESG program” and “Homeless,” as follows:

“*Emergency shelter*” means a homeless shelter with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for homeless persons, in accordance with the definition at 24 CFR Part 576.

“*ESG program*” or “*ESGP*” means the Emergency ~~Shelter Grants~~ Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“*Homeless*” or “*homeless individual*” shall have the meaning set forth in ~~42 U.S.C. Section 11302~~ 24 CFR Part 91.

ITEM 4. Rescind the definition of “HUD ESG Desk Guide” in rule **265—42.2(16)**.

ITEM 5. Amend rule 265—42.3(16) as follows:

265—42.3(16) Eligible applicants. City governments, county governments, and private, nonprofit organizations are eligible applicants under the ESG program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider serves homeless and near-homeless clients by providing overnight shelter, ~~meals, clothing, transportation, counseling, child care, legal services, medical services, transitional housing services,~~ and other services eligible under the ESG program as determined by HUD.

ITEM 6. Amend rule 265—42.4(16) as follows:

265—42.4(16) Eligible activities. Eligible activities are based on guidelines established by the Stewart B. McKinney Homeless Assistance Act of 1987 and are further defined in 24 CFR Part 576 ~~and the HUD Desk Guide.~~ Activities assisted by this program may include only the following:

42.4(1) *Construction Street outreach.* ~~Rehabilitation, renovation, or conversion of buildings for use in the provision of services for the homeless.~~ Provision of essential services necessary to reach out to unsheltered homeless people; to connect them with emergency shelter, housing, or critical services; and

IOWA FINANCE AUTHORITY[265](cont'd)

to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access emergency shelter, housing, or an appropriate health facility.

~~42.4(2) *Essential services—new or increased level of services*~~ Emergency shelter. Provision of essential services if the service is a new service or quantifiable increase in the level of service. ESG program funds may not be used to replace existing funding sources for services; however, once a new or increased level of service meets the standards, ESG program funds may be used to continue funding the service in subsequent years. No more than 30 percent of the IFA annual grant amount may be used for this purpose. Provision of essential services to homeless families and individuals in emergency shelters and the operation of emergency shelters.

~~42.4(3) *Operating costs*~~. Payment of emergency shelter and transitional housing operating costs including shelter maintenance, operations, rent, repairs, security, fuel, equipment, insurance, utilities, food and furnishings. Staff salaries, including fringe benefits, paid under the operating cost category are limited to 10 percent of the grant amount. Maintenance and security costs are not subject to the 10 percent standard.

~~42.4(4)~~ 42.4(3) *Prevention of homelessness*. Payment for eligible activities that assist in the prevention of homelessness. Grants may be made for homeless prevention as long as the total amount of such grants does not exceed 30 percent of the total emergency shelter grants program allocation. Examples of eligible activities include, but are not limited to, short-term subsidies to help defray rent and utility arrearages for families faced with eviction or termination of utility services; security deposits or first month's rent to enable a family to acquire its own rental unit; programs to provide mediation services for landlord-tenant disputes; or programs to provide legal representation to indigent tenants in eviction proceedings. Other possible types of homeless prevention efforts include making needed payments to prevent a home from falling into foreclosure. The provision of housing relocation and stabilization services and short- or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter or another place described in paragraph (1) of the definition of "homeless" in 24 CFR Part 576.2.

~~42.4(4)~~ Rapid re-housing. The provision of housing relocation and stabilization services and short- or medium-term rental assistance necessary to help a homeless individual or family move as quickly as possible into permanent housing and achieve stability in that housing.

~~42.4(5) *Administrative costs*~~. A recipient may use a portion of a grant received for administrative purposes as determined by IFA. ~~The maximum allowed for these administrative costs shall be 5 percent of the state ESGP allocation.~~ IFA reserves the authority for distribution of administrative funds.

~~42.4(6) *Homeless Management Information System (HMIS) projects*~~. IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total ~~emergency shelter grants program~~ Emergency Solutions Grant Program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. In the case of parties to a supportive housing grant agreement or renewal grant agreement with the United States Department of Housing and Urban Development for HMIS implementation who are in need of the required cash match, IFA may in its discretion award such a grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16). Subrecipients of grants in support of other eligible activities listed in subrules 42.4(1) to 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or comparable database.

ITEM 7. Amend rule 265—42.6(16) as follows:

265—42.6(16) Application procedures. IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD. Requests for proposals ~~will~~ may combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 8. Amend rule 265—42.8(16) as follows:

265—42.8(16) Matching requirement. Each subrecipient of ESG program funds must match the grant amount with an equal amount. In calculating the amount of matching funds, the following may be included: ~~the value of any donated material or building used in the project, the value of any lease on a building used in the project, any salary paid to staff of the subrecipient or to any state subrecipient in carrying out the ESG program, and the time and services contributed by volunteers at the rate of \$5 per hour.~~ For purposes of this rule, IFA will determine the value of any donated material or building, or any lease, using any method reasonably calculated to establish fair market value. cash contributions expended for allowable costs of the subrecipient for the ESG program or noncash contributions, including the value of any real property, equipment, goods, or services contributed to the subrecipient's ESG program provided that, if the subrecipient had to pay for them with grant funds, the costs would have been allowable. IFA may allow an exemption of matching funds up to a maximum of \$100,000 of the state allocation received from HUD for the subrecipients least capable of providing such matching amounts. The subrecipient must document its need to participate in this exemption from matching requirements and must receive prior approval from IFA before the exemption will be effective.

ITEM 9. Amend subrule 42.10(3) as follows:

42.10(3) Participation by homeless individuals and families. To the maximum extent possible, the subrecipient must involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with ESG funds, in providing services assisted with ESG funds, and in providing services for occupants of facilities assisted with ESG funds.

~~a. A recipient or subrecipient of ESG program funds must certify that it involves, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating assisted facilities and in providing services.~~

~~b. Local government recipients or subrecipients or qualified recipients or subrecipients must have the participation of at least one homeless person or formerly homeless person on their board of directors or equivalent policymaking entity. The Secretary of HUD may issue a waiver to the recipient or subrecipient if the recipient or subrecipient agrees to otherwise consult with homeless or formerly homeless individuals when making policy decisions.~~

ITEM 10. Adopt the following new subrules 42.10(7) and 42.10(8):

42.10(7) Coordination with other homeless services. Subrecipients must coordinate and integrate, to the maximum extent practicable, grant-funded activities with other homeless service programs in the community.

42.10(8) Access to mainstream services and resources. Subrecipients must ensure that all program participants are assisted, to the maximum extent practicable, in obtaining mainstream services and financial assistance, including housing, health, social services, employment, education, and youth programs for which participants are eligible.

ITEM 11. Amend rule 265—42.11(16), introductory paragraph, as follows:

265—42.11(16) Compliance with applicable federal and state laws and regulations. All recipients and subrecipients shall comply with the Iowa Code governing activities performed under this program and with all applicable provisions of the Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations, as well as the revising regulations of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), as defined by 24 CFR Part 576. Use of ESG program funds must comply with the following additional requirements.

ITEM 12. Adopt the following new paragraphs **42.11(1)“e” to “i”**:

~~e. The Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR Part 24.~~

~~f. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.~~

IOWA FINANCE AUTHORITY[265](cont'd)

g. Contracting requirements at 24 CFR Part 24 that prohibit the use of federally disbarred, suspended, or ineligible contractors for expenses related to the ESG program.

h. Job training and employment for low-income residents requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and implementing regulations at 24 CFR Part 135, except that homeless individuals have priority over other Section 3 residents in accordance with 24 CFR Part 576.405(c).

i. The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, J, K, M, and R, which apply to all shelters assisted under the ESG program and all housing occupied by program participants.

ITEM 13. Amend paragraph **42.12(2)“a”** as follows:

a. Records for any assisted activity shall be retained for ~~three~~ five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

[Filed 6/8/12, effective 8/1/12]

[Published 6/27/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/27/12.

ARC 0178C

MANAGEMENT DEPARTMENT[541]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256I.5, the Department of Management, in consultation with the Early Childhood Iowa State Board, amends Chapter 9, “Fiscal Oversight of the Early Childhood Iowa Initiative,” Iowa Administrative Code.

The Early Childhood Iowa Initiative was established by the General Assembly to create a partnership between communities and state-level partners to improve the efficiency and effectiveness of early care, education, health, and human services to support children prenatal through age five and their families.

The amendment adds a definition of “audit” which provides clarification regarding the required audit of the Early Childhood Iowa funds managed by area boards.

No waiver provision is included because it is the opinion of the Department of Management that these rules do not necessitate such a process.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on April 4, 2012, as **ARC 0067C**. The Department of Management received no comments on the Notice of Intended Action during the public comment period; therefore, no changes were made to the amendment as published under Notice of Intended Action.

The Department of Management adopted this amendment on June 1, 2012.

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

This amendment is intended to implement Iowa Code section 256I.5(1b).

This amendment shall become effective on August 1, 2012.

The following amendment is adopted.

Adopt the following **new** definition of “Audit” in rule **541—9.1(256I)**:

“*Audit*” means a financial review by area boards of early childhood Iowa funds. Area boards that receive over \$500,000 in federal funds from all funding sources shall complete a full audit of the funds. Area boards that do not receive over \$500,000 in federal funds from all funding sources may complete a full audit or coordinate with the fiscal agent’s financial review to conduct the state board approved agreed-upon procedures. The requirements included in the state board approved agreed-upon

MANAGEMENT DEPARTMENT[541](cont'd)

procedures shall be found in the online toolkit available on the official Web site of early childhood Iowa at www.earlychildhoodiowa.org.

[Filed 6/1/12, effective 8/1/12]

[Published 6/27/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/27/12.

ARC 0185C**REGENTS BOARD[681]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 262.9(3) and 262.69, the Board of Regents hereby amends Chapter 4, "Traffic and Parking at Universities," Iowa Administrative Code.

The amendment in Item 1 provides a new definition for "guest" to distinguish persons visiting residents of the university residence halls from other visitors to the campus.

The amendment in Item 2 increases the sanction for improper parking in a space or stall designated for persons with disabilities from \$100 to \$200 in compliance with Iowa Code section 805.8A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 18, 2012, as **ARC 0099C**. A comment period was established. No comments were received. The adopted amendments are identical to the amendments published under Notice.

The Board of Regents adopted the amendments on June 6, 2012.

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

These amendments are intended to implement Iowa Code sections 262.9(3), 262.69 and 805.8A.

These amendments shall become effective on August 1, 2012.

The following amendments are adopted.

ITEM 1. Adopt the following new definition of "Guest" in rule **681—4.26(262)**:

"Guest" means any person other than the person living at the designated residence hall.

ITEM 2. Amend subrule **4.31(2)**, list of offenses, entry for "Improper parking in a space or stall designated for persons with disabilities," as follows:

Offenses	Sanctions for Each Offense
Improper parking in a space or stall designated for persons with disabilities (4.29(262), 4.30(4))	\$100 <u>\$200</u>

[Filed 6/7/12, effective 8/1/12]

[Published 6/27/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/27/12.