



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.

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

Schedule for Rule Making 2009

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
3	Friday, July 10, 2009	July 29, 2009
4	Friday, July 24, 2009	August 12, 2009
5	Friday, August 7, 2009	August 26, 2009

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, July 14, 2009, at 10 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Senior farmers' market nutrition program—purchase of raw honey, 50.3 Notice **ARC 7867B** 6/17/09

CULTURAL AFFAIRS DEPARTMENT[221]

Iowa cultural trust, ch 13 Notice **ARC 7925B** 7/1/09

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Neighborhood stabilization program, ch 27 Filed **ARC 7845B** 6/17/09

Brownfield redevelopment program; redevelopment tax credit, 65.1 to 65.10 Filed **ARC 7844B** 6/17/09

Targeted jobs withholding tax credit program, 71.1, 71.4 to 71.6

Notice **ARC 7846B**, also Filed Emergency **ARC 7848B** 6/17/09

Targeted jobs withholding tax credit program, 71.4, 71.5(1) Filed Emergency **ARC 7847B** 6/17/09

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Debts to state or local government—noncompliance, ch 8 Notice **ARC 7862B** 6/17/09

Applicants from recognized non-Iowa institutions, 13.3 Notice **ARC 7872B** 6/17/09

Removal of option to receive license before receiving degree, 13.10(4) Notice **ARC 7860B** 6/17/09

Exchange licenses, 13.17 Notice **ARC 7871B** 6/17/09

NCATE-accredited programs, 13.19 Filed **ARC 7869B** 6/17/09

Administrator exchange licenses—applicants from non-Iowa institutions, 18.3 Notice **ARC 7874B** 6/17/09

Administrator exchange licenses, 18.6 Notice **ARC 7873B** 6/17/09

Valid authorization for behind-the-wheel driving instructor, 23.2 Notice **ARC 7861B** 6/17/09

Standards of professional conduct and ethics—Standard I, 25.3(1) Notice **ARC 7868B** 6/17/09

Standards of professional conduct and ethics—Standard VII, 25.3(7) Notice **ARC 7864B** 6/17/09

ENERGY INDEPENDENCE, OFFICE OF[350]

Energy efficiency community grant program, ch 5 Notice **ARC 7913B** 7/1/09

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Air quality, amendments to chs 20, 22, 23, 25, 28, 33 Notice **ARC 7855B** 6/17/09

Water quality, effluent and pretreatment standards, amendments to chs 61, 62 Notice **ARC 7853B** 6/17/09

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detection, 134.14(6), 135.2, 135.4, 135.5(1), 135.15(3)"a," 135.20 Notice **ARC 7854B** 6/17/09

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

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HUMAN SERVICES DEPARTMENT[441]

Risk pool board—funding, applications, 25.62(5), 25.63, 25.64, 25.65(2)

Filed Emergency **ARC 7879B** 6/17/09

Collection on food assistance claim resulting from agency error, 65.21(1) Filed **ARC 7928B** 7/1/09

Medicaid eligibility of newborns, 75.1(20) Notice **ARC 7930B**, also Filed Emergency **ARC 7929B** 7/1/09

Medicaid—income limit increase for infants and pregnant women, 75.1(28)"a"(1)

Filed Emergency **ARC 7931B** 7/1/09

Medicaid coverage for all eligible children, 75.11(2)"a"

Notice **ARC 7934B**, also Filed Emergency **ARC 7932B** 7/1/09

Medicaid health insurance premium payment (HIPP) program, 75.21, 75.25 Filed **ARC 7935B** 7/1/09

Incident reporting standards for providers of HCBS habilitation and certain HCBS waiver

services, amendments to ch 77 Filed **ARC 7936B** 7/1/09

Reimbursement for translation and interpretation services, 79.1(19)

Notice **ARC 7938B**, also Filed Emergency **ARC 7937B** 7/1/09

HAWK-I program—extension of coverage to all income-eligible children, 86.2(7)

Notice **ARC 7882B**, also Filed Emergency **ARC 7881B** 7/1/09

INSPECTIONS AND APPEALS DEPARTMENT[481]

General provisions for elder group homes, assisted living programs, and adult day services,

ch 67 Notice **ARC 7877B** 6/17/09

Assisted living programs, ch 69 Notice **ARC 7878B** 6/17/09

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Credentialing—retrospective payment of clean claims, 70.10	Filed	ARC 7880B	6/17/09
Conduit derivative transactions—exemptions from reporting requirements, 93.6(3)	Notice	ARC 7914B	7/1/09
Accounting practices for certain derivative assets and indexed products, ch 97	Notice	ARC 7915B	7/1/09

IOWA FINANCE AUTHORITY[265]

Definition of "title plant" rescinded, 9.7(2)	Filed	ARC 7892B	7/1/09
Updates to compliance monitoring manual, 12.3, 12.4	Filed	ARC 7891B	7/1/09
State housing trust fund, 19.1	Notice	ARC 7851B, also Filed Emergency	ARC 7850B 6/17/09
Updated allocation plans—local housing trust fund and project-based housing programs, 19.1	Notice	ARC 7895B	7/1/09
Jump-start housing assistance program, 29.3(1), 29.5(1), 29.8	Notice	ARC 7900B, also Filed Emergency	ARC 7899B 7/1/09
Jump-start housing assistance program, 29.5(2), 29.6	Notice	ARC 7843B, also Filed Emergency	ARC 7842B 6/17/09
Water quality financial assistance program, ch 33	Notice	ARC 7896B	7/1/09
Affordable housing assistance grant fund, ch 35	Notice	ARC 7898B, also Filed Emergency	ARC 7897B 7/1/09
Public service shelter grant fund, ch 36	Notice	ARC 7893B, also Filed Emergency	ARC 7894B 7/1/09

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Additional employer contributions from employer-mandated reduction in hours, 4.6(4), 4.8, 6.3, 6.4, 15.5(1)	Filed	ARC 7916B	7/1/09
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LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

OSHA regulations—adoption by reference, 10.20	Notice	ARC 7927B	7/1/09
Elevators, escalators, and related equipment, adopt ch 71; amend chs 72, 73; rescind chs 75, 76	Filed	ARC 7840B	6/17/09
Special inspector commissions, 71.12	Filed	ARC 7841B	6/17/09
Certificate fee—addition of four-year certificate, 90.7(2)	Notice	ARC 7865B, also Filed Emergency	ARC 7863B 6/17/09
Construction contractor registration—fees, 150.6(1)	Filed Emergency	ARC 7876B	6/17/09
Construction contractor registration—fees, 150.6	Notice	ARC 7875B	6/17/09

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

General license regulations, ch 15	Filed	ARC 7852B	6/17/09
Licenses—administration fees, 15.4	Notice	ARC 7923B	7/1/09
Game management areas—use of stationary blinds and decoys, 51.6	Filed	ARC 7917B	7/1/09
Expansion of wildlife refuge area listing, 52.1(2)"a"	Filed	ARC 7918B	7/1/09
Nursery stock sale to the public—pricing revisions, 71.3	Filed	ARC 7857B	6/17/09
Endangered, threatened, and special concern animals—birds, 77.2	Notice	ARC 7856B	6/17/09
Landowner-tenant registration, 95.2	Filed	ARC 7919B	7/1/09
Wild turkey fall hunting by residents, 99.2(3), 99.5(1)	Filed	ARC 7920B	7/1/09
Deer hunting—licenses, quotas and restrictions, depredation permits, 106.1(1)"a," 106.6, 106.11(4)"b"	Filed	ARC 7921B	7/1/09
Hunting and trapping of certain furbearers, 108.1, 108.7(6)	Filed	ARC 7933B	7/1/09
Trapping limitations, 110.1	Filed	ARC 7922B	7/1/09

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Applicants for licensure—criminal conviction history, amendments to ch 3	Notice	ARC 7889B	7/1/09
Supervision of fluoroscopy, 7.2	Filed	ARC 7888B	7/1/09

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Electronic transfer of prescriptions between pharmacies, 6.9(9)"b"	Notice	ARC 7926B	7/1/09
Drug distribution and control—unit dose dispensing, use of patient-owned drugs, 7.8	Notice	ARC 7912B	7/1/09
Transmission of new, refill or renewal orders; facsimile transmission of prescriptions, 8.19(2), 21.9	Notice	ARC 7910B	7/1/09
Schedule II controlled substances—issuing multiple prescriptions, 10.25	Notice	ARC 7908B	7/1/09
Temporary designation of controlled substances, 10.38	Filed Emergency	ARC 7906B	7/1/09

Sterile compounding—beyond-use date, high-risk preparations, 13.2, 13.13(1)“e” Notice **ARC 7924B** 7/1/09
 Iowa prescription monitoring program, ch 37 Filed **ARC 7903B**..... 7/1/09

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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Notice **ARC 7858B** 6/17/09

PUBLIC SAFETY DEPARTMENT[661]

Ignition interlock devices, rescind ch 7; adopt ch 158 Filed **ARC 7887B**..... 7/1/09

REGENTS BOARD[681]

Classification as residents for qualified veterans and military persons and their families, 1.4
Filed Emergency **ARC 7911B** 7/1/09
 Admission to the college of veterinary medicine at Iowa State University, 2.26 Notice **ARC 7907B** 7/1/09
 Monetary sanctions for parking offenses, 4.31(2) Filed **ARC 7904B** 7/1/09
 Iowa State University—organization and general rules, amendments to ch 13 Notice **ARC 7905B**..... 7/1/09

REVENUE DEPARTMENT[701]

Agricultural rules, ch 226 Filed **ARC 7870B** 6/17/09

TRANSPORTATION DEPARTMENT[761]

Railroad revolving loan and grant fund program, 1.7, 1.8(7), 4.1(1); rescind ch 801; rescind
 765—chs 1 to 4; amend and transfer 765—ch 5 to 761—ch 822 Filed Emergency **ARC 7909B**..... 7/1/09
 Motor carrier regulations—update of CFR reference, 529.1 Filed **ARC 7901B** 7/1/09
 Driver’s licenses, amendments to chs 601, 602, 604, 605, 607, 610, 611, 615, 640 Filed **ARC 7902B**..... 7/1/09
 Close-clearance warning signs along railroad tracks, ch 813 Notice **ARC 7885B** 7/1/09

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

Abbreviated franchise process—eligibility, petition, and notice requirements, 11.1(9),
 11.2(3), 11.3(1)“g,” 11.5(11) Notice **ARC 7859B**..... 6/17/09
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Iowa Veterans Home—exempt income for incentive therapy or other programs,
 10.19(2)“a”(9) Filed Emergency After Notice **ARC 7890B** 7/1/09

VOTER REGISTRATION COMMISSION[821]

Voter registration—general, amendments to chs 1 to 3, 5, 6, 9 to 11
Notice **ARC 7884B**, also Filed Emergency **ARC 7883B** 7/1/09

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.

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
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Senator Wally Horn
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AGENCY	HEARING LOCATION	DATE AND TIME
CULTURAL AFFAIRS DEPARTMENT[221]		
Iowa cultural trust, ch 13 IAB 7/1/09 ARC 7925B	Tone Board Room, Third Floor West Historical Building 600 E. Locust St. Des Moines, Iowa	July 21, 2009 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Targeted jobs withholding tax credit program, 71.1, 71.4 to 71.6 IAB 6/17/09 ARC 7846B	ICN Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	July 7, 2009 2:30 to 4:30 p.m.
EDUCATIONAL EXAMINERS BOARD[282]		
Debts to state or local government— noncompliance, ch 8 IAB 6/17/09 ARC 7862B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Applicants from recognized non-Iowa institutions, 13.3 IAB 6/17/09 ARC 7872B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Removal of option to receive license before receiving degree, 13.10(4) IAB 6/17/09 ARC 7860B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Exchange licenses, 13.17 IAB 6/17/09 ARC 7871B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Administrator exchange licenses—applicants from non-Iowa institutions, 18.3 IAB 6/17/09 ARC 7874B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Administrator exchange licenses, 18.6 IAB 6/17/09 ARC 7873B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Valid authorization for behind-the-wheel driving instructor, 23.2 IAB 6/17/09 ARC 7861B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Standards of professional conduct and ethics—Standard I, 25.3(1) IAB 6/17/09 ARC 7868B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
Standards of professional conduct and ethics—Standard VII, 25.3(7) IAB 6/17/09 ARC 7864B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 8, 2009 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Air quality, amendments to chs 20, 22, 23, 25, 28, 33 IAB 6/17/09 ARC 7855B	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	July 20, 2009 1 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)		
Water quality standards, effluent and pretreatment standards, amendments to chs 61, 62 IAB 6/17/09 ARC 7853B	Public Library 112 Albany Ave. S.E. Orange City, Iowa	July 7, 2009 11 a.m.
	Public Library 21 E. 3rd St. Spencer, Iowa	July 7, 2009 6 p.m.
	Fifth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	July 9, 2009 1 p.m.
	Public Library 360 W. 11th St. Dubuque, Iowa	July 13, 2009 11 a.m.
	Public Library 123 S. Linn St. Iowa City, Iowa	July 13, 2009 6 p.m.
	Public Library 507 Poplar St. Atlantic, Iowa	July 15, 2009 10 a.m.
	Public Library 200 N. 4th St. Clear Lake, Iowa	July 16, 2009 11 a.m.
UST operator training, closure investigations, compliance inspections, and piping leak detection, 134.14(6), 135.2, 135.4, 135.5(1), 135.15(3)"a," 135.20 IAB 6/17/09 ARC 7854B	Denison Public Meeting Room 111 N. Main St. Denison, Iowa	July 7, 2009 1 p.m.
	Meeting Room B, Public Library 1401 5th St. Coralville, Iowa	July 8, 2009 1 p.m.
	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 9, 2009 1 p.m.
INSPECTIONS AND APPEALS DEPARTMENT[481]		
Dependent adult abuse in facilities and programs, ch 52 IAB 7/1/09 ARC 7939B (See also ARC 7828B , IAB 6/3/09) (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	July 24, 2009 3 p.m.
	Room 118, Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	July 24, 2009 3 p.m.
	Room 112, Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	July 24, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	July 24, 2009 3 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
INSPECTIONS AND APPEALS DEPARTMENT[481] (Cont'd)		
(ICN Network)	Rm. 117, Kirkwood Community College 1816 Lower Muscatine Rd. Iowa City, Iowa	July 24, 2009 3 p.m.
	Room 528, Trustee Hall (north campus) Southeastern Community College 1500 West Agency West Burlington, Iowa	July 24, 2009 3 p.m.
General provisions for elder group homes, assisted living programs, and adult day services, ch 67 IAB 6/17/09 ARC 7877B (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	July 10, 2009 3 p.m.
	Room 118, Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	July 10, 2009 3 p.m.
	Room 024, Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	July 10, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	July 10, 2009 3 p.m.
	Meeting Room D, Public Library 123 S. Linn St. Iowa City, Iowa	July 10, 2009 3 p.m.
Assisted living programs, ch 69 IAB 6/17/09 ARC 7878B (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	July 10, 2009 3 p.m.
	Room 118, Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	July 10, 2009 3 p.m.
	Room 024, Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	July 10, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	July 10, 2009 3 p.m.
	Meeting Room D, Public Library 123 S. Linn St. Iowa City, Iowa	July 10, 2009 3 p.m.
INSURANCE DIVISION[191]		
Conduit derivative transactions—exemptions from reporting requirements, 93.6(3) IAB 7/1/09 ARC 7914B	Lobby Conference Room 330 Maple St. Des Moines, Iowa	July 21, 2009 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
INSURANCE DIVISION[191] (Cont'd)		
Accounting practices for certain derivative assets and indexed products, ch 97 IAB 7/1/09 ARC 7915B	Lobby Conference Room 330 Maple St. Des Moines, Iowa	July 21, 2009 10 a.m.
IOWA FINANCE AUTHORITY[265]		
Water quality financial assistance program, ch 33 IAB 7/1/09 ARC 7896B	Presentation Conference Room 2015 Grand Ave. Des Moines, Iowa	July 22, 2009 10 a.m.
LABOR SERVICES DIVISION[875]		
OSHA regulations—adoption by reference, 10.20 IAB 7/1/09 ARC 7927B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	July 21, 2009 1:30 p.m.
Certificate fee—addition of four-year certificate, 90.7(2) IAB 6/17/09 ARC 7865B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	July 10, 2009 1:30 p.m. (If requested)
Construction contractor registration—fees, 150.6 IAB 6/17/09 ARC 7875B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	July 10, 2009 3 p.m. (If requested)
NATURAL RESOURCE COMMISSION[571]		
Licenses—administration fees, 15.4 IAB 7/1/09 ARC 7923B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 21, 2009 1:30 p.m.
Endangered, threatened, and special concern animals—birds, 77.2(1), 77.2(3) IAB 6/17/09 ARC 7856B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 16, 2009 10 a.m.
PROFESSIONAL LICENSURE DIVISION[645]		
Behavioral science—temporary licensure, supervised work experience, 5.3, 31.2, 31.5, 31.7 IAB 6/17/09 ARC 7858B	Fifth Floor Board Room Lucas State Office Bldg. Des Moines, Iowa	July 7, 2009 9:30 to 10 a.m.
TRANSPORTATION DEPARTMENT[761]		
Close-clearance warning signs along railroad tracks, ch 813 IAB 7/1/09 ARC 7885B	Materials Conference Room 800 Lincoln Way Ames, Iowa	July 23, 2009 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
UTILITIES DIVISION[199]		
Abbreviated franchise process—eligibility, petition, and notice requirements, 11.1(9), 11.2(3), 11.3(1)“g,” 11.5(11) IAB 6/17/09 ARC 7859B	Board Hearing Room 350 Maple St. Des Moines, Iowa	July 28, 2009 1:30 p.m.
Wind energy tax credits, 15.18(1)“c”(2), 15.19(4), 15.20(1), 15.21(1) IAB 6/17/09 ARC 7849B	Board Hearing Room 350 Maple St. Des Moines, Iowa	July 29, 2009 10 a.m.
Notification and reporting of electrical outages, 20.18(6), 20.19 IAB 6/3/09 ARC 7820B	Board Hearing Room 350 Maple St. Des Moines, Iowa	July 28, 2009 9 a.m.

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ELDER AFFAIRS DEPARTMENT[321]
EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]
Criminal and Juvenile Justice Planning Division[428]
Deaf Services Division[429]
Persons With Disabilities Division[431]
Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 7925B

CULTURAL AFFAIRS DEPARTMENT[221]

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 303.1A(6) and 303A.5, the Department of Cultural Affairs hereby gives Notice of Intended Action to adopt new Chapter 13, "Iowa Cultural Trust," Iowa Administrative Code.

The proposed new rules are organizing rules for the Iowa Cultural Trust. The Trust was established in the Iowa Code several years ago but is only now beginning to organize its grant-making function. Iowa Code section 303.1A(6) and chapter 303A indicate that rules should be established for both the grant-making and the establishment of trust credits in this program.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on July 21, 2009. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail Kristen.VanderMolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing at 10 a.m. on July 21, 2009, at the above address in the Tone Board Room, Third Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs. These rules are intended to implement Iowa Code section 303.1A(6) and chapter 303A.

The following amendment is proposed.

Adopt the following **new** 221—Chapter 13:

CHAPTER 13
IOWA CULTURAL TRUST

221—13.1(303) Program purpose. The purpose of the Iowa cultural trust is to assist Iowa nonprofit arts, cultural and historical organizations in building stability and sustainability through the Iowa cultural trust fund.

221—13.2(303) Program description. The cultural trust fund receives, preserves, invests, and expends moneys appropriated by the general assembly together with any other gifts, bequests, donations, or grants from federal or private sources directed to the fund's purposes.

221—13.3(303) Definitions. The following definitions shall apply when used in this chapter unless otherwise noted:

"Application" means an official cultural trust grant application form as provided by the department.

"Arts organization" means an eligible organization with the arts as its primary mission and purpose. The organization must operate as an arts organization, including but not limited to an art museum, performing arts-producing organization, or community arts agency.

"Board" means the board of trustees of the Iowa cultural trust, as provided in Iowa Code section 303A.5.

CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

“*Cash match*” means funds that are locally contributed for a cultural trust grant project. Matching funds shall be provided by the eligible applicant and shall not include any portion of another department of cultural affairs, Iowa arts council, or state historical society of Iowa grant.

“*Cultural organization*” means an eligible organization with culture, the sciences or humanities as its primary mission and purpose. The organization must operate as a cultural organization including but not limited to a cultural center, civic arts-presenting venue, botanical center, science museum, children’s museum, arboretum, or zoo.

“*Department*” means the Iowa department of cultural affairs (DCA).

“*Director*” means the director of the department of cultural affairs or the director’s designee.

“*Endowment*” means a collection of funds, typically invested in long-term assets that produce income for an organization. Generally, the endowed asset is kept intact and a portion of the income generated by it is used by the organization for operational costs.

“*Grantee*” means any applicant receiving grant funds under a cultural trust grant program.

“*Grant review panel*” means a group of at least three individuals with knowledge of cultural organizations, nonprofit best practices, and strategic planning who review grant applications according to the published criteria, with the responsibility to make funding recommendations to the board.

“*Historical organization*” means an eligible organization with history as its primary mission and purpose. The organization must operate as an historical organization, including but not limited to an historical museum, interpretive center, historical society, historical library or archival repository.

“*Trust fund credits*” means moneys raised by Iowa nonprofit arts, cultural and historical organizations to increase the amount of their endowments and other resources, as reported to the department.

221—13.4(303) Trust fund credits.

13.4(1) Annually, the director shall certify to the state treasurer the trust fund credits gained by Iowa arts, cultural, and historical organizations in the previous year.

13.4(2) Criteria. In determining trust fund credits, the director shall:

- a. Review reports from major arts, cultural, and historical organizations to determine the amount which has been given to their endowments in the previous year.
- b. Review final reports from departmental grants to determine the amount of cash match contributed to granted projects in arts, cultural, and historical organizations. Cash match amounts indicate nonpublic support provided to organizations.

221—13.5(303) Cultural trust grant programs.

13.5(1) *Grant program eligibility.* Applicants may include any arts, cultural, or historical organization that is either an Iowa organization that is federally tax exempt under United States Internal Revenue Code Section 501(c)(3) and incorporated under the Iowa nonprofit corporation Act or an Iowa organization that operates as an arts, cultural, or historical department or division of a municipal or county government that is also federally tax exempt under Section 501(c)(3) and incorporated in Iowa under the Iowa nonprofit corporation Act (does not include public libraries, parks, or recreation departments). Additional eligibility criteria are as listed in published guidelines for individual grant programs.

13.5(2) *Ineligible applicants.* The following entities are not eligible to apply for cultural trust grants:

- a. Any individual.
- b. An entity of federal or state government.
- c. An organization applying through a fiscal agent.
- d. An organization with an outstanding late final report to the department or any of its divisions.
- e. A public (nonhistorical/cultural) library, park, or recreation center.
- f. A for-profit corporation or business.
- g. A religious organization, labor union, political party, or national service/professional organization.

CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

h. An educational institution, organization, or K-12 school, whose primary orientation, mission, and purpose is education and the awarding of academic credits.

i. An organization that has already received funding for the same project from another department grant program.

13.5(3) Cultural trust stability grants. Stability grants support projects that will help Iowa cultural organizations reach goals of fiscal stability and institute best practices in organizational strategic planning and management.

a. Applicants may request support for one or more of the following:

(1) Contractual costs for a consultant to advise on strategies to attain long-term financial stability and sustainability.

(2) Salary or contractual costs for a fundraising consultant or to support a fundraising staff position.

(3) Costs related to board or staff training in fundraising or endowment building or both.

(4) Costs related to a strategic planning process that includes development of strategies related to long-term financial stability and sustainability.

b. General stability grant program policies.

(1) Applicants may request up to 50 percent of the project cost, to a maximum of \$2,500.

(2) All applications must show a dollar-for-dollar cash match.

(3) No organization may receive more than one stability grant in a single fiscal year.

(4) Applicants must have been incorporated in their community for a minimum of three years.

(5) Applicants must participate in training for nonprofit strategic planning and administrative best practices prior to applying for grant funding or receive a waiver of the training requirement from the department.

13.5(4) Application procedures. All cultural trust grant inquiries and correspondence, including the submission of completed application forms for consideration of funding, shall be addressed to the Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319. All applications shall be submitted according to the department's published guidelines.

13.5(5) Review process. All applications submitted shall be reviewed by a grant review panel, and the panel's recommendations for grantees and grant awards shall be submitted to the board. The board shall determine final grant awards to the extent funds are available.

13.5(6) Review criteria. Review criteria shall include, but not be limited to, the project's ability to enhance the future stability and sustainability of the eligible applicant. Additional review criteria are as listed in the published project guidelines.

13.5(7) Grant deadline. The department may establish one or more grant deadlines for the submission of cultural trust grant applications each year funds are available.

13.5(8) Contractual agreement. The department and each successful grantee shall enter into a contractual agreement prior to the expenditure of project-related funds. No grant or matching funds may be obligated or expended for the project prior to the execution of the contractual agreement by the department and the grantee. A grantee must expend all awarded funds within the time frame named in the contractual agreement.

13.5(9) Auditing requirements. The department reserves the right to request an audit of the expenditures of any cultural trust-funded project at the expense of the grantee.

13.5(10) Informal appeals.

a. An informal appeals process shall be made available only to applicants whose applications were declined on procedural impropriety or error as evidenced by one or more of the following reasons:

(1) Application declined on the basis of review criteria other than those appearing in rule or relevant guidelines;

(2) Application declined based on influence of the review panel willfully failing to disclose conflicts of interest;

(3) Application declined based upon highly erroneous information provided by staff or advisory committee members at the time of the review despite the fact that the applicant provided the department with accurate and complete information on regulation forms as part of the standard application process.

CULTURAL AFFAIRS DEPARTMENT[221](cont'd)

b. Incomplete or ineligible applications, or applications failing to meet the application deadline, are specifically denied any appeals process.

c. All requests for appeals shall be made in writing and shall be hand-delivered or bear a U.S. Postal Service postmark within 30 days of notification of the decision. The director shall consider and rule on the appeal and will notify the appellant in writing of the decision within 30 days from the receipt of the appeal. The decision of the director is final except as provided for in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code section 303.1A(6) and chapter 303A.

ARC 7913B

ENERGY INDEPENDENCE, OFFICE OF[350]

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 469.3, the Office of Energy Independence hereby gives Notice of Intended Action to adopt Chapter 5, "Energy Efficiency Community Grant Program," Iowa Administrative Code.

The proposed new chapter establishes a competitive grant program to make funding available to local communities from four percent of the moneys appropriated annually to the Iowa Power Fund.

These rules do not provide for a waiver.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before July 21, 2009. Such written materials should be sent to Robert Grayson, Office of Energy Independence, Lucas State Office Building, Des Moines, Iowa 50319; by facsimile to (515)281-4225; or by electronic mail to robert.grayson@iowa.gov.

These rules are intended to implement 2009 Iowa Acts, Senate File 452, section 2.

The following amendment is proposed.

Adopt the following **new** 350—Chapter 5:

CHAPTER 5

ENERGY EFFICIENCY COMMUNITY GRANT PROGRAM

350—5.1(469) Purpose. The purpose of the energy efficiency community grant program is to make funding available to local communities for energy efficiency projects or programs. The program is established with moneys from the Iowa power fund, which is under the authority of the Iowa office of energy independence pursuant to Iowa Code chapter 469.

350—5.2(469) Definitions.

"Eligible applicant" means a group that has a tax identification number; that has community betterment or environmental issues as its mission; and that has a community-based, county-based or regional energy efficiency project or program.

"Eligible project" means any project or program that would save energy dollars or energy units.

"In kind" means any matching funds in the form of salaries and materials. Equipment and indirect costs will not be counted as in-kind matching funds. Volunteer hours that are submitted for salary match must use an hourly rate equivalent to the average national hourly earnings of all production

ENERGY INDEPENDENCE, OFFICE OF[350](cont'd)

and nonsupervisory workers on private, nonfarm payrolls as determined by the U.S. Bureau of Labor Statistics.

350—5.3(469) Requests for applications. The office shall determine the form of the application and issue requests for applications a minimum of two times during a fiscal year.

350—5.4(469) Geographic distribution. Consideration will be given to applications based on distribution throughout Iowa's five congressional districts. The office may consider multiple applications from the same community. The office may take into account geographic distribution in determining awards.

350—5.5(469) Criteria for review. In reviewing applications, the office shall consider the following:

5.5(1) Energy efficiency. The office shall consider the project's ability to reduce energy consumption and save energy units and dollars spent on energy.

5.5(2) Collaboration. The office shall consider the following:

a. Whether the project establishes or supports a community-based, county-based or regional energy efficiency project or program.

b. The breadth and depth of community, county or regional involvement in the energy efficiency project or program.

c. The involvement of local schools, civic organizations, chambers of commerce, and private groups.

d. The project's support of any existing or proposed ordinances encouraging energy efficiency and conservation or energy efficient building code provisions and enforcement.

e. The project's efforts to secure local funding for the community-based, county-based or regional energy efficiency project or program or for a funding sustainability plan.

350—5.6(469) Project approval and award of funds. Projects shall be approved by the director of the office after staff review and recommendation. All funding decisions shall be reported monthly to the Iowa power fund board. Funds will be distributed to approved projects based on mutually agreed-upon contract terms.

These rules are intended to implement 2009 Iowa Acts, Senate File 452, section 2.

ARC 7930B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

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

This amendment removes two of the requirements for an infant to be deemed Medicaid-eligible for 12 months because of "newborn" status, a mandatory coverage group under the Medicaid program. Based on legislation enacted in the Children's Health Insurance Program Reauthorization Act (CHIPRA), Public Law 111-3, states shall no longer require that the infant live with the mother or that the mother continue to meet the Medicaid eligibility requirements that would apply if she were still pregnant.

The effect of this amendment is that any infant in Iowa who was born to a woman who was Medicaid-eligible at the time of the infant's birth shall remain eligible through the month of the infant's

HUMAN SERVICES DEPARTMENT[441](cont'd)

first birthday, even if the infant is no longer living with the mother or the mother would no longer qualify for Medicaid. This change will ensure the continuous availability of medical care to infants during their first year of life and is in line with the state's vision to provide health care to all Iowa children.

This amendment does not provide for waivers in specified situations, since the change is a benefit to the infants affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 7929B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before July 22, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249A.4 and Public Law 111-3, Section 113(b)(1).

ARC 7934B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

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

This amendment reflects the action of the Iowa General Assembly directing the Department to provide Medicaid coverage to all eligible children for whom federal funding is available. The Children's Health Insurance Program Reauthorization Act of 2009 allows states the option to extend coverage to all children who are lawful permanent residents of the United States.

Previously, children who entered the United States on or after August 22, 1996, were barred from participating in any federal means-tested program for five years from their date of entry. This amendment provides that children in lawful permanent resident status may receive Medicaid coverage if they are otherwise eligible, regardless of their date of entry to the United States. This amendment does not extend coverage to children who do not have documentation of their legal entry to the United States. The rule is also amended to conform to current formatting standards and to clarify the conditions of eligibility.

This amendment does not provide for waivers in specified situations since it benefits the children affected by expanding eligibility. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 7932B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before July 22, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment is intended to implement Public Law 111-3 and Iowa Code chapter 249A as amended by 2009 Iowa Acts, Senate File 389, section 13.

ARC 7938B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

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

This amendment sets Medicaid reimbursement policy for translation or interpretation services provided in connection with the use of Medicaid services by members whose primary language is not English. Provision of translation or interpretation services for persons with limited English proficiency is required by Title VI of the Civil Rights Act of 1964 for federally funded programs. The Children's Health Insurance Program Reauthorization Act of 2009 raises the level of federal reimbursement for these services in the Medicaid program.

Under this amendment, the Department will set a fee for translation and interpretation services, and providers whose reimbursement is determined by a fee for service will be able to bill this service in addition to the Medicaid service provided. Providers whose reimbursement is cost-based are already able to include these expenses in their cost reports.

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

This amendment has also been Adopted and Filed Emergency and is published herein as **ARC 7937B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before July 22, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249A.4 and 2009 Iowa Acts, Senate File 389, section 38(5).

ARC 7882B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services proposes to amend Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment reflects the action of the Iowa General Assembly directing the Department to provide coverage under the Healthy and Well Kids in Iowa (HAWK-I) Program to all eligible children for whom federal funding is available. The Children's Health Insurance Program Reauthorization Act of 2009 allows states the option to extend coverage funded through the federal Children's Health Insurance Program (HAWK-I in Iowa) to all children who are lawful permanent residents of the United States.

Previously, children who entered the United States on or after August 22, 1996, were barred from participating in any federal means-tested program for five years from their date of entry. This amendment provides that children in lawful permanent resident status may receive HAWK-I coverage if they are otherwise eligible, regardless of their date of entry to the United States. This amendment does not extend coverage to children who do not have documentation of their legal entry to the United States.

This amendment does not provide for waivers in specified situations since it benefits the children affected by expanding eligibility. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 7881B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before July 22, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code chapter 514I as amended by 2009 Iowa Acts, Senate File 389, section 14, and Public Law 111-3.

ARC 7939B**INSPECTIONS AND APPEALS DEPARTMENT[481]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code section 23E.5, the Department of Inspections and Appeals hereby gives notice that a supplemental public hearing will be conducted in order to receive comments orally or in writing on **ARC 7828B**, related to dependent adult abuse in facilities and programs, that was published under Notice of Intended Action in the June 3, 2009, Iowa Administrative Bulletin. In addition to a public hearing held on June 26, 2009, a supplemental hearing will be held over the Iowa Communications Network on Friday, July 24, 2009, at 3 p.m. at the following locations:

- ICN Room, Sixth Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines
- Room 118, Iowa Lakes Community College, 1900 N. Grand Avenue, Spencer
- Room 112, Looft Hall, Iowa Western Community College, 2700 College Road, Council Bluffs
- Room 110, Tama Hall, Hawkeye Community College, 1501 E. Orange Road, Waterloo
- Room 117, Kirkwood Community College, 1816 Lower Muscatine Road, Iowa City
- Room 528, Trustee Hall (north campus), Southeastern Community College, 1500 West Agency, West Burlington

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules. Any person who intends to attend the public hearing and who has special requirements, such as those relating to hearing or mobility impairments, should contact the Department at (515)281-0148 or by E-mail to steven.mandernach@dia.iowa.gov to advise of specific needs.

ARC 7914B**INSURANCE DIVISION[191]****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 chapters 511 and 521A, the Iowa Insurance Division hereby gives Notice of Intended Action to amend Chapter 93, "Conduit Derivative Transactions," Iowa Administrative Code.

The rules in Chapter 93 provide for quarterly reports to the Insurance Commissioner of a conduit's derivative transaction activities to enable the Insurance Division to monitor the conduit's obligations to the insurers in the conduit's holding company system. This proposed amendment would allow the Insurance Commissioner to exempt a conduit from subrule 93.6(3) if the conduit's obligations to the insurers in its holding company system are unconditionally guaranteed by a "qualified counterparty" as defined in rule 191—93.2(511,521A), which, in this context, essentially means an investment grade business entity. Such a guarantee can obviate the need for monitoring since the obligations of the conduit are certain to be met. The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendment beginning September 30, 2009.

Any interested person may make written comments on this proposed amendment on or before July 21, 2009. Written comments may be sent to Matt Hargrafen, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to matthew.hargrafen@iid.iowa.gov or via facsimile to (515)281-3059.

A public hearing will be held on July 21, 2009, at 10 a.m. in the Lobby Conference Room of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 511 and 521A.

The following amendment is proposed.

Adopt the following **new** subrule 93.6(3):

93.6(3) Exemptions from reporting requirements. Upon application, a conduit may be exempted by the insurance commissioner from the reporting requirements of this rule if all of the conduit's obligations arising out of the conduit's derivative transaction activities are unconditionally guaranteed by a qualified counterparty.

ARC 7915B**INSURANCE DIVISION[191]****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 505.8, the Iowa Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 97, "Accounting for Certain Derivative Instruments Used to Hedge the Growth in Interest Credited for Indexed Insurance Products and Accounting for the Indexed Insurance Products Reserve," Iowa Administrative Code.

The purpose of the new rules is to address the mismatch related to changes in value for the derivative assets as compared to the interest accrual in the reserve calculation and to provide insurance companies with the ability, once certain criteria are met, to: (1) change the accounting for option assets that hedge insurance companies indexed insurance products to the amortized cost method, and (2) change the indexed annuity reserve calculation methodology such that index credit returns will be included in the reserve only after they have been credited to the policy. The new chapter will allow for a more accurate representation of an insurance company's capital position.

The Insurance Division intends that these proposed rules will go into effect September 30, 2009.

Any interested person may make written suggestions or comments on these proposed rules on or before July 21, 2009. Written comments shall be directed to Matt Hargrafen, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; may be E-mailed to matthew.hargrafen@iid.iowa.gov; or may be sent by facsimile to (515)281-4096.

A public hearing will be held on July 21, 2009, at 10 a.m. in the Lobby Conference Room of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed rules.

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

These rules are intended to implement Iowa Code chapter 508.

The following amendment is proposed.

Adopt the following **new** 191—Chapter 97:

CHAPTER 97

**ACCOUNTING FOR CERTAIN DERIVATIVE INSTRUMENTS USED TO HEDGE
THE GROWTH IN INTEREST CREDITED FOR INDEXED INSURANCE PRODUCTS
AND ACCOUNTING FOR THE INDEXED INSURANCE PRODUCTS RESERVE**

191—97.1(508) Authority. This chapter is promulgated by the commissioner of insurance pursuant to Iowa Code section 505.8.

191—97.2(508) Purpose. The purpose of this chapter is to allow insurance companies to utilize certain alternative asset and reserve accounting practices for eligible derivative assets and indexed products, respectively, in order to better match asset and reserve accounting as it relates to interest crediting for indexed products and to provide for a more true and fair representation of the capital position of insurance companies that offer or have in force indexed products. Specifically, this chapter addresses the mismatch related to the changes in value of an eligible derivative asset as compared to the interest accrual in

INSURANCE DIVISION[191](cont'd)

the reserve calculation for the underlying indexed product and provides insurance companies with the ability, once certain criteria are met, to: (1) account for eligible derivative assets using the amortized cost method, and (2) use a reserve calculation methodology for indexed annuity products under which interest credits based upon one or more external indices are included in the reserve only after those interest credits have been credited to the contract holder under the terms of the annuity contract.

191—97.3(508) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Eligible derivative asset” means:

1. A call or put option derivative asset that is purchased to hedge the growth in interest credited to an indexed product as a direct result of changes in the related external index or external indices, or
2. A call or put option derivative asset that is written to offset all or a portion of a call or put option derivative asset that meets the criteria set forth in paragraph “1” of this definition.

Other derivative instruments, such as index futures, swaps and “swaptions,” that may be used to hedge the growth in interest credited to indexed products as a direct result of changes in the related external index or external indices are not eligible derivative assets because an amortized cost for such instruments does not exist.

“External index” means an index of publicly traded securities that is published or disseminated by a source external to the insurance company, such as, but not limited to, the Standard & Poor’s 500 Composite Stock Index (the S&P 500® Index), the Nasdaq-100 Index®, the Dow Jones Industrial AverageSM, the Hang Seng Index, and the Dow Jones EURO STOXX 50® Index.

“Indexed annuity products” means fixed indexed annuity contracts that:

1. Provide a minimum guaranteed interest accumulation on a portion of all premium payments, and
2. Include interest crediting provisions under which interest (which may be subject to caps, participation rates, spreads, terms or similar limitations) is credited based upon the performance of one or more external indices.

“Indexed life products” means fixed indexed life insurance policies that:

1. Provide a minimum guaranteed interest accumulation on a portion of all premium payments, and
2. Include interest crediting provisions under which interest (which may be subject to caps, participation rates, spreads, terms or similar limitations) is credited based upon the performance of one or more external indices.

“Indexed products” means indexed annuity products and indexed life products.

“Interest crediting period” means the period of time over which the performance of an external index or external indices is measured for purposes of determining the amount of interest credited under an indexed product.

191—97.4(508) Asset accounting. Insurance companies may elect to account for eligible derivative assets at amortized cost, if the insurance company can demonstrate that such eligible derivative assets meet all of the following criteria for an economic hedge:

97.4(1) At inception of the hedge, or as of the date that an insurance company elects to use the accounting practices prescribed by this chapter if later, there must be formal documentation of the economic hedging relationship and the insurance company’s risk management objective and strategy for undertaking the economic hedge, including identification of the specific eligible derivative assets purchased to hedge indexed products, the nature of the particular risk being hedged, and how the eligible derivative assets’ effectiveness will be assessed, retrospectively and prospectively, on a qualitative basis.

97.4(2) At inception of the hedge, or as of the date that an insurance company elects to use the accounting practices prescribed by this chapter if later, and at the end of each quarterly reporting period thereafter, the insurance company must maintain documentation that the economic hedge is expected to be and continues to be highly effective as defined by the criteria in 97.4(1) in achieving offsetting changes in fair value attributable to the hedged risk during the period that the economic hedge is designated.

INSURANCE DIVISION[191](cont'd)

191—97.5(508) Indexed annuity product reserve calculation methodology. Insurance companies account for indexed annuity product reserves in accordance with Iowa Code section 508.11 and with the applicable actuarial guidelines and statutory accounting principles. Based on the current guidelines, this chapter provides insurance companies with the ability to make the following adjustment to their indexed annuity product reserves:

97.5(1) Insurance companies determine indexed annuity product reserve calculations based on the Actuarial Guideline XXXV reserve, assuming the market value of the eligible derivative assets associated with the current interest crediting period is zero, regardless of the observable market for such eligible derivative assets.

97.5(2) At the conclusion of each interest crediting period, interest credited to an indexed annuity product is reflected in the reserve as realized, based on the actual performance of the relevant external index or external indices.

191—97.6(508) Indexed life product reserve calculation methodology. Insurance companies account for indexed life product reserves in accordance with the applicable actuarial guidelines and statutory accounting principles. This chapter does not provide for any adjustment to the reserve calculation methodology for indexed life products.

191—97.7(508) Other requirements.

97.7(1) Indexed annuity products. The alternative accounting practices prescribed by this chapter must be applied to both the indexed annuity product reserves and eligible derivative assets used to hedge indexed annuity products.

97.7(2) Indexed life products. The alternative accounting practices prescribed by this chapter must be applied only to eligible derivative assets used to hedge indexed life products. This chapter shall not impact the calculation of indexed life product reserves.

97.7(3) If an insurance company elects to use the alternative accounting practices prescribed by this chapter, it shall report quarterly to the company regulation bureau of the Iowa insurance division, for analysis purposes, the market value of its eligible derivative assets and what the Actuarial Guideline XXXV reserves would be using market value of such eligible derivative assets.

97.7(4) Application of this chapter is not mandatory. An insurance company that elects to use the alternative accounting practices prescribed by this chapter may not elect to change its accounting practices back to those that would apply in the absence of this chapter without the prior approval of the Iowa insurance commissioner.

These rules are intended to implement Iowa Code chapter 508.

ARC 7895B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(1)"r," and 16.181, the Iowa Finance Authority hereby gives Notice of Intended Action to amend Chapter 19, "State Housing Trust Fund," Iowa Administrative Code.

The purpose of this amendment is to adopt updated and improved allocation plans for the local housing trust fund program and the project-based housing program.

IOWA FINANCE AUTHORITY[265](cont'd)

Chapter 19 does not provide for waivers. Persons seeking waivers of a rule contained in Chapter 19 must petition the Authority for a waiver in the manner set forth under Chapter 18.

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on July 21, 2009. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to Mark Thompson at mark.thompson@iowa.gov. Persons who wish to comment orally should contact Mark Thompson at (515)725-4937.

This amendment is intended to implement Iowa Code section 16.5(1)“r” and section 16.181 as amended by 2009 Iowa Acts, Senate File 207.

The following amendment is proposed.

Amend rule 265—19.1(16) as follows:

265—19.1(16) Trust fund allocation plans. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Local Housing Trust Fund Program dated ~~May~~ June 2009 shall be the allocation plan for the award, pursuant to the local housing trust fund program, of funds held within the state housing trust fund established in Iowa Code section 16.181. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund Allocation Plan for the Project-Based Housing Program dated ~~September 2008~~ June 2009 shall be the allocation plan for the distribution, pursuant to the project-based housing program, of funds held within the state housing trust fund. The trust fund allocation plans for the local housing trust fund program and the project-based housing program include the plans, applications, and application instructions. The trust fund allocation plans for the local housing trust fund program and the project-based housing program are incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ARC 7900B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.40, the Iowa Finance Authority proposes to amend Chapter 29, “Jump-Start Housing Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to provide for the allocation of program funds made available by 2009 Iowa Acts, Senate File 376, section 29, and 2009 Iowa Acts, House File 64, division I.

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

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on July 21, 2009. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 7899B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

IOWA FINANCE AUTHORITY[265](cont'd)

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

ARC 7896B

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, division III, section 13(4), the Iowa Finance Authority proposes to adopt new Chapter 33, “Water Quality Financial Assistance Program,” Iowa Administrative Code.

The purpose of these rules is to provide a process for granting funds to communities receiving loans from the Iowa Water Pollution Control Works and Drinking Water Facilities Financing Program pursuant to Iowa Code section 16.131 for water quality and wastewater improvement projects.

The Authority will receive written comments on the proposed rules until 4:30 p.m. on Friday, July 24, 2009. Comments should be addressed to Lori Beary, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may be faxed to Lori Beary at (515)725-4901 or E-mailed to Lori Beary at lori.beary@iowa.gov. Persons who wish to comment orally should contact Lori Beary at (515) 725-4965.

The Authority will hold a public hearing on Wednesday, July 22, 2009, to receive public comments on these rules. The public hearing will be held at 10 a.m. at the Iowa Finance Authority, Presentation Conference Room, 2015 Grand Avenue, Des Moines, Iowa, telephone (515)725-4900.

These proposed rules do not provide for waivers. Persons seeking waivers from the rules contained in proposed Chapter 33 may petition the Authority for a waiver in the manner set forth under Chapter 18.

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

The following amendment is proposed.

Adopt the following **new** 265—Chapter 33:

CHAPTER 33

WATER QUALITY FINANCIAL ASSISTANCE PROGRAM

265—33.1(16,83GA,SF376) Overview.

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

33.1(2) Purpose. The purpose of the program shall be to provide grants to enhance water quality and to assist communities with water and wastewater improvement projects. Financial assistance under the program shall be used to provide additional assistance to communities receiving loans from the Iowa water pollution control works and drinking water facilities financing program.

265—33.2(16,83GA,SF376) Definitions.

“*Authority*” or “*IFA*” means the Iowa finance authority as established by chapter 16 of the Code of Iowa.

“*Community*” means a city, county, sanitary district, water district, state agency, or other governmental body or corporation empowered to provide sewage collection and treatment services, or

IOWA FINANCE AUTHORITY[265](cont'd)

any combination of two or more of the governmental bodies or corporations acting jointly, in connection with a project.

“*Department*” or “*DNR*” means the Iowa department of natural resources.

“*Director*” means the director of the authority.

“*Program*” means the water quality financial assistance program created in 2009 Iowa Acts, Senate File 376, section 13(4).

“*Recipient*” means the entity receiving funds from the program.

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

265—33.3(16,83GA,SF376) Small community assistance fund.

33.3(1) *Program fund.* Of the amount appropriated, \$35 million shall be allocated to the small community assistance fund. The maximum award for a recipient under the small community assistance fund shall be \$2 million.

33.3(2) *Project eligibility.* Financial assistance shall only be available under the program for wastewater projects that are also receiving funding from the SRF.

33.3(3) *Eligible applicants.* Only communities with a population of 10,000 or less, as determined by the most recent federal census, may apply for the small community assistance fund.

265—33.4(16,83GA,SF376) Large community assistance fund.

33.4(1) *Program fund.* Of the amount appropriated, \$20 million shall be allocated to the large community assistance fund.

33.4(2) *Project eligibility.* Eligible projects are those drinking water or wastewater projects that are also receiving funding from the SRF.

33.4(3) *Eligible applicants.* Only communities with a population of more than 10,000, as determined by the most recent federal census, may apply for the large community assistance fund.

265—33.5(16,83GA,SF376) Project priority.

33.5(1) *Priority for all projects.* For wastewater projects, priority shall be given to projects that will provide significant improvement to water quality in the relevant watershed; this criterion will be determined by the score given to a project by the department pursuant to the project priority rating system used for the water pollution control state revolving fund set forth in 567 Iowa Administrative Code Chapter 91. For drinking water projects, priority will be determined by the project priority system used for the drinking water state revolving fund set forth in 567 Iowa Administrative Code Chapter 44.

33.5(2) *Small community assistance fund priority.* Under the small community assistance fund, priority shall also be given to communities that have the greatest financial need. Factors used to determine need will include, but are not limited to: median household income as a percentage of the statewide median household income; residential user rates as a percentage of median household income; the existing and forecasted debt of the system; and the unemployment rate of the community.

265—33.6(16,83GA,SF376) Project funding.

33.6(1) *Applications.* Applications will be accepted on forms developed by IFA and available at www.iowafinanceauthority.gov. IFA will coordinate with other applicable state or federal financing programs when possible. Applications for the large community assistance fund will be due October 30, 2009. Applications for the small community assistance fund will be due March 30, 2010.

33.6(2) *Costs.* All eligible costs must be documented to the satisfaction of the authority before proceeds may be disbursed.

33.6(3) *Record retention.* The recipient shall maintain records that document all costs associated with the project. Recipients shall agree to provide access to these records to the authority. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final grant payment.

IOWA FINANCE AUTHORITY[265](cont'd)

33.6(4) Site access. The recipient shall agree to provide the authority, the department and the department's agent access to the project site at all times during the construction process to verify that the funds are being used for the purpose intended and that the construction work meets applicable state and federal requirements. After construction, recipients shall also agree to provide the authority and the department periodic access to the project site to ensure that the site is being operated and maintained as designed.

265—33.7(16,83GA,SF376) Termination and rectification of disputes.

33.7(1) Termination. The authority shall have the right to terminate any grant when terms of the agreement have been violated. Grants are subject to termination if construction has not begun within one year of the execution of a grant agreement. The director will establish a repayment schedule for funds already disbursed to the recipient. All terminations will be in writing.

33.7(2) Rectification of disputes. Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority to recapture or withhold funds. The recipient is responsible for ensuring that the identified problem(s) is rectified. Once the deficiency is corrected, the funds may be released. A recipient that disagrees with the director's withholding of funds may request a formal review of the action. The recipient must submit a request in writing to the director within 30 days of notification by the authority of its planned action.

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

ARC 7898B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 30, the Iowa Finance Authority proposes to adopt new Chapter 35, “Affordable Housing Assistance Grant Fund,” Iowa Administrative Code.

The purpose of these proposed rules is to implement 2009 Iowa Acts, Senate File 376, section 30, by regulating the operation of the Affordable Housing Assistance Grant Fund.

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

The Authority will receive written comments on the proposed rules until 4:30 p.m. on July 21, 2009. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed rules based on comments received from the public.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 7897B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These rules are intended to implement Iowa Code section 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 30.

ARC 7893B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(1)"r" and 2009 Iowa Acts, Senate File 376, section 28, the Iowa Finance Authority proposes to adopt new Chapter 36, "Public Service Shelter Grant Fund," Iowa Administrative Code.

The purpose of these proposed rules is to implement 2009 Iowa Acts, Senate File 376, section 28, by regulating the operation of the Public Service Shelter Grant Fund.

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

The Authority will receive written comments on the proposed rules until 4:30 p.m. on July 21, 2009. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to mark.thompson@iowa.gov.

The Authority anticipates that it may make changes to the proposed rules based on comments received from the public.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 7894B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These rules are intended to implement Iowa Code section 16.5(1)"r" and 2009 Iowa Acts, Senate File 376, section 28.

ARC 7927B**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," Iowa Administrative Code.

The proposed amendment adopts by reference changes to federal occupational safety and health regulations. The federal changes deleted an unenforceable standard governing the use of powered industrial trucks to lift personnel.

The principal reasons for adoption of this amendment are to implement Iowa Code chapter 88 and to make Iowa's occupational safety and health regulations more current and consistent with federal regulations.

Pursuant to Iowa Code subsection 88.5(1)"a," Iowa must adopt the federal standards.

Written data, views, or arguments to be considered in adoption shall be submitted no later than July 21, 2009, 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.

LABOR SERVICES DIVISION[875](cont'd)

A public hearing will be held on July 21, 2009, at 1:30 p.m. in the Stanley Room at Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

This amendment is intended to implement Iowa Code section 88.5.

The following amendment is proposed.

Amend rule **875—10.20(88)** by inserting the following at the end thereof:
68 Fed. Reg. 32638 (June 2, 2003)

ARC 7923B**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6) and 483A.10, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 15, "General License Regulations," Iowa Administrative Code.

Iowa Code section 483A.10 authorizes the Commission to adopt rules governing issuance of licenses. As part of these rules, the Commission is authorized to assess an administrative fee, which shall be forwarded to the Department. This fee shall be used to offset costs incurred in administering the licensing program. See Iowa Code subsection 455A.5(6).

This proposed amendment revises the administrative fee charged to customers for most privileges sold through the Electronic Licensing System of Iowa (ELSI) from 50 cents to \$1.50 and includes an administrative fee of \$3.65 for boat registrations and renewals. The Department has executed a new contract with its existing vendor which includes the transition to a new system (ELSI 2). ELSI 2 will incorporate new technology and will be a Web-based system. ELSI 2 will offer a number of improvements to the current system that benefit license sellers and buyers as well as the Department; for example, state-of-the-art equipment allowing for a more user-friendly sales process, speedier transactions, and improved communication with license agents, including electronic newsletters, updates and messaging. Along with the new technology and the benefits that ELSI 2 will bring, the cost of implementing the program will increase as well. For example, the fee that the Department pays to its contractor for most privileges sold will increase from 74 cents to \$1.28 per privilege. Also, the Department will pay a contractor fee of \$3.65 for boat registration, renewal, transfer, and duplicate transactions. The proposed revision will help to offset these costs as well as other administrative costs.

The proposed amendment would revise language in a previous amendment to Chapter 15 adopted by the Commission on May 14, 2009, and published in the Iowa Administrative Bulletin on June 17, 2009, as **ARC 7852B**. It is anticipated that this previous amendment will become effective on July 22, 2009.

Any interested person may make written suggestions or comments pertaining to the proposed amendment by 4:30 p.m. on July 21, 2009. Such written materials should be directed to Mark Warren, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail Mark.Warren@dnr.iowa.gov. Persons who wish to convey their views orally should contact Mark Warren at (515)281-8907 or at his office on the fourth floor of the Wallace State Office Building.

A public hearing will be held on July 21, 2009, at 1:30 p.m. in the Fourth Floor East Conference Room, Wallace State Office Building, at which time persons may present their views either orally or in

NATURAL RESOURCE COMMISSION[571](cont'd)

writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

This amendment is intended to implement Iowa Code chapters 321G, 456A, 462A, 481A, 481B, 482, 483A, 484A, and 484B.

The following amendment is proposed.

Amend rule 571—15.4(483A) as follows:

571—15.4(483A) Administration fee. An administration fee of ~~50 cents~~ \$1.50 per privilege purchased shall be collected from the purchaser at the time of purchase, except upon the issuance of free landowner deer and turkey hunting licenses, free annual hunting and fishing licenses, free lifetime fishing licenses, ~~and free group home fishing licenses, and boat registrations, renewals, transfers, and duplicates.~~ An administrative fee of \$3.65 will be collected from the purchaser at the time of boat registration, renewal, transfer, and duplicate purchases.

ARC 7889B

NURSING BOARD[655]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These proposed amendments require applicants for licensure with a criminal conviction history to submit court documents to the Board of Nursing for review. The proposed amendments also remove the Board's renewal notification process by mail and provide for online license renewal.

Any interested person may make written comments or suggestions on the proposed amendments on or before July 21, 2009. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

These amendments are intended to implement Iowa Code chapter 147.

The following amendments are proposed.

ITEM 1. Amend paragraph **3.3(1)"c"** as follows:

c. ~~Approval by the board of those~~ Board approval of an applicant with a past felony criminal conviction history or a record of prior disciplinary action, regardless of jurisdiction.

ITEM 2. Renumber subparagraphs **3.4(3)"b"(7)** and **(8)** as **3.4(3)"b"(8)** and **(9)**.

ITEM 3. Adopt the following new subparagraph **3.4(3)"b"(7)**:

(7) Submit a copy of a sentencing order(s) with the license application if an applicant has a criminal conviction history.

NURSING BOARD[655](cont'd)

ITEM 4. Renumber subparagraphs **3.4(4)“b”(10)** and **(11)** as **3.4(4)“b”(11)** and **(12)**.

ITEM 5. Adopt the following **new** subparagraph **3.4(4)“b”(10)**:

(10) Submit a copy of a sentencing order(s) with the license application if an applicant has a criminal conviction history.

ITEM 6. Amend paragraph **3.5(2)“c”** as follows:

c. An endorsement applicant who has been disciplined by a licensing authority in another state must indicate the jurisdiction of the action(s) when submitting application materials. A copy of all relevant disciplinary documents will be obtained for board review prior to a determination regarding licensure. The board may impose ~~special~~ conditions for licensure ~~if deemed appropriate~~.

ITEM 7. Reletter paragraph **3.5(2)“d”** as **3.5(2)“e.”**

ITEM 8. Adopt the following **new** paragraph **3.5(2)“d”**:

d. An endorsement applicant who has a criminal conviction history must submit a copy of the sentencing order when submitting application materials. The board may impose conditions for licensure.

ITEM 9. Amend paragraph **3.5(3)“d”** as follows:

d. A temporary license shall not be issued to an applicant with a ~~past felony~~ criminal conviction history.

ITEM 10. Amend rule **655—3.6(17A,147,152,272C)**, numbered paragraphs **“1”** to **“7,”** as follows:

1. No change.
2. The applicant shall provide identifying information, history of ~~felony~~ criminal conviction, history of licensure in another jurisdiction, and reason for special licensure.
3. No change.
4. Board staff shall determine the validity of the request based on the need, duration and location of special licensure identified on the application, and staff shall notify the applicant of ineligibility for special licensure if the application is incomplete, or ~~demonstrates~~ indicates a ~~felony~~ criminal conviction history or evidence of licensure in another jurisdiction.
5. to 7. No change.

ITEM 11. Amend subrule 3.7(3), introductory paragraph, as follows:

3.7(3) Renewal. At least 60 days prior to expiration of the license, the licensee ~~shall be notified by mail that a renewal application is available~~ may renew the license online at the board's ~~Internet address~~ Web site. Renewal applications are also available by mail upon request.

ARC 7926B

PHARMACY BOARD[657]

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 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

The amendment was approved at the June 2, 2009, regular meeting of the Board of Pharmacy.

The proposed amendment provides for the hard-copy or electronic documentation of review of a communication regarding a prescription transferred between pharmacies accessing the same prescription drug order records via a real-time, online database.

PHARMACY BOARD[657](cont'd)

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on July 21, 2009. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 155A.13, 155A.13A, and 155A.34.

The following amendment is proposed.

Amend paragraph **6.9(9)“b”** as follows:

b. A pharmacist or pharmacist-intern under the direct supervision of a pharmacist in the transferring pharmacy shall review the message and document the review by signing and dating a hard copy of the message or logbook containing the information required on the message, or by a notation in the electronic message that includes the unique identification of the pharmacist or pharmacist-intern and the date of review, as soon as practical, but in no event more than 72 hours from the time of such transfer.

ARC 7912B**PHARMACY BOARD[657]****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 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 7, “Hospital Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the June 2, 2009, regular meeting of the Board of Pharmacy.

The proposed amendments require that hospital pharmacies utilize a unit dose dispensing system, to the extent possible, for the distribution of drugs to patients in a hospital. The amendments provide for the determination by the pharmacist in charge of situations in which utilization of unit dose dispensing is not possible due to the dosage form or delivery system of the drug and require the pharmacist in charge to develop policies and procedures that identify those situations. The proposed amendments also require the pharmacist in charge to develop policies and procedures regarding the use of patient-owned drugs brought into the institution including procedures for identifying the drugs and ensuring the integrity of the drugs prior to permitting the use of such drugs by the patient.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on July 21, 2009. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 155A.13 and 155A.36.

The following amendments are proposed.

ITEM 1. Amend paragraph **7.8(1)“a”** as follows:

a. Hospitals shall utilize a unit dose dispensing system pursuant to rule 657—22.1(155A). All drugs dispensed by the pharmacist for administration to patients shall be in single unit or unit dose packages if practicable unless the dosage form or drug delivery device makes it impracticable to package the drug in a unit dose or single unit package. ~~The need for nurses to manipulate drugs prior to their administration shall be minimized.~~

PHARMACY BOARD[657](cont'd)

(1) The pharmacist in charge shall establish policies and procedures that identify situations when drugs may be dispensed in other than unit dose or single unit packages outside the unit dose dispensing system.

(2) The need for nurses to manipulate drugs prior to their administration shall be minimized.

ITEM 2. Amend subrule 7.8(7) as follows:

7.8(7) *Drugs brought into the institution.* ~~Policies~~ The pharmacist in charge shall determine those circumstances when patient-owned drugs brought into the institution may be administered to a hospital patient and shall establish policies and procedures shall be established governing the use of drugs brought into the institution. Procedures shall address identification of the drug and methods for ensuring the integrity of the product prior to permitting its use by the patient. The use of patient-owned drugs shall be minimized to the greatest extent possible.

ARC 7910B

PHARMACY BOARD[657]

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 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 8, "Universal Practice Standards," and Chapter 21, "Electronic Data in Pharmacy Practice," Iowa Administrative Code.

The amendments were approved at the June 2, 2009, regular meeting of the Board of Pharmacy.

The proposed amendments authorize a prescriber to direct the prescriber's agent to transmit to a pharmacy a new prescription drug order that has been manually or electronically signed by the prescriber. The transmission shall identify the prescriber's agent by name and title. The amendments also authorize the transmission by a prescriber's agent of a prescription refill or renewal as directed by the prescriber. The transmission, if electronic and if the refill or renewal order is identical to the original order, shall not require the written or electronic signature of the prescriber. However, the name and title of the prescriber's agent shall be included in the electronic transmission.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on July 21, 2009. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 124.308 and 126.11, and Iowa Code sections 155A.27 and 155A.29 as amended by 2009 Iowa Acts, House File 381, sections 5 and 6.

The following amendments are proposed.

ITEM 1. Amend subrule 8.19(2) as follows:

8.19(2) *Transmitting agent.* The prescribing practitioner may authorize an agent to transmit to the pharmacy a prescription drug order or medication order orally or by electronic transmission provided that the name of the transmitting agent is included in the order.

a. *New order.* A new written or electronically prepared and transmitted prescription drug or medication order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the name and title of the transmitting agent shall be included in the order.

PHARMACY BOARD[657](cont'd)

b. Refill order or renewal order: An authorization to refill a prescription drug or medication order, or to renew or continue an existing drug therapy, may be transmitted to a pharmacist through oral communication, in writing, or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent and the name and title of the transmitting agent is included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the order differs in any manner from the original order, such as a change of the drug strength, dosage form, or directions for use, the prescriber shall sign the order as provided by paragraph "a."

ITEM 2. Amend rule 657—21.9(124,155A) as follows:

657—21.9(124,155A) Facsimile transmission (fax) of a prescription. A pharmacist may dispense noncontrolled and controlled drugs, excluding Schedule II controlled substances, pursuant to a prescription faxed to the pharmacy by the prescribing practitioner or the practitioner's agent. The means of transmission shall ensure that prescription information is not obscured or rendered illegible due to security features of the paper utilized by the prescriber to prepare a written prescription. The faxed prescription drug order shall serve as the original prescription, shall be maintained for a minimum of two years from the date of last fill or refill, and shall contain all information required by Iowa Code section 155A.27, including the prescriber's signature or electronic signature. The faxed prescription drug order, if transmitted by the practitioner's agent, shall identify the transmitting agent by name and title and shall include the prescriber's signature or electronic signature. The receiving pharmacist shall be responsible for verifying the authenticity of an electronically transmitted prescription or of an electronic signature as provided by rule 657—8.19(124,126,155A) or 657—21.3(124,155A). This rule shall not apply to a prescription drug order transmitted pursuant to 657—subrule 8.15(1), paragraph "d."

ARC 7908B

PHARMACY BOARD[657]

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 124.301, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

The proposed rule was approved at the June 2, 2009, regular meeting of the Board of Pharmacy.

The proposed rule establishes requirements in conformance with federal Drug Enforcement Administration rules relating to the issuance of multiple prescriptions for the same Schedule II controlled substance for dispensing to the same patient over a period of time not to exceed a 90-day supply of the prescribed substance. The rule prohibits a pharmacist from filling a prescription so issued prior to the fill date authorized on the prescription and prohibits a pharmacist from changing the fill date with the verbal approval of the prescriber.

Requests for waiver or variance of this rule will not be considered. The provisions of this rule are identical to provisions under federal law and therefore cannot be waived by this Board.

Any interested person may present written comments, data, views, and arguments on the proposed rule not later than 4:30 p.m. on July 21, 2009. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This rule is intended to implement Iowa Code section 124.308.

The following amendment is proposed.

PHARMACY BOARD[657](cont'd)

Adopt the following **new** rule 657—10.25(124):

657—10.25(124) Schedule II—issuing multiple prescriptions. An individual prescriber may issue multiple prescriptions authorizing the patient to receive a total of up to a 90-day supply of a Schedule II controlled substance pursuant to the provisions and limitations of this rule.

10.25(1) Refills prohibited. The issuance of refills for a Schedule II controlled substance is prohibited. The use of multiple prescriptions for the dispensing of Schedule II controlled substances, pursuant to this rule, ensures that the prescriptions are treated as separate dispensing authorizations and not as refills of an original prescription.

10.25(2) Legitimate medical purpose. Each separate prescription issued pursuant to this rule shall be issued for a legitimate medical purpose by an individual prescriber acting in the usual course of the prescriber's professional practice.

10.25(3) Dates and instructions. Each prescription issued pursuant to this rule shall be dated as of and manually signed by the prescriber on the day the prescription is issued. Each separate prescription, other than the first prescription if that prescription is intended to be filled immediately, shall contain written instructions indicating the earliest date on which a pharmacist may fill each prescription.

10.25(4) Authorized fill date unalterable. Regardless of the provisions of subrule 10.21(5), when a prescription contains instructions from the prescriber indicating that the prescription shall not be filled before a certain date, a pharmacist shall not fill the prescription before that date. The pharmacist shall not contact the prescriber for verbal authorization to fill the prescription before the fill date originally indicated by the prescriber pursuant to this rule.

10.25(5) Number of prescriptions and authorized quantity. An individual prescriber may issue for a patient as many separate prescriptions, to be filled sequentially pursuant to this rule, as the prescriber deems necessary to provide the patient with adequate medical care. The cumulative effect of the filling of each of these separate prescriptions shall result in the receipt by the patient of a quantity of the Schedule II controlled substance not exceeding a 90-day supply.

10.25(6) Prescriber's discretion. Nothing in this rule shall be construed as requiring or encouraging an individual prescriber to issue multiple prescriptions pursuant to this rule or to see the prescriber's patients only once every 90 days when prescribing Schedule II controlled substances. An individual prescriber shall determine, based on sound medical judgment and in accordance with established medical standards, how often to see patients and whether it is appropriate to issue multiple prescriptions pursuant to this rule.

ARC 7924B

PHARMACY BOARD[657]

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 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 13, "Sterile Compounding Practices," Iowa Administrative Code.

The amendments were approved at the June 2, 2009, regular meeting of the Board of Pharmacy.

The proposed amendments clarify that the beyond-use date for a sterile compounded product shall be calculated to include any period of time during which the product is contained in a reservoir administration device and clarify the approved storage periods for high-risk compounded preparations depending on the temperature of the preparation during storage.

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

PHARMACY BOARD[657](cont'd)

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on July 21, 2009. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

These amendments are intended to implement Iowa Code sections 126.10, 155A.2, 155A.13, and 155A.28.

The following amendments are proposed.

ITEM 1. Amend rule **657—13.2(124,126,155A)**, definition of “Beyond-use date,” as follows:
“Beyond-use date” means the date or time following compounding after which the preparation shall not be stored or transported. The beyond-use date is determined from the date or time compounding of the preparation is completed. Computation of the beyond-use date shall include the amount of time a compounded product is contained in a reservoir administration device.

ITEM 2. Amend paragraph **13.13(1)“e”** as follows:
e. For a sterilized high-risk preparation, in the absence of the preparation’s passing a sterility test, the storage ~~periods~~ period beyond-use date shall not exceed the following:
 (1) At controlled room temperature, ~~for~~ 24 hours;
 (2) At a cold temperature, ~~for~~ 3 days; or
 (3) In a solid-frozen state between minus 25 and minus 10 degrees Celsius, ~~for~~ 45 days.

ARC 7907B

REGENTS BOARD[681]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 2, “Supplemental Specific Rules for Each Institution,” Iowa Administrative Code.

These amendments are proposed to update admission rules for the College of Veterinary Medicine at Iowa State University.

Any interested person may make written comments on these proposed amendments on or before July 21, 2009, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; telephone (515)281-6418; fax (515)281-6420; E-mail address mbruns@iastate.edu.

No waiver provision is included because the Board of Regents has adopted a waiver or variance rule (681 IAC 19.18(262)) that addresses the topic for all institutions under the Board’s control.

These amendments are intended to implement Iowa Code section 262.9.

The following amendments are proposed.

ITEM 1. Rescind subrule 2.26(1) and adopt the following **new** subrule in lieu thereof:
2.26(1) Introduction. The basic admissions requirements of the college of veterinary medicine are included in this rule. For the most current information regarding applications and admission to the college of veterinary medicine, please refer to the college of veterinary medicine’s Web site at www.vetmed.iastate.edu.

ITEM 2. Rescind subrule 2.26(2) and adopt the following **new** subrule in lieu thereof:
2.26(2) Academic requirements. Applicants for admission to the college of veterinary medicine must demonstrate that they have accomplished the following minimum academic requirements:

REGENTS BOARD[681](cont'd)

- a. Earned at least 60 semester credits from accredited colleges or universities by the end of the spring term of the year in which the applicant seeks to be admitted.
- b. Completed the prerequisite coursework as determined by the faculty of the college of veterinary medicine by the deadlines determined by the admissions committee of the college of veterinary medicine.
- c. Attained an undergraduate cumulative grade point average (GPA) of at least 2.50 on a 4.00 scale.
- d. Taken the Graduate Record Examination (GRE).

ITEM 3. Adopt the following **new** subrule 2.26(3):

2.26(3) Application process. All inquiries regarding admission to the college of veterinary medicine should be directed to the Coordinator of Admissions, College of Veterinary Medicine, Iowa State University of Science and Technology, 1600 S. 16th Street, Ames, Iowa 50011-1250. The application process includes the following:

- a. Applicants must apply using the Veterinary Medical College Application Service (VMCAS) applications (see www.aavmc.org).
- b. In addition to the VMCAS application, applicants also need to complete any additional supplemental application as required by the admissions committee of the college of veterinary medicine.
- c. Transcripts from all postsecondary institutions attended must be submitted to the coordinator of admissions at the address listed above.
- d. A personal interview is required of all applicants.
- e. Applicants shall submit payment of the application fee approved by the board of regents under 681—1.7(262).
- f. All application materials must be submitted by the deadlines determined annually by the admissions committee of the college of veterinary medicine.

ITEM 4. Adopt the following **new** subrule 2.26(4):

2.26(4) Admission criteria. Admission to the college of veterinary medicine is on a competitive and selective basis. The selection criteria shall be established by the admissions committee of the college of veterinary medicine. These criteria may include review by the admissions committee of an applicant's GPA; GRE; coursework rigor; personal statement; animal, veterinary and general work experiences; recommendations; and a required personal interview. Completing the minimum academic requirements does not ensure admission. From the applicants who meet the minimum academic requirements, the admission committee will select the applicants who in the judgment of the committee appear to be best qualified for the study and practice of veterinary medicine.

ARC 7905B**REGENTS BOARD[681]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 262.9, the Board of Regents hereby gives Notice of Intended Action to amend Chapter 13, "Iowa State University of Science and Technology Organization and General Rules," Iowa Administrative Code.

These amendments are being proposed to update titles and other information about departments to clarify who may enter into contracts; to revise rules to comply with the Smokefree Air Act (Iowa Code chapter 142D); and to make other technical changes.

Any interested person may make written comments on these proposed amendments on or before July 21, 2009, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora

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Avenue, Urbandale, Iowa 50322-7905; telephone (515)281-6418; fax (515)281-6420; E-mail address mbruns@iastate.edu.

No waiver provision is included because the Board of Regents has adopted a waiver or variance rule (681 IAC 19.18(17A)) that addresses the topic for all institutions under the Board's control.

These amendments are intended to implement Iowa Code section 262.9.

The following amendments are proposed.

ITEM 1. Amend subrule 13.1(2) as follows:

13.1(2) *Officers.* The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has authority and duties as have been delegated by the board of regents.

A detailed listing of the university units is shown on the organizational chart ~~contained in the university office procedure guide and on its Web site~~ at the following address Web site: <http://www.adp.iastate.edu/vpbf/prod/docs/opp/orgeht.htm> <http://www.president.iastate.edu/org/univorg.pdf>.

ITEM 2. Amend subrule 13.1(3) as follows:

13.1(3) *Operations.* The executive vice president and provost oversees the academic, research, and extension activities of the university.

The academic mission of the university is principally carried out through its ~~nine~~ eight colleges: graduate, agriculture and life sciences, ~~education~~, engineering, ~~family and consumer~~ human sciences, liberal arts and sciences, design, business and veterinary medicine. The dean of each college is its chief administrative officer.

~~The extension service is an~~ Extension and outreach are integral ~~part~~ parts of the land-grant university system and ~~provides~~ provide the link whereby the findings of research are taken to Iowa people. The chief administrative officer ~~of extension service~~ is the vice ~~provost~~ president for extension and outreach.

The vice president for research and economic development oversees the university's broad range of research, which contributes to economic development in the state and the nation.

The vice president for student affairs oversees the various services provided to students, including student activities, student health and student housing and dining.

The vice president for business and finance oversees the various business-related functions of the campus, including physical plant, safety, accounting and purchasing.

ITEM 3. Amend subrule 13.1(4) as follows:

13.1(4) *Communications.* ~~Written and personal inquiry~~ Inquiries, submissions, and requests should be addressed to the Office of University Relations, ~~2041 Communications Building, Iowa State University, Ames, Iowa 50011; or~~ Contact information for the Office of University Relations may be found online at the following address: <http://www.public.iastate.edu/~ur/>. Communications may also be addressed to the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905. Generally, inquiries, submissions, and requests by the public may be submitted by informal letter or E-mail. However, application for some purposes is to be made on a specified form. ~~A Rule 681—13.6(262) contains a list of the forms, general description and the address where they may be obtained are found in rule 13.6(262)~~ and the offices from which the forms are available.

ITEM 4. Amend subrule 13.1(5) as follows:

13.1(5) *University office procedure guide.* ~~University office procedure guide~~ Policy library. The university ~~office procedure guide~~ policy library contains the policies governing the internal administrative operation of the university. It is available ~~for public inspection in the Office of the Vice President for Business and Finance, 1350 Beardshear Hall, or on line at the following address: <http://www.adp.iastate.edu/vpbf/prod/docs/opp/opp.htm>~~ online at the following address: <http://policy.iastate.edu/>. Copies of the policies may be obtained from the Iowa State University Policy Administrator, 1750 Beardshear Hall, telephone (515)294-1385.

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ITEM 5. Amend rule 681—13.6(262) as follows:

681—13.6(262) Forms. The university uses the forms listed below in dealing with the public. The various forms are classified by subject matter, followed by the name of the office where they are available. The forms may be obtained by writing to the appropriate office in care of the Iowa State University of Science and Technology, Ames, Iowa 50011. The office may also have the forms or additional contact information on the office's Web page, which may be accessed through the university's Web site located at <http://www.iastate.edu/>.

Academic forms—deans of the colleges and departmental offices, registrar.

All academic matters such as enrollment, dropping and adding of courses, applying for graduation, waiver of academic requirements, academic grievances and the like.

Admission application forms—director of admissions.

Undergraduate, graduate, ~~veterinary medicine, special student, Saturday and evening class~~—graduate ~~and undergraduate~~ and professional students. Graduate and professional students may need to secure special forms from the department to which they are applying.

Housing forms—director of residence.

All forms related to housing, including applications and contracts for residence halls and apartments.

Intercollegiate athletic tickets—athletic ticket office.

All forms relating to purchase of athletic tickets.

Student financial aid—student financial aid office.

All forms related to financial aid, including applications for student financial aid, loan applications.

Educational placement—teacher and career placement offices of the various colleges and the career exploration services office.

All forms related to placement for service learning, internships, registration forms for credential service, reference forms for credential files.

International education—study abroad center or international education services students and scholars.

All forms related to foreign study and immigration matters for visiting international students and scholars.

Registration—registrar.

Forms for registering and enrolling in classes.

Residency for tuition purposes—registrar.

Forms for requesting residency determinations.

Campus and student organizations—student activities center.

All forms for registering student groups, payment of club financial obligations, renting space, permission for holding events and the like.

Scientific testing—testing laboratories.

Each testing laboratory has its own forms for submission of samples and payment for testing services.

Artistic and cultural event tickets—Iowa State Center and athletics.

Forms for purchase of ~~season~~ tickets to events at Iowa State Center and Hilton Coliseum.

Iowa State Center space use—Iowa State Center.

Rental agreement.

Hilton Coliseum, Jack Trice Stadium, Jacobson Athletic Building, and Steve and Debbie Bergstrom Indoor Practice Facility space use—athletics.

Facility use agreement.

Employment—~~personnel office~~ human resource services.

All forms related to employment, including tax, benefits, employee information and applications for employment.

Parking and traffic—~~traffic office~~ parking division of the department of public safety.

All forms related to parking and traffic, including permit applications, and violation citations.

Transcript requests—registrar.

Requests for issuance of transcripts.

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ITEM 6. Amend subrule 13.8(1) as follows:

13.8(1) General delegation. ~~The state~~ Except for authority retained by the board of regents in the rules adopted under [681] of the Iowa Administrative Code or in the regents policy manual, the board of regents has delegated to the president authority to make enter into contracts and agreements as specified in Iowa administrative rules, board of regents, 681 IAC 8. The president has delegated authority for signing entering into such agreements and contracts to the vice president for business and finance in all cases except the following:

- a. Employment matters involving deans, directors, ~~departmental executive officers~~ department chairs and faculty are administered by the executive vice president and provost.
- b. Applications and agreements for grants and contracts for educational development and research ~~from all sources~~ are signed by the vice ~~provost~~ president for research and economic development or the director of the office of sponsored ~~research programs~~ administration.
- c. Agreements to form educational consortia for joint educational projects and for cooperative education may be signed and administered by the executive vice president and provost.

ITEM 7. Amend subrule 13.8(2) as follows:

13.8(2) Specific delegations. Within the limits prescribed by the board of regents, the president, the vice president for business and finance, the executive vice president and provost, the vice president for research and economic development, and the director of the office of sponsored programs administration may delegate the authority for contracts for supplies, equipment and services to the director of business affairs and other persons they have received as provided by the ~~university's office procedure guide~~ ISU contracting authority policy found in the policy library.

ITEM 8. Amend rule **681—13.10(262)**, introductory paragraph, as follows:

681—13.10(262) General priority on use of facilities. University grounds and facilities are primarily dedicated to the university's missions of teaching, research and service. While grounds and facilities are generally open to noncommercial use by the public, students, student organizations and staff, use for other than university-related purposes must not substantially interfere with university activities and must be in conformity with the requirements of this chapter. University-related activities, including the activities of recognized campus and student organizations, will be given priority. (The ISU facilities and grounds use activities policy may be found in the policy library.)

ITEM 9. Amend subrule 13.11(2) as follows:

13.11(2) The following facilities and grounds are restricted areas. Access requires express permission of the relevant building supervisor, superintendent or other person in charge of the facility: individual residences or dwellings; research laboratories or facilities; farms and associated buildings; animal storage and confinement facilities; utility and maintenance closets; mechanical rooms; utility facilities; utility tunnels; storage areas; hazardous materials waste storage and handling areas; marked or fenced construction areas; institutional food preparation areas; private offices; workrooms; shops; areas where medical, psychological or other consultation takes place; radio and television studios; intercollegiate athletics competition facilities; or areas which bear signs indicating that access is restricted. The university has leased some of its property and facilities to other parties for use related to university purposes (for example, the Ames Laboratory and the National Soil Tilth Laboratory). Such areas are not open to public use except as provided by the lessee of the property or facility. ~~The Memorial Union, the buildings at the Iowa State Center (Hilton Coliseum, Scheman Continuing Education Building, Stephens Auditorium and Fisher Theater) and the Iowa State University Research Park are managed by separate organizations that regulate the use of these facilities and property.~~

ITEM 10. Amend paragraph **13.12(1)"c,"** introductory paragraph, as follows:

c. Uses that require approval. A public event not at ~~an open forum area,~~ a designated public forum, and which does not meet the above criteria, requires prior approval by the filing of an Activity Authorization Form with the Student Activities Center at least three business days in advance of the proposed event. The Student Activities Center will make every effort to provide approval or nonapproval, with a statement of the reasons for nonapproval, within one business day. The sponsors of the event may

REGENTS BOARD[681](cont'd)

request a waiver of the three-day requirement. A waiver may be granted if the Student Activities Center determines that there are good reasons for an exception.

ITEM 11. Amend paragraph **13.12(2)“d”** as follows:

d. Facilities managed by separate university offices or organizations. The Student Activities Center and users must coordinate use of these facilities with the listed offices:

1. Common areas in buildings—building coordinator for the building;
2. Rooms in academic or administrative buildings—Room Scheduling, General Services Building, 294-5338;
3. Memorial Union—~~Reservations, 210~~ Event Management Office, 3630 Memorial Union, 294-1437;
4. Iowa State Center—Center Office, 4 Scheman Conference Center, 294-3347;
5. Residence Halls—~~Undergraduate Residences (RCA, TRA and UDA), 294-8395~~ 294-2900 (general); 294-6428 (meeting rooms); 294-8384 (conferences);
6. University Family Housing Office, 294-5360;
7. Fredericksen Court Office, 294-2107;
8. Recreation facilities—Recreation Services Administrative Office, 407 2220 State Gym, 294-4980. Recreation facilities include Beyer Hall, State Gym, ~~Armory, Physical Education Building, and Lied~~ Lied Recreation/Athletic Facility, and outdoor intramural-recreation fields and courts-;
9. Howe Hall Auditorium—Engineering Distance Education, 294-7470;
10. University Studios—294-6014;
11. Farm Bureau Pavilion—Animal Science, 294-5424;
12. Athletics Facilities—Athletic Department, Jacobson Athletic Building, 294-3662. Athletics facilities include Hilton Coliseum, Jack Trice Stadium, Jacobson Athletic Building, and Steve and Debbie Bergstrom Indoor Practice Facility.

Students and student organizations have priority for use of residence facilities, recreation facilities and the Memorial Union. Students and student organizations may directly contact the offices listed above to schedule use of meeting rooms and other facilities.

As part of the university’s comprehensive effort to conserve energy and save money, activities will generally be scheduled in buildings normally open and operational in the evenings. More information may be obtained through the Room Scheduling Office. The ISU policy on facilities use after hours may be found in the policy library.

ITEM 12. Amend subrule 13.13(1), introductory paragraph, as follows:

13.13(1) Displays within buildings. Posters, advertisements, or other visual display materials may be affixed only on permanent building bulletin boards. Such display materials may not have a surface area of greater than 300 square inches. Additional information regarding displays within buildings may be found in the ISU policy on facilities and grounds use activities in the policy library.

ITEM 13. Amend paragraph **13.13(2)“d”** as follows:

d. Cleanup. All visual displays should be removed as they become outdated or after authorization has expired. Cleanup charges may be billed to the organization/department/individual for failure to clean up promptly. Organizations, departments, or individuals may be billed for cleanup expenses for illegally posted materials.

Additional information regarding exterior displays may be found in the ISU policy on facilities and grounds use activities in the policy library.

ITEM 14. Amend subrule 13.17(1) as follows:

13.17(1) Smoking is prohibited in all university academic, administrative and service buildings. ~~Smoking may be allowed in some student living areas. The university may also limit smoking at outdoor events, such as football games at Jack Trice Stadium, by entryway and courtyard areas. Smoking areas will be designated away from seating and assembly areas. Smoking is prohibited in Iowa State Center buildings, including Hilton Coliseum and C.Y. Stephens Auditorium. Consistent with the Iowa smokefree air Act (Iowa Code chapter 142D), Iowa State University has adopted a smoke-free~~

REGENTS BOARD[681](cont'd)

campus policy, which is incorporated by reference herein. The policy is available on the Internet at the following address: <http://policy.iastate.edu/policy/smoking/>.

ITEM 15. Amend subrule 13.17(2) as follows:

13.17(2) Unless specifically authorized, the consumption of alcoholic beverages is not permitted on the campus, within university buildings, within university vehicles, or on other university property. Alcohol may be consumed in residences or privately leased units on the campus as allowed by law and the rules or lease agreement applicable to the unit. Otherwise, the university will determine the time, place, and conditions under which alcoholic beverages are consumed on university property. Events at which alcoholic beverages are served require evidence of a properly issued state alcohol permit. Persons violating state law with respect to possession and consumption of alcohol are subject to citation, arrest or exclusion from the campus. The ISU policy on alcohol, drugs, and other intoxicants may be found in the policy library.

ARC 7885B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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 307.10, 307.12 and 327F.13, the Department of Transportation hereby gives Notice of Intended Action to adopt Chapter 813, "Close-Clearance Warning Signs Along Railroad Tracks," Iowa Administrative Code.

Iowa Code section 327F.13 requires the Department of Transportation to adopt rules concerning close-clearance warning signs along railroad tracks where the clearance between the tracks and an obstruction along the tracks physically impedes a person who is lawfully riding on the side of a train from clearing the obstruction. New Chapter 813 implements this rule-making requirement.

This chapter does not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed rules on or before July 21, 2009. Comments on the proposed rules should be directed to Tracy George, Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: tracy.george@dot.iowa.gov.

Additionally, a public hearing to receive comments on the proposed rules will be held on Thursday, July 23, 2009, at 10 a.m. in the Materials Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The proposed rules may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by August 3, 2009.

These rules are intended to implement Iowa Code section 327F.13.

Proposed rule-making action:

Adopt the following **new** 761—Chapter 813:

CHAPTER 813

CLOSE-CLEARANCE WARNING SIGNS ALONG RAILROAD TRACKS

761—813.1(327F) Purpose and scope. This chapter implements Iowa Code section 327F.13. This statute requires the Iowa department of transportation (department) to implement the placement of close-clearance warning signs along railroad tracks where the close clearance between the tracks and an obstruction physically impedes a person who is lawfully riding the side of a train from clearing the

TRANSPORTATION DEPARTMENT[761](cont'd)

obstruction. This chapter only applies when funds are available from the department to reimburse the owner for the cost of the close-clearance warning sign and installation.

761—813.2(327F) Applicability. This chapter applies to railroad companies as well as industries, agricultural cooperatives or other entities that are owners of a railroad track, and it applies to individuals who are owners of a railroad track. This chapter does not apply to any railroad locations where locomotives are powered by overhead or suspended electric power.

761—813.3(327F) Information. Information regarding this chapter is available from the Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140.

761—813.4(327F) Definitions.

“Close clearance” means a permanent or temporary situation where an obstruction near a railroad track physically impedes a person who is lawfully riding the side of a train from clearing the obstruction. Rule 761—813.5(327F) provides further detail on the dimensions that identify a close-clearance situation.

“Obstruction” means a building, machinery, tree, brush or other object.

“Owner” means the railroad company, industry, agricultural cooperative, other entity, or individual that holds a fee simple title, easement, leasehold, contract to purchase, license, or other legal or equitable interest or right in the railroad track, and is in primary possession and control of the railroad track.

“Tangent track” means a track segment without any curves.

761—813.5(327F) Close-clearance dimensions.

813.5(1) Close clearance for tangent track is a location along the railroad track where there is an obstruction that falls within the following dimensions: starting at the centerline of track at top of rail and extending 5 feet both sides horizontally and level therewith, thence upward vertically 15 inches, thence upward diagonally to a point 4 feet above top of rail and 8 feet laterally from centerline of track, thence vertically to a point 20 feet above top of rail, thence diagonally to a point 6 feet from centerline of track and 22 feet above top of rail, thence horizontally to centerline of track. Vertical clearance shall be 18 feet above top of rail at the entrance to and inside buildings. On curved track, clearances on each side of the track centerline shall be increased 1½ inches per degree of curvature. (See Figure 1.)

TRANSPORTATION DEPARTMENT[761](cont'd)

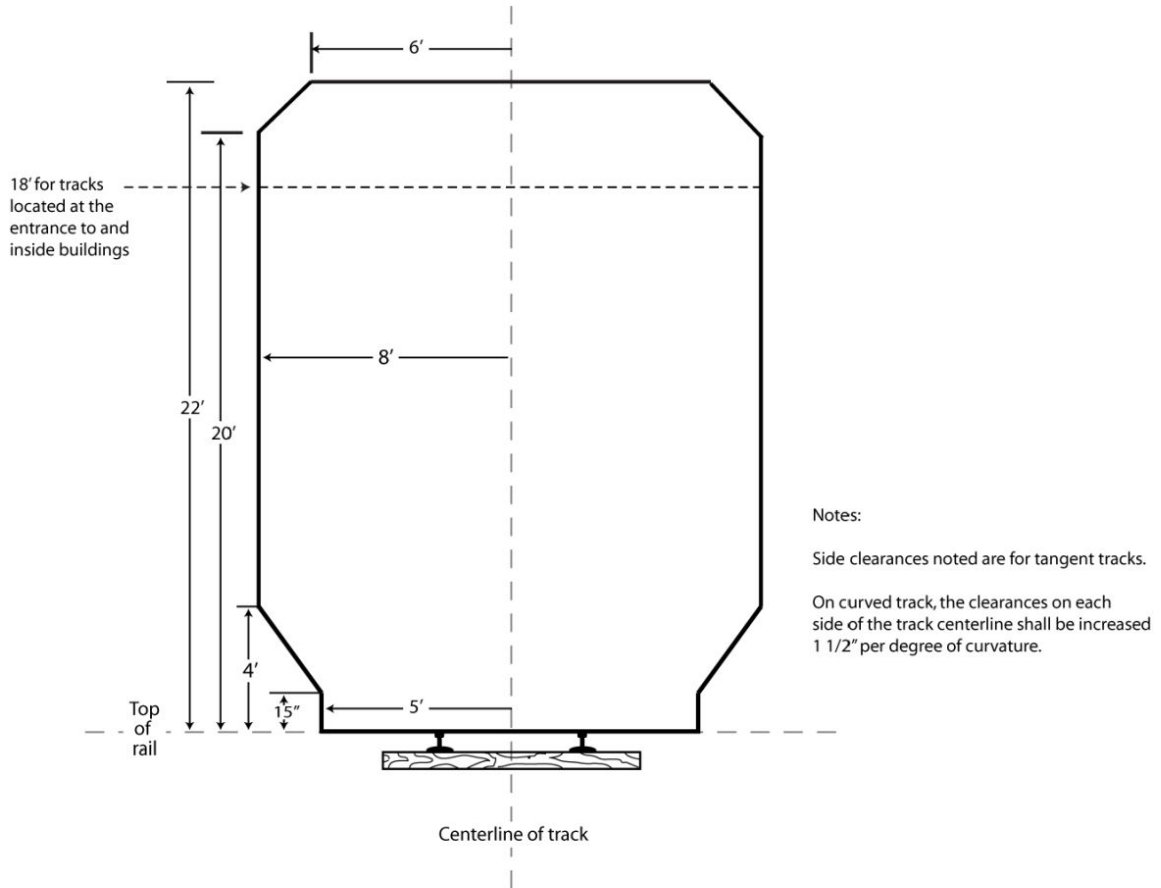


Figure 1

813.5(2) Reserved.

761—813.6(327F) Signing requirements.

813.6(1) A close-clearance warning sign or signs are required at all locations where there is close clearance. It is the responsibility of the owner to ensure that all close-clearance locations have warning signs.

813.6(2) If an obstruction creating a close-clearance situation is a temporary or nonpermanent obstruction, in lieu of signing the owner may meet the requirements of this rule by opting to remove the obstruction or remove the track from service until the obstruction is removed.

813.6(3) A close-clearance warning sign shall be placed in a location that provides adequate notice to a person who is lawfully riding the side of a train so that the person may prepare for the close clearance.

813.6(4) A close-clearance warning sign shall comply with the following requirements. A warning sign shall:

- a. Include the words "no clearance." The letters must be black on a white reflective background and be a minimum of 3 inches high.
- b. Be a vertical sign not less than 42 inches in height and 4 inches in width.
- c. Be placed at least 1 foot off the ground or on the obstruction and within 3 feet of the close-clearance location or on the obstruction. Signs shall be located on both sides of the obstruction so as to be visible from both directions.
- d. Not be within 8 feet of the centerline of the tracks.

813.6(5) In the event that the placement of the close-clearance warning sign according to paragraph 813.6(4) "c" or 813.6(4) "d" does not provide adequate notice for a person who is lawfully riding the side of a train to prepare for the close clearance (such as a curve or other sight obstruction), an additional sign reading "no clearance ahead" shall be placed in a location that provides adequate notice to the person who

TRANSPORTATION DEPARTMENT[761](cont'd)

is lawfully riding the side of the train so that the person may prepare for the close clearance. Depending on the particular environment that makes an additional no clearance ahead sign necessary, a no clearance ahead sign may be required on one or on both sides of the obstruction so as to be visible from both directions.

813.6(6) In the event that the physical environment prevents the placement of a warning sign in accordance with paragraph 813.6(4)“c” or 813.6(4)“d,” the sign shall be placed in a highly visible location that is clearly indicative of the point of close clearance. An alternative size and shape of sign may be used if there is no location available where a standard size and shape sign may be used. Any alternative sign must clearly be identifiable as an indicator of the close-clearance situation.

813.6(7) In limited situations where multiple instances of insufficient clearance occur within a confined area or over a distance, and where posting of multiple warning signs could on its own be a safety hazard, or where multiple signs would create a confusing environment making it difficult to discern the areas that lack clearance, a sign reading “no clearance ahead” may be posted in lieu of multiple signs.

813.6(8) A line or other marker shall be maintained at a distance of 8 feet from the centerline of the track on all platforms, excluding passenger platforms, to indicate the space along the edge of such platform that shall be kept clear of merchandise, material, or other articles that could create a temporary close-clearance situation.

813.6(9) Placement of a warning sign does not relieve the owner from any duties required under Iowa Code chapter 317 or Iowa Code section 327F.27.

761—813.7 and **813.8** Reserved.

761—813.9(327F) Enforcement.

813.9(1) If the owner is provided written notice by an employee, a person working on or near the tracks, or a railroad inspector that a location is in need of a close-clearance warning sign, the owner shall investigate and, if warranted, ensure the placement of a warning sign or signs within 30 calendar days of notification. If a close-clearance warning sign is not warranted, the owner shall inform the person who provided notice, in writing within 30 calendar days, that a sign is not warranted and shall explain why the location does not need a close-clearance warning sign.

813.9(2) If the owner fails to respond to a written notice by an employee or another person working on or near the tracks, or if the employee or other person disagrees with the owner’s determination that a warning sign is not warranted, the employee or other person may notify the department. The department shall investigate and make a determination if the location warrants the placement of a close-clearance warning sign.

a. If the department determines a close-clearance warning sign is warranted, the department shall notify the owner in writing. The owner shall have 14 calendar days from the date of the notification to install the proper warning sign. Failure to install the close-clearance warning sign is evidence that the owner is in violation of Iowa Code section 327F.13.

b. The owner, an employee or a person working on or near the tracks may contest the determination. If the determination is contested, 761—Chapter 13 applies.

761—813.10(327F) Reimbursement.

813.10(1) The owner may request reimbursement from the department for up to \$100 per sign for the cost and installation of the close clearance or no clearance ahead warning sign.

813.10(2) To be reimbursed, the owner shall complete Form 291303, “Close-Clearance Warning Sign Certification,” and submit the form to the office of rail transportation. The owner must certify that the warning sign complies with the requirements in rule 761—813.6(327F) and provide proof of purchase.

813.10(3) The department may inspect, at any time, the sign installation to confirm that the warning sign meets the minimum requirements in rule 761—813.6(327F).

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813.10(4) Form 291303 is available on the department's Internet Web site at <http://www.iowadot.gov/forms/index.htm> or from the office of rail transportation.

These rules are intended to implement Iowa Code section 327F.13.

USURY

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

July 1, 2008 — July 31, 2008	6.00%
August 1, 2008 — August 31, 2008	6.00%
September 1, 2008 — September 30, 2008	6.00%
October 1, 2008 — October 31, 2008	6.00%
November 1, 2008 — November 30, 2008	5.75%
December 1, 2008 — December 31, 2008	5.75%
January 1, 2009 — January 31, 2009	5.50%
February 1, 2009 — February 28, 2009	4.50%
March 1, 2009 — March 31, 2009	4.50%
April 1, 2009 — April 30, 2009	5.00%
May 1, 2009 — May 31, 2009	4.75%
June 1, 2009 — June 30, 2009	5.00%
July 1, 2009 — July 31, 2009	5.25%

ARC 7884B**VOTER REGISTRATION COMMISSION[821]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 47.8 and 17A.3, the Voter Registration Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization, Purpose, Procedures and Definitions," Chapter 2, "Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates," Chapter 3, "Lists of Registered Voters," Chapter 5, "Election Registers," Chapter 6, "Data Processing System Requirements for Voter Registration," Chapter 9, "National Change of Address Program," Chapter 10, "Notice to Voters Without Activity in Four Years in Counties Using NCOA Records; To All Voters in Other Counties," and Chapter 11, "Registration Procedure at the Office of Driver Services, Department of Transportation," Iowa Administrative Code.

These amendments are necessary due to technical changes made to Iowa's voter registration laws by 2009 Iowa Acts, House File 475, effective July 1, 2009. In addition, these amendments remove obsolete references to voter registration systems and processes used prior to the implementation of Iowa's statewide voter registration system as mandated by the 2002 Help America Vote Act.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 21, 2009. Written suggestions or comments should be directed to Sarah Reisetter,

VOTER REGISTRATION COMMISSION[821](cont'd)

Elections Director, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)242-5071 or in person at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by July 21, 2009.

These proposed amendments were also Adopted and Filed Emergency and are published herein as **ARC 7883B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 48A as amended by 2009 Iowa Acts, House File 475.

ARC 7929B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2008 Iowa Acts, chapter 1187, section 6(6), the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

This amendment removes two of the requirements for an infant to be deemed Medicaid-eligible for 12 months because of "newborn" status, a mandatory coverage group under the Medicaid program. Based on legislation enacted in the Children's Health Insurance Program Reauthorization Act (CHIPRA), Public Law 111-3, states shall no longer require that the infant live with the mother or that the mother continue to meet the Medicaid eligibility requirements that would apply if she were still pregnant.

The effect of this amendment is that any infant in Iowa who was born to a woman who was Medicaid-eligible at the time of the infant's birth shall remain eligible through the month of the infant's first birthday, even if the infant is no longer living with the mother or the mother would no longer qualify for Medicaid. This change will ensure the continuous availability of medical care to infants during their first year of life and is in line with the state's vision to provide health care to all Iowa children.

This amendment does not provide for waivers in specified situations, since the change is a benefit to the infants affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on June 10, 2009.

The Department finds that notice and public participation are unnecessary, in that the amendment is necessary to meet federal requirements, and impracticable, because there is insufficient time to allow for public comment before the effective date required. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of this amendment should be waived, as authorized by 2008 Iowa Acts, chapter 1187, section 6(6).

This amendment is also published herein under Notice of Intended Action as **ARC 7930B** to allow for public comment.

This amendment is intended to implement Iowa Code section 249A.4 and Public Law 111-3, Section 113(b)(1).

This amendment becomes effective July 1, 2009.

The following amendment is adopted.

Amend subrule 75.1(20) as follows:

75.1(20) *Newborn children of Medicaid-eligible mothers.* Medicaid shall be available without an application to newborn children of women who are determined eligible for Medicaid for the month of the child's birth or for three-day emergency services for labor and delivery for the child's birth. Eligibility begins with the month of the birth and continues through the month of the first birthday as long as the child ~~lives with the mother and the mother remains eligible for Medicaid or would be eligible if she were still pregnant or qualified for emergency services for childbirth~~ an Iowa resident.

a. and b. No change.

[Filed Emergency 6/12/09, effective 7/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7931B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

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

As mandated by 2009 Iowa Acts, Senate File 389, this amendment increases the Medicaid income limit for pregnant women and for infants less than one year of age to 300 percent of the federal poverty level. It also eliminates an income deduction equal to 15 percent of the poverty level for infants and pregnant women, which had been used to effectively increase the previous income limit from 185 percent to 200 percent of the federal poverty level. Under this amendment, pregnant women will move from the IowaCare program to regular Medicaid unless they are ineligible for Medicaid due to excess resources.

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217), but the Department has no authority to waive statutory language.

The Council on Human Services adopted this amendment on June 10, 2009.

The Department finds that notice and public participation are unnecessary, since these changes are mandated by state legislation and the Department has no alternative to their implementation. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department also finds that this amendment confers a benefit on the persons affected by raising the income limits for Medicaid eligibility. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of this amendment is waived.

This amendment is intended to implement Iowa Code section 249A.3(1)"I" as amended by 2009 Iowa Acts, Senate File 389, section 16.

This amendment becomes effective July 1, 2009.

The following amendment is adopted.

Amend subparagraph **75.1(28)"a"(1)** as follows:

(1) Family income shall not exceed ~~185~~ 300 percent of the federal poverty level for pregnant women ~~when establishing initial eligibility under these provisions~~ and for infants (under one year of age) ~~when establishing initial and ongoing eligibility~~. Family income shall not exceed 133 percent of the federal poverty level for children who have attained one year of age but who have not attained 19 years of age. Income to be considered in determining eligibility for pregnant women, infants, and children shall be determined according to family medical assistance program (FMAP) methodologies except that the three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply. "Family income" is the income remaining after disregards and deductions have been applied ~~in accordance with the provisions of as provided in rule 441—75.57(249A)~~.

~~In determining eligibility for pregnant women and infants, after the aforementioned disregards and deductions have been applied, an additional disregard equal to 15 percent of the applicable federal poverty level shall be applied to the family's income.~~

[Filed Emergency 6/12/09, effective 7/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7932B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

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

This amendment reflects the action of the Iowa General Assembly directing the Department to provide Medicaid coverage to all eligible children for whom federal funding is available. The Children's Health Insurance Program Reauthorization Act of 2009 allows states the option to extend coverage to all children who are lawful permanent residents of the United States.

Previously, children who entered the United States on or after August 22, 1996, were barred from participating in any federal means-tested program for five years from their date of entry. This amendment provides that children in lawful permanent resident status may receive Medicaid coverage if they are otherwise eligible, regardless of their date of entry to the United States. This amendment does not extend coverage to children who do not have documentation of their legal entry to the United States. The rule is also amended to conform to current formatting standards and to clarify the conditions of eligibility.

This amendment does not provide for waivers in specified situations since it benefits the children affected by expanding eligibility. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on June 10, 2009.

The Department finds that notice and public participation are impracticable in that the legislative directive to add coverage is effective on July 1, 2009, and there is not sufficient time to allow for public participation before that date. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department finds that this amendment confers a benefit by extending health coverage to children who were previously ineligible. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of this amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 7934B** to allow for public comment.

This amendment is intended to implement Public Law 111-3 and Iowa Code chapter 249A as amended by 2009 Iowa Acts, Senate File 389, section 13.

This amendment becomes effective on July 1, 2009.

The following amendment is adopted.

Amend paragraph **75.11(2)"a"** as follows:

a. To be eligible for Medicaid a person must be one of the following:

- (1) A citizen or national of the United States.
- (2) A qualified alien ~~as defined in subrule 75.11(1)~~ residing in the United States ~~prior to~~ before August 22, 1996.
- (3) ~~A qualified~~ An alien child under the age of 19 who entered the United States on or after August 22, 1996, and who is: lawfully admitted for permanent residence under the Immigration and Nationality Act.
 - ~~• A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act;~~
 - ~~• Granted asylum under Section 208 of the Immigration and Nationality Act;~~
 - ~~• An alien whose deportation is being withheld under Section 243(h) of the Immigration and Nationality Act; or~~
 - ~~• A veteran with a discharge characterized as an honorable discharge and not on account of alienage, an alien who is on active duty in the Armed Forces of the United States other than active duty for training, or the veteran's spouse or unmarried dependent child.~~
- (4) A refugee who is admitted to the United States under Section 207 of the Immigration and Nationality Act.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(5) An alien who has been granted asylum under Section 208 of the Immigration and Nationality Act.

(6) An alien whose deportation is being withheld under Section 243(h) of the Immigration and Nationality Act.

(7) A qualified alien veteran who has an honorable discharge that is not due to alienage.

(8) A qualified alien who is on active duty in the Armed Forces of the United States other than active duty for training.

(9) A qualified alien who is the spouse or unmarried dependent child of a qualified alien described in subparagraph (7) or (8), including a surviving spouse who has not remarried.

~~(4) (10)~~ A qualified alien who ~~entered the United States on or after August 22, 1996, and who~~ has resided in the United States for a period of at least five years.

[Filed Emergency 6/12/09, effective 7/1/09]

[Published 7/1/09]

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ARC 7937B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

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

This amendment sets Medicaid reimbursement policy for translation or interpretation services provided in connection with the use of Medicaid services by members whose primary language is not English. Provision of translation or interpretation services for persons with limited English proficiency is required by Title VI of the Civil Rights Act of 1964 for federally funded programs. The Children's Health Insurance Program Reauthorization Act of 2009 raises the level of federal reimbursement for these services in the Medicaid program.

Under this amendment, the Department will set a fee for translation and interpretation services, and providers whose reimbursement is determined by a fee for service will be able to bill this service in addition to the Medicaid service provided. Providers whose reimbursement is cost-based are already able to include these expenses in their cost reports.

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

The Council on Human Services adopted this amendment June 10, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because 2009 Iowa Acts, Senate File 389, section 38(5), directs the Department to provide translation and interpretation services under the Medical Assistance Program and are also impracticable because 2009 Iowa Acts, Senate File 389, section 38(5), takes effect July 1, 2009.

The Department finds that this amendment confers a benefit by adding reimbursement for translation and interpretation services. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of the amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 7938B** to allow for public comment.

This amendment is intended to implement Iowa Code section 249A.4 and 2009 Iowa Acts, Senate File 389, section 38(5).

This amendment becomes effective on July 1, 2009.

The following amendment is adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Adopt the following **new** subrule 79.1(19):

79.1(19) Reimbursement for translation and interpretation services. Reimbursement for translation and interpretation services shall be made to providers based on the reimbursement methodology for the provider category as defined in subrule 79.1(2).

a. For those providers whose basis of reimbursement is cost-related, translation and interpretation services shall be considered an allowable cost.

b. For those providers whose basis of reimbursement is a fee schedule, a fee shall be established for translation and interpretation services, which shall be treated as a reimbursable service.

[Filed Emergency 6/12/09, effective 7/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7881B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

This amendment reflects the action of the Iowa General Assembly directing the Department to provide coverage under the Healthy and Well Kids in Iowa (HAWK-I) Program to all eligible children for whom federal funding is available. The Children's Health Insurance Program Reauthorization Act of 2009 allows states the option to extend coverage funded through the federal Children's Health Insurance Program (HAWK-I in Iowa) to all children who are lawful permanent residents of the United States.

Previously, children who entered the United States on or after August 22, 1996, were barred from participating in any federal means-tested program for five years from their date of entry. This amendment provides that children in lawful permanent resident status may receive HAWK-I coverage if they are otherwise eligible, regardless of their date of entry to the United States. This amendment does not extend coverage to children who do not have documentation of their legal entry to the United States.

This amendment does not provide for waivers in specified situations since it benefits the children affected by expanding eligibility. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The HAWK-I Board adopted this amendment on May 19, 2009.

The Department finds that notice and public participation are impracticable in that the legislative directive to add coverage is effective on July 1, 2009, and there is not sufficient time to allow for public participation before that date. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department finds that this amendment confers a benefit by extending health coverage to children who were previously ineligible. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of this amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 7882B** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 514I as amended by 2009 Iowa Acts, Senate File 389, section 14, and Public Law 111-3.

This amendment becomes effective on July 1, 2009.

The following amendment is adopted.

Amend subrule 86.2(7) as follows:

86.2(7) Citizenship and alien status. The child shall be a citizen or lawfully admitted alien. The criteria established under ~~8 U.S.C. Section 1612(a)(2)(A) and the Balanced Budget Act of 1997, subsection 5302,~~ 441—subrule 75.11(2) shall be followed when determining whether a lawfully admitted alien child is eligible to participate in the HAWK-I program. The citizenship or alien status of

HUMAN SERVICES DEPARTMENT[441](cont'd)

the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7899B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

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 29, “Jump-Start Housing Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to provide for the allocation of program funds made available by 2009 Iowa Acts, Senate File 376, section 29, and 2009 Iowa Acts, House File 64, division I.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest, in that assistance to the victims of the natural disasters is needed immediately, and the normal notice and public participation process would delay implementation of the changes. The Authority is also simultaneously publishing a Notice of Intended Action as **ARC 7900B** herein to allow for public comment.

The Authority finds that these amendments confer a benefit on those persons adversely affected by the natural disasters, in that the amendments ease and speed the administration of an important program benefiting such persons. For this reason, these amendments should be implemented as soon as feasible in order to facilitate the provision of assistance under the program and to avoid confusion. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on June 10, 2009.

These amendments became effective June 10, 2009.

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

The following amendments are adopted.

ITEM 1. Amend subrule 29.3(1) as follows:

29.3(1) *Allocation criteria.*

a. Initial allocation, loans to local government participants. The authority shall make an initial allocation of the funds made available for the program to the local government participants pro rata based on the funds awarded by FEMA under its housing assistance program to each local government participant's jurisdiction as a percentage of the total amount of funds awarded as a result of the natural disasters of 2008. The authority shall enter into a grant agreement with each local government participant, pursuant to which the authority may disburse funds to the local government participant for the purposes described in this chapter. The grant agreement shall be prepared by the authority and may contain such terms and conditions, in addition to those specified in this chapter, as the executive director may deem to be necessary and convenient to the administration of the program and to the efficient and responsible use of the granted funds.

b. Funds made available pursuant to 2009 Iowa Acts, Senate File 376. The authority shall allocate program funds made available under 2009 Iowa Acts, Senate File 376, section 29, Disaster Damage Housing Assistance Grant Fund [creating Iowa Code section 16.186], by inviting local government participants to submit an application for funding. The authority shall award program

IOWA FINANCE AUTHORITY[265](cont'd)

funding made available under this paragraph based upon priority criteria to be specified in the application form including, but not limited to, the following:

(1) The applicant's demonstrated maximum use and leverage of other disaster recovery resources; and

(2) Provision of program assistance to the maximum number of potential eligible residents with priority given to eligible residents who:

1. Have not received any moneys under the program;

2. Are in need of an interim mortgage assistance extension meeting the conditions specified in subrule 29.5(2); and

3. Are not eligible for assistance under the requirements of other available disaster recovery assistance programs.

ITEM 2. Amend subrule 29.5(1) as follows:

29.5(1) Forgivable loans. Local government participants may make forgivable loans, pursuant to the conditions set forth in rule 265—29.7(16), to eligible residents for the following eligible uses:

a. No change.

b. *Housing repair or rehabilitation.* An eligible resident whose disaster-affected home is not proposed, or located in an area proposed, by a municipality or county to the Iowa homeland security and emergency management division for property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2008) may receive financial assistance to pay for eligible repair expenses up to an amount not to exceed the lesser of \$50,000 or 60 percent of the latest available assessed value of the disaster-affected home, not including the assessed value of the land on which it is situated, dated prior to the natural disasters of 2008; provided, however, that for application purposes under paragraph 29.3(1) "b" allocating program funds under 2009 Iowa Acts, Senate File 376, section 29, the local government participant may elect to establish its own measure of housing repair or rehabilitation financial feasibility in lieu of 60 percent of the latest available assessed value of the disaster-affected home, not including the assessed value of the land on which it is situated, dated prior to the natural disasters of 2008. The eligible resident shall establish the necessity and reasonable cost of the repairs or rehabilitation to the reasonable satisfaction of the local government participant.

(1) to (3) No change.

ITEM 3. Adopt the following **new** rule 265—29.8(16):

265—29.8(16) Funds allocated pursuant to 2009 Iowa Acts, House File 64, division I. Notwithstanding the foregoing, the following additional restrictions shall apply to loans made pursuant to program funding allocated under 2009 Iowa Acts, House File 64, division I:

29.8(1) Income. An eligible resident must have a family income equal to or less than 150 percent of the area median family income.

29.8(2) Application deadline. An eligible resident must submit an application for assistance by September 1, 2009.

29.8(3) Priorities. Forgivable loans awarded under this rule shall be awarded pursuant to the following priorities:

a. *First priority.* First priority shall be given to eligible residents who have not received any moneys under the program.

b. *Second priority.* Second priority shall be given to eligible residents who have received less than \$24,999 under the program.

c. *Third priority.* Third priority shall be given to eligible residents who have received \$24,999 under the program and who continue to have unmet needs for down payment assistance, emergency housing repair or rehabilitation, interim mortgage assistance, or energy efficiency assistance. An eligible resident shall not receive more than an additional \$24,999 under this paragraph.

29.8(4) Maximum assistance. Except as provided in paragraph 29.8(3) "c," an eligible resident who meets the area median family income requirement shall not receive more than \$24,999 under the program.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 4. Amend **265—Chapter 29**, implementation sentence, as follows:

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

[Filed Emergency 6/10/09, effective 6/10/09]

[Published 7/1/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7897B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 30, the Iowa Finance Authority hereby adopts new Chapter 35, “Affordable Housing Assistance Grant Fund,” Iowa Administrative Code.

The purpose of these rules is to implement 2009 Iowa Acts, Senate File 376, section 30, by regulating the operation of the Affordable Housing Assistance Grant Fund.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that the normal notice and public participation process would delay implementation of the newly created fund, which is designed to assist communities in providing safe and affordable housing for certain elderly, disabled, and low-income persons and public servants in professions meeting critical skill shortages in the state. The Authority is also simultaneously publishing a Notice of Intended Action as **ARC 7898B** herein to allow for public comment.

The Authority finds that adoption of these rules confers a benefit on the public in that the amendment promotes safe and affordable housing for certain elderly, disabled, and low-income persons and public servants in professions meeting critical skill shortages in the state. The Authority finds that these rules should be implemented as soon as feasible in order to facilitate the awarding of allocations under the program. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

The Authority adopted these rules on June 10, 2009.

These rules became effective June 10, 2009.

These rules are intended to implement Iowa Code section 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 30.

The following amendment is adopted.

Adopt the following new 265—Chapter 35:

CHAPTER 35

AFFORDABLE HOUSING ASSISTANCE GRANT FUND

265—35.1(16,83GA,SF376) Affordable housing assistance grant fund allocation plan. The affordable housing assistance grant fund allocation plan entitled Iowa Finance Authority Affordable Housing Assistance Grant Fund Allocation Plan dated June 2009 shall be the allocation plan for the award, pursuant to the affordable housing assistance grant fund program, of funds held within the affordable housing assistance grant fund established in 2009 Iowa Acts, Senate File 376, section 30. The allocation plan for the affordable housing assistance grant fund program is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—35.2(16,83GA,SF376) Location of copies of the plan. The allocation plan for the affordable housing assistance grant fund program may be reviewed and copied in its entirety on the authority’s

IOWA FINANCE AUTHORITY[265](cont'd)

Web site at www.iowafinanceauthority.gov. Copies of the allocation plan for the affordable housing assistance grant fund program, the application forms, and all related attachments and exhibits, if any, shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference 2009 Iowa Acts, Senate File 376, section 30.

These rules are intended to implement Iowa Code section 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 30.

[Filed Emergency 6/10/09, effective 6/10/09]

[Published 7/1/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7894B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 28, the Iowa Finance Authority hereby adopts new Chapter 36, “Public Service Shelter Grant Fund,” Iowa Administrative Code.

The purpose of these rules is to implement 2009 Iowa Acts, Senate File 376, section 28, by regulating the operation of the Public Service Shelter Grant Fund.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that the normal notice and public participation process would delay implementation of the newly created fund, which is designed to aid in the construction, renovation, or improvement of homeless shelters, emergency shelters, and family and domestic violence shelters, to assist communities in providing certain essential social services including supportive services and other kinds of assistance to individuals in need of temporary housing necessary to improve their living situations. The Authority is also simultaneously publishing a Notice of Intended Action as **ARC 7893B** herein to allow for public comment.

The Authority finds that adoption of these rules confers a benefit on the public in that the amendment promotes the development of homeless shelters, emergency shelters, and family and domestic violence shelters and the provision of necessary services. The Authority finds that these rules should be implemented as soon as feasible in order to facilitate the awarding of allocations under the program. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

The Authority adopted these rules on June 10, 2009.

These rules became effective June 10, 2009.

These rules are intended to implement Iowa Code section 16.5(1)“r” and 2009 Iowa Acts, Senate File 376, section 28.

The following amendment is adopted.

Adopt the following **new** 265—Chapter 36:

CHAPTER 36

PUBLIC SERVICE SHELTER GRANT FUND

265—36.1(16,83GA,SF376) Public service shelter grant fund allocation plan. The allocation plan entitled Iowa Finance Authority Public Service Shelter Grant Fund Allocation Plan dated June 2009 shall be the allocation plan for the award, pursuant to the public service shelter grant fund program, of funds held within the public service shelter grant fund established in 2009 Iowa Acts, Senate File

IOWA FINANCE AUTHORITY[265](cont'd)

376, section 28. The allocation plan for the public service shelter grant fund program is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

265—36.2(16,83GA,SF376) Location of copies of the plan. The allocation plan for the public service shelter grant fund program may be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the allocation plan for the public service shelter grant fund program, the application forms, and all related attachments and exhibits, if any, shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference 2009 Iowa Acts, Senate File 376, section 28.

These rules are intended to implement Iowa Code section 16.5(1) "r" and 2009 Iowa Acts, Senate File 376, section 28.

[Filed Emergency 6/10/09, effective 6/10/09]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7906B

PHARMACY BOARD[657]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 124.201 and 124.301, the Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment temporarily designates tapentadol, a new molecular entity with centrally acting analgesic properties, as a Schedule II controlled substance subject to the control and record-keeping requirements of Iowa Code chapter 124 for a substance designated in that schedule. The amendment also temporarily designates lacosamide as a depressant subject to the control and record-keeping requirements of a Schedule V controlled substance in Iowa Code chapter 124.

The Board may not consider requests for waiver or variance of this amendment. The scheduling of the substances that are the subject of this amendment is also regulated under federal law by the Drug Enforcement Administration.

The amendment was approved during the June 2, 2009, meeting of the Board of Pharmacy.

The Board finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are unnecessary and impracticable due to the immediate need for this amendment in order to ensure conformity between Iowa and federal laws controlling the distribution of these substances. The Board concurs with the action taken by the federal Drug Enforcement Administration to control these substances. Controlled substances laws are intended to protect the public from the potentially harmful effects resulting from the overuse, abuse, and addiction potential attributed to controlled substances while ensuring that prescribers treating patients in need of these drug therapies are authorized to prescribe, administer, and dispense these substances to and for their patients.

The Board finds, pursuant to Iowa Code subsection 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective to coincide with the effective date of the federal scheduling actions on June 22, 2009. This amendment confers a benefit by ensuring conformity between Iowa and federal laws controlling the distribution of these substances in Iowa while ensuring that a patient in need of these substances has a legitimate means of access through the patient's health care providers.

This amendment became effective June 22, 2009.

This amendment is intended to implement Iowa Code sections 124.201, 124.205, 124.211, 124.301, 124.306, 124.307, and 124.308.

The following amendment is adopted.

PHARMACY BOARD[657](cont'd)

Rescind rule 657—10.38(124) and adopt the following **new** rule in lieu thereof:

657—10.38(124) Temporary designation of controlled substances.

10.38(1) Amend Iowa Code section 124.206, subsection 3, by adding the following new paragraph:

ab. Tapentadol.

10.38(2) Amend Iowa Code section 124.212, subsection 5, as follows:

5. Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts: ~~pregabalin~~

a. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].

b. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

[Filed Emergency 6/11/09, effective 6/22/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7911B

REGENTS BOARD[681]**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 262.9, the Regents Board hereby amends Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

Chapter 1 is amended to classify as residents for purposes of undergraduate tuition and mandatory fees qualified veterans and military persons, and their spouses and dependent children, who are either (a) stationed at the Rock Island arsenal or (b) domiciled in the state while enrolled in one of the regent universities.

In compliance with Iowa Code section 17A.4(3), the Regents Board finds that notice and public participation are contrary to the public interest because of the need to implement this technical change authorized in 2009 Iowa Acts, Senate File 451, which provides a benefit to veterans, during the Fall 2009 semester.

The Regents Board finds that these amendments confer a benefit upon eligible students by conforming the rules in Chapter 1 to 2009 Iowa Acts, Senate File 451, which provides for classification as residents for purposes of undergraduate tuition and mandatory fees qualified veterans and military persons, and their spouses and dependent children, who are either stationed at the Rock Island arsenal or are domiciled in the state while enrolled in one of the regent universities. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

No fiscal impact is anticipated.

These amendments are intended to implement Iowa Code section 262.9 as amended by 2009 Iowa Acts, Senate File 451.

These amendments become effective on July 1, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraphs **1.4(1)"c," "d" and "f"** as follows:

c. The registrar, or designated person, is authorized to require written documents, affidavits, verifications, or other evidence deemed necessary to determine why a student is in Iowa. The burden of establishing that a student is in Iowa for other than educational purposes is upon the student.

A student may be required to file any or all of the following:

- (1) A statement from the student describing employment and expected sources of support;
- (2) A statement from the student's employer;
- (3) A statement from the student's parents verifying nonsupport and the fact that the student was not listed as a dependent on tax returns for the past year and will not be so listed in future years;

REGENTS BOARD[681](cont'd)

(4) A statement from the student's spouse related to sources of family support, length of residence in Iowa, and reasons for being in the state of Iowa;

(5) Supporting statements from persons who might be familiar with the family situation;

~~(6)~~ (6) Iowa state income tax return.

d. Applications for resident classification for a given semester or session are due no later than the fifteenth class day of that semester or session. Applications received after the fifteenth class day of that semester or session will be considered for the next semester or session. Appeals of any nonresident classification decision resulting from applications for resident classifications are due no later than midterm of that semester or session. Change of classification from nonresident to resident will not be made retroactive beyond the term in which application for resident classification is made.

f. Review committee. These regulations shall be administered by the registrar or someone designated by the registrar. The decision of the registrar or designated person may be appealed to a university review committee. The finding decision of the review committee may be appealed to the state board of regents.

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

1.4(2) Guidelines.

a. The following general guidelines are used in determining the resident classification of a student for admission, tuition, and fee purposes:

~~a-~~ (1) A financially dependent student whose parents move from Iowa after the student is enrolled remains a resident provided the student maintains continuous enrollment. A financially dependent student whose parents move from Iowa during the senior year of high school will be considered a resident provided the student has not established domicile in another state.

~~b-~~ (2) In deciding why a person is in the state of Iowa, the person's domicile will be considered. A person who comes to Iowa from another state and enrolls in any institution of postsecondary education for a full program or substantially a full program shall be presumed to have come to Iowa primarily for educational reasons rather than to establish a domicile in Iowa.

~~c-~~ (3) A student who was a former resident of Iowa may continue to be considered a resident provided absence from the state was for a period of less than 12 months and provided domicile is reestablished. If the absence from the state is for a period exceeding 12 months, a student may be considered a resident if evidence can be presented showing that the student has long-term ties to Iowa and reestablishes an Iowa domicile.

A person or the dependent of a person whose domicile is permanently established in Iowa, who has been classified as a resident for admission, tuition, and fee purposes, may continue to be classified as a resident so long as domicile is maintained, even though circumstances may require extended absence of the person from the state. It is required that a person who claims Iowa domicile while living in another state or country will provide proof of the continual Iowa domicile as evidence that the person:

~~(1)~~ 1. Has not acquired a domicile in another state,

~~(2)~~ 2. Has maintained a continuous voting record in Iowa, and

~~(3)~~ 3. Has filed regular Iowa resident income tax returns during absence from the state.

~~d-~~ (4) A student who moves to Iowa may be eligible for resident classification at the next registration following 12 consecutive months in the state provided the student is not enrolled as more than a half-time student (6 credits for an undergraduate or professional student, 5 credits for a graduate student) in any academic year term, is not enrolled for more than 4 credits in a summer term for any classification, and provides sufficient evidence of the establishment of an Iowa domicile.

~~e-~~ (5) A student who has been a continuous student and whose parents move to Iowa may become a resident at the beginning of the next term provided the student is dependent upon the parents for a majority of financial assistance.

~~f-~~ A person who is moved into the state as the result of military or civil orders from the government for other than educational purposes, or the dependent of such a person, is entitled to resident status. However, if the arrival of the person under orders is subsequent to the beginning of the term in which the student is first enrolled, nonresident fees will be charged in all cases until the beginning of the next

REGENTS BOARD[681](cont'd)

~~term in which the student is enrolled. Legislation, effective July 1, 1977, requires that military personnel who claim residency in Iowa (home of record) will be required to file Iowa resident income tax returns.~~

~~g-~~ (6) A person who has been certified as a refugee or granted asylum by the appropriate agency of the United States who enrolls as a student at a university governed by the Iowa state board of regents may be accorded immediate resident status for admission, tuition, and fee purposes when the person:

(1) 1. Comes directly to the state of Iowa from a refugee facility or port of debarkation, or

(2) 2. Comes to the state of Iowa within a reasonable time and has not established domicile in another state.

Any refugee or individual granted asylum not meeting these standards will be presumed to be a nonresident for admission, tuition, and fee purposes and thus subject to the usual method of proof of establishment of Iowa residency.

~~h-~~ (7) An alien who has immigrant status establishes Iowa residency in the same manner as a United States citizen.

~~i-~~ (8) At the regent institutions, American Indians who have origins in any of the original people of North America and who maintain a cultural identification through tribal affiliation or community recognition with one or more of the tribes or nations connected historically with the present state of Iowa, including the Iowa, Kickapoo, Menominee, Miami, Missouri, Ojibwa (Chippewa), Omaha, Otoe, Ottawa (Odawa), Potawatomi, Sac and Fox (Sauk, Meskwaki), Sioux, and Winnebago (Ho Chunk), will be assessed Iowa resident tuition and fees.

b. Additional guidelines are used in determining the resident classification of a veteran, qualified military person, and dependent children and spouses of a veteran or qualified military person for purposes of admission and undergraduate tuition and mandatory fees:

(1) A person who is stationed on active duty at the Rock Island arsenal as a result of military orders, or the dependent child or spouse of such person, is entitled to resident status for purposes of undergraduate tuition and mandatory fees. However, if the arrival of the person under orders is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases for the dependent child or spouse until the beginning of the next term in which the dependent child or spouse is enrolled. If the qualified military person is transferred, deployed, or restationed while the person's spouse or dependent child is enrolled in an institution of higher education under the control of the board of regents, the spouse or dependent child shall continue to be classified as a resident under this subparagraph until the close of the fiscal year in which the spouse or dependent child is enrolled.

(2) A veteran who is domiciled or moves to the state of Iowa and who is eligible for benefits, or has exhausted benefits under the federal Post-9/11 Veterans Educational Assistance Act of 2008, is entitled to resident status for purposes of undergraduate tuition and mandatory fees. The dependent child or spouse of a veteran who meets these requirements is entitled to resident status for undergraduate tuition. However, if the arrival of the veteran in Iowa is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases for the dependent child or spouse until the beginning of the next term in which the dependent child or spouse is enrolled.

(3) A person who is moved into the state as the result of military or civil orders from the government for other than educational purposes, or the dependent child or spouse of such a person, is entitled to resident status. However, if the arrival of the person under orders is subsequent to the beginning of the term in which the dependent child or spouse is first enrolled, nonresident fees will be charged in all cases until the beginning of the next term in which the dependent child or spouse is enrolled. Legislation, effective July 1, 1977, requires that military personnel who claim residency in Iowa (home of record) will be required to file Iowa resident income tax returns.

ITEM 3. Amend paragraph 1.4(3)"a" as follows:

a. The following circumstances, although not necessarily conclusive, have probative value in support of a claim for resident classification:

REGENTS BOARD[681](cont'd)

- (1) Reside in Iowa for 12 consecutive months, and be primarily engaged in activities other than those of a full-time student, immediately prior to the beginning of the term for which resident classification is sought.
- (2) Reliance upon Iowa resources for financial support.
- (3) Domicile in Iowa of persons legally responsible for the student.
- (4) Former domicile in the state and maintenance of significant connections therein while absent.
- (5) Acceptance of an offer of permanent employment in Iowa.
- (6) Military orders, if for other than educational purposes.
- (7) Other facts indicating the student's domicile will be considered by the universities in classifying the student.

[Filed Emergency 6/11/09, effective 7/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7909B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on June 10, 2009, adopted amendments to 761—Chapter 1, “Organization of the Department of Transportation,” and 761—Chapter 4, “Public Records and Fair Information Practices,” and rescinded 761—Chapter 801, “Relationship With Iowa Railway Finance.” The Department of Transportation is also rescinding Iowa Railway Finance Authority 765—Chapter 1, “Organization and Operation,” 765—Chapter 2, “Items of General Applicability,” 765—Chapter 3, “Financial Assistance,” and 765—Chapter 4, “Projects,” and transferring 765—Chapter 5, “Railroad Revolving Loan and Grant Fund Program,” to 761—Chapter 822, Iowa Administrative Code.

2009 Iowa Acts, Senate File 151, eliminated the Iowa Railway Finance Authority, transferred the responsibility of the Railroad Revolving Loan and Grant Program to the Department of Transportation, and eliminated the requirement that at least 50 percent of the Railroad Revolving Loan and Grant Program funding be issued as loans. This rule making amends the Department's rules to comply with 2009 Iowa Acts, Senate File 151; eliminates references to the Iowa Railway Finance Authority; rescinds the administrative rules of the Iowa Railway Finance Authority that are no longer necessary; and transfers the Railroad Revolving Loan and Grant Fund administrative rules to the Department of Transportation.

For good cause and pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to adoption of these amendments pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest because the Iowa Railway Finance Authority was eliminated in 2009 Iowa Acts, Senate File 151. The Act has a July 1, 2009, effective date and any delay in the implementation of these amendments will prevent timely compliance with the statute itself.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2009. These amendments confer a benefit upon the public by providing for the prompt implementation of 2009 Iowa Acts, Senate File 151.

These amendments are intended to implement Iowa Code chapter 307 and Iowa Code section 327H.20A as amended by 2009 Iowa Acts, Senate File 151.

These amendments become effective July 1, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 761—1.7(17A,307), introductory paragraph, as follows:

761—1.7(17A,307) Director of transportation. The director of transportation is based in Ames and serves as the chief administrative officer of the department ~~and the secretary of the Iowa railway finance~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~authority.~~ The director is responsible for the management of the department and for statutory duties including but not limited to those listed in Iowa Code section 307.12. The following units report to the director:

ITEM 2. Amend subrule 1.8(7) as follows:

1.8(7) Rail and water division. The rail and water division is based in Ames; telephone (515)239-1367. The division administers state and federal funds for railroad track and grade crossing improvements, reviews and develops policy position recommendations on rail abandonments and mergers, performs track safety inspections, reviews and recommends financing projects to the ~~Iowa railway finance authority~~ transportation commission, promotes river transportation and coordinates river programs with other transportation modes, and administers other railroad and river related Iowa Code responsibilities assigned to the department.

ITEM 3. Amend paragraph **4.1(1)“a”** as follows:

a. This chapter describes the provisions governing public access to records that are owned by or in the physical possession of the department, ~~including records of the Iowa railway finance authority.~~ However, access to personnel and payroll records may also be subject to the rules of the department of administrative services.

ITEM 4. Rescind and reserve **761—Chapter 801.**

ITEM 5. Rescind **765—Chapter 1** through **Chapter 4.**

ITEM 6. Transfer **765—Chapter 5** to **761—Chapter 822.**

ITEM 7. Amend **761—Chapter 822** by deleting “327I” from the parenthetical implementation statutes.

ITEM 8. Amend **761—Chapter 822** by replacing all references to “IRFA staff” with “department staff,” replacing “IRFA Board” with “transportation commission,” and replacing “board” with “commission.”

ITEM 9. Amend rule 761—822.1(327H) as follows:

761—822.1(327H) Introduction. The railroad revolving loan and grant fund program provides funding in the form of loans and grants for railroad-related improvement projects that spur economic development and job growth. The railroad revolving loan and grant fund is established in Iowa Code section 327H.20A as amended by ~~2005 Iowa Acts, House File 875, section 34~~ 2009 Iowa Acts, Senate File 151, section 11, and is under the control of the ~~Iowa railway finance authority (IRFA)~~ department.

ITEM 10. Amend rule 761—822.3(327H) as follows:

761—822.3(327H) Information. Information may be obtained ~~from IRFA staff~~ at the following address: ~~Iowa Railway Finance Authority Coordinator,~~ Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140. Completed applications shall be submitted to this address.

ITEM 11. Rescind subrule **822.5(3).**

ITEM 12. Amend paragraph **822.10(1)“a”** as follows:

a. The applicant shall submit an original and two copies of a project application to the address in rule ~~765—5.3(327H,327I)~~ 761—822.3(327H).

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 13. Amend **761—Chapter 822**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 327H.20A as amended by ~~2005 Iowa Acts, House File 875, section 31, and section 327I.8 as amended by 2005 Iowa Acts, House File 875, section 33~~ 2009 Iowa Acts, Senate File 151, section 11.

[Filed Emergency 6/11/09, effective 7/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7890B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs amends Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

The amendment reflects changes in the amount of money received by a member in a month for participation in the incentive therapy or other programs. This change is being mandated in 2009 Iowa Acts, House File 811.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin as **ARC 7746B** on May 6, 2009. A public hearing was held on May 27, 2009, in the Ford Memorial Conference Room, Iowa Veterans Home, Marshalltown, Iowa. No public comments were received. This amendment is identical to that published under Notice.

Pursuant to Iowa Code section 17A.5(2)"b"(1), the Commission of Veterans Affairs finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2009. This effective date is mandated by 2009 Iowa Acts, House File 811.

This amendment is intended to implement Iowa Code chapter 35D and 2009 Iowa Acts, House File 811.

This amendment becomes effective July 1, 2009.

The following amendment is adopted.

Amend subparagraph **10.19(2)"a"(9)** as follows:

(9) The first ~~\$125~~ \$150 received by a member in a month for participation in the incentive therapy or other programs as described at rule 801—10.30(35D), for members in the domiciliary level of care. For members in the nursing level of care, the first ~~\$65~~ \$75 shall be exempted.

[Filed Emergency After Notice 6/10/09, effective 7/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7883B

VOTER REGISTRATION COMMISSION[821]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.8 and 17A.3, the Voter Registration Commission amends Chapter 1, "Organization, Purpose, Procedures and Definitions," Chapter 2, "Voter Registration Forms, Acceptability, Registration Dates, and Effective Dates," Chapter 3, "Lists of Registered Voters," Chapter 5, "Election Registers," Chapter 6, "Data Processing System Requirements for Voter Registration," Chapter 9, "National Change of Address Program," Chapter 10, "Notice to Voters Without Activity in Four Years in Counties Using NCOA Records; To All Voters in Other Counties," and Chapter 11, "Registration Procedure at the Office of Driver Services, Department of Transportation," Iowa Administrative Code.

VOTER REGISTRATION COMMISSION[821](cont'd)

These amendments are necessary due to technical changes made to Iowa's voter registration laws by 2009 Iowa Acts, House File 475, effective July 1, 2009. In addition, these amendments remove obsolete references to voter registration systems and processes used prior to the implementation of Iowa's statewide voter registration system as mandated by the 2002 Help America Vote Act.

Pursuant to Iowa Code section 17A.4(3), the Voter Registration Commission finds that notice and public participation are contrary to the public interest because the amendments to these rules are required due changes in the law effective July 1, 2009.

Pursuant to Iowa Code section 17A.5(2)"b"(1), the Voter Registration Commission further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2009, when the changes to the voter registration laws become effective pursuant to 2009 Iowa Acts, House File 475.

These amendments are also published herein under Notice of Intended Action as **ARC 7884B** in order to solicit public comment.

These amendments are intended to implement Iowa Code chapter 48A as amended by 2009 Iowa Acts, House File 475.

These amendments become effective July 1, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 821—1.2(47) as follows:

821—1.2(47) State registrar of voters. The state commissioner of elections is designated the state registrar of voters. The state registrar is responsible for the regulation of the preservation, preparation and maintenance of voter registration records ~~and the preparation of precinct election registers for all elections administered by any county commissioner of elections.~~ This regulation activity is in accordance with the policies of the voter registration commission.

This rule is intended to implement Iowa Code section 47.7(1).

ITEM 2. Amend rule 821—1.4(47) as follows:

821—1.4(47) Voter registration staff.

1.4(1) Voter registration system. Under the general direction of the state registrar of voters, the ~~director of voter registration~~ voter registration staff conducts and directs those activities necessary to implement and maintain the statewide voter registration system. The voter registration staff includes clerical and technical personnel temporarily or permanently assigned by the registrar to support the voter registration function.

1.4(2) Intergovernmental relations. The voter registration ~~director and staff are~~ is responsible for working with and assisting county commissioners in performing their voter registration duties under the law, including acquisition of voter registration data processing services, preparation of election registers, maintaining voter registration files, processing registration applications and related activities. The ~~director and staff are~~ is responsible for communicating with state and federal court officials to arrange for the provision of information from voter registration records to the courts for use in the jury selection process. The ~~director and staff are~~ is also responsible for ensuring the transfer of electronic registration data from registration agencies and the department of transportation to the appropriate county commissioner.

1.4(3) No change.

ITEM 3. Amend rule **821—1.7(47)**, definition of "Voter registration agency," as follows:

"*Voter registration agency*" means any department, division, or bureau in state government which provides voter registration services pursuant to Iowa Code section ~~48A.18~~ 48A.19. A department, division, or bureau which merely makes mail-in voter registration applications available to its clients, employees, or general public is not a voter registration agency, nor is the office of driver services, department of transportation.

VOTER REGISTRATION COMMISSION[821](cont'd)

ITEM 4. Amend rule 821—2.1(48A) as follows:

821—2.1(48A) Voter registration forms.

2.1(1) Content and completion.

a. In addition to the spaces required by Iowa Code section 48A.11, every voter registration form shall include room for the county commissioner to make notations indicating such items as the date the form was received, the precinct and school district of the registrant, any other special district or note deemed necessary or appropriate by the commissioner, and the date the registration is effective. The notations may be on the reverse of the form.

b. The spaces on the paper voter registration form required by Iowa Code section 48A.11 and subrule 2.1(1) may be completed electronically. Voter registration forms completed electronically must be printed and, in the event adhesive labels are used, such labels must be firmly affixed to the form. The form must also be signed and dated by the voter.

2.1(2) Definitions.

“Agency application” means an application received at a voter registration agency pursuant to Iowa Code section 48A.19.

“Application” means a request to register to vote from a person who is not registered to vote in the county where the voter registration form is submitted. An application shall be made on a voter registration form prescribed by the voter registration commission.

“By-mail application” means an application received through the mail from an individual applicant. “By-mail application” also includes voter registration applications received from organizations that solicit voter registrations. “By-mail application” does not include registration forms sent through the mail by voter registration agencies or organizations that solicit voter registrations.

“In-person application” means an application received in person from the applicant either by the registrar, the registrar’s designee, the commissioner, the commissioner’s designee or a precinct election official.

“New voter registration application” means a voter registration application received from an individual who is not already registered to vote in the county.

ITEM 5. Amend rule 821—2.2(48A) as follows:

821—2.2(48A) Agency code. In addition to the spaces and statements required to be included on registration forms by Iowa Code section 48A.11 and rule 821—2.1(48A), registration forms used by voter registration agencies shall contain a code, to be devised by the registrar, indicating the type of agency. ~~The agency type code shall be on a perforated stub attached to the registration form.~~

ITEM 6. Amend rule 821—2.6(48A) as follows:

821—2.6(48A) Production of forms. Any person or organization, except voter registration agencies, may cause the printing and production of ~~the mail-in voter registration application~~ applications. Applications so produced shall be identical in size, shape, weight and similar in color of paper, type size, and color of ink to those available from the registrar, except that the independently produced applications may not contain an agency type code, may be preaddressed to a particular county commissioner on the reverse of the form, and may contain postage. This rule shall not apply to voter registration forms printed in newspapers or telephone books.

ITEM 7. Amend rule 821—2.7(48A) as follows:

821—2.7(48A) Availability of forms. ~~Mail-in~~ Voter registration applications shall be available for purchase, at the cost of production, from the state registrar of voters. Application forms for an individual’s personal use shall be available free of charge at the office of the registrar, all voter registration agencies, and the office of driver services, department of transportation.

VOTER REGISTRATION COMMISSION[821](cont'd)

ITEM 8. Amend rule 821—2.8(48A) as follows:

821—2.8(48A) Incomplete applications.

2.8(1) No commissioner shall refuse to register or accept an application from an applicant unable to specify the correct ward, precinct, or school district for the applicant's address. The commissioner shall make a determination of the correct political subdivisions from maps, legal descriptions, and other means at the commissioner's disposal.

~~2.8(2) The commissioner shall not add to the official voter registration file a voter whose registration application lacks any of the following information about the applicant:~~

~~a. —The applicant's Iowa driver's license number, Iowa department of transportation issued nonoperator's identification card number, or the last four digits of the applicant's social security number;~~

~~b. —Name;~~

~~c. —Sex;~~

~~d. —Date of birth;~~

~~e. —Residence address or description.~~

~~2.8(3) A person who submits an application by mail and does not mark either "yes" or "no" to the question "Are you a citizen of the United States of America?" shall not be registered to vote in federal elections until the application form is completed. The registration shall be coded to be valid only for elections for which no candidate for federal office appears on the ballot. Within seven days after receipt of the application, the commissioner shall contact the applicant by mail and request the missing required information. The applicant may provide the required information in writing until the date registration closes for the next federal election by appearing in person at the commissioner's office to complete a new application, by mailing a new and complete application, or by sending a letter to the commissioner confirming that the applicant is a U.S. citizen.~~

~~2.8(4) Within seven days after receipt of an incomplete application, the commissioner shall contact the applicant by mail, using the notice prescribed in subrule 2.8(5), and request the missing required information. If the applicant failed to provide an address, the commissioner shall make a reasonable effort to determine where the acknowledgement should be sent. However, if the incomplete application is received during the 12 days before the close of registration for an election, the commissioner shall provide the registrant with an opportunity to complete the form before the close of registration by sending written notice within one working day after receiving the incomplete application. If the applicant provided a telephone number, the commissioner shall also attempt to contact the applicant by telephone to convey the information contained in the notice required in subrule 2.8(5).~~

~~2.8(5) 2.8(2) The notice mailed to applicants who submit incomplete voter registration applications shall instruct the applicant that the applicant may provide the required information in writing by appearing in person at the commissioner's office to complete a new application or by mailing a new and complete application. The notice shall include the date registration closes for the next election. If the incomplete registration application is received during the period in which registration is closed pursuant to Iowa Code section 48A.9 and by 5 p.m. on the Saturday before the election for general and primary elections or by 5 p.m. on the Friday before the election for all other elections, the commissioner shall send a notice advising the applicant of election day and in-person absentee registration procedures under Iowa Code section 48A.7A.~~

~~2.8(6) 2.8(3) If the application does not include the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number, and the applicant has not indicated that the applicant does not have any of these numbers, the notice described in subrule 2.8(5) 2.8(2) shall also include the following statement:~~

~~"Your voter registration application cannot be accepted because it does not include an Iowa driver's license number, an Iowa non-driver ID nonoperator's identification number or the last four numbers of your social security number. You must submit a new voter registration form before you can be registered to vote in this county. If you submit the registration form by mail, your registration information will be checked against the~~

VOTER REGISTRATION COMMISSION[821](cont'd)

~~records of the Iowa Department of Transportation driver's license files. This process may delay the effective date of your registration. If your registration information cannot be verified, your registration application will be rejected. Verification is not required if you submit your application in person.~~

~~"ID number required. If you have an Iowa driver's license, you must put write that number on ~~the~~ your voter registration form. If you do not have an Iowa driver's license, use the number from your Iowa ~~non-driver ID~~ nonoperator's identification card. If you do not have ~~either of these~~ an identification card issued by the state of Iowa, ~~put~~ write the last four numbers of your social security number on the form. If you don't have any of these ~~ID~~ identification numbers, please ~~write~~ check the box next to 'NONE' ~~in the box~~ on the form. Please note ~~that it is a crime~~ Class "D" felony to ~~lie~~ provide false information on a voter registration application."~~

~~2.8(7)~~ **2.8(4)** If the applicant reports that the applicant has not been issued an Iowa driver's license, an Iowa department of transportation-issued nonoperator's identification card number, or a social security number, the commissioner shall assign a unique identifying number that shall serve to identify the registrant for voter registration purposes and ~~enter~~ code the registration status as "pending identification." "pending."

~~2.8(8)~~ **2.8(5)** The commissioner shall keep a ~~rejected~~ an incomplete application for voter registration for 22 months after the date of the next general election after the application was received.

ITEM 9. Amend rule 821—2.10(48A) as follows:

821—2.10(48A) Alternate (nonmailable) registration forms. An alternate registration form is authorized for the use of voter registration agencies and nongovernmental organizations engaging in registration programs and registration drives. The form shall contain spaces for all of the required and optional information solicited by the standard form, a list of the qualifications to register to vote, a statement to be signed by the applicant that the applicant is eligible to register to vote, and a statement of the penalty for submission of a false voter registration form. ~~The form shall be the same size as the mail in form available from the registrar.~~ The face of the form shall contain spaces for all the personal information asked of the applicant, along with the attestation and warning. The reverse of the form may contain the list of qualifications, and may contain space for the county commissioner's notations. The form may be printed as a detachable part of a larger piece, or may be printed by itself. Because registration forms are frequently kept for many years, registration forms shall be printed on paper at least as thick as 20-pound xerographic paper.

The intent of this rule is to make available a mechanism for individuals, groups and organizations to conduct registration drives without requiring ~~them~~ individuals, groups and organizations to purchase ~~the relatively expensive mail-in~~ registration forms. To that end, the state registrar shall make available, without charge, a limited quantity of forms as determined by the voter registration commission, and ~~camera-ready copies~~ PDF versions of a form meeting the requirements of this rule.

ITEM 10. Rescind and reserve rule **821—2.11(48A)**.

ITEM 11. Amend rule 821—2.12(48A) as follows:

821—2.12(48A) Date of registration County registration date. For the purposes of ~~record keeping and~~ determining timeliness of an application to register to vote, the ~~date of registration of an application received from a source other than the United States Postal Service is the date the application is received by the commissioner, or submitted to a voter registration agency, or submitted to the office of driver services, department of transportation, whichever is earlier.~~ The date of registration of an application delivered to the commissioner by the United States Postal Service is the ~~postage cancellation date on the application or on the envelope containing the application. If the postage cancellation date is missing or illegible, the registration date is the date of the second day preceding the application's receipt in the commissioner's office.~~ county registration date shall be determined as follows:

VOTER REGISTRATION COMMISSION[821](cont'd)

2.12(1) The county registration date for an in-person applicant at least 18 years of age is the date the registration application is received by the commissioner or the commissioner's designee. However, when preregistration is closed in the applicant's precinct due to a pending election, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

2.12(2) The county registration date for a by-mail applicant at least 18 years of age is the date the registration application is received by the commissioner, unless the application is postmarked on or before the worry-free postmark date established pursuant to Iowa Code section 48A.9, subsection 3. However, when preregistration is closed in the applicant's precinct due to a pending election, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

2.12(3) The county registration date for an application received from a source other than in person or by mail is the date the application is received by the commissioner or submitted to the office of driver services, department of transportation, or to a voter registration agency pursuant to Iowa Code section 48A.19, whichever is earlier.

2.12(4) The county registration date for applicants aged 17 ½ to 18 shall be the date of the applicant's eighteenth birthday. However, when preregistration is closed in the applicant's precinct on the applicant's eighteenth birthday, the county registration date shall be the date of the day after the pending election unless the applicant registers pursuant to Iowa Code section 48A.7A.

ITEM 12. Rescind and reserve rule **821—2.13(48A)**.

ITEM 13. Amend rule 821—2.14(48A) as follows:

821—2.14(48A) Voter registration status codes. Voter registration records shall be coded to show the status of the record.

2.14(1) Active. The registration is in good standing. No action is required on the part of either the registrant or the commissioner.

2.14(2) Inactive ~~(A)~~. If either an acknowledgment mailed to the registrant pursuant to Iowa Code section 48A.26 as amended by 2009 Iowa Acts, House File 475, section 17, a notice mailed to the registrant pursuant to Iowa Code section 48A.27 as amended by 2009 Iowa Acts, House File 475, section 18, a notice mailed to the registrant pursuant to Iowa Code section 48A.28 or an absentee ballot mailed to the registrant pursuant to Iowa Code section 53.8 is returned to the commissioner by the United States Postal Service as undeliverable, the registrant's status shall be changed to "inactive" status. In addition, a voter registration record shall be made "inactive" pursuant to Iowa Code section 48A.27, subsection 4, paragraph "c," as amended by 2009 Iowa Acts, House File 475, section 18, during the annual NCOA process. The registration Inactive registrations will be deleted after two general elections unless the registrant responds to a confirmation mailing pursuant to Iowa Code section 48A.27(4) "e," 48A.27 as amended by 2009 Iowa Acts, House File 475, section 17, 48A.28, 48A.29 or 48A.30, requests an absentee ballot, votes in an election or submits a registration form updating the registration. Inactive registrants shall show identification when voting in person at the polling place, pursuant to Iowa Code section 49.77(3) as amended by 2009 Iowa Acts, House File 475, section 33, or shall submit a voter registration form restore their voter registration to "active" status pursuant to 721—21.301(53) when voting by absentee ballot, pursuant to 721 IAC 21.301(53).

2.14(3) Pending.

~~a. (P) Pending Identification. Any application received by mail before September 10, 2004, cannot be activated until the applicant provides one of the required identification documents prescribed in 721 IAC 21.3(49), or the applicant's Iowa driver's license number, Iowa department of transportation issued nonoperator's identification card number, or the last four digits of the applicant's social security number and the information is verified. On and after September 10, 2004, any application received by mail shall be entered into the system as "pending identification" only if the applicant reports that the applicant does not have any of the three acceptable identification documents. No DL or SSN Provided. If an applicant indicates that the applicant does not have an Iowa driver's license number,~~

VOTER REGISTRATION COMMISSION[821](cont'd)

Iowa department of transportation-issued nonoperator's identification card number, or a social security number, the applicant shall be assigned a status of "pending" with reason "No DL or SSN Provided."

~~b. (V) Pending verification. On and after September 10, 2004, any application received by mail from an applicant who provides the required ID number shall be "pending verification" until the number is verified, pursuant to 821 IAC 2.15(48A). DL or SSN Not Verified. If the applicant provides an Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number and that information cannot be verified pursuant to 821—2.15(48A), the applicant shall be assigned a status of "pending" with reason "DL or SSN Not Verified."~~

c. An applicant assigned a status of "pending" shall not be activated until the applicant provides identification pursuant to 721—21.3(49,48A).

~~2.14(4) Local (L). The registrant applied by mail to register to vote and failed to check the box on the voter registration form indicating that the applicant is a U.S. citizen. The registrant may provide the required information in writing until the day before the next federal election by appearing in person at the commissioner's office to complete a new voter registration form, by mailing to the commissioner a new and complete voter registration form, or by sending a letter to the commissioner, pursuant to 821 IAC 2.8(3). The registrant may vote in all elections for which there are no federal offices on the ballot. The commissioner shall print the name of a registrant with local status on the election register for an election if there are federal offices on the ballot.~~

~~2.14(5) Pending and inactive (N). The applicant must comply with the requirements to correct both of these status codes.~~

~~2.14(6) Local and inactive (C). The applicant must comply with the requirements to correct both of these status codes.~~

ITEM 14. Amend rule 821—2.15(48A) as follows:

821—2.15(48A) Verification of voter registration information. ~~Every~~ All new voter registration application by mail applications shall be entered as "pending verification" until the applicant's Iowa driver's license number, Iowa department of transportation issued nonoperator's identification card number, or the last four digits of the applicant's social security number can be verified. The registrar may arrange with the department of transportation for county commissioners of elections to verify voter registration records without submitting the registration information to the registrar.

2.15(1) When the application is received, the ~~registrar or~~ commissioner shall compare the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number of each mail application with the records of the department of transportation.

2.15(2) All of the following information on the application must match an existing record:

a. All digits and numerals in the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number.

b. Name.

c. Date of birth, including the month, day and year.

2.15(3) ~~If all three required elements do not match, the application shall be rejected and the applicant shall be notified of the reason. The notice shall include the following statement: applicant shall be~~ assigned a status of "pending" with reason "DL or SSN Not Verified." The applicant shall be notified that the applicant's voter registration is in pending status and the applicant will be required to show identification pursuant to 721—21.3(49,48A) before voting in the county. The notice shall include the following statement:

"Your voter registration application was rejected is pending because the information you provided on your application could not be verified. Your name, date of birth and Iowa driver's license number, Iowa non-driver ID number, or the last four digits of your social security number identification number were compared to the

VOTER REGISTRATION COMMISSION[821](cont'd)

Iowa driver's license records and your identification number cannot be verified. ~~The following items did not match an existing record: [list nonmatching items].~~

~~“You may send in a new registration form. Please print your name, date of birth and Iowa driver's license number exactly as they appear on your Iowa driver's license. If you do not have an Iowa driver's license, print your name, date of birth and Iowa non-driver ID number exactly as they appear on your non-driver ID card. If you don't have either of those cards, use the last four digits of your social security number and print your name on the registration form exactly as it appears on your social security card. You may also register in person at [auditor's office address and other registration addresses at the discretion of the commissioner]. In person registration applications are not subject to verification. Before voting for the first time in this county, you will be required to show identification. You may submit identification either by showing your identification in person when you vote or by mailing a photocopy of your identification to the county auditor's office.”~~

2.15(4) If the application is verified, the registration record shall be made “active.” The registrar or commissioner shall keep records showing whether the information in the application was verified and the date of the verification ~~report~~. If the application cannot be verified, the record shall show what information on the application did not match an existing record. The verification ~~information~~ record shall be kept for the period of time required in Iowa Code section 48A.32.

~~**2.15(5)** If an application cannot be verified before the close of registration, the applicant shall be notified by mail. The notice shall read as follows:~~

~~“Your application for voter registration has been submitted for verification, but has not yet been verified. Your name will not appear on the election register for the _____ election. If you vote, you will be required to cast a provisional ballot. Your ballot will be counted only if your registration can be verified by [date and time of county canvass of votes].”~~

~~“The following information has been submitted for verification: Name, date of birth, Iowa driver's license number, Iowa non-driver ID number or the last four digits of your social security number. If any of this information is wrong, please contact _____ immediately.”~~

ITEM 15. Amend **821—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 48A as amended by ~~2004 Iowa Acts, Senate File 2269~~ 2009 Iowa Acts, House File 475.

ITEM 16. Amend rule 821—3.2(48A) as follows:

821—3.2(48A) Request for list. A request for a list of registered voters may be made in writing on a Specifications for Voter List form submitted to either a county commissioner or the state registrar. A commissioner or the registrar may accept a request for a list made via telephone provided the commissioner or registrar is confident that both the requester and the commissioner or registrar clearly understand the specifics of the request and provided the requester agrees that the voter registration information will only be used for the purposes set forth in Iowa Code section 48A.39. If a request is unclear or ambiguous, the commissioner or registrar may require that the request be submitted in writing.

ITEM 17. Amend rule 821—3.4(48A) as follows:

821—3.4(48A) Contents of telephoned telephone request. When a request for a list of registered voters is made by telephone, the person taking the request shall gather and record on a Specifications for Voter List form all of the information specified in 3.3“1” through 3.3“9.” In addition, the taker of the request shall read the statement in 3.3“10” to the requester. The taker of the request shall note, on the signature line of the form, the fact that the requester was read the statement. If a requester refuses to provide the requester's identity or refuses to agree to the use restrictions for the voter registration information, the registrar or the commissioner shall not provide the requested information.

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ITEM 18. Amend rule 821—5.1(47) as follows:

821—5.1(47) Election registers.

5.1(1) Election registers shall contain at least the following information:

- a. Full name.
- b. Address.
- c. Date of birth.
- d. Registration status if it is not “active.”
- e. Political affiliation (for partisan primary elections only).

5.1(2) Other information may be included on the election register upon the approval of the county commissioner of registration ~~and if the election registers are provided by the state, the state registrar.~~

ITEM 19. Amend rule 821—6.1(47) as follows:

821—6.1(47) ~~Voter registration data processing system requirements~~ Statewide voter registration system requirements. ~~Every data processing system used by a county commissioner for the storage, maintenance and retrieval of voter registration records shall be capable of performing all of the following functions: Every county commissioner is required to use the statewide voter registration system maintained by the state registrar for voter registration and election management purposes. The statewide voter registration system shall enable the county commissioner to:~~

6.1(1) ~~Create a file of all registered voters in the county, in the format specified by 821—Chapter 7, for delivery to the registrar.~~

6.1(2) to 6.1(4) No change.

6.1(5) Prevent duplicate registrations for a given individual. For the purpose of this subrule, a duplicate registration is one which contains the same information in the Iowa driver’s license number, Iowa nonoperator’s identification number, last four digits of the applicant’s social security number, social security number suffix, birth date and sex code fields as another record in the same county. ~~A record which is not deleted does not duplicate another if the record(s) containing the duplicate data is deleted.~~

6.1(6) Ensure the compatibility of election districts manually assigned to records ~~which do not contain street numbers and street names~~ with nonstandard addresses.

6.1(7) Ensure that numeric fields in records contain only numeric data, and that alphabetic fields contain only alphabetic data, except that the field for last name may contain one hyphen.

6.1(8) Ensure that all dates are reasonable, e.g., ~~the birth date shown in the record is at least 17 years earlier than the current date, and the date of registration is not later than the current date~~ birth date, county registration date.

6.1(9) Ensure that the zip code contained in the record is compatible with the city name.

6.1(10) Assign a unique identification number, in lieu of a social security number in lieu of an identification number, to records of voters whose registration forms ~~do not contain a social security number~~ indicate the voter does not have any of the requested identification numbers.

6.1(11) to 6.1(13) No change.

6.1(14) ~~Provide maintenance files to the registrar in the form and at the times required by 821—Chapter 5.~~

6.1(15) 6.1(14) Receive maintenance files collected from various agencies by the state registrar.

This rule is intended to implement Iowa Code section 47.7.

ITEM 20. Amend subrule 9.3(2) as follows:

9.3(2) The state registrar shall send ~~two notifications~~ one notification to each voter identified as having moved either within or outside a county: ~~one to the voter’s former address and one to the voter’s new address as provided by NCOA records.~~ The notice shall be mailed to the voter’s new address as provided by NCOA records.

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ITEM 21. Amend rule 821—10.1(48A) as follows:

821—10.1(48A) NCOA county commissioner determines nonactivity; sends notices.

10.1(1) During the first quarter of each calendar year, every commissioner who ~~receives National Change of Address (NCOA) program information~~ elects to participate in the NCOA process that year shall examine voter registration records to identify those without activity during the period between and following the previous two general elections and for which no information has been reported in NCOA data. For the purpose of this subrule, “activity” means any registration application, including an application which duplicates existing information, a notice of change of name, address, mailing address, party affiliation, a vote in any election, or the mailing of a notice pursuant to subrule 10.1(2).

10.1(2) The commissioner shall send a notice of the type described in Iowa Code section 48A.28 to each voter whose record is identified pursuant to subrule 10.1(1).

ITEM 22. Amend rule 821—10.2(48A) as follows:

821—10.2(48A) Non-NCOA county commissioner sends notices. During February of each calendar year, every county commissioner who ~~does not receive NCOA information~~ elects not to participate in the NCOA process shall send a notice of the type described in Iowa Code subsection 48A.28(3), to every registered voter in the county.

ITEM 23. Amend rule 821—10.3(48A) as follows:

821—10.3(48A) Voter record not made inactive. The act of mailing the notice required by this chapter does not, in and of itself, make a registration record inactive. ~~A record is made inactive only in accordance with Iowa Code subsection 48A.37(2).~~

ITEM 24. Amend rule 821—11.3(48A) as follows:

821—11.3(48A) Unregistered client who wants to register. If the computer search invoked pursuant to 11.2“2” reveals the client is not a registered voter, and the client has expressed a desire to register, the driver license clerk shall determine the name of the client’s county, telephone number, party affiliation, and previous registration information by asking questions in substantially the following form: “In what county do you live?” “What is your telephone number?” “Would you like to declare ~~a political party~~ an affiliation of Democratic, Republican, Green, Libertarian or None?” “Where were you previously registered, if ever?” The driver license clerk shall make computer entries reflecting the client’s replies.

[Filed Emergency 6/2/09, effective 7/1/09]

[Published 7/1/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7928B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

This amendment shortens the maximum period for which the Department can collect on a Food Assistance claim that is the result of an agency error. With this change, the Department will be limited to establishing a claim for benefits incorrectly issued up to a maximum of one year before the date the Department's error is discovered.

The Department is making this change so that the process for correcting agency errors will be more equitable. If Food Assistance benefits are underissued, the Department goes back only 12 months when issuing corrective benefits. However, the Department currently goes back 36 months to collect on benefits overissued due to agency error. Most agency errors are discovered within 12 months. Since all collected overpayments for agency errors are paid to the federal government, the state will not lose out on potential collections.

Claims resulting from household errors will continue to be calculated for up to 36 months before the date when the error is discovered. Claims resulting from intentional program violations will continue to be calculated for up to six years before the date when the violation is determined.

This amendment does not provide for waivers in specified situations because shortening the claim period is a benefit to households with overissued benefits due to an agency error.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7724B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on June 10, 2009.

This amendment is intended to implement Iowa Code section 234.6(7).

This amendment shall become effective on September 1, 2009.

The following amendment is adopted.

Amend subrule 65.21(1) as follows:

65.21(1) Time period. Inadvertent household error ~~and agency error~~ claims shall be calculated back to the month the error originally occurred to a maximum of three years ~~prior to~~ before the month of discovery of the overissuance. Agency error claims shall be calculated back to the month the error originally occurred to a maximum of one year before the month of discovery of the overissuance.

[Filed 6/12/09, effective 9/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7935B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

These amendments make technical changes to clarify and update policy for the Medicaid Health Insurance Premium Payment (HIPP) program to reflect the changing health insurance picture in the public domain. The changes:

- Clarify the two types of plans (group and individual) and the differences in their policy treatment.
- Specify a definite period (12 months) for considering past claims for the cost-effectiveness determination.

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- Eliminate the cost-effectiveness determination deemed for certain types of plans based on low monthly premiums or pregnancy. The cost-effectiveness of these plans will be assessed using the same methodology applied to all other plans. This methodology takes into account the cost to Medicaid for the plan deductibles, which can sometimes be \$5,000 to \$10,000.

- Correct program names, rule cross references, form names and numbers, and references to policies that are no longer in effect.

These amendments do not provide for waivers in specified situations because the Department believes these technical amendments, clarifications, and updates should apply in all cases. However, requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7718B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on June 10, 2009.

These amendments are intended to implement Iowa Code section 249A.3.

These amendments shall become effective on September 1, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [75.21, 75.25] is being omitted. These amendments are identical to those published under Notice as **ARC 7718B**, IAB 4/22/09.

[Filed 6/12/09, effective 9/1/09]

[Published 7/1/09]

[For replacement pages for IAC, see IAC Supplement 7/1/09.]

ARC 7936B**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Iowa Administrative Code.

These amendments affect the provider standards for home- and community-based habilitation services and for the seven home- and community-based services (HCBS) waivers (ill and handicapped, elderly, AIDS/HIV, mental retardation, brain injury, physical disability, and children's mental health). The Centers for Medicare and Medicaid Services (CMS) has approved amendments to Iowa's waivers that require a process for incident reporting. The changes are required by CMS and must be implemented for Iowa to continue to receive federal financial participation for home- and community-based services.

The amendments:

- Amend the incident reporting standards for habilitation providers and service providers under the mental retardation, brain injury, and children's mental health waivers.
- Add identical incident reporting standards for providers of services under the ill and handicapped, elderly, AIDS/HIV, and physical disability waivers.

The incident reporting standards apply only to providers who have personal contact with members. The standards define "major" and "minor" incidents, prescribe the content of the incident report form, and set procedures for reporting of major and minor incidents. Minor incidents will be reported only internally to the provider supervisor and noted in the member's file. Major incidents will also be reported to the member or the member's guardian, the member's case manager, and the Department's Bureau of Long-Term Care, using a report form prescribed by the Department. Providers will be required to track and analyze incidents to determine if further training or changes in service procedures are needed.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments exempt providers without direct member contact from the new incident reporting requirements. Otherwise, these amendments do not provide for waivers in specified situations because all providers that have direct contact with members should be held to the same standards of protection. Providers or members may request a waiver of any rule under the Department's general rule on exceptions at rule 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on March 25, 2009, as **ARC 7653B**. The Department received comments on the Notice of Intended Action from 13 people. In response to these comments, the Department has made the following changes to the amendments published under Notice of Intended Action:

- Changed the wording of numbered paragraph "7" in the definition of "Major incident" to read "Involves a member's location being unknown by provider staff who are assigned protective oversight." The change is intended to clarify that the rule does not require each provider to know the member's location at all times. This definition occurs in subrule 77.25(1) and paragraphs 77.30(18)"a," 77.33(22)"a," 77.34(14)"a," 77.37(8)"a," 77.39(6)"a," and 77.41(12)"a," and in subparagraph 77.46(1)"d"(1).

- Extended the time for reporting minor incidents from 24 hours to 72 hours and clarified that the provider may designate the format for reporting minor incidents. This change is reflected in paragraphs 77.25(3)"a," 77.30(18)"b," 77.33(22)"b," 77.34(14)"b," 77.37(8)"b," 77.39(6)"b," and 77.41(12)"b" and in subparagraph 77.46(1)"d"(2).

- Revised the procedures for reporting major incidents. The revised amendments clarify that notification to the member or consumer is required only if the incident took place outside of the reporting provider's service provision and extend the time for filing the initial incident report from 24 hours to the end of the next calendar day. Information has been added about the automated process that will be available for incident reporting and the follow-up to the report by the case manager. The title of the printed report form is changed to "Critical Incident Report." These changes are reflected in paragraphs 77.25(3)"b," 77.30(18)"c," 77.33(22)"c," 77.34(14)"c," 77.37(8)"c," 77.39(6)"c," and 77.41(12)"c" and in subparagraphs 77.46(1)"d"(3) through (6).

The Council on Human Services adopted these amendments on June 10, 2009.

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

These amendments shall become effective on September 1, 2009.

The following amendments are adopted.

ITEM 1. Rescind the definition of "Incident" in subrule **77.25(1)**.

ITEM 2. Adopt the following **new** definitions in subrule **77.25(1)**:

"Major incident" means an occurrence involving a member during service provision that:

1. Results in a physical injury to or by the member that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the member;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph "1," "2," or "3"; or
7. Involves a member's location being unknown by provider staff who are assigned protective oversight.

"Member" means a person who has been determined to be eligible for Medicaid under 441—Chapter 75.

"Minor incident" means an occurrence involving a member during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;

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3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

ITEM 3. Rescind subrule 77.25(3) and adopt the following **new** subrule in lieu thereof:

77.25(3) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS habilitation service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule.

a. Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the member's file.

b. Reporting procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff member's supervisor.
2. The member or the member's legal guardian. EXCEPTION: Notification to the member is required only if the incident took place outside of the provider's service provision. Notification to the guardian, if any, is always required.
3. The member's case manager.

(2) By the end of the next calendar day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:

1. By direct data entry into the Iowa Medicaid Provider Access System, or
2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.

(3) The following information shall be reported:

1. The name of the member involved.
2. The date and time the incident occurred.
3. A description of the incident.
4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other members or nonmembers who were present must be maintained by the use of initials or other means.
5. The action that the provider staff took to manage the incident.
6. The resolution of or follow-up to the incident.
7. The date the report is made and the handwritten or electronic signature of the person making the report.

(4) Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about the incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the member's file.

c. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of members served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 4. Amend rule 441—77.30(249A), introductory paragraph, as follows:

441—77.30(249A) HCBS ill and handicapped waiver service providers. HCBS ill and handicapped waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided

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in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A provider hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS ill and handicapped waiver program if they meet the standards in subrule 77.30(18) and also meet the standards set forth below for the service to be provided:

ITEM 5. Adopt the following **new** subrule 77.30(18):

77.30(18) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS ill and handicapped waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle modification, home-delivered meals, or personal emergency response.

a. Definitions.

“Major incident” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician’s treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph “1,” “2,” or “3”; or
7. Involves a consumer’s location being unknown by provider staff who are assigned protective oversight.

“Minor incident” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member’s supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the consumer’s file.

c. Reporting procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff member’s supervisor.
2. The consumer or the consumer’s legal guardian. EXCEPTION: Notification to the consumer is required only if the incident took place outside of the provider’s service provision. Notification to the guardian, if any, is always required.

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3. The consumer's case manager.
- (2) By the end of the next calendar day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:
 1. By direct data entry into the Iowa Medicaid Provider Access System, or
 2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.
- (3) The following information shall be reported:
 1. The name of the consumer involved.
 2. The date and time the incident occurred.
 3. A description of the incident.
 4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
 5. The action that the provider staff took to manage the incident.
 6. The resolution of or follow-up to the incident.
 7. The date the report is made and the handwritten or electronic signature of the person making the report.
- (4) Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about the incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

d. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 6. Amend rule 441—77.33(249A), introductory paragraph, as follows:

441—77.33(249A) HCBS elderly waiver service providers. HCBS elderly waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS elderly waiver program if they meet the standards in subrule 77.33(22) and also meet the standards set forth below for the service to be provided:

ITEM 7. Adopt the following **new** subrule 77.33(22):

77.33(22) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS elderly waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of assistive devices, chore service, goods and services purchased under the consumer choices option, home and vehicle modification, home-delivered meals, personal emergency response, or transportation.

a. Definitions.

"Major incident" means an occurrence involving a consumer during service provision that:

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1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph "1," "2," or "3"; or
7. Involves a consumer's location being unknown by provider staff who are assigned protective oversight.

"*Minor incident*" means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

c. Reporting procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff member's supervisor.
2. The consumer or the consumer's legal guardian. EXCEPTION: Notification to the consumer is required only if the incident took place outside of the provider's service provision. Notification to the guardian, if any, is always required.
3. The consumer's case manager.

(2) By the end of the next calendar day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:

1. By direct data entry into the Iowa Medicaid Provider Access System, or
2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.

(3) The following information shall be reported:

1. The name of the consumer involved.
2. The date and time the incident occurred.
3. A description of the incident.
4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
5. The action that the provider staff took to manage the incident.
6. The resolution of or follow-up to the incident.
7. The date the report is made and the handwritten or electronic signature of the person making the report.

(4) Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about the

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incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

d. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 8. Amend rule 441—77.34(249A), introductory paragraph, as follows:

441—77.34(249A) HCBS AIDS/HIV waiver service providers. HCBS AIDS/HIV waiver services shall be rendered by a person who is at least 16 years old (except as otherwise provided in this rule) and is not the spouse of the consumer served or the parent or stepparent of a consumer aged 17 or under. People who are 16 or 17 years old must be employed and supervised by an enrolled HCBS provider unless they are employed to provide self-directed personal care services through the consumer choices option. A person hired for self-directed personal care services need not be supervised by an enrolled HCBS provider. A person hired through the consumer choices option for independent support brokerage, self-directed personal care, individual-directed goods and services, or self-directed community support and employment is not required to enroll as a Medicaid provider. The following providers shall be eligible to participate in the Medicaid HCBS AIDS/HIV waiver program if they meet the standards in subrule 77.34(14) and also meet the standards set forth below for the service to be provided:

ITEM 9. Adopt the following **new** subrule 77.34(14):

77.34(14) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS AIDS/HIV waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. **EXCEPTION:** The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or to home-delivered meals.

a. Definitions.

“*Major incident*” means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph “1,” “2,” or “3”; or
7. Involves a consumer's location being unknown by provider staff who are assigned protective oversight.

“*Minor incident*” means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

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c. Reporting procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff member's supervisor.
2. The consumer or the consumer's legal guardian. EXCEPTION: Notification to the consumer is required only if the incident took place outside of the provider's service provision. Notification to the guardian, if any, is always required.
3. The consumer's case manager.

(2) By the end of the next calendar day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:

1. By direct data entry into the Iowa Medicaid Provider Access System, or
2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.

(3) The following information shall be reported:

1. The name of the consumer involved.
2. The date and time the incident occurred.
3. A description of the incident.
4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
5. The action that the provider staff took to manage the incident.
6. The resolution of or follow-up to the incident.
7. The date the report is made and the handwritten or electronic signature of the person making the report.

(4) Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about the incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

d. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 10. Amend rule 441—77.37(249A), first unnumbered paragraph, as follows:

The standards in subrule 77.37(1) apply only to providers of supported employment, respite providers certified according to subparagraph 77.37(15) "a"(8), and providers of supported community living services that are not residential-based. The standards and certification processes in subrules 77.37(2) through 77.37(7) and 77.37(9) through 77.37(12) apply only to supported employment providers and non-residential-based supported community living providers.

ITEM 11. Rescind subrule 77.37(8) and adopt the following **new** subrule in lieu thereof:

77.37(8) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS mental retardation waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle modification, personal emergency response, and transportation.

a. Definitions.

"Major incident" means an occurrence involving a consumer during service provision that:

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1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph "1," "2," or "3"; or
7. Involves a consumer's location being unknown by provider staff who are assigned protective oversight.

"*Minor incident*" means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

c. Reporting procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff consumer's supervisor.
2. The consumer or the consumer's legal guardian. EXCEPTION: Notification to the consumer is required only if the incident took place outside of the provider's service provision. Notification to the guardian, if any, is always required.
3. The consumer's case manager.

(2) By the end of the next calendar day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:

1. By direct data entry into the Iowa Medicaid Provider Access System, or
2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.

(3) The following information shall be reported:

1. The name of the consumer involved.
2. The date and time the incident occurred.
3. A description of the incident.
4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
5. The action that the provider staff took to manage the incident.
6. The resolution of or follow-up to the incident.
7. The date the report is made and the handwritten or electronic signature of the person making the report.

(4) Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about the

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incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

d. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 12. Rescind subrule 77.39(6) and adopt the following **new** subrule in lieu thereof:

77.39(6) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS brain injury waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. **EXCEPTION:** The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle modification, personal emergency response, and transportation.

a. Definitions.

"Major incident" means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph "1," "2," or "3"; or
7. Involves a consumer's location being unknown by provider staff who are assigned protective oversight.

"Minor incident" means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

b. Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

c. Reporting procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff member's supervisor.
2. The consumer or the consumer's legal guardian. **EXCEPTION:** Notification to the consumer is required only if the incident took place outside of the provider's service provision. Notification to the guardian, if any, is always required.
3. The consumer's case manager.

(2) By the end of the next calendar day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:

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1. By direct data entry into the Iowa Medicaid Provider Access System, or
2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.
- (3) The following information shall be reported:
 1. The name of the consumer involved.
 2. The date and time the incident occurred.
 3. A description of the incident.
 4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
 5. The action that the provider staff took to manage the incident.
 6. The resolution of or follow-up to the incident.
 7. The date the report is made and the handwritten or electronic signature of the person making the report.

(4) Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about the incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

d. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 13. Adopt the following new subrule 77.41(12):

77.41(12) Incident management and reporting. As a condition of participation in the medical assistance program, HCBS physical disability waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and with the incident management and reporting requirements in this subrule. EXCEPTION: The conditions in this subrule do not apply to providers of goods and services purchased under the consumer choices option or providers of home and vehicle modification, specialized medical equipment, personal emergency response, and transportation.

a. Definitions.

"Major incident" means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;
2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph "1," "2," or "3"; or
7. Involves a consumer's location being unknown by provider staff who are assigned protective oversight.

"Minor incident" means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

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b. Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

c. Reporting procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident:

(1) The staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff member's supervisor.

2. The consumer or the consumer's legal guardian. EXCEPTION: Notification to the consumer is required only if the incident took place outside of the provider's service provision. Notification to the guardian, if any, is always required.

3. The consumer's case manager.

(2) By the end of the next calendar day after the incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:

1. By direct data entry into the Iowa Medicaid Provider Access System, or

2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.

(3) The following information shall be reported:

1. The name of the consumer involved.

2. The date and time the incident occurred.

3. A description of the incident.

4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.

5. The action that the provider staff took to manage the incident.

6. The resolution of or follow-up to the incident.

7. The date the report is made and the handwritten or electronic signature of the person making the report.

(4) Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about the incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

d. Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

ITEM 14. Rescind paragraph 77.46(1)"d" and adopt the following new paragraph in lieu thereof:

d. Incident management and reporting. As a condition of participation in the medical assistance program, HCBS children's mental health waiver service providers must comply with the requirements of Iowa Code sections 232.69 and 235B.3 regarding the reporting of child abuse and dependent adult abuse and must comply with the following incident management and reporting requirements. EXCEPTION: The conditions in this paragraph do not apply to providers of environmental modifications and adaptive devices.

(1) Definitions.

"Major incident" means an occurrence involving a consumer during service provision that:

1. Results in a physical injury to or by the consumer that requires a physician's treatment or admission to a hospital;

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2. Results in the death of any person;
3. Requires emergency mental health treatment for the consumer;
4. Requires the intervention of law enforcement;
5. Requires a report of child abuse pursuant to Iowa Code section 232.69 or a report of dependent adult abuse pursuant to Iowa Code section 235B.3;
6. Constitutes a prescription medication error or a pattern of medication errors that leads to the outcome in paragraph "1," "2," or "3"; or
7. Involves a consumer's location being unknown by provider staff who are assigned protective oversight.

"*Minor incident*" means an occurrence involving a consumer during service provision that is not a major incident and that:

1. Results in the application of basic first aid;
2. Results in bruising;
3. Results in seizure activity;
4. Results in injury to self, to others, or to property; or
5. Constitutes a prescription medication error.

(2) Reporting procedure for minor incidents. Minor incidents may be reported in any format designated by the provider. When a minor incident occurs or a staff member becomes aware of a minor incident, the staff member involved shall submit the completed incident report to the staff member's supervisor within 72 hours of the incident. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

(3) Notification procedure for major incidents. When a major incident occurs or a staff member becomes aware of a major incident, the staff member involved shall notify the following persons of the incident by the end of the next calendar day after the incident:

1. The staff member's supervisor.
2. The consumer or the consumer's legal guardian. EXCEPTION: Notification to the consumer is required only if the incident took place outside of the provider's service provision. Notification to the guardian, if any, is always required.
3. The consumer's case manager.

(4) Reporting procedure for major incidents. By the end of the next calendar day after a major incident, the staff member who observed or first became aware of the incident shall also report as much information as is known about the incident to the department's bureau of long-term care either:

1. By direct data entry into the Iowa Medicaid Provider Access System, or
2. By faxing or mailing Form 470-4698, Critical Incident Report, according to the directions on the form.

(5) Information to be reported. The following information shall be reported about a major incident:

1. The name of the consumer involved.
2. The date and time the incident occurred.
3. A description of the incident.
4. The names of all provider staff and others who were present at the time of the incident or who responded after becoming aware of the incident. The confidentiality of other waiver-eligible or non-waiver-eligible consumers who were present must be maintained by the use of initials or other means.
5. The action that the provider staff took to manage the incident.
6. The resolution of or follow-up to the incident.
7. The date the report is made and the handwritten or electronic signature of the person making the report.

(6) Response to report. Submission of the initial report will generate a workflow in the Individualized Services Information System (ISIS) for follow-up by the case manager. When complete information about a major incident is not available at the time of the initial report, the provider must submit follow-up reports until the case manager is satisfied with the incident resolution and follow-up. The completed report shall be maintained in a centralized file with a notation in the consumer's file.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(7) Tracking and analysis. The provider shall track incident data and analyze trends to assess the health and safety of consumers served and determine if changes need to be made for service implementation or if staff training is needed to reduce the number or severity of incidents.

[Filed 6/12/09, effective 9/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7892B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.91(5), the Iowa Finance Authority hereby amends Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

The purpose of this amendment is to clarify the chapter by removing a superfluous definition.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7702B**. The Authority received one comment from the public, which was in favor of the amendment. The Authority made no changes to the amendment as noticed.

The Iowa Finance Authority adopted this amendment on June 10, 2009.

This amendment is intended to implement Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.91(5).

This amendment will become effective on August 5, 2009.

The following amendment is adopted.

Rescind the definition of “Title plant” in subrule **9.7(2)**.

[Filed 6/10/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7891B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

The purpose of these amendments is to update and replace the current Low Income Tax Credit Program Compliance Monitoring Manual with an updated compliance monitoring manual, which is incorporated by reference in rule 265—12.3(16).

Copies of the updated compliance monitoring manual, dated January 31, 2009, are available upon request from the Authority and are available electronically on the Authority's Web site at www.iowafinanceauthority.gov. It is the Authority's intent to incorporate the updated compliance monitoring manual by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7701B**. The Authority did not receive any public comment on the proposed amendments. The Authority made no changes to the amendments as noticed. These amendments were also simultaneously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7700B**.

The Iowa Finance Authority adopted these amendments on June 10, 2009.

These amendments are intended to implement Iowa Code sections 16.4(3) and 16.52, Internal Revenue Code Section 42, and the Housing and Economic Recovery Act of 2008.

IOWA FINANCE AUTHORITY[265](cont'd)

These amendments will become effective on August 5, 2009, at which time the Adopted and Filed Emergency amendments are rescinded.

The following amendments are adopted.

ITEM 1. Amend rule 265—12.3(16) as follows:

265—12.3(16) Compliance manual. ~~The compliance manual for all low income housing tax credit projects monitored by the authority for compliance with IRC Section 42, effective March 5, 2008, Low Income Housing Tax Credit Program Compliance Monitoring Manual, dated January 31, 2009,~~ is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend rule 265—12.4(16) as follows:

265—12.4(16) Location of copies of the manual. The compliance manual can be reviewed and copied in its entirety on the authority's Web site at www.iowafinanceauthority.gov. Copies of the compliance manual shall be deposited with the administrative rules coordinator and at the state law library. The compliance manual incorporates by reference IRC Section 42 and the regulations in effect as of ~~March 5, 2008~~ February 27, 2009. Additionally, the compliance manual incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and links to these statutes, regulations and rules are on the authority's Web site. Copies are available from the authority upon request at no charge.

[Filed 6/10/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7916B**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 6, "Covered Wages," and Chapter 15, "Dividends," Iowa Administrative Code.

The amendments implement provisions of 2009 Iowa Acts, House File 414, section 51, which authorizes an IPERS program for restoring a member's three-year average covered wages when that amount has been decreased by an employer-mandated reduction in hours. The amendments also remove citations to 2008 Iowa Acts now codified in the 2009 Code of Iowa.

These amendments were prepared after consultation with IPERS administration, legal, and benefits staff.

These amendments were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on May 6, 2009, as **ARC 7759B**. Notice of Intended Action on these amendments was published as **ARC 7760B** on the same date. A public hearing was held on May 26, 2009. No one attended the public hearing, and no written comments were received. IPERS appeared before the Administrative Rules Review Committee on June 8, 2009. No comments or suggestions were received from the Committee. These amendments are identical to those published under Notice.

None of these amendments are subject to requests for waivers; however, the amendments are subject to IPERS' normal appeal process.

These amendments are intended to implement 2009 Iowa Acts, House File 414, section 51, and Iowa Code sections 97B.4 and 97B.15.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

These amendments will become effective on August 5, 2009, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [4.6(4), 4.8, 6.3, 6.4, 15.5(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 7760B** and Adopted and Filed Emergency as **ARC 7759B**, IAB 5/6/09.

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

[For replacement pages for IAC, see IAC Supplement 7/1/09.]

ARC 7917B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 51, "Game Management Areas," Iowa Administrative Code.

Chapter 51 establishes state-owned lands and waters under the jurisdiction of the Department of Natural Resources as game management areas to preserve the biological balance, to protect public parks and public health, safety and welfare, and to effect sound wildlife management.

These amendments add all of Pool 15 and the portion of Pool 14 below the National Wildlife and Fish Refuge to those pools of the Mississippi River where the use of stationary blinds and waterfowl decoys is allowed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7693B**. A public hearing was held on April 29, 2009. There were 22 comments received, and 21 favored the proposed changes. Since the Notice was published, a new Item 4 has been added to remove a sentence from paragraph 51.6(4)"b" that is no longer relevant.

These amendments are intended to implement Iowa Code sections 456A.24(2)"a" and 481A.6.

These amendments shall become effective August 5, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 51.6(1), introductory paragraph, as follows:

51.6(1) *Stationary blinds.* The construction and use of stationary blinds on all game management areas, except on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River, are restricted as follows:

ITEM 2. Amend subrule 51.6(3), introductory paragraph, as follows:

51.6(3) *Use of waterfowl decoys.* The use of waterfowl decoys on any game management area, except on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River, is restricted as follows:

ITEM 3. Amend subrule 51.6(4), introductory paragraph, as follows:

51.6(4) *Use of stationary blinds and waterfowl decoys on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River.* The use of permanent blinds for waterfowl hunting on Pool 14 downstream of the Upper Mississippi River National Wildlife and Fish Refuge (River Mile 502) near Princeton, Iowa, and on Pools 15, 16, 17, and 18 of the Mississippi River is restricted as follows:

ITEM 4. Amend paragraph **51.6(4)"b"** as follows:

b. Construction. Blinds must have minimum dimensions of 4 feet by 8 feet and not greater than 500 square feet of floor space, not including a boat hide. The blind must be constructed of biodegradable materials, including nontreated dimensional lumber and nontreated plywood, unless the blind will be

NATURAL RESOURCE COMMISSION[571](cont'd)

removed at the end of the waterfowl season. The use of metal or nylon fasteners, including but not limited to nails, screws, lag bolts, staples and ties, is allowed. Treated lumber, treated plywood, woven wire, chicken wire, cattle panels, tin and sheet metal, vinyl and plastic, and other nonbiodegradable materials are not allowed unless those materials or the entire blind is removed within three days after the close of the waterfowl season. ~~All existing blinds are exempted from conforming to these construction requirements until September 1, 2008, except that all repair, modification or new construction of blinds must conform to these construction requirements.~~

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7918B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

This amendment adds four areas to the list of areas upon which game refuges can be posted.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7685B**. A public hearing was held on April 29, 2009. No comments were received. No changes have been made to the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.5, 481A.6, 481A.9 and 481A.39. This amendment shall become effective August 5, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [52.1(2)"a"] is being omitted. This amendment is identical to that published under Notice as **ARC 7685B**, IAB 4/8/09.

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

[For replacement pages for IAC, see IAC Supplement 7/1/09.]

ARC 7919B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 95, "Game Harvest Reporting and Landowner-Tenant Registration," Iowa Administrative Code.

These rules give the regulations for reporting deer and turkey harvest and for registering for landowner-tenant licenses. The adopted amendments remove the three-year eligibility period limit and require registered landowners and tenants to notify the Department if their registration information or eligibility status changes. Eligibility will be periodically verified by Department staff.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7688B**. A public hearing was held on April 29, 2009. No comments were received. No changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1, 483A.7 and 483A.24.

NATURAL RESOURCE COMMISSION[571](cont'd)

These amendments shall become effective August 5, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [95.2, 95.2(6)] is being omitted. These amendments are identical to those published under Notice as **ARC 7688B**, IAB 4/8/09.

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

[For replacement pages for IAC, see IAC Supplement 7/1/09.]

ARC 7920B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

These amendments reduce the quota for fall turkey season in portions of Iowa where turkey brood surveys indicate turkey production has been below average and remove the option for a third fall turkey license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7689B**. A public hearing was held on April 29, 2009. Three comments were received; one favored and two opposed the proposed changes. No changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

These amendments shall become effective August 5, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [99.2(3), 99.5(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 7689B**, IAB 4/8/09.

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

[For replacement pages for IAC, see IAC Supplement 7/1/09.]

ARC 7921B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

These amendments remove 17 counties from the paid November and January antlerless-deer-only seasons and restrict the November antlerless-deer-only licenses to the taking of antlerless deer on private land. The January antlerless-deer-only licenses will go on sale on December 15. The antlerless-deer-only quotas were increased in 21 counties and reduced in 5 counties. The amendments also clarify that statewide paid any-deer licenses may not be used in deer population management zones if prohibited by the rules for the management zone. The amendments specify that all antlers from deer taken on shooting permits issued as part of a depredation agreement must be turned over to a conservation officer within 48 hours.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7690B**. A public hearing was held on April 29, 2009. Seven comments were received;

NATURAL RESOURCE COMMISSION[571](cont'd)

one favored and six opposed the proposed changes. Since the Notice was published, the number of antlerless-deer-only licenses was increased in the following 20 counties based upon the results of the deer population trend surveys conducted in April and May: Adair, Cass, Clarke, Crawford, Dallas, Fremont, Harrison, Jasper, Lucas, Madison, Marion, Mills, Monona, Montgomery, Page, Pottawattamie, Shelby, Taylor, Warren, and Woodbury.

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

These amendments shall become effective August 5, 2009.

The following amendments are adopted.

ITEM 1. Amend paragraph 106.1(1)“a” as follows:

a. Any-deer licenses. Any-deer licenses shall be valid for taking deer of either sex in one season selected at the time the license is purchased. Paid any-deer licenses shall be valid statewide ~~or in a deer population management zone and in one season as selected at the time the license is purchased~~ except where prohibited in deer population management zones established under 571—Chapter 105. Free any-deer licenses shall be valid only on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

ITEM 2. Amend subrule 106.6(3) as follows:

106.6(3) November antlerless-deer-only season. Antlerless-deer-only licenses for the November antlerless-deer-only season shall be available in the following counties: Adair, Adams, Allamakee, Appanoose, ~~Benton, Bremer, Buchanan,~~ Cass, ~~Cedar, Chickasaw,~~ Clarke, Clayton, ~~Clinton,~~ Dallas, Davis, Decatur, ~~Delaware,~~ Des Moines, ~~Dubuque,~~ Fayette, Fremont, Guthrie, Harrison, Henry, ~~Howard,~~ Iowa, Jackson, Jasper, Jefferson, ~~Johnson, Jones,~~ Keokuk, Lee, ~~Linn,~~ Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, ~~Muscatine,~~ Page, Polk, Pottawattamie, ~~Poweshiek,~~ Ringgold, ~~Scott,~~ Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Woodbury. Beginning the second Saturday prior to the opening of the November antlerless-deer-only season, an unlimited number of paid antlerless-deer-only licenses may be purchased for the November antlerless-deer-only season. These licenses may be obtained regardless of any other paid any-deer or paid antlerless-deer-only licenses that may have been obtained. Licenses will be sold until county quotas are filled. Licenses issued for this season are valid only on private property.

ITEM 3. Amend subrule 106.6(4) as follows:

106.6(4) January antlerless-deer-only licenses. Antlerless-deer-only licenses for the January antlerless-deer-only season shall be available in the following counties: Adair, Adams, Allamakee, Appanoose, ~~Benton, Bremer, Buchanan,~~ Cass, ~~Cedar, Chickasaw,~~ Clarke, Clayton, ~~Clinton,~~ Dallas, Davis, Decatur, ~~Delaware,~~ Des Moines, ~~Dubuque,~~ Fayette, Fremont, Guthrie, Harrison, Henry, ~~Howard,~~ Iowa, Jackson, Jasper, Jefferson, ~~Johnson, Jones,~~ Keokuk, Lee, ~~Linn,~~ Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, ~~Muscatine,~~ Page, Polk, Pottawattamie, ~~Poweshiek,~~ Ringgold, ~~Scott,~~ Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Winneshiek, and Woodbury. Beginning December 15, an unlimited number of paid antlerless-deer-only licenses may be purchased for the January antlerless-deer-only season. These licenses may be obtained regardless of any other paid any-deer or paid antlerless-deer-only licenses that may have been obtained.

ITEM 4. Amend subrule 106.6(6) as follows:

106.6(6) Antlerless-deer-only licenses. Paid antlerless-deer-only licenses will be available by county as follows:

County	Quota	County	Quota	County	Quota
Adair	2100 <u>2400</u>	Floyd	250 <u>150</u>	Monona	1350 <u>1900</u>
Adams	1950	Franklin	150 <u>100</u>	Monroe	3000
Allamakee	4500	Fremont	1300 <u>1500</u>	Montgomery	1150 <u>1300</u>

NATURAL RESOURCE COMMISSION[571](cont'd)

County	Quota	County	Quota	County	Quota
Appanoose	3300	Greene	150	Muscatine	1700
Audubon	100	Grundy	0	O'Brien	0
Benton	1000	Guthrie	3300	Osceola	0
Black Hawk	0	Hamilton	100	Page	1500 <u>1800</u>
Boone	650	Hancock	0	Palo Alto	0
Bremer	700	Hardin	400	Plymouth	100
Buchanan	400	Harrison	1350 <u>1900</u>	Pocahontas	0
Buena Vista	0	Henry	2000	Polk	1250 <u>1500</u>
Butler	250 <u>150</u>	Howard	800	Pottawattamie	1600 <u>2100</u>
Calhoun	0	Humboldt	0	Poweshiek	750
Carroll	100	Ida	0	Ringgold	2600
Cass	1000 <u>1300</u>	Iowa	1200	Sac	0
Cedar	1300	Jackson	1800	Scott	800
Cerro Gordo	0	Jasper	1300 <u>1700</u>	Shelby	250 <u>300</u>
Cherokee	0	Jefferson	2150	Sioux	0
Chickasaw	600	Johnson	2000	Story	500
Clarke	1900 <u>2200</u>	Jones	1500	Tama	800
Clay	0	Keokuk	1900	Taylor	2450 <u>2650</u>
Clayton	5800	Kossuth	0	Union	2100
Clinton	1200	Lee	2500	Van Buren	5400
Crawford	150 <u>200</u>	Linn	1900	Wapello	2150
Dallas	2300 <u>2700</u>	Louisa	1500	Warren	2400 <u>3200</u>
Davis	3600	Lucas	1800 <u>2200</u>	Washington	2250
Decatur	2800	Lyon	0	Wayne	3000
Delaware	1700	Madison	3000 <u>4000</u>	Webster	100
Des Moines	2000	Mahaska	1350	Winnebago	0
Dickinson	0	Marion	1750 <u>2250</u>	Winneshiek	3500
Dubuque	2000	Marshall	650	Woodbury	1250 <u>1900</u>
Emmet	0	Mills	1150 <u>1350</u>	Worth	100 <u>50</u>
Fayette	3000	Mitchell	250 <u>150</u>	Wright	0

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 5. Amend subparagraph **106.11(4)“b”(7)** as follows:

(7) Antlers from all deer recovered must be turned over to the conservation officer ~~to~~ within 48 hours. Antlers will be disposed of according to department rules.

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7933B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 108, “Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons,” Iowa Administrative Code.

Chapter 108 sets the season dates, bag limits, possession limits and areas open to hunting or trapping furbearers.

These amendments change the ending date for the unrestricted taking of muskrats from April 15 to April 1 and add natural resource biologists and county conservation board directors to the list of officials who may permit trappers to disturb muskrat houses on state or county game management areas. The amendment clarifies that persons displaying either bobcats or otters as taxidermy mounts must keep the CITES tag in their possession.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7691B**. A public hearing was held on April 29, 2009. No comments were received. No changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87, and 481A.90.

These amendments shall become effective August 5, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [108.1, 108.7(6)] is being omitted. These amendments are identical to those published under Notice as **ARC 7691B**, IAB 4/8/09.

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

[For replacement pages for IAC, see IAC Supplement 7/1/09.]

ARC 7922B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 110, “Trapping Limitations,” Iowa Administrative Code.

Chapter 110 sets the requirements for placing, tagging and checking traps and snares.

The amendment prohibits the placement of traps or stakes in the public right-of-way except during a period of time that begins two weeks before the season opens and ends on the last day of the season.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 8, 2009, as **ARC 7692B**. A public hearing was held on April 29, 2009. There were 39 comments received: 10 were in favor, 26 were opposed and 3 were neutral on the proposed changes. The Natural Resource Commission

NATURAL RESOURCE COMMISSION[571](cont'd)

voted to extend the period of time during which traps could be placed upon the public road right-of-way from that specified in the amendment to rule 571—110.1(481A) in Item 1 of the Notice. The Commission did not adopt Item 2 of the Notice, which proposed to amend rule 571—110.5(481A).

This amendment is intended to implement Iowa Code sections 481A.38 and 481A.92.

This amendment shall become effective August 5, 2009.

The following amendment is adopted.

Amend rule 571—110.1(481A) as follows:

571—110.1(481A) Public roadside limitations—snares, body-gripping, and conibear type traps. No person shall set or maintain any snare, body-gripping, or conibear type trap within any public road right-of-way within 200 yards of buildings inhabited by human beings unless a resident of the dwelling adjacent to the public road right-of-way has given permission or unless the body-gripping or conibear type trap is completely ~~under water~~ underwater or at least one-half of the loop of a snare is ~~under water~~ underwater. Nothing in this rule shall be construed as limiting the use of foothold traps or box-type live traps in public road rights-of-way. No person shall place or leave any trap, stake, or nonindigenous set making material upon any public road right-of-way except during a period of time that begins two weeks before the trapping season opens and ends on the last day of the season.

[Filed 6/12/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7888B

NURSING BOARD[655]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 7, "Advanced Registered Nurse Practitioners," Iowa Administrative Code.

These amendments allow the advanced registered nurse practitioner (ARNP) to be permitted to provide direct supervision in the use of fluoroscopic X-ray equipment. The amendments define the provisions necessary for the ARNP to supervise fluoroscopy.

These amendments were published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7714B**. These amendments are identical to those published under Notice.

These amendments will become effective August 5, 2009.

These amendments are intended to implement Iowa Code chapter 152.

The following amendments are adopted.

ITEM 1. Renumber subrules **7.2(2)** to **7.2(11)** as **7.2(3)** to **7.2(12)**.

ITEM 2. Adopt the following **new** subrule 7.2(2):

7.2(2) Supervision of fluoroscopy. An advanced registered nurse practitioner (ARNP) shall be permitted to provide direct supervision in the use of fluoroscopic X-ray equipment, pursuant to 641—subrule 42.1(2), definition of "supervision."

a. The ARNP shall provide direct supervision of fluoroscopy pursuant to the following provisions:

(1) Completion of an educational course including content in radiation physics, radiobiology, radiological safety and radiation management applicable to the use of fluoroscopy, and maintenance of documentation verifying successful completion.

(2) Collaboration, as needed, as defined in rule 655—7.1(152).

(3) Compliance with facility policies and procedures.

b. The ARNP shall complete an annual radiological safety course whose content includes, but is not limited to, time, dose, distance, shielding and the effects of radiation.

NURSING BOARD[655](cont'd)

c. The ARNP shall maintain documentation of the initial educational course and all annual radiological safety updates.

d. The initial and annual education requirements are subject to audit by the board pursuant to 655—subrule 5.2(5).

[Filed 6/10/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7903B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 124.554, the Board of Pharmacy and the Prescription Monitoring Program Advisory Council jointly adopt new Chapter 37, "Iowa Prescription Monitoring Program," Iowa Administrative Code.

Chapter 37 provides for the establishment of a central database program of prescriptions for Schedule II, III, and IV controlled substances prescriptions dispensed in Iowa. Database information regarding the practitioners' patients is available to prescribers and pharmacists (practitioners) to assist the practitioners in determining appropriate pharmaceutical treatment options and to improve the quality of patient care. The rules:

- Define terms used throughout the chapter.
- Identify the dispensers required to submit reports of dispensed prescriptions.
- Identify the records of controlled substance prescriptions to be included in reports from dispensers, and identify the data elements to be included in reported prescription records.
- Establish a schedule of reporting periods and due dates for submission of records of reportable prescriptions for those reporting periods, provide for a variety of methods for submitting dispensing records, and require a pharmacy that did not dispense any prescriptions for reportable controlled substances during a reporting period to submit a report indicating zero records for the period.
- Identify individuals who may obtain information from the program database and the procedures for registering and requesting that information.
- Specify procedures for an individual who is the subject of any database record to report false or erroneous information to the program administrator and procedures in response to such a claim.
- Provide that the Board may charge fees, in limited instances, for information available from the program but specifically exempt dispensers and practitioners from the imposition of fees for reporting to or querying information from the program.
- Establish program record retention periods.
- Address the confidentiality of program and database records and identify prohibited acts relating to the program and program information, providing that a pharmacy or practitioner that knowingly fails to comply with the confidentiality provisions of the law or rules, or a dispenser that fails to comply with reporting requirements, is subject to disciplinary action by the individual's or dispenser's professional license board.
- Provide that a member of the program staff who knowingly fails to comply with the confidentiality provisions of the law or rules is subject to disciplinary action by the Board of Pharmacy.

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

Notice of Intended Action was published in the April 8, 2009, Iowa Administrative Bulletin as **ARC 7676B**. The Board received written comments regarding the proposed rules from one association representing Iowa pharmacies. The Board scheduled a public hearing regarding the proposed rules. One person appeared at the hearing but presented no written or oral comments.

PHARMACY BOARD[657](cont'd)

The adopted rules differ from those published under Notice. Subrule 37.4(2), paragraph “a,” has been amended to provide that the director of a health practitioner licensing board or the director’s authorized designee may sign and submit a request for PMP information pursuant to the requirements of the paragraph. Subrule 37.4(2), paragraph “b,” has been amended to provide that the director of a regulatory agency or the director’s authorized designee may sign and submit a request for PMP information pursuant to the requirements of the paragraph. Paragraphs 37.4(2)“a” and “b” now read as follows:

“a. A director of a licensing board with jurisdiction over a practitioner, or the director’s designee, who seeks access to PMP information for an investigation shall submit to the PMP administrator in a format established by the board a written request via mail, facsimile, or personal delivery. The request shall be signed by the director or the director’s designee and shall be accompanied by an order, subpoena, or other form of legal compulsion establishing that the request is supported by a determination of probable cause.

“b. A director of a regulatory agency with jurisdiction over a practitioner or with jurisdiction over a person receiving health care services pursuant to one or more programs provided by the agency, or the director’s designee, who seeks access to PMP information for an investigation shall submit to the PMP administrator in a format established by the board a written request via mail, facsimile, or personal delivery. The request shall be signed by the director or the director’s designee and shall be accompanied by an order, subpoena, or other form of legal compulsion establishing that the request is supported by a determination of probable cause.”

Rule 657—37.7(124) has been amended to identify the individual who will correct, delete, or amend PMP information that has been determined to be in error. Rule 657—37.7(124) now reads as follows:

“**657—37.7(124) Information errors.** Any person who believes that PMP information about that person is false or in error shall submit a written statement to the PMP administrator. The statement shall identify the information the person believes to be false or in error and the reason the individual believes the information to be false or in error. The PMP administrator may examine the information identified in the statement and may request the assistance of the board’s compliance staff to determine whether or not the PMP information is accurate. Prior to initiating any action to correct, delete, or amend any PMP information, the PMP administrator shall submit the statement and the resulting report to the patients rights committee for review and approval of the recommended action. If correction, deletion, or amendment of any PMP information is authorized, that action shall be accomplished by the PMP administrator within 72 hours of the committee’s decision. The PMP administrator shall respond, in writing, to the person who submitted the statement charging that the PMP information was false or in error. The response shall identify the action approved by the committee.”

The rules were approved during the June 2, 2009, regular meeting of the Board of Pharmacy. The rules were approved by the Prescription Monitoring Program Advisory Council by electronic communication between May 27, 2009, and June 2, 2009.

These rules will become effective on August 5, 2009.

These rules are intended to implement Iowa Code sections 124.551 to 124.558 as amended by 2009 Iowa Acts, House File 122.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 37] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 7676B**, IAB 4/8/09.

[Filed 6/11/09, effective 8/5/09]

[Published 7/1/09]

[For replacement pages for IAC, see IAC Supplement 7/1/09.]

ARC 7887B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 321.4, the Department of Public Safety hereby rescinds Chapter 7, "Ignition Interlock Devices," and adopts new Chapter 158, "Ignition Interlock Devices," Iowa Administrative Code.

Iowa Code chapter 321J provides for the use of ignition interlock devices to regulate the driving behavior of certain persons who have previously been sanctioned for operating while intoxicated, or drunk driving. The provisions which trigger the use of ignition interlock devices require that the devices that are going to be used be approved by the Commissioner of Public Safety. At present, the Department's provisions are found in rule 661—7.8(321J), which delineates the requirements and procedures for approval of ignition interlock devices. However, the technology embedded in these devices has been changing. These rules have been written to address those technological advances. Additionally, the Department believes that the placement of these requirements and procedures for approval of the devices in a separate, new chapter will facilitate easier access to these provisions by persons affected by these rules.

These rules were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on February 11, 2009, as **ARC 7566B**. A public hearing on the proposed rules was held on March 10, 2009. Numerous comments were received in writing and at the hearing. A number of minor editorial changes have been made to the proposed rules, and the following substantial changes have been made to the proposed rules in response to comments received:

- Revocation of approval for the use of a device by another state has been added as a possible reason for revocation of such approval in Iowa.
- Language regarding reasons for revocation for approval has been modified in several ways to clearly reflect actions directly related to the installation and operation of IIDs.
- Language pertaining to the period before recalibration of a device is required has been clarified. Recalibration is required after 60 days, with an additional 7-day period provided before lockout of a device which has not been recalibrated is required. The period before recalibration is required may be extended by the Laboratory Administrator to 180 days if the device uses fuel cell technology and passes precision and functionality tests specified by the Laboratory.
- Records related to the use of an IID are required to be retained for five years after the device has been removed from a vehicle, rather than two years as specified in the proposed rules.
- Language regarding required randomized retests was clarified.

The rules adopted herein are subject to the general waiver provisions for administrative rules of the Department of Public Safety, which are found in 661—Chapter 10.

These amendments will become effective on October 1, 2009.

These amendments are intended to implement Iowa Code chapter 321J.

The following amendments are adopted.

ITEM 1. Rescind and reserve **661—Chapter 7**.

ITEM 2. Adopt the following **new** 661—Chapter 158:

CHAPTER 158
IGNITION INTERLOCK DEVICES

661—158.1(321J) Scope and authority.

158.1(1) The rules in this chapter establish standards and requirements that apply to ignition interlock devices installed in motor vehicles pursuant to court orders or administrative orders issued by the department of transportation pursuant to Iowa Code chapter 321J.

158.1(2) Various sections of Iowa Code chapter 321J require drivers who have been convicted of violating or administratively adjudged to have violated certain provisions of Iowa Code chapter 321J to

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have ignition interlock devices “of a type approved by the commissioner of public safety” installed on their vehicles in order to continue to drive legally. The rules in this chapter provide the standards for such approval.

661—158.2(321J) Definitions. The following definitions apply to rules 661—158.1(321J) through 661—158.9(321J):

“*Alcohol*” means any member of the class of organic compounds known as alcohols and, specifically, ethyl alcohol.

“*Authorized service provider*” or “*ASP*” means a person or company meeting all qualifications outlined in this chapter and approved and trained by the manufacturer to service, install, monitor or calibrate IIDs approved pursuant to this chapter.

“*Breath alcohol concentration*” or “*BrAC*” means the amount of alcohol determined by chemical analysis of the individual’s breath measured in grams of alcohol per 210 liters of breath.

“*Bypassing*” or “*tampering*” means the attempted or successful circumvention of the proper functioning of an IID including, but not limited to, the push start of a vehicle equipped with an IID, disabling, disconnecting or altering an IID, or introduction of a breath sample into an IID other than a nonfiltered direct breath sample from the driver of the vehicle in order to defeat the intended purpose of the IID.

“*DCI*” means the Iowa division of criminal investigation.

“*DOT*” means Iowa department of transportation, office of driver services.

“*Fail level*” means a BrAC equal to or greater than 0.025 grams per 210 liters of breath, at which level the IID will prevent the vehicle from starting or will indicate a violation once the vehicle is running.

“*Ignition interlock device*” or “*IID*” means an electronic device that is installed in a vehicle and that requires the completion of a breath sample test prior to starting the vehicle and at periodic intervals after the vehicle has been started. If the IID detects an alcohol concentration of 0.025 grams or greater per 210 liters of breath, the vehicle shall be prevented from starting.

“*Laboratory*” means the division of criminal investigation criminalistics laboratory.

“*Lessee*” means a person who has entered into an agreement with a manufacturer or an ASP to lease an IID and whose driving privileges are contingent on the use of an IID.

“*Lockout condition*” means a situation in which a proper breath sample was not provided to an IID when required, or when a random retest results in an alcohol concentration equal to or greater than 0.025 BrAC. Once a lockout condition occurs, the IID shall be reset by the manufacturer or the ASP within five days, or the IID shall render the vehicle ignition incapable of starting the vehicle.

“*Manufacturer*” means the person, company, or corporation that produced the IID.

“*Random retest*” means a breath sample that is collected in a nonscheduled, random manner after the vehicle has been started.

“*User*” means a person operating a vehicle equipped with an IID.

“*Violation*” means a condition caused by either (1) failure to provide a proper breath sample to the IID during a random retest, (2) the IID indicating a concentration exceeding the maximum allowable concentration of 0.025 BrAC during a random retest, or (3) the IID indicating that bypassing the device or tampering with the device occurred or was attempted.

661—158.3(321J) Approval. To be approved, an IID shall meet or exceed performance standards contained in the Model Specifications for Breath Alcohol Ignition Interlock Devices, as published in the Federal Register, April 7, 1992, pages 11772-11787. Only a notarized statement from a laboratory capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards.

158.3(1) In addition to the federal standards, the DCI criminalistics laboratory shall apply scientific tests or methods to a particular IID to determine whether it meets an acceptable standard for accuracy.

158.3(2) At the discretion of the laboratory administrator, the laboratory may accept test results from other public laboratories or authorities.

158.3(3) The laboratory shall maintain a list of IIDs approved by the commissioner of public safety. The list is available without cost by writing to the Iowa Department of Public Safety, Division

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of Criminal Investigation, Criminalistics Laboratory, 2240 South Ankeny Blvd., Ankeny, Iowa 50023; by telephoning (515)725-1500; or by accessing the list on the laboratory's Web site.

NOTE: As of October 1, 2009, the Web site of the laboratory is http://www.dps.state.ia.us/DCI/Crime_Lab/index.shtml.

158.3(4) On or after January 1, 2010, any IID installed in a vehicle in Iowa pursuant to this chapter, including a replacement for a device previously installed, shall utilize fuel cell technology. Any device installed prior to January 1, 2010, may continue to be used until the expiration of the order that resulted in its use or until it is replaced, whichever occurs earlier.

661—158.4(321J) Revocation of approval. The approval of an IID shall remain valid until either voluntarily surrendered by the manufacturer or until the approval of the IID has been revoked by the commissioner of public safety for cause. Reasons for revocation include but are not limited to the following.

158.4(1) Evidence of repeated IID failures due to defects in design, materials, or workmanship during manufacture, installation, monitoring, or calibration of the IID such that the accuracy of the IID or the reliability of the IID as approved is not being met as determined by the laboratory.

158.4(2) A pattern of evidence that the mandatory operational features of the IID as described in rule 661—158.6(321J) are not functioning properly.

158.4(3) A pattern of evidence indicating that the IID may be easily tampered with or bypassed.

158.4(4) Any violation on the part of the manufacturer of the IID of any laws or regulations related to the installation, servicing, monitoring, and calibration of IIDs, or failure of a manufacturer to address repeated violations by an ASP.

158.4(5) Cancellation of the manufacturer's required liability insurance coverage.

158.4(6) Cessation of business operations by the manufacturer.

158.4(7) Failure to notify the laboratory in writing of any material modifications or alterations to the components or the design of the approved IID.

158.4(8) Failure of the manufacturer or an ASP to notify the DOT and the county attorney of the county of residence of the lessee within 30 days of the discovery of evidence of tampering with or attempting to bypass an IID.

158.4(9) Evidence that the manufacturer or ASP(s), or its owners, employees, or agents, has committed any act of theft or fraud, deception or material omission of fact related to the distribution, installation, or operation of any IID subject to this chapter.

158.4(10) Revocation of approval in another state for any of the reasons for revocation listed in subrules 158.4(1) through 158.4(9).

158.4(11) A revocation shall be effective 30 days from the date of the letter sent to the manufacturer via certified mail, return receipt requested, unless otherwise specified by the commissioner. A copy of each notice of revocation shall be provided to the director of the Iowa department of transportation.

158.4(12) Upon voluntary surrender or revocation, all IIDs subject to the surrender or revocation shall be removed and replaced by an approved IID within 60 days of the effective date of such surrender or revocation. The manufacturer or the ASP must notify all affected lessees of the surrender or revocation and the requirement that a new IID must be installed by an existing ASP within the time frame specified in this subrule.

158.4(13) A revocation of a previously approved IID may be appealed to the department of public safety by the filing of an appeal in accordance with the procedures specified in rule 661—10.101(17A) within ten days of the issuance of the notice of revocation.

661—158.5(321J) Modifications to an approved IID. The manufacturer shall inform the laboratory in writing of any modifications that will affect the accuracy, reliability, ease of use, or general function of the approved IID. The notification shall include, but not be limited to, a listing of those modifications that were made, those components that were redesigned or replaced, and any additional alterations. Each of these changes should also include a narrative explaining how the modifications or alterations will affect

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the accuracy, reliability, ease of use, or general function of the IID. The laboratory reserves the right to test the IID to determine if the IID meets or exceeds the requirements established in this chapter.

661—158.6(321J) Mandatory operational features. In addition to any requirements established elsewhere in this chapter, an approved IID shall comply with the following.

158.6(1) The IID shall be designed and constructed to measure a person's breath alcohol concentration by utilizing a sample of the person's breath delivered directly into the IID.

158.6(2) The IID shall be designed and constructed so that the ignition system of the vehicle in which it is installed will not be activated if the breath alcohol concentration of the person using the IID exceeds 0.025 BrAC.

158.6(3) The IID shall prevent engine ignition if the IID has not been calibrated within 67 days subsequent to the last calibration. Calibration may be required more frequently at the discretion of the manufacturer or the ASP.

EXCEPTION: The laboratory administrator may approve a device using fuel cell technology to be recalibrated within 187 days of the previous calibration provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator.

158.6(4) The IID shall record every instance when the vehicle is started, the results of the breath sample test, how long the vehicle was operated, and any indications that the IID may have been tampered with or bypassed.

158.6(5) The IID shall require the operator to submit to a random retest within 10 minutes of starting the vehicle. A minimum of two additional random retests shall occur within 60 minutes of starting the vehicle, and a minimum of two random retests shall occur within every 60 minutes thereafter. Random retests may be achieved during operation of the vehicle. The IID shall enter a lockout condition within five days if two or more violations are recorded in a single monitoring period. An IID may, at the discretion of the manufacturer or the ASP, enter a lockout condition on the basis of a single violation.

158.6(6) The IID shall permit a sample-free restart for a maximum period of two minutes unless the IID has initiated a random retest, in which case the operator must successfully perform a breath sample test before the vehicle may be restarted.

158.6(7) The IID shall automatically and completely purge residual alcohol before allowing subsequent tests.

158.6(8) The IID shall be installed in such a manner that it will not interfere with the normal operation of the vehicle after the vehicle has been started.

158.6(9) The IID shall be equipped with a method of immediately notifying peace officers if the retest required by subrule 158.6(5) is not performed or if the result of a random retest exceeds the alcohol concentration of 0.025 BrAC. Examples of acceptable forms of notification are repeated honking of the vehicle's horn and repeated flashing of the vehicle's headlights. Such notification may be disabled only by switching the engine off or by achievement of a retest at a level below 0.025 BrAC.

158.6(10) Each IID shall be uniquely identified by a serial number. Along with any other information required by the DOT or by an originating court, all reports to the DOT or to an originating court concerning a particular IID shall include the name, address, and driver's license number of the lessee and the unique serial number of the IID. The name, address, telephone number, and contact person of the manufacturer or the ASP furnishing the report shall also be included as part of the report.

661—158.7(321J) IID security. The manufacturer and its ASPs shall take all reasonable steps necessary to prevent tampering with or physical circumvention of the IID. These steps shall include the following.

158.7(1) ASPs shall use special locks, seals, installation procedures, or design characteristics that prevent or record evidence of tampering or circumvention attempts.

158.7(2) The manufacturer or the ASP shall affix a label to the IID indicating that attempts to tamper with or circumvent the IID may subject a person to criminal prosecution or administrative sanctions.

158.7(3) No owner or employee of a manufacturer or an ASP may authorize or assist with the disconnection of an IID or enable the use of any emergency bypass mechanism or any other bypass

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procedure that allows a person restricted to the use of a vehicle equipped with a functioning IID to start or operate a vehicle without providing all required breath samples. Authorizing or assisting with the disconnection of an IID may subject the owner or employee of a manufacturer or an ASP to criminal prosecution or administrative sanctions.

661—158.8(321J) IID maintenance and reports.

158.8(1) An IID utilized in accordance with the provisions of this chapter shall have the calibration checked and shall be recalibrated at least once every 60 days using either a wet bath simulator or dry gas standard. Calibration shall be completed by the manufacturer or the ASP. In lieu of calibration of an installed IID, an installed IID may be exchanged for another calibrated IID. The laboratory administrator may approve a device that employs fuel cell technology to be used for up to 180 days from the date of the previous calibration, provided that the device passes specific precision and functionality testing approved by the laboratory administrator and carried out by the laboratory or an independent laboratory acceptable to the laboratory administrator. An IID shall automatically enter a lockout condition if the IID has not been calibrated within 7 days after the deadlines established in this subrule.

158.8(2) The calibration record for the IID currently installed in a vehicle pursuant to Iowa Code section 321J.4 and this chapter and for any other IID installed in the same vehicle shall be maintained by the manufacturer or the ASP. The record shall include the following:

- a. Name of the person performing the calibration;
- b. Date;
- c. Value and type of standard used;
- d. Batch or lot number of standard;
- e. Unit type and identification number of the IID; and
- f. Description of the vehicle in which the IID is installed, including:
 - (1) Registration plate number and state;
 - (2) Make;
 - (3) Model;
 - (4) Vehicle identification number;
 - (5) Year; and
 - (6) Color.

158.8(3) The IID must be calibrated for accuracy according to the manufacturer's procedures. All data contained in the IID's memory must be downloaded, and the manufacturer or the ASP shall make a hard copy or the electronic equivalent of a hard copy of client data and results of each examination.

158.8(4) All information obtained as a result of each inspection shall be retained by the manufacturer or the ASP for five years from the date the IID is removed from the vehicle.

158.8(5) Any manufacturer or ASP who discovers evidence of tampering with or attempting to bypass an IID shall, within 30 days of the discovery, notify the DOT and the county attorney of the county of residence of the lessee of that evidence.

158.8(6) The manufacturer or the ASP must provide, upon request, additional reports in a format acceptable to, and at no cost to, the DOT and the DCI.

158.8(7) The manufacturer or the ASP shall notify the DOT within 10 days if an IID is not calibrated within the time period specified in subrule 158.6(3).

661—158.9(321J) Other provisions. In addition to any other applicable provisions of this chapter, each manufacturer of an approved IID, either on its own or through its ASPs, shall comply with the following provisions.

158.9(1) Each manufacturer and ASP of IIDs approved for use in Iowa pursuant to this chapter shall maintain general liability insurance coverage that is effective in Iowa and that has been issued by an insurance carrier authorized to operate in Iowa by the Iowa division of insurance in an amount of not less than \$1 million per occurrence and \$3 million in the aggregate. Each manufacturer and ASP shall furnish the DCI with proof of this insurance coverage in the form of a certificate of insurance from the insurance company issuing the policy. All insurance policies required by this subrule shall carry an

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endorsement requiring that the DCI be provided with written notice of cancellation of insurance coverage required by this subrule at least ten days prior to the effective date of cancellation.

158.9(2) Each manufacturer and ASP of IIDs approved for use in Iowa shall maintain an E-mail address and a telephone number that are available 24 hours a day, 365 days a year, for lessees or users to contact the manufacturer or the ASP if lessees or users have problems with the IID leased from the manufacturer or the ASP.

158.9(3) Each manufacturer and ASP of IIDs approved for use in Iowa shall provide the lessee with instructions on how to properly use the IID. The instructions shall include recommending a 15-minute waiting period between the last drink of an alcoholic beverage and the time of breath sample delivery into the IID.

158.9(4) An IID utilized under these rules shall be installed and removed by the manufacturer or the ASP in conformance with the prescribed procedures of the manufacturer.

158.9(5) The department of public safety reserves the right to inspect any IID, manufacturer, or ASP at any time at the department's discretion. All records of IIDs installed, results of calibrations, violations, data logs, and results of known alcohol standards shall be made available for inspection upon request to any representatives of the department of public safety, the department of transportation, or any peace officer.

These rules are intended to implement Iowa Code chapter 321J.

[Filed 6/9/09, effective 10/1/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7904B**REGENTS BOARD[681]****Adopted and Filed**

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

The amendment revises subrule 4.31(2) to increase the monetary sanctions for five parking offenses at Iowa State University.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7713B**. A comment period was established. No comments were received. The final amendment is identical to the proposed amendment.

The Board of Regents adopted this amendment on June 11, 2009.

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

This amendment shall become effective on August 5, 2009.

The following amendment is adopted.

Amend subrule 4.31(2) as follows:

4.31(2) Sanction. Reasonable monetary sanctions may be imposed for violation of these rules. The amount of the sanction approved by the board of regents, state of Iowa, is as follows:

Offenses	Sanctions for Each Offense
Altering, forging or counterfeiting any parking permit (4.30(5))	\$80 <u>\$150</u>
Unauthorized possession and use of a parking permit (4.30(5))	\$80 <u>\$150</u>
Failure to comply with signs regulating campus traffic flow (4.27(262))	\$30
Driving on campus walks or lawns (4.27(6), 4.27(8))	\$30
Driving on closed streets (4.27(3))	\$30
Driving on bike paths (4.27(7))	\$30

REGENTS BOARD[681](cont'd)

Offenses	Sanctions for Each Offense
Access to restricted areas by means other than established gate openings (4.29(5))	\$30
Moving or driving around a barricade (4.29(5))	\$30
Improper use of gate card (4.29(262))	\$20
Illegal parking (4.29(7))	\$15 <u>\$30</u>
Improper parking (4.29(7))	\$15
Overtime parking at meters (4.29(2))	\$7.50 <u>\$10</u>
Parking without an appropriate permit in a reserved lot or space (4.29(262))	\$25
Improper affixing or failure to display a permit (4.28(262))	\$5
Failure to purchase a parking receipt (4.29(2))	\$7.50 <u>\$10</u>
Improper parking in a space or stall designated for persons with disabilities (4.29(262), 4.30(4))	\$100
Failure to display a current bicycle registration (4.28(4))	\$5
Bicycle improperly parked (4.29(9))	\$7.50
Improper use of roller skates, roller blades or skateboard (4.27(9))	\$25
All other violations	\$15

Violations that continue for more than one hour may receive additional sanctions.

Sanctions may be assessed against the owner or operator of the vehicle involved in each violation or against any person in whose name the vehicle is registered or parking privileges have been granted and may be charged to the violator's university account. Sanctions may be added to student tuition bills or may be deducted from student deposits or from the salaries or wages of employees or from other funds in the possession of the university.

[Filed 6/11/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7901B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on June 10, 2009, adopted an amendment to Chapter 529, "For-Hire Interstate Motor Carrier Authority," Iowa Administrative Code.

Notice of Intended Action for this amendment was published in the April 22, 2009, Iowa Administrative Bulletin as **ARC 7716B**.

Because the Code of Federal Regulations (CFR) was updated in October 2008, the Department must cite the current version in the administrative rules. No changes to 49 CFR Parts 365-368 and 370-379 have occurred.

This amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapter 327B.

This amendment will become effective August 5, 2009.

Rule-making action:

TRANSPORTATION DEPARTMENT[761](cont'd)

Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2007~~ 2008, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at <http://www.fmcsa.dot.gov>.

[Filed 6/11/09, effective 8/5/09]

[Published 7/1/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/09.

ARC 7902B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on June 10, 2009, adopted amendments to Chapter 601, "Application for License," Chapter 602, "Classes of Driver's Licenses," Chapter 604, "License Examination," Chapter 605, "License Issuance," Chapter 607, "Commercial Driver Licensing," Chapter 610, "Release of Computerized Driver's License and Nonoperator's Identification Card Records," Chapter 611, "Driver's Privacy Protection—Driver's License and Nonoperator's Identification Card," Chapter 615, "Sanctions," and Chapter 640, "Financial Responsibility," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the April 22, 2009, Iowa Administrative Bulletin as **ARC 7721B**.

Item 1 changes one of the acceptable social security number verification documents allowed when a person applies for a new or duplicate driver's license or nonoperator's identification card. This amendment is consistent with the change in paragraph 601.5(2)"b" in Item 2. Item 2 changes the acceptable primary and secondary documents needed to prove age and identity when a person applies for a new or duplicate driver's license or nonoperator's identification card. The changes in Item 2 assist in fraud prevention by eliminating the acceptance of out-of-state driver's licenses and IDs as primary proof of identity, although those may continue to be used as secondary proof. The changes in Item 2 also update terms used by the federal government for immigration status documents. Items 3, 4, 5 and 9 remove references to a marriage license. The Department will accept a marriage certificate as proof that the marriage actually occurred and the name has been legally changed. Items 6 to 8 change the rules concerning driving test requirements. The changes allow a person with an out-of-state driver's license expired less than one year to apply for an Iowa driver's license without taking the driving test. Currently, the rules require a person with an out-of-state driver's license to take a driving test when an out-of-state license has expired within the past six months. Item 10 changes the definition of "air brake system" on a commercial motor vehicle to establish conformity with federal guidelines. Item 11 updates the citation to 49 Code of Federal Regulations (CFR), Part 383. The amendments to 49 CFR, Part 383, Commercial Driver's License Standards; Requirements and Penalties, that have become final and effective since the 2004 edition of the CFR are listed in the information below. The parts affected are followed by Federal Register (FR) citations.

Part 383 (FR Vol. 71, No. 11, Page 2897, 1-18-06)

The Federal Motor Carrier Safety Administration (FMCSA) adopts as final and without change its interim regulations which implement Section 4140 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The regulations specify that a driver who passed FMCSA-approved knowledge and skills tests for a Commercial Driver's License (CDL) school bus endorsement before September 30, 2002, has met the requirements for a school bus endorsement.

TRANSPORTATION DEPARTMENT[761](cont'd)

Parts 350, 375, 383, 384, 385, 386, 390 and 395 (FR Vol. 72, No. 128, Page 36760, 7-5-07)

The FMCSA adopts as final certain regulations required by SAFETEA-LU. These regulations govern state compliance plans under the Motor Carrier Safety Assistance Program; withholding of federal-aid highway funds based on state noncompliance with the commercial driver's license program; intrastate operations of interstate motor carriers; civil penalties and disqualifications for violations of out-of-service orders; civil penalties for denial of access to records and property and for violations of statutes and regulations governing hazardous materials transportation; exemption from the federal hours-of-service regulations for operators of commercial motor vehicles engaged in certain defined operations; exemption of drivers of propane service or pipeline emergency vehicles during emergency conditions requiring immediate response; and interstate transportation of household goods.

Parts 365, 369, 381-393, 395 and 397 (FR Vol. 72, No. 189, Page 55697, 10-1-07)

The FMCSA adopts a final rule to make technical corrections throughout 49 Code of Federal Regulations Subtitle B, Chapter III. This rule does not make any substantive changes to the FMCSA regulations.

Item 12 adds new definitions to Chapter 610. Item 13 relates to certified driving records. Items 12 and 13 make changes to the terms used in Chapter 610 and require persons requesting a certified abstract of an operating record to complete a form and provide a legible photocopy of the person's driver's license or nonoperator's identification card to the Department. Item 14 amends the definition of "personal information" in Chapter 611. Item 15 corrects a form number. Items 16 to 18 make changes relating to 2008 Iowa Acts, chapter 1172, section 14 [Iowa Code section 272D.8] and require the Department to suspend a person's driver's license when noncompliance notification is received from the Iowa Department of Revenue. Items 19 and 21 allow SR-22 lift notices to indicate that future proof of insurance is on file with the state rather than list specific motor vehicle information. This change eliminates the need for customers to continually update their SR-22 lift documents each time they have a new SR-22 filing in regard to coverage for specific motor vehicles. Item 20 eliminates completion of a driver improvement interview when a driver who is subject to graduated driver licensing is convicted of a moving traffic violation or is involved in a contributive accident. However, a new rule is added to allow the Department to implement any or all of the following actions: suspension, safety advisory letter, additional restrictions, vision screening, knowledge examination or driving examination.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

One substantive change has been made to the amendments published under Notice of Intended Action. The Department received public comments concerning the proposed rescission of rule 761—610.3(321). This rule concerns copying files to computer tape cartridges. The Department has decided not to rescind this rule pending further investigation and study. In addition, a form name has been corrected.

These amendments are intended to implement Iowa Code chapters 272D, 321 and 321A.

These amendments will become effective August 5, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 601, 602, 604, 605, 607, 610, 611, 615, 640] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7721B**, IAB 4/22/09.

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[For replacement pages for IAC, see IAC Supplement 7/1/09.]