



# 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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### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2015

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
3	Friday, July 17, 2015	August 5, 2015
4	Friday, July 31, 2015	August 19, 2015
5	Friday, August 14, 2015	September 2, 2015

**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\*\*\***

**ACCOUNTANCY EXAMINING BOARD[193A]**

Updates related to Senate File 198; attest services; license renewal; mandatory disclosures; continuing education; resource updates, amendments to chs 1, 3, 5 to 8, 10, 11, 13, 14 IAB 7/8/15 <b>ARC 2058C</b>	Professional Licensing Bureau Offices 200 E. Grand Ave., Suite 350 Des Moines, Iowa	July 28, 2015 9 a.m.
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Authorized practice, expanded function procedures, and education and training for dental hygienists; update of bureau name, 10.3, 10.5 IAB 6/24/15 <b>ARC 2043C</b>	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	July 21, 2015 2 p.m.
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Concessions—Honey Creek Resort State Park exemption, 14.9 IAB 7/8/15 <b>ARC 2055C</b>	Conference Room 4 West Wallace State Office Bldg. Des Moines, Iowa	July 28, 2015 2 p.m.
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Electrician and electrical contractor licensing program; postsecondary electrical education programs; electrical inspection program and inspector qualifications, amendments to chs 501, 502, 505, 550 IAB 7/8/15 <b>ARC 2057C</b>	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	August 20, 2015 10 a.m.
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The following list will be updated as changes occur.

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

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

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

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## ARC 2058C

## ACCOUNTANCY EXAMINING BOARD[193A]

## 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 542.4, the Accountancy Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Definitions,” Chapter 3, “Certification of CPAs,” Chapter 5, “Licensure Status and Renewal of Certificates and Licenses,” Chapter 6, “Attest and Compilation Services,” Chapter 7, “Certified Public Accounting Firms,” Chapter 8, “Licensed Public Accounting Firms,” Chapter 10, “Continuing Education,” Chapter 11, “Peer Review,” Chapter 13, “Rules of Professional Ethics and Conduct,” and Chapter 14, “Disciplinary Authority and Grounds for Discipline,” Iowa Administrative Code.

The Governor signed 2015 Iowa Acts, Senate File 198, on March 31, 2015. Among other changes, this bill amends Iowa Code chapter 542, the Accountancy Examining Board’s enabling Act. The primary change in 2015 Iowa Acts, Senate File 198, that requires corresponding rule changes is the amendment to the definition of “report” and the associated changes to the breadth of the services that are included within the definition of “attest.”

The proposed amendments are, for the most part, technical in nature and will ensure that the rules mirror 2015 Iowa Acts, Senate File 198, which became effective July 1, 2015.

In addition, the proposed amendments to Chapter 1 align the definition of “audit” to correspond with the definition in the Uniform Accountancy Act model rule and rescind the definition of “ALD.” The proposed amendment to Chapter 3 updates resource information provided to the public. The proposed amendments to Chapter 5 update resource information provided to the public and remove outdated information. The proposed amendments to Chapter 6 correspond to 2015 Iowa Acts, Senate File 198. The proposed amendments to Chapter 7 correspond to 2015 Iowa Acts, Senate File 198, and remove mandatory disclosures that are no longer necessary. The proposed amendments to Chapter 8 remove mandatory disclosures that are no longer necessary. The proposed amendments to Chapter 10 clarify flexible continuing education deadlines. The proposed amendments to Chapter 11 correspond to 2015 Iowa Acts, Senate File 198. Several of the proposed amendments to Chapter 13 provide for flexible continuing education deadlines, and others correspond to 2015 Iowa Acts, Senate File 198. The proposed amendment to Chapter 14 corresponds to 2015 Iowa Acts, Senate File 198.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before July 28, 2015. Comments should be directed to Robert Lampe, Executive Officer, Iowa Accountancy Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to [robert.lampe@iowa.gov](mailto:robert.lampe@iowa.gov).

A public hearing will be held at 9 a.m. on July 28, 2015, at the offices of the Professional Licensing Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

There is no fiscal impact. No current fees are being changed, and no new fees are being imposed.

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

These amendments were approved by the Board on May 20, 2015.

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

These amendments are intended to implement Iowa Code chapter 542 as amended by 2015 Iowa Acts, Senate File 198.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

The following amendments are proposed.

ITEM 1. Rescind the definition of “ALD” in rule **193A—1.1(542)**.

ITEM 2. Amend rule **193A—1.1(542)**, definitions of “Audit” and “Report,” as follows:

*“Audit”* means ~~an examination of financial statements by a CPA, conducted in accordance with generally accepted auditing standards accompanied by the CPA’s opinion as to whether the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting~~ the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial or other information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or basis of accounting described in the report.

*“Report,”* when used with reference to ~~financial statements~~ any attest or compilation services, means a report, opinion, or other form of a writing that states or implies assurance as to the reliability of ~~any the attested information or compiled~~ financial statements and that includes or is accompanied by a statement or implication that the person or firm issuing the report has special knowledge or competence in accounting or auditing. Such statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. “Report” includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply a positive assurance as to the reliability of the ~~attested information or compiled~~ financial statements referred to or special knowledge or competence on the part of the person or firm issuing the language, and any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

ITEM 3. Amend rule 193A—3.2(542) as follows:

**193A—3.2(542) Colleges or universities recognized by the board.** Iowa Code section 542.5, in providing for educational qualifications for a certificate as a certified public accountant, refers to colleges or universities “recognized by the board.” For such purpose, the board recognizes educational institutions accredited by the ~~American Assembly of Collegiate Schools of Business Association~~ to Advance Collegiate Schools of Business and the regional accrediting bodies listed in the current publication of the Accredited Institutions of Post Secondary Education, which listing is made a part of these rules by reference.

This rule is intended to implement Iowa Code section 542.5.

ITEM 4. Amend subrule 5.1(6) as follows:

**5.1(6)** Exercising a practice privilege in Iowa or for a client with a home office in Iowa while holding an inactive or lapsed Iowa CPA certificate places a special burden on the individual to ensure that the public is informed about the individual’s licensure status in Iowa and in the jurisdiction of active licensure, as provided in 193A—paragraphs 20.8(2) “b” and 20.8(3) “b.” As a practical matter, an individual’s failure to clarify licensure status in Iowa and in the jurisdiction of the individual’s principal place of business may confuse the public. However, the public may consult ~~ALD CPAverify~~, a comprehensive national data bank, to verify an individual’s licensure in another jurisdiction. ~~ALD CPAverify~~ may be accessed at [www.NASBA.org](http://www.NASBA.org) [www.cpaverify.org](http://www.cpaverify.org). A client contacting the board or consulting the board’s Web site will be informed of the individual’s licensure status in Iowa ~~and in the individual’s jurisdiction of active licensure~~.

ITEM 5. Amend rule 193A—5.3(542), catchwords, as follows:

**193A—5.3(542) Renewal of license that expires on or after June 30, 2011 License renewal.**

ITEM 6. Amend subrule 5.3(1) as follows:

**5.3(1)** Licenses issued pursuant to Iowa Code section 542.6 (CPA certificates), 542.8 (LPA licenses), or 542.19 (CPA certificates by substantial equivalency) ~~that expire on June 30, 2011, and thereafter~~ shall be renewed on an annual basis, and shall expire on June 30 of each year. Licenses shall be renewed

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

through electronic on-line renewal, except that licensees who are ineligible to renew on line because they must disclose a criminal conviction or disciplinary order, or for other cause, shall renew upon forms that may be obtained from the board office or on the board's Web site. An annual renewal fee will be charged.

ITEM 7. Rescind subrule 5.3(2) and adopt the following **new** subrule in lieu thereof:

**5.3(2)** The board plans to develop a renewal process in which a firm permit to practice and the individual licenses associated with the firm may be renewed together. The board shall adopt rules governing the combined renewal process when further details are known and the technological means to implement the process are in place.

ITEM 8. Rescind subrules **5.3(3)** and **5.3(4)**.

ITEM 9. Amend subrule 6.1(3) as follows:

**6.1(3)** CPAs performing attest services, whether the CPAs are certified in Iowa or exercising a practice privilege, must do so in a CPA firm that holds a permit to practice pursuant to Iowa Code section 542.7. However, a CPA exercising a practice privilege who works for an out-of-state CPA firm that does not hold a permit to practice under Iowa Code section 542.7 may provide review services in Iowa or for a client with a home office in Iowa as long as the firm complies with Iowa Code section 542.20, subsections 5 and 6, as amended by 2012 Iowa Acts, Senate File 2122, and associated rules.

ITEM 10. Amend subrule 6.1(4) as follows:

**6.1(4)** CPAs who are responsible for supervising attest services for a CPA firm or who sign or authorize someone to sign the accountant's report ~~on the financial statements~~ on behalf of a CPA firm shall satisfy the experience or competency requirements established by nationally recognized professional standards that are applicable to the attest services performed and shall, at a minimum, satisfy the experience requirements of rule 193A—6.2(542).

ITEM 11. Amend subrule 6.2(1) as follows:

**6.2(1)** A CPA who is responsible for supervising attest services or who signs or authorizes someone to sign the accountant's report ~~on financial statements~~ on behalf of a firm shall have two years of full-time or part-time equivalent experience that extends over a period of no less than two years and includes no fewer than 4,000 hours, at least 2,000 of which shall be in providing attest services under the supervision of one or more CPAs responsible for supervising attest services on behalf of a CPA firm that holds a permit to practice in Iowa or an equivalent form of CPA firm licensure in another jurisdiction.

ITEM 12. Amend paragraph **6.2(2)“e”** as follows:

*e.* Experience in the preparation and analysis of reports and financial statements together with explanations and notes thereon.

ITEM 13. Rescind subrule **6.3(3)**.

ITEM 14. Renumber subrule **6.3(4)** as **6.3(3)**.

ITEM 15. Amend renumbered subrule 6.3(3) as follows:

**6.3(3)** ~~Beginning July 1, 2009, when the practice privilege provisions of Iowa Code chapter 542 become effective, attest qualification may be attained or established~~ CPAs who did not hold a permit to practice prior to July 1, 2002, may attain or establish attest qualification as follows:

*a.* Applicants may apply for attest qualification when initially applying for a certificate as an Iowa CPA under Iowa Code section 542.6; or when applying for reciprocal Iowa certification under Iowa Code section 542.19.

*b.* Iowa CPA certificate holders may apply for attest qualification at any time at which they are qualified to do so.

*c.* Out-of-state CPAs performing attest services while exercising a practice privilege under Iowa Code section 542.20 are not required to individually apply to the board for attest qualification, but the Iowa CPA firm in which such attest services are performed shall affirm when applying for an initial or renewal firm permit to practice that the CPAs who supervise attest services for the firm or who sign or authorize someone to sign the accountant's report ~~on the financial statements~~ on behalf of the firm, as

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

such attest services are or will in the following year be performed in Iowa or for a client with a home office in Iowa, have been qualified to perform attest services in Iowa or another jurisdiction.

ITEM 16. Amend paragraph **7.1(5)“c”** as follows:

*c.* Designate an Iowa CPA or person with a practice privilege under Iowa Code section 542.20 who is responsible for supervising attest services or who will sign or authorize someone to sign the accountant's report ~~on financial statements~~ on behalf of the firm, as such attest services will be performed in Iowa or for a client with a home office in Iowa; and

ITEM 17. Amend paragraph **7.2(3)“b”** as follows:

*b.* Based on the firm's failure to comply with the requirements of Iowa Code section 542.7 including, but not limited to, a failure to make the designations described in subrule 7.1(5) or a failure to sustain the simple majority of ownership required by Iowa Code section 542.7(3); or

ITEM 18. Adopt the following **new** paragraph **7.2(3)“c”**:

*c.* Based on a regulatory or disciplinary action or criminal conviction described in subrules 7.3(14) and 7.3(15) against any of the firm's licensed or unlicensed owners.

ITEM 19. Amend subrule 7.3(1) as follows:

**7.3(1)** The lawful name of the firm ~~and any trade or assumed names, or aliases the firm will use in Iowa or when communicating with Iowans.~~

ITEM 20. Amend subrule 7.3(3) as follows:

**7.3(3)** Contact information for the principal place of business of the firm and each Iowa office, ~~including name, physical address, mailing address, telephone number, facsimile number, E-mail address, and Web site address.~~

ITEM 21. Amend subrule 7.3(4) as follows:

**7.3(4)** All jurisdictions in which the firm is licensed or has applied for licensure, ~~all unexpired firm license numbers, and the expiration date of each license.~~

ITEM 22. Amend subrule 7.3(5) as follows:

**7.3(5)** The names, licensure, and contact information for all persons described in subrule 7.1(5), ~~including name, title, physical address, mailing address, telephone number, facsimile number, E-mail address, jurisdiction of the person's principal place of business, and the certificate number and expiration date of the certificate held in the person's principal place of business.~~

ITEM 23. Amend subrule 7.3(8) as follows:

**7.3(8)** ~~The identity of all owners (e.g., partners, shareholders, or members) of the firm who perform professional services in Iowa or for a client with a home office in Iowa, including sufficient~~ Sufficient information from which the board can determine that a simple majority of owners hold a CPA certificate under Iowa Code section 542.6 or 542.19 or hold a CPA certificate in another state and are eligible to exercise a practice privilege under Iowa Code section 542.20. ~~The board may modify this requirement on the application form as warranted to secure only the information the board deems reasonably needed and may accept an affirmation, subject to audit.~~ The board reserves the right to require at any time a full list of owners, or a targeted sublist, such as a list of those persons who perform services from an Iowa office or those who perform attest or compilation services in Iowa or for a client with a home office in Iowa.

ITEM 24. Amend subrule 7.3(9) as follows:

**7.3(9)** The affirmation described in 193A—~~paragraph 6.3(4)“e.”~~ 6.3(3)“c.”

ITEM 25. Amend subrule 7.3(10) as follows:

**7.3(10)** Affirmation that all CPAs who are responsible for supervising attest services for the CPA firm or who sign or authorize someone to sign the accountant's report ~~on the financial statements~~ on behalf of the CPA firm satisfy the experience or competency requirements established by nationally recognized professional standards that are applicable to the attest services performed in Iowa or for clients with a home office in Iowa.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 26. Rescind subrule **7.7(1)**.

ITEM 27. Renumber subrules **7.7(2)** to **7.7(5)** as **7.7(1)** to **7.7(4)**.

ITEM 28. Amend subrule 8.1(2) as follows:

**8.1(2)** The application may be obtained from the board office or on the board's Web site and shall ~~list the names of all licensed or unlicensed owners, provide sufficient information from which the board can determine that~~ a simple majority of ~~whom shall~~ owners hold licenses issued under Iowa Code section 542.8 or certificates issued under Iowa Code section 542.6 or 542.19, ~~be~~ are eligible to practice under practice privilege pursuant to Iowa Code section 542.20, or otherwise hold a license or certificate to practice public accounting in another state. At least one owner must be licensed under Iowa Code section 542.8.

ITEM 29. Amend subrule 8.1(3) as follows:

**8.1(3)** The application shall list the name, title, ~~physical address, mailing address, telephone number, facsimile number, E-mail address, jurisdiction(s) of individual licensure or certification, principal place of business, each license or certificate number, and the expiration date of each license or certificate of any licensure, and contact information for each licensee or practice privilege practitioner who is responsible for supervising compilation services and who signs or authorizes someone to sign the accountant's report on financial statements on behalf of the firm.~~ The application shall affirm that any licensee listed meets the competency requirements set forth in SSARS and holds a valid license or certificate issued under Iowa Code section 542.6, 542.8, or 542.19 or is eligible to exercise a practice privilege under Iowa Code section 542.20.

ITEM 30. Amend subrule 8.1(4) as follows:

**8.1(4)** The application shall list the physical location and contact information (~~telephone number, E-mail address, facsimile number, and Web site address~~) for all offices within this state and the licensee in charge of each such office. ~~For each such designated licensee, the jurisdiction(s) of licensure, license or certificate number, and expiration date of each license or certificate shall also be listed.~~

ITEM 31. Amend rule 193A—10.5(542) as follows:

**193A—10.5(542) Basic requirement.**

**10.5(1)** ~~During the three-year period ending on the December 31 preceding the July 1 renewal date of the certificate or license~~ Except as provided in subrules 10.5(2) to 10.5(7), an applicant for renewal shall have completed 120 hours of qualifying continuing professional education subject to the following exceptions: during the three-year period ending on the December 31 or June 30 preceding the July 1 renewal date of the certificate or license. The following conditions shall apply:

a. On each online or paper renewal, a CPA or LPA shall self-select December 31 or June 30 as the date by which continuing education requirements must be satisfied in order to be eligible to renew the certificate or license.

b. A CPA or LPA applying to renew a certificate or license may declare a continuing education deadline of December 31 in one renewal cycle and a continuing education deadline of June 30 in a subsequent renewal cycle, and vice versa.

c. Licensees shall maintain continuing education records in a manner that corresponds with the self-selected continuing education deadline of December 31 or June 30.

d. When declaring a June 30 continuing education deadline, licensees must be cautious to ensure that the continuing education is fully completed on or prior to the date the renewal application is submitted to the board.

e. Licensees who renew with penalty during the 30-day grace period following June 30 must declare either December 31 or June 30 as the continuing education deadline and may not extend the deadline beyond June 30.

~~**10.5(1)**~~ **10.5(2)** At the first annual renewal date of July 1 that is less than 12 months from the date of filing of the initial application for the certificate or license, the certificate holder or license holder shall not be required to report continuing professional education.

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

~~10.5(2)~~ **10.5(3)** At the annual renewal date of July 1 that is 12 months or more than 12 months, but less than 24 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder shall report 40 hours of continuing professional education earned in the one-year period ending December 31 or June 30 prior to the July 1 renewal date.

~~10.5(3)~~ **10.5(4)** At the annual renewal date of July 1 that is 24 months or more than 24 months, but less than 36 months, from the date of filing of the initial application for the certificate or license, the certificate holder or license holder shall report 80 hours of continuing professional education earned in the two-year period ending December 31 or June 30 prior to the July 1 renewal date.

~~10.5(4)~~ An applicant who wishes to restore a certificate or license to active status must meet the basic requirement of 120 hours of continuing professional education earned in the preceding three-year period prior to the date of application to restore active status.

**10.5(5)** A licensee shall be deemed to have complied with the requirements of this rule if, for the period that the licensee is a resident of another state or district having a continuing professional education requirement, the licensee met the resident state's mandatory requirement.

**10.5(6)** The board shall have authority to make exceptions for reasons of individual hardship including health, certified by a medical doctor, military service, foreign residency, retirement, or other good cause. No exceptions shall be made solely because of age. Applicants entitled to a full or partial exception under the provisions of Iowa Code section 272C.2, subsection 4, for active military service or government service outside of the United States may request an exception by submitting acceptable documentation as applicable to the exception requested. Applicants seeking an exception on other grounds of undue hardship must submit an application for waiver or variance as provided in 193—Chapter 5.

**10.5(7)** Licensees who apply to reinstate a lapsed or inactive certificate or license to active status pursuant to 193A—subrule 5.6(3) or 5.9(7) shall satisfy the basic requirement of 120 hours of continuing professional education earned in the preceding three-year period prior to the date of the application, including all required mandatory education described in rule 193A—10.7(542), ~~to reinstate on an annual renewal schedule, modified as needed to incorporate the phase-in schedule for initial licensees described in subrules 10.5(1) to 10.5(3).~~ Once the certificate or license is reinstated, the basic requirement shall apply at each subsequent renewal. The 120-hour requirement described in this subrule shall be modified as needed to incorporate the phase-in schedule for initial licensees described in subrules 10.5(2) to 10.5(4).

ITEM 32. Amend subrule 10.7(1) as follows:

**10.7(1)** Every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on the financial statements on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of eight hours of continuing professional education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates. When required, the financial statement presentation continuing education shall be completed within the three-year period ending on the December 31 or June 30 preceding the application for certificate or license renewal. For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.6(1) shall be devoted to financial statement presentation. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour shall be claimed toward meeting the requirement of this subrule.

ITEM 33. Amend subrule 10.7(2), introductory paragraph, as follows:

**10.7(2)** Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing education devoted to ethics and rules of professional conduct during the three-year period ending December 31 or June 30, prior to the July 1 annual renewal date. For a course to qualify to meet this requirement, the course description shall clearly outline the subject matter covered as professional or business ethics. If credit is to be claimed for a course covering multiple topics, a minimum of one hour as outlined in rule 193A—10.6(542), measurement standards, specifically in subrule 10.6(1), shall

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

be devoted to business or professional ethics. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to business or professional ethics, then only one hour shall be claimed toward meeting the requirement of this subrule. Ethics courses, which are defined as courses dealing with regulatory and behavioral ethics, shall be limited to courses on the following:

ITEM 34. Amend rule 193A—11.1(542) as follows:

**193A—11.1(542) Peer review required.** As a condition of renewal for a CPA or LPA who issues compilation reports other than through a CPA or LPA firm which holds a permit to practice, and as a condition of permit renewal for LPA firms which issue compilation reports or CPA firms which provide attest services or issue compilation reports, the applicant shall submit certification of completion of a peer review issued pursuant to this chapter. Such review shall be completed at the highest level of service provided by the firm or licensee. Preparation services under SSARS 21 do not require peer review.

ITEM 35. Amend rule 193A—11.3(542) as follows:

**193A—11.3(542) System of internal quality control.** If the firm has not ~~issued reports on financial statements performed any attest or compilation services~~ prior to the application for renewal, the firm shall have in place a system of internal quality control prior to the commencement of ~~a financial reporting an engagement;~~ including attest or compilation services and shall come into compliance with the peer review requirement within 18 months of completion of ~~a financial reporting an engagement including~~ attest or compilation services.

ITEM 36. Amend subrule 13.4(3) as follows:

**13.4(3) Engagement standards.** Unless they have complied with applicable generally accepted engagement standards, CPAs and LPAs shall not permit their names to be ~~associated~~ linked with ~~financial statements a report associated with any attest or compilation service.~~ The board will consider the American Institute of Certified Public Accountants Professional Standards, Public Company Accounting Oversight Board, International Accounting Standards Board, Statements on Auditing Standards, and Statements on Standards for Accounting and Review Services as sources of interpretations of generally accepted engagement standards.

ITEM 37. Amend subrule 13.4(5) as follows:

**13.4(5) Requirements of governmental bodies, commissions, or other regulatory agencies.**

a. Many governmental bodies, commissions, or other regulatory agencies have established requirements, such as audit standards, guides, rules and regulations, that CPAs are required to follow in preparation of reports, financial statements or related information, such as management's discussion or analysis, and in performing attest or similar services for entities subject to the jurisdiction of the governmental bodies, commissions, or regulatory agencies. For example, the Securities and Exchange Commission, Government Accountability Office, office of auditor of state, state insurance division and other regulatory agencies have established such requirements.

b. A CPA shall not prepare reports, financial statements or related information for the purposes of reporting to such bodies, commissions, or regulatory agencies, unless the CPA agrees to follow the requirements of such organizations in addition to generally accepted auditing standards, where applicable, unless the CPA discloses in the financial statements or the accountant's report that such requirements were not followed.

ITEM 38. Amend subrule 13.4(16) as follows:

**13.4(16) Accounting principles.** A CPA or LPA shall not state in the CPA's or LPA's report ~~on financial statements that the financial statements are or other information is~~ presented in conformity with generally accepted accounting principles if such ~~financial statements contain~~ report contains any departure from such accounting principles which has a material effect on the ~~financial statements report~~ taken as a whole, unless the CPA or LPA can demonstrate that by reason of unusual circumstances the ~~financial statements report~~ report would otherwise have been misleading. In such cases, the accountant's

## ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

report must describe the departure, the approximate effects thereof, if practicable, and the reasons why compliance with the principle(s) would result in a misleading statement. The board will consider the pronouncements issued by the Financial Accounting Standards Board and its predecessor entities as sources of interpretations of generally accepted accounting principles.

ITEM 39. Amend subrule 13.4(26) as follows:

**13.4(26) Mandatory ethics continuing professional education.** Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing professional education devoted to ethics and rules of professional conduct during the three-year period ending December 31 or June 30, prior to the July 1 annual renewal date. This requirement is more fully described in 193A—subrule 10.7(2).

ITEM 40. Amend subrule **13.6(1)**, definition of “Audit,” as follows:

*“Audit”* means ~~an examination of financial statements by a CPA, conducted in accordance with generally accepted auditing standards accompanied by the CPA’s opinion as to whether the statements conform with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting~~ the procedures performed in accordance with applicable auditing standards for the purpose of expressing or disclaiming an opinion on the fairness with which the historical financial or other information is presented in conformity with generally accepted accounting principles, another comprehensive basis of accounting, or basis of accounting described in the report.

ITEM 41. Amend subrule 13.6(2) as follows:

**13.6(2) Practice privilege.** All audit, review, and other attest services performed in Iowa or for a client with a home office in Iowa must be performed through a CPA firm that holds an active Iowa firm permit to practice; provided that, an out-of-state CPA firm exercising a practice privilege may perform review services in Iowa or for a client with a home office in Iowa without first obtaining a firm permit to practice in Iowa as long as the firm complies with Iowa Code section 542.20, subsections 5 and 6, ~~as amended by 2012 Iowa Acts, Senate File 2122~~, and associated rules. Unless Iowa certification is specifically required by a governmental body or client, the individual CPAs performing such attest services may either hold an active Iowa CPA certificate or exercise a practice privilege as more fully described in Iowa Code section 542.20 ~~as amended by 2012 Iowa Acts, Senate File 2122~~. LPAs and LPA firms are not authorized to perform attest services.

ITEM 42. Amend subrule 13.6(4), introductory paragraph, as follows:

**13.6(4) Independence.** A CPA or CPA firm shall not issue a report on ~~financial statements~~ of a client in such a manner as to imply that the CPA is acting as an independent public accountant with respect thereto unless the CPA is independent with respect to such client. Independence will be considered to be impaired if, for example:

ITEM 43. Amend paragraph **13.6(4)“b,”** introductory paragraph, as follows:

*b.* During the period covered by the ~~financial statements reports~~, during the period of the professional engagement, or at the time of expressing an opinion, the licensee:

ITEM 44. Amend paragraph **14.3(5)“d”** as follows:

*d.* Performing attest services as a firm without holding a permit to practice pursuant to Iowa Code section 542.7, or without ensuring that the individuals responsible for supervising attest services or signing or authorizing someone to sign the accountant’s report on ~~financial statements~~ are attest qualified, hold the required certification or are eligible to exercise a practice privilege, or otherwise performing attest services in a manner inconsistent with Iowa Code chapter 542 and 193A—Chapters 6 and 7.

**ARC 2055C****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)“a,” 456A.24(7), 461A.4(2) and 463C.17, the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 14, “Concessions,” Iowa Administrative Code.

The purpose of this amendment is to exempt the future management of Honey Creek Resort State Park (HCR), likely to be provided through third-party concession operators, from existing concession rules found in Chapter 14. HCR’s management shall be governed by competitively bid contracts. This is consistent with Iowa Code section 461A.4(2), the statute pertaining to concessions, and will provide a commercial enterprise more flexibility in managing HCR in a profitable and sustainable manner.

This exemption will serve the state in two ways: First, the Department of Natural Resources (DNR) believes this approach will allow a commercial enterprise more flexibility in managing HCR in a profitable and sustainable manner. This approach will support the economic base of the region and communities surrounding HCR. Second, this approach will ensure that a valuable state resource is maintained with minimal public financial and administrative resources. Both the National Park Service and many state park systems, including those in South Dakota and Ohio, use a broader concession authority to manage their hospitality operations in parks.

Current concession rules are geared more toward small concessionaires, such as individuals selling firewood and vending machine food or operating a singular facility in the park, such as a restaurant. Current rules limit a concessionaire in its operations, including the length of contract (five-year maximum), its ability to construct new facilities, and its ability to hire subcontractors. Under the proposed rule, HCR’s management would be exempt from the concession rules and would instead be governed by competitively bid contracts, consistent with Iowa Code section 461A.4(2).

Any person may submit written suggestions or comments on the proposed amendment on or before July 28, 2015. Such written materials should be submitted to Sherry Arntzen, State Parks Bureau, Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)725-8201; or by e-mail to [Sherry.Arntzen@dnr.iowa.gov](mailto:Sherry.Arntzen@dnr.iowa.gov). Persons who wish to convey their views orally should contact Sherry Arntzen at (515)725-8486 or at the State Park Bureau offices on the fourth floor of the Wallace State Office Building in Des Moines, Iowa.

There will be a public hearing on July 28, 2015, at 2 p.m. in the Wallace State Office Building, Conference Room 4 West, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

After analysis and review of this rule making, the proposed amendment may have a positive impact on jobs. HCR currently employs 120 to 180 staff (staff numbers vary between summer and winter). There are 20 full-time, salaried department managers, approximately 100 part-time/full-time staff, and approximately 60 seasonal staff. Although future concession management strategies are unknown, it is unlikely staff requirements would fall below these numbers due to the size of the resort and the amenities currently offered. In fact, DNR assumes that a future operator would retain much of the line management and staff to ensure continuity of operations, thereby preserving the employment of local residents. It is

## NATURAL RESOURCE COMMISSION[571](cont'd)

more likely that staffing numbers would increase as the resort expands and diversifies its services, which is what the Commission expects of a concession operator.

This amendment is intended to implement Iowa Code sections 461A.4(2), 463C.17, and 456A.24(7). The following amendment is proposed.

Adopt the following new rule 571—14.9(456A,461A,463C):

**571—14.9(456A,461A,463C) Honey Creek Resort State Park exemption.** The rules in this chapter do not apply to Honey Creek Resort State Park.

**ARC 2057C****PUBLIC SAFETY DEPARTMENT[661]****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 103.6, the Electrical Examining Board hereby gives Notice of Intended Action to amend Chapter 501, “Electrician and Electrical Contractor Licensing Program—Administrative Procedures,” Chapter 502, “Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees,” Chapter 505, “Electrician and Electrical Contractor Licensing Program—Education,” and Chapter 550, “Electrical Inspection Program—Organization and Administration,” Iowa Administrative Code.

Iowa Code chapter 103 establishes the Iowa Electrician and Electrical Contractor Licensing Program and creates the Electrical Examining Board with authority to adopt rules that establish standards for the safety of electrical work and that govern all aspects of the licensing of electricians and electrical contractors and of the electrical inspection program.

Amendments to Chapters 501 and 502

The proposed amendments to Chapters 501 and 502 establish procedures for the issuance of licenses to master electricians licensed in states which have entered into reciprocal licensing agreements with the Board, establish procedures for the refunding of licensing fees, and correct, through the rescission of subrule 501.5(2), the mailing address of the Board for submitting requests for waivers of administrative rules to the Board.

Amendments to Chapter 505

The proposed amendments to Chapter 505 update rules regarding postsecondary education requirements, clarify requirements for qualification for a journeyman license, and set requirements for qualification for a residential electrician license.

The postsecondary electrical education program established by the Board is designed to provide quality educational opportunities and on-the-job experience for persons with an interest in and an aptitude for electrical work. The structure of the Iowa statute allows the Board to provide three alternative methods for persons to qualify for licensing: (1) a certified apprenticeship program; (2) documented on-the-job training; and (3) postsecondary educational programs. These alternatives accommodate the needs of a variety of persons. Certified apprenticeship programs are not always available to every interested person in Iowa, and for some individuals, a community college-based educational program is the most accessible and affordable alternative. The Board has worked with Iowa community colleges to develop successful programs that combine academic and practical training for persons who seek journeyman electrician training. The community colleges now have the capacity to provide similar programs for residential electricians.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Having these community college-based programs for both journeyman and residential electrician training helps to keep Iowa competitive with other states offering similar programs and facilitates opportunities for stable, well-paid jobs for properly trained electricians.

Amendments to Chapter 550

The proposed amendments to Chapter 550 update rules regarding the organization's reporting structure and the electrical inspection programs operated by political subdivisions to clarify requirements for certification of electrical inspectors.

The organization of the State Fire Marshal's office has changed since the rules in Chapter 550 were initially implemented, and the proposed amendments to rules 661—550.1(103) and 661—550.3(103) reflect a more streamlined organization within the State Fire Marshal's office.

The certification standards for political subdivisions established by the Board are designed to implement specific guidance on the type of certification required to comply with Iowa Code section 103.24(1)“b.” The proposed amendments to rule 661—550.4(103) provide uniformity throughout the state regarding electrical inspections, while providing cities and counties the flexibility allowed by law.

Within the electrical trade, there are two primary sources for certification of residential and commercial electrical inspectors: the International Association of Electrical Inspectors and the International Code Council. The standards for both associations are similar, and both inspector certification programs are designed to ensure that inspectors are properly trained to identify deficiencies that may affect public safety and welfare.

Iowa Code chapter 103 provides for the gradual implementation of licensing and certification requirements, including requirements for political subdivisions to comply with statewide standards for certification of inspectors as of January 1, 2014. The proposed amendments to rule 661—550.4(103) implement uniform standards across the state for all electrical inspectors, as provided in Iowa Code sections 103.24 and 103.29.

Before initiating the proposed amendments to rule 661—550.4(103), the Board surveyed municipalities in Iowa to determine how many currently engage in inspections, how many have certified inspectors, and how many planned to continue their own inspection programs after January 1, 2014. Of the 49 municipalities that reported that they currently provide their own electrical inspections, about half already certify their inspectors, and nearly every municipality had plans to require certification or were exploring how to obtain certification for their electrical inspectors.

Although state inspectors are required to obtain certification to conduct both residential and master (or residential and commercial) inspections, rule 661—550.4(103) as amended herein would allow a city or county to limit its inspectors' duties. Thus, if a local inspector's duties are limited to only residential inspections or only commercial inspections, it is necessary for the local inspector to obtain certification for only those limited duties. This approach provides flexibility to the city or county and its employees, while also protecting public safety.

A public hearing on these proposed amendments will be held on August 20, 2015, at 10 a.m. in the first floor public conference room (Room 125) of the Oran Pape State Office Building, 215 East 7th Street, Des Moines, Iowa. Persons may present their views orally or in writing at the public hearing.

In addition, any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail to Agency Rules Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) by 4:30 p.m. on August 19, 2015.

Any fiscal impact is expected to be minimal and less than \$100,000 annually or \$500,000 during the next five years.

Rules of the Electrical Examining Board are subject to the waiver provisions of rule 661—501.5(103). The Board does not have authority to waive requirements established by statute.

Electrical demands continue to increase as advances in technology require more electrical wiring, and more complex electrical wiring, to meet changing needs. Proper electrical wiring is essential to public safety, as well as resource efficiency. The Bureau of Labor Statistics estimated a 23 percent growth rate for electricians between 2010 and 2020, faster than the national average for all occupations. Additionally, the occupational employment statistics (OES) wage survey shows that Iowa electricians have an average

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

annual income of \$46,980, which is higher than the average for all occupations. National statistics provide similar conclusions about electricians across the United States. Proper educational preparation allows graduates the opportunity to obtain jobs that pay well and helps to improve public safety.

A strong economy that results in increased construction means an increased demand for qualified electrical contractors and electricians, from Iowa and from other states, and also increases the demand for certified electrical inspectors who can ensure the safety of Iowans.

United States Census data show that Iowa suffered less and has recovered faster than its neighboring states during the latest recessionary period. Similarly, Associated General Contractors of America data also show that Iowa's economic recovery has occurred faster than the national average. In fact, construction employment in Iowa rose 7 percent from 2008 to 2012, in comparison to the national average of just 1.3 percent, and Iowa ranked fourth out of 51 jurisdictions in its construction employment numbers. Given Iowa's economic edge in recovering from the recessionary period in 2008 to 2010, it is not surprising that measures of both residential and nonresidential construction are stronger in Iowa in comparison to its neighbors.

In addition, this rule making provides for uniform inspection standards throughout the state. New construction and improvements in existing infrastructure may place increased demands on local resources. Providing uniform standards for electrical inspection translates into uniform business expectations for the construction industry, the insurance industry, and the utilities that provide power to all Iowa communities. Certified inspectors can increase public safety and reduce costs associated with dangerous electrical wiring.

Finally, the recent initiatives to attract returning veterans to Iowa may mean that more veterans will be eligible for jobs as electricians in Iowa if they receive appropriate training or if reciprocity agreements are in place. Some veterans may have educational benefits that could be used for postsecondary education to become licensed electricians. These veterans could benefit from the increasing number of such programs in Iowa, and the state can benefit from the experience of veterans who choose to live and work in Iowa. In addition, the proposed amendments may mean that more veterans will be eligible for jobs as certified electrical inspectors in Iowa municipalities. Recently adopted rules better accommodate the training and experience of veterans who conducted electrical work during their military service. The military training and experience may allow veterans to work as inspectors in Iowa's municipalities.

In summary, after analysis and review of this rule making, a positive impact on jobs is anticipated. This rule making lessens the burden for electricians to enter into Iowa's market. Further, this rule making should allow Iowans to obtain business in other markets. The Board will continue to work with stakeholders to maximize this rule making's positive impact on jobs.

These amendments are intended to implement Iowa Code sections 103.6, 103.12, 103.12A, 103.21, 103.24 and 103.29.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **501.5(2)**.

ITEM 2. Amend subrule 502.2(14), introductory paragraph, as follows:

**502.2(14)** Reciprocal journeyman licensing. A journeyman class A license may be issued, without examination, to a person who holds a license from another state provided that:

ITEM 3. Adopt the following new subrule 502.2(15):

**502.2(15)** Reciprocal master licensing. A master class A license may be issued, without examination, to a person who holds an equivalent license from another state provided that:

*a.* The board has entered into an agreement with the other state providing for reciprocal issuance of licenses and that the agreement recognizes the equivalency of the examination required for the license issued by the other state and the examination required for the Iowa license to be issued; and

*b.* The applicant has successfully completed a supervised written examination approved by the other state, with a score of 75 or higher, in order to obtain the license from the other state; and

*c.* The applicant holds an applicable license from the other state at the time the application for an Iowa license is filed and has held the applicable license from the other state continuously for one year at the time the application for an Iowa license is filed; and

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

- d.* The applicant has submitted:
- (1) A completed application for the Iowa license;
  - (2) A copy of the applicable license from the other state, clearly showing the license number and any other identifying information;
  - (3) The applicable fee;
  - (4) Any other information required by the board, which may include, but is not limited to, additional evidence that the person's license from the other state is currently valid; and
- e.* The applicant has either:
- (1) Completed an approved apprenticeship program; or
  - (2) Completed 16,000 hours of electrical work as an electrician licensed by the other state, documented by a sworn affidavit signed by the applicant.

ITEM 4. Adopt the following **new** subrule 502.3(6):

**502.3(6)** Refunds of license fees shall be made under the following circumstances:

- a.* If an error on the part of the staff or the applicant or licensee has resulted in an overpayment of fees, the refund shall be in the amount of overpayment and shall be made if the overpayment is discovered by staff of the board or if the overpayment is discovered by the applicant or licensee and the applicant or licensee requests a refund.
- b.* If an applicant for an initial license or a renewal license dies prior to the effective date of a license for which the applicant has applied and paid the applicable fee, the license fee shall be refunded to the estate of the applicant upon receipt of a request from the estate of the applicant, accompanied by a certified copy of the death certificate.

ITEM 5. Amend rule 661—505.101(103) as follows:

**661—505.101(103) Program approval.**

**505.101(1)** ~~Any~~ Pursuant to Iowa Code sections 103.12 and 103.12A, an educational institution that plans to offer a postsecondary electrical education program to prepare students to be licensed by the board shall seek approval for the program before students participate in the program. Separate approval is required for a journeyman electrician program and for a residential electrician program.

**505.101(2)** ~~The educational institution shall submit an application to the board office on a form specified by the board. Only applications from institutions which are~~ An educational institution that submits an application must provide certification that the institution is currently accredited by a recognized regional or national educational accrediting organizations shall be approved organization.

**505.101(2)** ~~For any postsecondary electrical education program for which approval is sought on or after September 1, 2011, approval by the board shall be obtained prior to student participation in the postsecondary electrical education program.~~

**505.101(3)** ~~An educational institution seeking initial approval of a journeyman electrician program or a residential electrician program must submit an application for initial approval of a postsecondary electrical education program shall be submitted to the board not less than 120 at least 60 days prior to student participation in the program.~~

**505.101(4)** ~~Approval of a postsecondary electrical education program is normally for five years, although approval may be withdrawn for cause prior to the expiration of the five-year period. The board shall set times for periodic review of approved programs and shall develop policies that address the following:~~

- a.* Requirements for the submission of applications.
- b.* Standards required for program approval.
- c.* Standards for withdrawal of approval or discontinuation of an approved program.
- d.* Standards for educational content and class attendance, qualifications for instructors, documentation and reporting required to establish compliance with program requirements, and specification of degrees or diplomas awarded.

**505.101(5)** ~~Applications for renewal of approval of postsecondary electrical education programs shall be submitted to the board at least 120 days prior to the expiration of the five-year approval period.~~

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

~~505.101(6)~~ **505.101(5)** Information regarding approved postsecondary electrical education programs may be obtained by contacting the board office. A list of approved postsecondary electrical education programs and other information about postsecondary electrical education programs shall be posted on the board's Web site.

ITEM 6. Amend rule 661—505.102(103) as follows:

**661—505.102(103) Standards for postsecondary electrical education programs.** ~~A postsecondary electrical education program shall not be approved unless it meets all of the following requirements: Policies developed by the board shall meet the following minimum standards:~~

~~505.102(1)~~ **505.102(1)** ~~The~~ A postsecondary electrical education program shall include coverage of subject matter areas listed in the document “Required Subjects for Postsecondary Electrical Education Programs,” approved and published by the board and available on request from the board office and from the board Web site. Included in addition to Every approved postsecondary electrical education program must include the technical electrical subjects shall be set out in the policy, which must include at least 4 hours of instruction on the Iowa electrical statute, Iowa Code chapter 103, with a minimum of 1 hour on Iowa electrical licensing requirements.

~~505.102(2)~~ **505.102(2)** ~~Completion of the course of study shall require a minimum of 2,000 contact hours between the student and instructors, of which a minimum of 1,600 hours shall cover technical-electrical subjects. Between 30 and 40 percent of the 2,000 hours shall be lecture hours, and the balance shall be laboratory or shop hours. Approved postsecondary electrical education programs must include a minimum number of contact hours, as specified in the policy adopted by the board. Each approved program must establish attendance policies that are specified in the policy adopted by the board. Each approved program must include 30 to 40 percent of contact hours that involve lecture, and the remaining hours must be laboratory or shop hours. In addition to completing the contact hours, each student must complete the specified number of hours of on-the-job training before the student is permitted to take the licensing examination.~~

~~505.102(3)~~ **505.102(3)** ~~The program shall have an attendance policy which requires that a student attend at least 95 percent of each required program course to receive credit for the course. A postsecondary electrical education program for a journeyman electrician license shall include at least 2000 hours of instruction, and the student must complete at least 6000 hours of on-the-job training before the student can become eligible to take the journeyman electrician examination. A postsecondary electrical education program for a residential electrician license shall include at least 1000 hours of instruction, and the student must complete at least 4000 hours of on-the-job training before the student can become eligible to take the residential electrician examination.~~

~~505.102(4)~~ **505.102(4)** ~~Each instructor shall possess one of the following qualifications: The board shall establish in its policy the minimum qualifications for instructors in a postsecondary electrical education program, which shall include:~~

~~a. Hold a current license as a class A master electrician or class A journeyman electrician issued by the board; or Current licensing as an electrician, as set out in the board's policy; and~~

~~b. Hold a bachelor of science degree or equivalent or higher degree in electrical engineering and have completed 4,000 hours of experience performing electrical work; or Compliance with standards set by the Iowa department of education for an instructor at a community college.~~

~~c. Hold an associate of applied science or equivalent or higher degree in electrical construction or maintenance or both and have completed 8,000 hours of experience performing electrical work.~~

~~505.102(5)~~ **505.102(5)** ~~For each course limited to a specialized technical or general education area, the instructor shall possess evidence of related specialized technical knowledge, including completion of training, certification, or accreditation in the specialized subject matter.~~

ITEM 7. Amend rule 661—550.1(103) as follows:

**661—550.1(103) Electrical inspection program.** The electrical inspection program is created as a section within the building code bureau in the fire marshal division of the department of public safety.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

The program is under the ~~general~~ supervision of the state fire marshal ~~and the direct supervision of the building code commissioner~~, and shall be headed by a chief electrical inspector. The program shall enforce requirements for electrical installations adopted by the electrical examining board in 661—Chapter 504.

ITEM 8. Amend rule 661—550.3(103) as follows:

**661—550.3(103) Organization.** The electrical inspection section shall be headed by a chief electrical inspector. Reporting directly to the chief electrical inspector shall be electrical inspector supervisors, each of whom shall head a unit which shall include a number of electrical inspectors assigned by ~~the building code commissioner and~~ the chief electrical inspector. Each unit supervisor may designate electrical inspectors as lead workers with the approval of the chief electrical inspector and consistent with any applicable rules of the department of administrative services.

ITEM 9. Amend rule 661—550.4(103) as follows:

**661—550.4(103) Qualifications of inspectors.**

**550.4(1) State inspectors.** Electrical inspectors, electrical inspector supervisors, and the chief electrical inspector shall be certified as commercial and residential electrical inspectors no later than one year after starting employment in any of these positions.

*a. Certification as inspector.* Certification shall be obtained from the International Association of Electrical Inspectors, P.O. Box 830848, Richardson, TX 75080-0848, as both a certified electrical inspector—residential and as a certified electrical inspector—master; or from the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, as both a residential electrical inspector and a commercial electrical inspector.

*b. Other job requirements.* Each of the persons employed in these classifications shall also meet any requirements established by the department of administrative services, human resource enterprise, for the job classification in which the person is employed.

**550.4(2) Political subdivision inspectors.** A political subdivision that chooses to perform its own inspections on or after January 1, 2014, must require certification of its inspectors as provided in Iowa Code section 103.29.

*a. Certification as inspector.* A person who is employed or appointed as an electrical inspector for a political subdivision on or before January 1, 2014, must obtain certification on or before January 1, 2015. A person employed or appointed as an electrical inspector after January 1, 2014, must obtain certification within one year of the appointment date. The board may take action to enforce statutory compliance by the individual or by the political subdivision if a person employed or appointed as an inspector fails to obtain certification within one year of employment or appointment or fails to maintain the required certification while employed as an inspector.

*b. Certification requirements.* Certification of electrical inspectors for political subdivisions shall be obtained from the International Association of Electrical Inspectors as a certified electrical inspector—residential or as a certified electrical inspector—master or both or from the International Code Council as a residential electrical inspector or a commercial electrical inspector or both.

*c. Inspections.* A political subdivision has the authority to limit an inspector's duties to only residential inspections or only commercial inspections, so long as the inspector assigned to those duties obtains and maintains the proper certification to conduct the inspections assigned.

*d. Other job requirements.* The political subdivision may impose other job requirements consistent with the law and the needs of that political subdivision.

## 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:

## USURY(cont'd)

July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%
September 1, 2014 — September 30, 2014	4.50%
October 1, 2014 — October 31, 2014	4.50%
November 1, 2014 — November 30, 2014	4.50%
December 1, 2014 — December 31, 2014	4.25%
January 1, 2015 — January 31, 2015	4.25%
February 1, 2015 — February 28, 2015	4.25%
March 1, 2015 — March 31, 2015	4.00%
April 1, 2015 — April 30, 2015	4.00%
May 1, 2015 — May 31, 2015	4.00%
June 1, 2015 — June 30, 2015	4.00%
July 1, 2015 — July 31, 2015	4.25%

## ARC 2050C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments are in direct response to requirements from the Centers for Medicare and Medicaid Services (CMS) for the intellectual disability (ID) and brain injury (BI) waivers. These amendments address three issues:

- The amendments remove transportation to medical appointments from the home- and community-based services (HCBS) waiver transportation service description and clarify the use of transportation when provided as part of the supported community living (SCL) service in the ID and BI waivers.
- The amendments remove a “related condition” as a basis of eligibility for residential-based supported community living (RBSCL) services under the ID waiver. No children have accessed these services within the “related condition” diagnostic category.
- The amendments change the definition of “intellectual disability” to the updated definition found in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).

These amendments also update the BI waiver SCL service to be the same as the ID waiver SCL service that allows transportation to and from work or day programs to be an SCL service component.

During the ID and BI waiver application renewal review, CMS indicated that the state may no longer provide transportation to medical appointments for HCBS waiver members through the HCBS waiver transportation service. CMS identified that medical transportation may not be provided to HCBS members as part of the supported community living service within the ID and BI waivers. Transportation provided through the HCBS waiver programs may include only nonmedical transportation. All nonemergency medical transportation (NEMT) must be provided through the state plan NEMT program.

As part of the renewal review, CMS also identified that the state may not include a related condition as a basis of eligibility only for RBSCL services under the ID waiver. Eligibility for the ID waiver must be the same for all services within the waiver. Eligibility cannot be based on a related condition only for the RBSCL service.

The definition of an intellectual disability has changed with the most recent DSM-5 edition. These amendments update the current DSM-IV definition of “intellectual disability” for use in the ID waiver. Changes to the rules reflect the DSM-5 criteria and the developmental time periods for making the diagnosis. The time line for having current psychological documentation is changed for consistency with recertification requirements.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1982C** on April 29, 2015. The Department received no comments during the comment period. The only change from the Notice is the addition of “level of” in the phrase “level of severity” in the last row of the table in paragraph 83.61(1)“a.”

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 should be made effective July 1, 2015. The normal effective date can be waived since these amendments confer a benefit on the public by ensuring that state regulations remain in compliance with federal regulations and in accordance with federal law. CMS in a recent audit identified that medical transportation may not be provided to HCBS members as part of the supported community living service within the ID and BI waivers. Transportation provided through the HCBS waiver programs may include only nonmedical transportation. All NEMT must be provided through the state plan NEMT program.

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

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

## HUMAN SERVICES DEPARTMENT[441](cont'd)

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

These amendments became effective July 1, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 78.37(11) as follows:

**78.37(11) Transportation.** Transportation services may be provided for members to conduct business errands and essential shopping, ~~to receive medical services when not reimbursed through nonemergency medical transportation,~~ and to reduce social isolation. A unit of service is one mile of transportation or one one-way trip.

ITEM 2. Amend subparagraph **78.41(1)“a”(5)** as follows:

(5) Transportation services are activities and expenditures designed to assist the member to travel from one place to another to obtain services or carry out life's activities. The services exclude transportation provided as nonemergency medical transportation pursuant to rule 441—78.13(249A).

ITEM 3. Amend subrule 78.41(11) as follows:

**78.41(11) Transportation.** Transportation services may be provided for members to conduct business errands and essential shopping, ~~to receive medical services when not reimbursed through nonemergency medical transportation,~~ to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation or one one-way trip. Transportation may not be reimbursed simultaneously with HCBS intellectual disability waiver supported community living service when the transportation costs are included within the supported community living reimbursement rate.

ITEM 4. Amend subparagraph **78.43(2)“a”(5)** as follows:

(5) Transportation services are activities and expenditures designed to assist the member to travel from one place to another to obtain services or carry out life's activities. The service excludes services exclude transportation to and from work or day programs provided as nonemergency medical transportation pursuant to rule 441—78.13(249A).

ITEM 5. Amend subrule 78.43(7) as follows:

**78.43(7) Transportation.** Transportation services may be provided for members to conduct business errands and essential shopping, ~~to receive medical services when not reimbursed through nonemergency medical transportation,~~ to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation or one one-way trip. Transportation may not be reimbursed simultaneously with HCBS brain injury waiver supported community living service when the transportation costs are included within the supported community living reimbursement rate.

ITEM 6. Amend subrule 78.46(5) as follows:

**78.46(5) Transportation.** Transportation services may be provided for members to conduct business errands and essential shopping, ~~to receive medical services when not reimbursed through nonemergency medical transportation,~~ to travel to and from work or day programs, and to reduce social isolation. A unit of service is one mile of transportation or one one-way trip.

ITEM 7. Amend rule **441—83.60(249A)**, definition of “Intellectual disability,” as follows:

*“Intellectual disability”* means a diagnosis of ~~mental retardation~~ intellectual disability (intellectual developmental disorder), global developmental delay, or unspecified intellectual disability (intellectual developmental disorder) which shall be made only when the onset of the person's condition was ~~before the age of 18 years~~ during the developmental period and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. The diagnosis shall be made by a person who is a licensed psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills. ~~A~~ The diagnosis of ~~mental retardation~~ shall be made in accordance with the criteria provided in the Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth~~ Fifth Edition (DSM-5), ~~Text Revision~~, published by the American Psychiatric Association.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 8. Amend paragraph **83.61(1)“a”** as follows:

a. Have a diagnosis of ~~mental retardation or, for residential-based supported community living services only, be a person with a related condition~~ intellectual disability as defined in rule 441—83.60(249A). The diagnosis shall be initially established and recertified as follows:

Age	Initial application to HCBS intellectual disability waiver program	Recertification for persons with a diagnosis of moderate, severe or profound <del>mental retardation level of severity</del>	Recertification for persons with a diagnosis of mild or unspecified <del>mental retardation level of severity</del>
0 through 17 years	Psychological documentation within three years of the application date substantiating a diagnosis of <del>mental retardation or, for residential-based supported community living services, a diagnosis of a related condition</del> <u>intellectual disability</u> as defined in rule 441—83.60(249A)	After the initial psychological evaluation, substantiate a diagnosis of <del>mental retardation or, for residential-based supported community living services, a diagnosis of a related condition</del> <u>intellectual disability</u> as defined in rule 441—83.60(249A) every six years and when a significant change occurs	After the initial psychological evaluation, substantiate a diagnosis of <del>mental retardation or, for residential-based supported community living services, a diagnosis of a related condition</del> <u>intellectual disability</u> as defined in rule 441—83.60(249A) every three years and when a significant change occurs
18 through 21 years	<ul style="list-style-type: none"> <li>▪ Psychological documentation substantiating diagnosis of mental retardation within three years before the application date, or</li> <li>▪ Diagnosis of mental retardation made before age 18 and current psychological documentation substantiating a diagnosis of mental retardation</li> </ul>	Psychological documentation substantiating a diagnosis of <del>mental retardation</del> every ten years and whenever a significant change occurs	Psychological documentation substantiating a diagnosis of <del>mental retardation</del> every five years and whenever a significant change occurs
22 18 years and above	<del>Diagnosis made before age 18 and current</del> Current psychological documentation substantiating a diagnosis of <del>mental retardation</del> <u>intellectual disability</u> if the last testing date was (1) more than <del>five</del> <u>six</u> years ago for an applicant with a diagnosis of mild or unspecified <del>mental retardation severity</del> , or (2) more than ten years ago for an applicant with a diagnosis of moderate, severe or profound <del>mental retardation level of severity</del>	Psychological documentation substantiating a diagnosis of <del>mental retardation</del> <u>intellectual disability</u> made since the member reached <del>18</del> <u>22</u> years of age	Psychological documentation substantiating a diagnosis of <del>mental retardation</del> <u>intellectual disability</u> every six years and whenever a significant change occurs

[Filed Emergency After Notice 6/11/15, effective 7/1/15]

[Published 7/8/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/8/15.

## ARC 2056C

## CORRECTIONS DEPARTMENT[201]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 904.804, the Department of Corrections hereby amends Chapter 37, "Iowa State Industries," Iowa Administrative Code.

With these amendments, Iowa State Industries updates rules on routine matters such as addresses, hours of operation, and location of product catalogs. The amendments also clarify that products may be sold to contractors when the products will be sold to a public entity, adopt by reference the provisions of Department of Administrative Services' rules dealing with procurement of goods and services, and replace a defined term governing private sector employment of offenders. Revisions of cross references in Item 3 are based on amendments to the Department of Administrative Services' rules published in the Iowa Administrative Bulletin on June 10, 2015, as **ARC 2036C**.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on May 13, 2015, as **ARC 1990C**. A public hearing was held on June 2, 2015, from 11 a.m. to 1 p.m. in the Department of Corrections conference room. Several stakeholders attended the public hearing, and one written comment was received. Based on comments received at the public hearing, changes were made to the amendments published under Notice of Intended Action. In Item 1, new subrule 37.2(5) was expanded to include criteria that must be met in order for products to be sold to a general contractor on behalf of an authorized customer. In Item 5, the definition of "Wage range" was changed in subrule 37.9(1). Item 6 in the Notice, which proposed to amend rule 201—37.10(904), was not adopted.

These rules do not provide for waivers in specified situations. An agencywide waiver provision is provided in 201—Chapter 7.

These amendments were approved during the June 18, 2015, meeting of the Iowa Prison Industries Advisory Board.

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

These amendments are intended to implement Iowa Code section 904.804.

These amendments will become effective on August 12, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 37.2(5):

**37.2(5)** Iowa state industries may sell products to a general contractor when the products purchased will be sold to a public entity as provided in subrules 37.2(1) to 37.2(3). The public entity shall submit a written request to Iowa state industries specifying the products and quantities to be purchased. Such sales shall be limited to contractors involved in construction, renovation, and remodeling projects. Sales to a general contractor shall be approved by the Iowa prison industries advisory board.

ITEM 2. Rescind rules 201—37.3(904) and 201—37.4(904) and adopt the following **new** rules in lieu thereof:

**201—37.3(904) Catalogs.** Catalogs are available online at the Iowa state industries Internet home page <http://www.iaprisoinind.com>, or at the Iowa state industries showroom located at 1445 East Grand Avenue, Des Moines, Iowa 50316. Requests for mailed copies may be sent to the Iowa state industries showroom address.

**201—37.4(904) Offices.** The showroom and main office for Iowa state industries are located at 1445 East Grand Avenue, Des Moines, Iowa 50316; telephone (515)242-5778. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

ITEM 3. Amend rule 201—37.7(904) as follows:

**201—37.7(904) Procurement of goods and services.** The provisions of 11—Chapter 405 117 are hereby adopted by reference with the following amendments.

## CORRECTIONS DEPARTMENT[201](cont'd)

1. Strike “Department of Administrative Services” and insert in lieu thereof “Iowa State Industries” in all rules except rule ~~11—105.10(8A)~~ 11—117.11(8A), which pertains to procurement of information technology devices and services.

2. In lieu of the definitions of “Department” and “Director,” insert the following:

“Department” means the division of Iowa state industries.

“Director” means the director of the division of Iowa state industries or the director’s designee.

3. ~~Rules 11—105.6(8A), 11—105.13(8A), and 11—105.15(8A) are not adopted.~~ Rules 11—117.7(8A) and 11—117.15(8A) and subrule 117.4(3) are not adopted.

4. In lieu of the text of ~~11—subrule 105.14(1)~~ 117.14(1), insert the following: “Purchase of goods. An agency may acquire goods not otherwise available through a master agreement in accordance with the procurement threshold guidelines in ~~11—105.3(8A) subrule 117.5(3)~~ ”.”

5. In lieu of the text of rule ~~11—105.20(8A)~~ 117.20(8A), insert the following: “Appeal process. Vendors may appeal actions by Iowa state industries under these rules as follows:

“Step 1. Appeals shall be filed in writing to the Business Manager, Iowa State Industries, 406 North High Street, Anamosa, Iowa 52205, within ~~five~~ 5 working days of notification of the action being appealed. The appeal shall state the specific grounds upon which the vendor is challenging the action. The business manager, Iowa state industries, shall notify the vendor in writing of the decision within 10 working days.

“Step 2. If the appeal is not resolved, it may be further appealed by the vendor to the Director of Iowa State Industries, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ~~ten~~ 10 working days of the notification of the Step 1 appeal response. The director of Iowa state industries shall notify the vendor in writing of the decision within 15 working days.

“Step 3. An unresolved appeal to the Director of Iowa State Industries shall be referred to the Director of the Department of Corrections, Jessie Parker State Office Bldg., 510 East 12th Street, Des Moines, Iowa 50319, within ~~ten~~ 10 working days of the notification of the Step 2 appeal response. The director of the department of corrections shall notify the vendor in writing of the decision within 15 working days.”

This rule is intended to implement Iowa Code section 904.813.

ITEM 4. Amend subrule 37.8(1) as follows:

**37.8(1)** Rules of procedure. The seven-member prison industries advisory board is represented by five appointees of the governor, one appointee of the parole board, and one appointee of the director, department of corrections. The principal duties of the advisory board are to promulgate and adopt rules and to advise the director, Iowa state industries, regarding the management of Iowa state industries.

a. A quorum shall consist of five members.

b. When a quorum is present, a position is carried by a majority of the members of the board.

c. The board shall meet at least once per calendar quarter. The meetings will be held at the seat of government unless notification is given otherwise. Other meetings shall be held at the call of the chairperson or of any three members when necessary for the board to discharge its duties.

~~(1) The communications media shall be notified at least two weeks in advance of board meetings.~~

(1) Notice of the meetings shall be given pursuant to Iowa Code chapter 21.

(2) When it is necessary to hold an emergency meeting, the communications media shall be notified as far in advance of the meeting as time allows. The nature of the emergency shall be stated in the minutes.

d. Copies of the minutes are kept on file in the office of the director, Iowa state industries. Minutes are available from the director’s office to interested persons upon request. Organizations may request to be placed on a mailing list. Copies of administrative rules and other materials considered are made a part of the minutes by reference.

e. In cases not covered by these rules, Robert’s Rules of Order shall govern.

## CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 5. Amend rule 201—37.9(904) as follows:

**201—37.9(904) Private sector employment projects.**

**37.9(1) Definitions.**

“Advisory board” means the prison industries advisory board.

“Deputy director of prison industries” means the department of corrections deputy director responsible for the day-to-day operations of prison industries including private sector individuals.

“Director” means the chief executive officer of the department of corrections.

“Wage range” means the wage paid that is commensurate to wages paid to persons in similar jobs outside the correctional institution.

“Workforce development board” means the state workforce development board.

“Workforce development director” means the chief executive officer of the department of workforce development.

~~37.9(2) Preapplication requirement. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place a job order with a duration of at least 30 days with the nearest workforce development center. The job order will contain the prevailing wage determined by workforce development. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet Web site.~~

37.9(2) Preapplication requirement. Prior to submitting an application to the deputy director of prison industries for a private sector employment project, the employer shall place with the nearest workforce development center a job order with a duration of at least 30 days. The job order shall be listed statewide in all centers and on the department of workforce development’s jobs Internet site.

**37.9(3) Employer application.**

a. Private sector employers requesting offender labor must submit the following to the deputy director of prison industries:

- (1) Work program, including job description;
- (2) Proposed wage rate;
- (3) Description of job site;
- (4) Duration of the work; and
- (5) A copy of the job order listing with workforce development.

b. Upon receiving a written proposal to use offenders in a private sector work program, the deputy director of prison industries shall provide a copy of the private sector work proposal including job descriptions and proposed wages to the workforce development director.

c. The deputy director of prison industries shall send a letter to the department of workforce development requesting verification of the employer’s 30-day job listing, the average wage rate wage range for the job(s) the offenders will perform, the current unemployment rate in the county where the employer is located, and the current employment level of the company that will employ the offenders.

d. The deputy director of prison industries and the warden/superintendent at the proposed institution shall review the proposed projects with the board of supervisors and the sheriff in the county where the project will be located.

**37.9(4) Verification.** The workforce development director shall verify the employment levels and ~~prevailing wages paid~~ wage range for similar jobs in the area and provide to the deputy director of prison industries, in writing:

- a. Verification of the employer’s 30-day job listing;
- b. The number of qualified applicant referrals and hires made as a result of the job order;
- ~~c. The average wage rate for the proposed job(s);~~
- ~~d. c.~~ c. The wage range for the proposed job(s);
- ~~e. d.~~ d. The current unemployment rate for the county where the employer is located; and
- ~~f. e.~~ e. The current employment levels of the company that will employ the offenders based upon the most recent quarter for which data is available.

**37.9(5) Prevailing wages** Wage range. The deputy director of prison industries shall obtain employment levels in the locale of the proposed job(s) and the ~~prevailing wages~~ wage range for the

CORRECTIONS DEPARTMENT[201](cont'd)

job(s) in question from the department of workforce development prior to authorizing any private sector work program. The deputy director of prison industries will consider the ~~average wage rate and~~ wage range from the department of workforce development for the appropriate geographic area for which occupational wage information is available. The appropriate geographic area may be statewide. To reduce possible displacement of civilian workers, the deputy director of prison industries shall advise prospective employers and eligible offenders of the following requirements:

- a. Offenders shall not be eligible for unemployment compensation while incarcerated.
- b. Before the employer initiates work utilizing offender labor, the deputy director of prison industries shall provide the baseline number of jobs as established by the department of workforce development.
- c. In January and July of each year, the deputy director of prison industries shall receive from the department of workforce development the actual number of civilian workers by employer and shall compile a side-by-side comparison for each employer. A copy of the side-by-side comparison will be provided to the advisory board and workforce development director semiannually.

**37.9(6) to 37.9(9)** No change.

This rule is intended to implement Iowa Code section 904.809.

[Filed 6/18/15, effective 8/12/15]

[Published 7/8/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/8/15.

## **ARC 2053C**

### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105, 455B.173 and 455B.263, the Environmental Protection Commission hereby amends Chapter 50, "Scope of Division—Definitions—Forms—Rules of Practice," Chapter 52, "Criteria and Conditions for Authorizing Withdrawal, Diversion and Storage of Water," and Chapter 53, "Protected Water Sources—Purposes—Designation Procedures—Information in Withdrawal Applications—Limitations—List of Protected Resources," Iowa Administrative Code.

The amendments revise the rules governing the use of the Cambrian-Ordovician Aquifer (commonly called the Jordan Aquifer) in Iowa. The amendments are a result of the recommendations made to the Commission by the Executive Order 80 Stakeholder Group (Stakeholder Group) that was tasked with evaluating the current rules to better manage the usage of the Jordan Aquifer. Department of Natural Resources (Department) staff and the Stakeholder Group made a joint presentation addressing each recommendation at the Commission meeting held November 19, 2014. The Commission directed the Stakeholder Group and the Department to develop rules for those recommendations that required rule changes. The Stakeholder Group and Department staff met on December 30, 2014, to finalize the recommended rule revisions. The amended rules, including the jobs impact statement and the fiscal impact statement, were presented to the Commission at its meeting held February 17, 2015, where the request for formal rule making was approved.

The Jordan Aquifer extends underneath much of Iowa and is a significant well water source in the state. Protection from overuse of the resource (also known as dewatering the aquifer) is needed in some parts of the state. The Stakeholder Group developed a tiered classification system for existing and future Jordan wells that are required to be permitted under the state's water allocation rules, so that the resource will have a sustainable use into the future. A water allocation permit must be obtained by anyone withdrawing at least 25,000 gallons in a single day during the year. A permit holder withdrawing more water than the aquifer can sustain at that well location will be required to develop a water use reduction plan and implement measures so that the aquifer can recover to a sustainable level. Other rule amendments require activities that result in closer oversight of the aquifer. The amendments are summarized below:

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1. In Chapter 50, the definition of “aquifer” is amended, and definitions of “confined aquifer” and “water use reduction plan” are added.

2. In Chapter 52, the current subrule pertaining to the withdrawal of water from the Cambrian-Ordovician (Jordan) Aquifer is rescinded and replaced with a new subrule that:

- Adds tiering criteria to classify each Jordan well requiring a water allocation permit into one of three tiers, depending upon the pumping water levels as compared to the 1978 Horick and Steinhilber potentiometric surface and the top of the Jordan Aquifer at that location. Permittees whose wells are in the Tier 1 category shall follow standard water use reporting procedures with no additional requirements. Permittees with Tier 2 and Tier 3 category wells have the additional requirements of site-specific water use reduction plans. The new subrule also includes the actions the Department may take if water levels continue to decline beyond the Tier 3 level.

- Changes the permit cycle for Jordan water allocation permits from ten years to five years.

- For new Jordan wells, requires that a water allocation permit be obtained before a water well construction permit is issued (to ensure adequate water allocation before the expense of the well construction is incurred).

- Retains the current 200-gallons-per-minute restriction on irrigation, recreational, and aesthetic uses.

- Retains the 2,000-gallons-per-minute restriction on industrial and power generation uses.

- Replaces the measurement level of piezometric head with the pumping level.

- Prohibits once-through cooling or geothermal use, with an allowance for geothermal use only if all of the withdrawn water is injected back into the aquifer.

A new paragraph 52.9(3)“d” pertaining to water conservation and water use reduction planning is also added to Chapter 52.

3. In Chapter 53, two areas, one in Johnson and Linn Counties and one in Webster County, are added to the protected-source rule, and a requirement that only the Department issue the well construction permits inside of those defined areas is included.

The EO80 Stakeholder Group included the following people:

Name	Organization	Representing
John Crotty	Iowa Environmental Council	Environmental advocacy group
Shawn Kerrick	Koch Nitrogen	Industrial user from business located in affected area
Gale McIntosh	Northway Pump	Water well contractor
Jill Soenen	Iowa Association of Municipal Utilities	Municipal utility association
Todd Steigerwaldt	City of Marion (Water Works)	Municipal user in affected area
Becky Svatos	Stanley Consultants, Iowa Association of Business and Industry	Professional consulting engineering firm, business association
Nancy Couser	Environmental Protection Commission	State agency

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 18, 2015, as **ARC 1914C**. Three public hearings were held to receive public response to the proposed amendments. There were 52 attendees, not including Department staff, at the hearings. Oral comments were received from six people at the hearings, and written comments were received from six people. A Responsiveness Summary which addresses all comments received during the public comment period is available from the Department, upon request, by contacting Diane Moles at (515)725-0281 or [diane.moles@dnr.iowa.gov](mailto:diane.moles@dnr.iowa.gov). There were no adverse comments received as a result of the public comment process; however, the following changes have been made to the Notice of Intended Action to clarify the amendments:

1. In rule 567—50.2(455B), the definition of “water use reduction plan” has been clarified to indicate that the water use reduction goals can be met through one or more of the categories and that a separate goal for each category is not required.

2. In paragraph 52.4(3)“d,” the language differentiating well construction permitting duties for the Jordan Aquifer wells from those of the county has been clarified. The Department will issue the well

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construction permits for all public water supply wells and for the wells within a protected source area withdrawing water from the Jordan Aquifer. The county will issue the well construction permits for the non-public water supply wells withdrawing water from the Jordan Aquifer that are not within a protected source area as outlined in 567—53.7(455B).

3. In subparagraphs 53.7(2)“a”(1) and (2) and 53.7(3)“a”(1) and (2), the language has been clarified to indicate that, within the delineated protected source areas, the Department will issue the permits for the construction of wells withdrawing water from the Jordan Aquifer, and not for all water wells within the delineated area.

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

These amendments are intended to implement Iowa Code sections 455B.105, 455B.171, 455B.173, 455B.261 to 455B.274 and 455B.278.

These amendments will become effective on August 12, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **567—50.2(455B)**, definition of “Aquifer,” as follows:

“Aquifer” means a water-bearing geologic formation (soil or rock) of sufficient volume, porosity, and permeability to be capable of yielding a usable quantity of water to a well or spring.

ITEM 2. Adopt the following **new** definitions of “Confined aquifer” and “Water use reduction plan” in rule **567—50.2(455B)**:

“Confined aquifer” means an aquifer which contains water under pressure overlain by impermeable formations such as clay or shale. In a well penetrating a confined aquifer, pressure will cause water to rise above the top of the aquifer. If the pressure in a confined aquifer is sufficiently great, water will rise above the ground surface and flow from a well, thus resulting in a “flowing artesian well” or a “naturally flowing well.”

“Water use reduction plan” means a program that establishes numeric water reduction goals (e.g., percent or volume of water per day) on a short-term time frame through either voluntary or mandatory conservation regulatory requirements (e.g., plumbing codes, sprinkling ordinances, et al.) for each customer category (residential, commercial, industrial, landscape irrigation, agricultural, recreational, or other). Such a plan shall include a mechanism for evaluating the system’s unaccounted-for water (water audit or the equivalent). An industrial permittee water use reduction plan shall examine reduction of the use of water in heat transfer, use of water in materials transfer, use of water for washing, and use of water as an incorporated ingredient. Each customer category or use category should be evaluated by the permittee. The permittee will then determine how to meet the water reduction goals.

ITEM 3. Rescind subrule 52.4(3) and adopt the following **new** subrule in lieu thereof:

**52.4(3) Withdrawals from the Cambrian-Ordovician (Jordan) aquifer.** Withdrawals of water from the Cambrian-Ordovician (Jordan) aquifer, including the St. Peter sandstone formation, the Prairie du Chien group and the Jordan sandstone formation, shall be subject to the following conditions:

a. *Two-hundred-gallon-per-minute restriction on irrigation, recreational, or aesthetic uses.* New withdrawals of water for irrigation, recreational, or aesthetic uses shall not be in excess of 200 gallons per minute. Existing permits for irrigation, recreational and aesthetic uses that authorize withdrawal rates in excess of 200 gallons per minute may be modified or rescinded by the department if, as determined by the department, any well in the vicinity experiences loss of water due to pumping or if the pumping water level is reduced to or below the levels described in paragraphs “f” and “g” of this subrule.

b. *Two-thousand-gallon-per-minute restriction on industrial or power generation uses.* New withdrawals of water for industrial or power generation uses at one plant location shall not exceed 2,000 gallons per minute. Existing permits for industrial or power generation use that authorize withdrawal rates in excess of 2,000 gallons per minute may be modified or rescinded by the department if any well in the vicinity experiences loss of water due to pumping or if the pumping water level is reduced to or below the levels described in paragraphs “f” and “g” of this subrule.

c. *Limited cooling and geothermal use.* No once-through (single pass with disposal to storm sewer or equivalent) cooling water or geothermal usage is allowed. Withdrawals for geothermal purposes are

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prohibited unless 100 percent of the withdrawn water is reinjected into the aquifer in accordance with the requirements of the department.

*d. Jordan aquifer high-capacity permits and wells.* Water use permits for the Jordan aquifer shall be issued on a five-year permit cycle. The water use permit for wells expected to pump over 25,000 gallons per day from the Jordan aquifer must be obtained from the department before any water well construction permit is issued. After the water use permit has been obtained, the county may issue a Cambrian-Ordovician (Jordan) aquifer water well construction permit for any nonpublic water supply system unless that well is located in one of the protected-source areas listed in 567—subrules 53.7(2) and 53.7(3). The department may issue a Cambrian-Ordovician (Jordan) aquifer water well construction permit for a public water supply system or a well located in the protected source areas listed in 567—subrules 53.7(2) and 53.7(3). All driller's logs for water use wells completed in the Jordan aquifer shall be submitted to the department and the Iowa Geological Survey.

*e. Tier 1 Jordan wells.* A Jordan water use well is classified as Tier 1 when pumping water levels have not reached Tier 2 or Tier 3 levels described in paragraphs “f” and “g” of this subrule. Permittees with Tier 1 Jordan wells shall follow standard water use reporting procedures for the Jordan aquifer pursuant to rule 567—52.6(455B).

*f. Tier 2 Jordan wells.* A Jordan well is classified as Tier 2 when the pumping water level measured at the well declines over 300 feet below the 1978 Horick and Steinhilber potentiometric surface or the pumping water level declines over 50 percent from the 1978 Horick and Steinhilber potentiometric surface and the top of the Jordan aquifer, whichever is more conservative. Permittees with Tier 2 wells shall comply with paragraph “h” of this subrule.

*g. Tier 3 Jordan wells.* A Jordan well is classified as Tier 3 when the pumping water level measured at the well declines over 400 feet below the 1978 Horick and Steinhilber potentiometric surface or the pumping water level declines over 75 percent from the 1978 Horick and Steinhilber potentiometric surface and the top of the Jordan aquifer, whichever is more conservative. Permittees with Tier 3 wells shall comply with paragraph “i” of this subrule.

*h. Site-specific water use reduction plan for Tier 2 Jordan wells.* Permittees with Jordan wells that have reached the Tier 2 level pursuant to paragraph “f” of this subrule shall develop a water use reduction plan and submit the plan to the department. The plan must be reviewed and approved by the department. The water use reduction plan shall set a defined usage percent reduction target that will minimize Jordan aquifer withdrawals and prevent the decline of the water level from reaching the Tier 3 category pursuant to paragraph “g” of this subrule. Guidance for writing and implementing water use reduction plans is available in paragraph “k” of this subrule. If the water use reduction plan is not implemented, the department may reduce the permitted water use allocation, pursue enforcement of the permit, or rescind the permit.

*i. Enhanced site-specific water use reduction plan and predictive model for Tier 3 Jordan wells.* Permittees with Jordan wells that have reached the Tier 3 level pursuant to paragraph “g” of this subrule shall develop an aggressive water use reduction plan using an approved predictive model that will lead to recovery of the pumping water level to elevations above Tier 3 levels. The plan and model predictions shall be reviewed and approved by the department. If water levels continue to decline beyond the Tier 3 level, the department may reduce the permitted water use allocation, pursue enforcement of the permit including aspects of the water use reduction plan, or rescind the permit.

*j. Variances.* Variances from the restrictions imposed by these rules will be considered by the department through the procedures found in rule 567—50.9(455B) and in 561—Chapter 10.

*k. Resources for developing water use reduction plans.* The resources suggested by and available from the department as guidance for developing water use reduction plans are listed in paragraph 52.9(3)“d.”

ITEM 4. Adopt the following **new** paragraph **52.9(3)“d”**:

*d. Resources for water conservation and water use reduction planning.*

(1) The following resources are suggested by and available from the department as guidance for the development of water conservation plans and water use reduction plans:

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1. “Water Wise—Efficiency Planning and Water Conservation Plan Workbook for Water and Wastewater Utilities,” Iowa Association of Municipal Utilities, 2013 (available online through the department’s Web site).

2. “Water Conservation Programs—A Planning Manual,” Manual of Water Supply Practices M52, American Water Works Association, 2006.

3. “Handbook of Water Use and Conservation,” Amy Vickers, Waterplow Press, Amherst, Massachusetts, 2001.

(2) Water conservation plans and water use reduction plans shall comply with the standards of the American Water Works Association or a reasonable equivalent as determined by the department.

ITEM 5. Adopt the following **new** subrules 53.7(2) and 53.7(3):

**53.7(2)** *Cambrian-Ordovician (Jordan) aquifer in Johnson and Linn Counties.*

a. *Geographical area.* The protected water source area includes portions of Johnson and Linn Counties. The actual geographical boundaries of the area are defined in subparagraph 53.7(2) “a”(3).

(1) New or modified water use permits. Any new application for a permit to withdraw groundwater or to increase an existing permitted withdrawal of groundwater from the Cambrian-Ordovician (Jordan) aquifer within the protected water source area will be restricted or denied if necessary to preserve public health and welfare.

(2) Withdrawal of groundwater. Withdrawal of groundwater from within the protected water source area may also be restricted or denied from water supply wells constructed in the Cambrian-Ordovician (Jordan) aquifer, public or private, and the construction of all new water supply wells in the Cambrian-Ordovician (Jordan) aquifer shall be restricted or denied, if necessary, to preserve public health and welfare or to minimize adverse effects to the “available” head (i.e., the original pressure head above the top of the aquifer). The Johnson County and Linn County health departments are not authorized to issue a construction permit for a private well drilled into or through the Cambrian-Ordovician (Jordan) aquifer within the protected water source area without the approval of the department. The department’s water supply engineering section will determine whether the proposed well can be constructed and may require that the well meet public water well standards.

(3) Map of protected water source area. The department shall maintain a map of the protected water source area.

1. The entire following described area within Johnson County and within Linn County is defined as a protected water source.

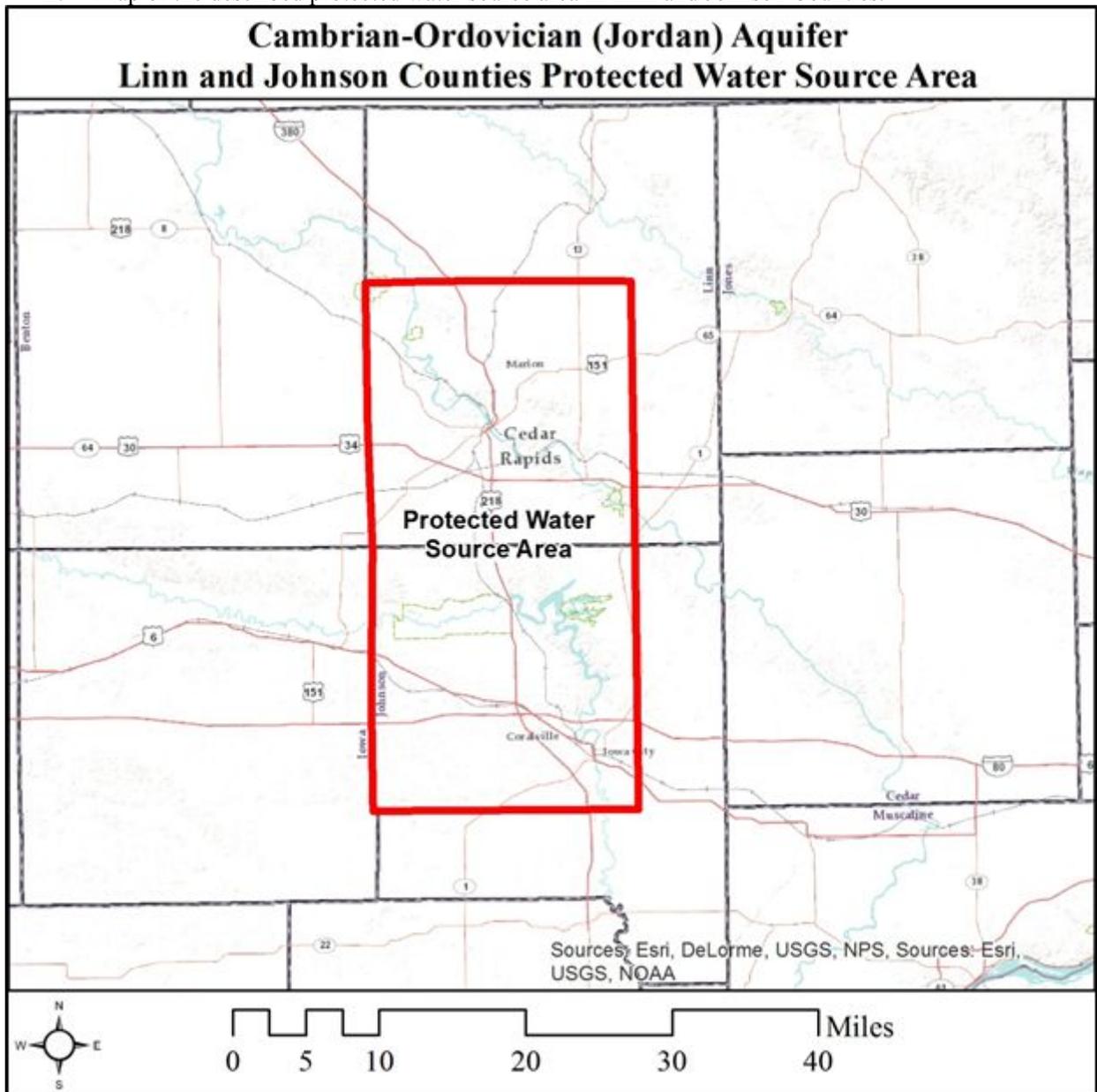
**Johnson County**

- All areas of Township 79 North, Range 6 West.
- All areas of Township 79 North, Range 7 West.
- All areas of Township 79 North, Range 8 West.
- All areas of Township 80 North, Range 6 West.
- All areas of Township 80 North, Range 7 West.
- All areas of Township 80 North, Range 8 West.
- All areas of Township 81 North, Range 6 West.
- All areas of Township 81 North, Range 7 West.
- All areas of Township 81 North, Range 8 West.

**Linn County**

- All areas of Township 82 North, Range 6 West.
- All areas of Township 82 North, Range 7 West.
- All areas of Township 82 North, Range 8 West.
- All areas of Township 83 North, Range 6 West.
- All areas of Township 83 North, Range 7 West.
- All areas of Township 83 North, Range 8 West.
- All areas of Township 84 North, Range 6 West.
- All areas of Township 84 North, Range 7 West.
- All areas of Township 84 North, Range 8 West.

## 2. Map of the described protected water source area in Linn and Johnson Counties.



b. Reserved.

**53.7(3) Cambrian-Ordovician (Jordan) aquifer in Webster County.**

a. *Geographical area.* The protected water source area includes portions of Webster County. The actual geographical boundaries of the area are defined in subparagraph 53.7(3) "a"(3).

(1) New or modified water use permits. Any new application for a permit to withdraw groundwater or to increase an existing permitted withdrawal of groundwater from the Cambrian-Ordovician (Jordan) aquifer within the protected water source area will be restricted or denied if necessary to preserve public health and welfare.

(2) Withdrawal of groundwater. Withdrawal of groundwater from within the protected water source area may also be restricted or denied from water supply wells constructed in the Cambrian-Ordovician (Jordan) aquifer, public or private, and the construction of all new water supply wells in the Cambrian-Ordovician (Jordan) aquifer shall be restricted or denied, if necessary, to preserve public health and welfare or to minimize adverse effects to the "available" head (i.e., the original

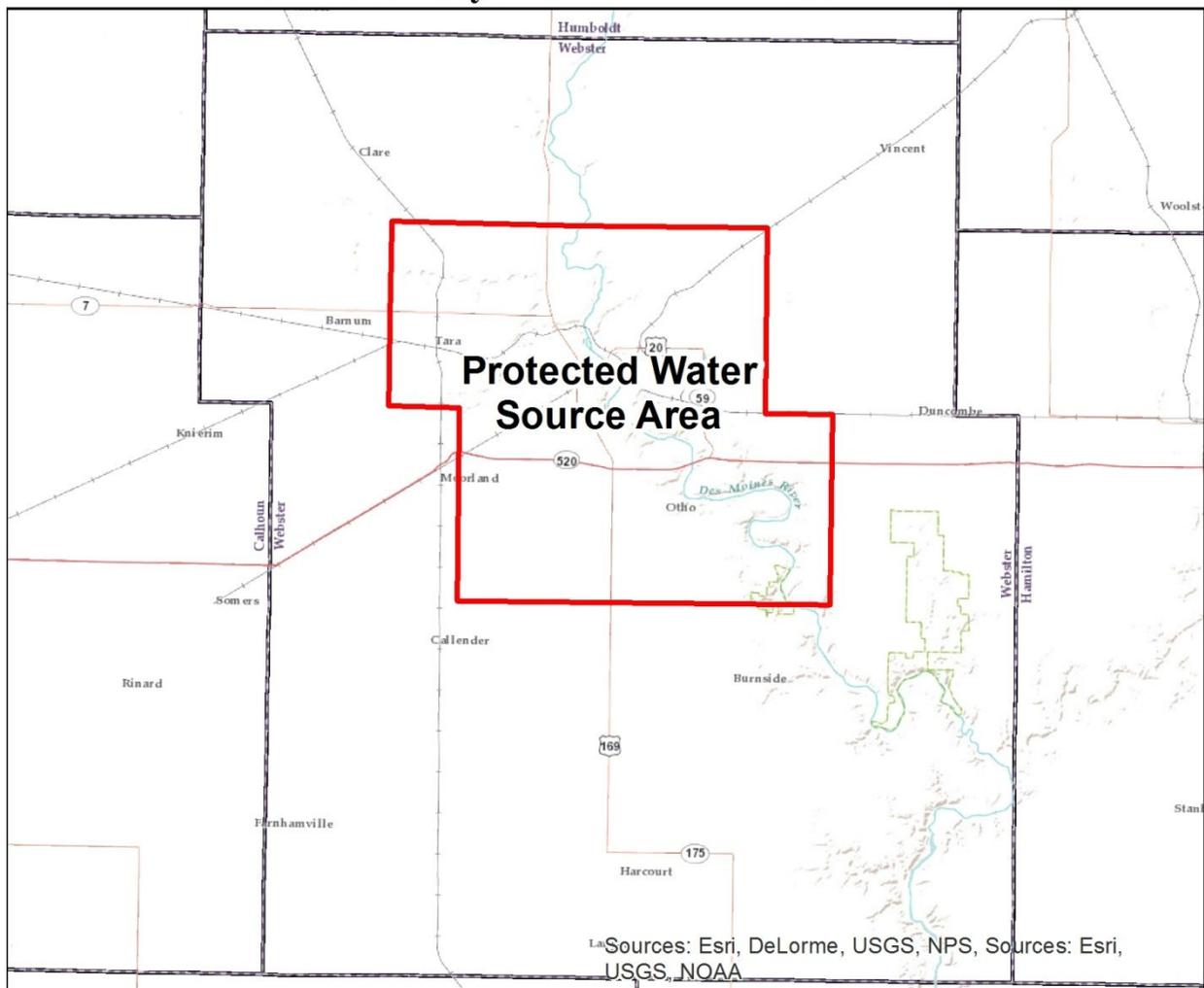
pressure head above the top of the aquifer). The Webster County health department is not authorized to issue a construction permit for a private well drilled into or through the Cambrian-Ordovician (Jordan) aquifer within the protected water source area without the approval of the department. The department's water supply engineering section will determine whether the proposed well can be constructed and may require that the well meet public water well standards.

(3) Map of protected water source. The department shall maintain a map of the protected water source area.

1. The entire following described area within Webster County is defined as a protected water source.

- All areas of Township 88 North, Range 28 West.
  - All areas of Township 88 North, Range 29 West.
  - All areas of Township 89 North, Range 28 West.
  - All areas of Township 89 North, Range 29 West.
2. Map of the described protected water source area in Webster County.

### Cambrian-Ordovician (Jordan) Aquifer Webster County Protected Water Source Area



Map Sources: Esri, DeLorme, USGS, NPS, Sources: Esri, USGS, NOAA

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b. Reserved.

[Filed 6/17/15, effective 8/12/15]

[Published 7/8/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/8/15.

**ARC 2054C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.103A and 455B.105(3), the Environmental Protection Commission (Commission) hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

The amendment to Chapter 64 revises General Permit No. 2, which authorizes the discharge of storm water from construction sites. Substantive changes in General Permit No. 2 are required to implement the federal effluent guidelines for construction and development point sources. These guidelines are found at 40 CFR 450.21. Most of the measures in the federal effluent guidelines are already included in General Permit No. 2. The changes adopted in General Permit No. 2 involve topsoil preservation at construction sites. The Code of Federal Regulations requires permittees to minimize soil compaction and, unless infeasible, preserve topsoil. Currently, the Commission defines this requirement as the preservation of at least 4 inches of topsoil at construction sites when this is consistent with land use practices and if at least 4 inches of topsoil existed on the site prior to construction.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 18, 2015, as **ARC 1873C**. The public comment period for the proposed amendment to Chapter 64 regarding topsoil preservation ended April 1, 2015, during which three public hearings were held in Cedar Rapids, Davenport and Des Moines. Over 700 mailed, e-mailed and verbal comments were received. These comments were supplied to the Commission and made available to the public on the Department's Web site.

Two changes have been made since publication of the Notice of Intended Action. In the revision of storm water General Permit No. 2, the word "authorization" has been inserted in the underscored text at the end of the third sentence as follows:

"'Unless infeasible, preserve topsoil' shall mean that, unless infeasible, topsoil from any areas of the site where the surface of the ground for the permitted construction activities is disturbed shall remain within the area covered by the applicable General Permit No. 2 authorization."

This change results in the requirement that topsoil must remain in the area of the construction covered by the authorization issued to the site under General Permit No. 2 rather than under General Permit No. 2 itself.

The second change made since publication of the Notice of Intended Action is to the amended date in subrule 64.15(2). This date has been changed from July 15, 2015, to August 12, 2015.

The following revisions to General Permit No. 2 are adopted:

Part IV.D.2.A.(2).(c) of the storm water General Permit No. 2 is revised as follows:

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~~A.(2).(c). Unless infeasible, the following measures shall be implemented at all sites: utilize outlet structures that withdraw water from the surface when discharging from basins, provide and maintain natural buffers around surface waters, and direct storm water to vegetated areas to both increase sediment removal and maximize storm water infiltration and minimize soil compaction. Topsoil shall be preserved at all construction sites unless land use precludes the practice. The requirement to preserve topsoil shall be met only when the depth of topsoil after soil disturbing activities have been completed and final stabilization achieved for the permitted activity is equal to, or greater than, 4.0 inches, including soil contained in sod, on all areas of the site where the surface of the ground disturbed for the permitted construction activities is exposed and not covered by concrete, asphalt, gravel or other such material and where 4.0 inches or more of topsoil existed prior to the commencement of soil disturbing activities that are permitted under the current permit authorization for the site. On areas where less than 4.0 inches of topsoil existed prior to the commencement of soil disturbing activities that are permitted under the current permit authorization for the site, the minimum depth of topsoil after soil disturbing activities have been completed and final stabilization achieved for the permitted activity shall be equal to, or greater than, the depth of topsoil that existed prior to the commencement of soil disturbing activities that are permitted under the current permit authorization for the site. The final topsoil depth is to be measured after the soil has been compacted in a fashion generally considered adequate for an established lawn and so that the expected settling that will occur after measurement will be minimal and shall include the soil contained in any sod that has been placed on the site. The type of topsoil at the site after soil disturbing activities have been completed and final stabilization achieved for the permitted activity shall be similar to that which exists or existed in the general area of the site. The permittee(s) shall minimize soil compaction and, unless infeasible, preserve topsoil. "Infeasible" shall mean not technologically possible, or not economically practicable and achievable in light of the best industry practices. "Unless infeasible, preserve topsoil" shall mean that, unless infeasible, topsoil from any areas of the site where the surface of the ground for the permitted construction activities is disturbed shall remain within the area covered by the applicable General Permit No. 2 authorization. Minimizing soil compaction is not required where the intended function of a specific area of the site dictates that it be compacted. Preserving topsoil is not required where the intended function of a specific area of the site dictates that the topsoil be disturbed or removed. The permittee(s) shall control storm water volume and velocity to minimize soil erosion in order to minimize pollutant discharges and shall control storm water discharges, including both peak flowrates and total storm water volume, to minimize channel and stream bank erosion and scour in the immediate vicinity of discharge points. An affidavit signed by the permittee(s) may be submitted to demonstrate compliance.~~

For construction activity which is part of a larger common plan of development, such as a housing or commercial development project, in which a new owner agrees in writing to be solely responsible for compliance with the provisions of this permit for the property which has been transferred or in which the new owner has obtained authorization under this permit for a lot or lots (as specified in subrule 567-64.6(6) of the Iowa Administrative Code), the topsoil preservation requirements described above must be met no later than at the time the lot or lots have reached final stabilization as described in this permit.

~~For sites where less than 4.0 inches of topsoil is to be in place after soil disturbing activities have been completed and final stabilization achieved for the permitted activity, a soil survey conducted by properly qualified personnel who regularly conduct soil surveys as part of their normal job duties must be conducted prior to commencement of soil disturbing activities that are permitted under the current permit authorization for the site. The results of the soil survey shall become part of the Pollution Prevention Plan and shall indicate the depth of topsoil at a suitable number of points on the site commensurate with standard engineering practices established for the size of the site.~~

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The topsoil preservation requirement described above shall be implemented for projects that have not received an authorization under this permit prior to October 1, 2012. The topsoil preservation requirements are not required to be implemented for projects that have been authorized prior to October 1, 2012. In residential and commercial developments, a plat is considered a project. For other large areas that have been authorized for multiple construction sites, including those to be started at a future date, such as those located at industrial facilities, military installations and universities, a new construction project not yet surveyed and platted out is considered a project. This stipulation is intended to be interpreted as requiring the topsoil preservation requirements on development plats and construction activities on other extended areas that may have several construction projects permitted under the same authorization to be implemented on those projects not yet surveyed and platted out prior to October 1, 2012 even if other plats and construction activities in the same development or other extended area were authorized prior to October 1, 2012.

It is not the intent of the Commission that the textual changes in General Permit No. 2 be adopted in the Iowa Administrative Code but that these changes be made in the general permit itself, which is adopted by reference into the Iowa Administrative Code.

Copies of the revised General Permit No. 2 are available upon request from the Department at 502 East 9th Street, Des Moines, Iowa 50319; or by telephone at (515)725-8417.

After analysis and review of this rule making, a positive impact on jobs could exist. At the time the 4-inch topsoil preservation requirement was adopted, it was generally believed by the Commission and stakeholders that the fiscal impact of the requirement would be minimal and would not significantly impact developers, builders, or home buyers. In early 2014, various members of the development community requested that the language of General Permit No. 2 be changed to mirror the federal standard of preserving topsoil, unless infeasible. These stakeholders reported that actual costs of implementation of the 4-inch topsoil preservation requirement were significantly higher than anticipated, including costs associated with having to verify the requirement was uniformly met throughout the construction site. Cost impact estimates have been reported to vary from several hundred dollars per lot to several thousand dollars per lot. This economic concern led to the formation of an Executive Order (EO) 80 Stakeholder Group, which convened meetings and obtained public input in 2014. The EO 80 Stakeholder Group recommended to the Commission that the topsoil preservation requirement in General Permit No. 2 be changed to more closely align with the federal language, with some additional verbiage added. The EO 80 Stakeholder Group indicated that the revisions will result in a net reduction in costs to residential developers and home builders, which would lead to lower prices for home purchasers. On September 16, 2014, the Commission directed the Department of Natural Resources (Department) to initiate rule making to adopt the EO 80 Stakeholder Group recommendation for General Permit No. 2, with further, minor changes recommended by the Commission.

This amendment is intended to implement Iowa Code chapter 455B, division I.

This amendment shall become effective August 12, 2015.

The following amendment is adopted.

Amend subrule 64.15(2) as follows:

**64.15(2)** Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective October 1, 2012, to October 1, 2017, as amended on ~~March 26, 2014~~ August 12, 2015.

[Filed 6/17/15, effective 8/12/15]

[Published 7/8/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/8/15.

**ARC 2052C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6), 461A.3, 461A.47, and 463C.6, the Natural Resource Commission hereby amends Chapter 61, "State Parks, Recreation Areas, and State Forest Camping," Iowa Administrative Code.

The adopted amendments:

1. Establish cabin rental fees for the new two-bedroom modern family cabins that will be constructed at Lake Darling State Park in 2015 and restructure the listing for Lake Darling to clarify the different types of cabins and fees (new and existing).
2. Remove the cabin fee for the cabin at Wilson Island that was destroyed in the 2011 flood. The cabin is not being replaced.
3. Establish two new categories of open picnic shelters: large open shelters and beach cabana-style open shelters. Rental fees for both are also established.
4. Update the listing of park rules to which Honey Creek Resort State Park is subject.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1937C** on April 1, 2015. A public hearing was held on April 21, 2015. No public comments were received. These amendments are identical to those published under Notice.

The Natural Resource Commission adopted these amendments on June 11, 2015.

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

These amendments are intended to implement Iowa Code sections 455A.5(6), 461A.3, 461A.47, 461A.57, and 463C.6.

These amendments will become effective September 15, 2015.

The following amendments are adopted.

ITEM 1. Amend paragraph **61.5(1)"a"** as follows:

- a. Cabin rental. This fee does not include tax. Tax will be calculated at time of final payment.

	Per Night*	Per Week
Backbone State Park, Delaware County		
Renovated modern cabins	\$ 50	\$300
Two-bedroom modern cabins	85	510
Deluxe cabins	100	600
Black Hawk State Park, Sac County	100	600
Dolliver Memorial State Park, Webster County	35	210
Green Valley State Park, Union County	35	210
Honey Creek State Park, Appanoose County	35	210
Lacey-Keosauqua State Park, Van Buren County	50	300
Lake Darling State Park, Washington County	<del>35</del>	<del>210</del>
<u>Camping cabins</u>	<u>35</u>	<u>210</u>
<u>Two-bedroom cabins</u>	<u>85</u>	<u>510</u>
Lake of Three Fires State Park, Taylor County	50	300
Lake Wapello State Park, Davis County (Cabin Nos. 1-12)	60	360
Lake Wapello State Park, Davis County (Cabin No. 13)	85	510
Lake Wapello State Park, Davis County (Cabin No. 14)	75	450
Nine Eagles State Park, Decatur County	75	450
Palisades-Kepler State Park, Linn County	50	300
Pine Lake State Park, Hardin County		

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	Per Night*	Per Week
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450
Pleasant Creek State Recreation Area, Linn County	35	210
Prairie Rose State Park, Shelby County	35	210
Springbrook State Park, Guthrie County	200	1200
Stone State Park, Woodbury County	35	210
Union Grove State Park, Tama County	75	450
Waubonsie State Park, Fremont County		
Two-bedroom modern cabins	85	510
One-bedroom modern cabins	60	360
Two-bedroom camping cabins	50	300
One-bedroom camping cabins	35	210
Camping cabin	25	150
<del>Wilson Island State Recreation Area, Pottawattamie County</del>	<del>25</del>	<del>150</del>

\*Minimum two nights

- ITEM 2. Rescind paragraph **61.5(1)“d”** and adopt the following **new** paragraph in lieu thereof:  
*d.* Open shelter rental. This fee does not include tax. Tax will be calculated at time of final payment.

	<u>Per Day</u>
Open shelter	\$25
Large open shelter	\$75
Big Creek State Park, Polk County (Beach Nos. 1-3)	
Brushy Creek State Recreation Area, Webster County (Lakeview Shelter)	
Lake Darling State Park, Washington County (Cottonwood Shelter)	
Open shelter with kitchen	\$75
Beach house open shelter	\$40
Lake Ahquabi State Park, Warren County	
Lake Wapello State Park, Davis County	
Pine Lake State Park, Hardin County	
Springbrook State Park, Guthrie County	
Beach cabana-style open shelter	\$15

- ITEM 3. Rescind paragraphs **61.5(1)“e”** and **“f.”**  
 ITEM 4. Reletter paragraphs **61.5(1)“g”** to **“i”** as **61.5(1)“e”** to **“g.”**  
 ITEM 5. Amend rule 571—61.15(461A,463C) as follows:

**571—61.15(461A,463C) Honey Creek Resort State Park.** This chapter shall not apply to Honey Creek Resort State Park, with the exception that subrules ~~61.7(1)~~ 61.7(3) through 61.7(9) and 61.7(11) through 61.7(15) shall apply to the operation and management of Honey Creek Resort State Park. Where permission is required to be obtained from the department, an authorized representative of

NATURAL RESOURCE COMMISSION[571](cont'd)

the department's management company may provide such permission in accordance with policies established by the department.

[Filed 6/16/15, effective 9/15/15]

[Published 7/8/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/8/15.

**ARC 2051C**

**REGENTS BOARD[681]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby amends Chapter 1, "Admission Rules Common to the Three State Universities," Iowa Administrative Code.

The rules in Chapter 1 set forth criteria for admission of undergraduate students directly from high school to the three Regent universities. The Regent Admission Index (RAI) was implemented with the entering freshman class of 2009. The RAI includes four factors: high school class rank, high school grade point average, performance on standardized tests (ACT composite or SAT combined), and the number of core subject area courses completed in high school. Since implementation in 2009, the number of public and private high schools in the state of Iowa not providing a high school class rank has increased from 3 to approximately 40. To address this change, each of the universities developed its own substitute for the missing factor, including a regression analysis, sliding scale or different weights for the remaining factors. After extensive data analysis, an alternative formula as presented in Item 4 was developed to be used for applicants without high school class rank. In Item 3, the existing formula is stricken and a reformatted formula is inserted in lieu thereof; the substance of the formula is unchanged.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on March 18, 2015, as **ARC 1916C**. A comment period was established. No comments were received. The adopted amendments are identical to those published under Notice.

The Board of Regents adopted the amendments on June 4, 2015.

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

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

These amendments are intended to implement Iowa Code section 262.9(3).

These amendments shall become effective on August 12, 2015.

The following amendments are adopted.

ITEM 1. Amend **681—Chapter 1**, preamble, as follows:

**PREAMBLE**

~~Preamble:~~ The state board of regents has adopted the following requirements governing admission of students to the three state universities.

Each university is expected to describe in its catalog the requirements and other information necessary to make the admission process operate within the framework of these requirements.

Amendments and changes in these requirements normally are proposed by the universities to the regent committee on educational relations, which examines the proposals and makes specific recommendations through the ~~interinstitutional committee on educational coordination council of provosts~~ to the state board of regents, which is empowered by law to establish the admission requirements.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

## REGENTS BOARD[681](cont'd)

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

**1.1(1)** Application. Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(18)(3) and detailed in rule 681—1.7(262), and have their secondary school provide a transcript of their academic record, including credits and grades, rank in class (when available), and certification of graduation. Applicants must also submit SAT Reasoning Test or ACT scores. Applicants whose primary language is not English must also meet the English language proficiency requirement specified by each university. Applicants may be required to submit additional information or data to support their applications.

ITEM 3. Amend subparagraph **1.1(2)“b”(1)** as follows:

(1) Decisions on admission to a regent university are based on the following four factors: performance on standardized tests (SAT Reasoning Test or ACT); high school grade point average (GPA); high school percentile rank in class (when available); and number of high school courses completed in the core subject areas. ~~These factors are used in the following equation to calculate a regent admission index (RAI):~~ A primary regent admission index (RAI) will be calculated for each freshman applicant using the formula below when the high school has provided a class rank.

~~RAI = (2 × ACT composite score) + (1 × high school rank expressed as a percentile) + (20 × high school grade point average) + (5 × number of high school courses completed in the core subject areas)~~

$$\text{RAI} = \frac{(2 \times \text{ACT composite score})}{\text{composite score}} \pm \frac{(1 \times \text{high school rank expressed as a percentile})}{\text{percentile}} \pm \frac{(20 \times \text{high school grade point average})}{\text{grade point average}} \pm \frac{(5 \times \text{number of high school courses completed in the core subject areas})}{\text{high school courses completed in the core subject areas}}$$

NOTE: For purposes of calculating the primary regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school rank is expressed as a percentile with 99 percent as the top value; high school GPA is expressed in a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

ITEM 4. Amend subparagraph **1.1(2)“b”(2)** as follows:

(2) Graduates of approved Iowa high schools who have the subject matter background required by each university and who meet the regent admission index of 245 required for automatic admission will be admitted to any regent university. Applicants who do not meet the regent admission index of 245 for automatic admission or for whom a regent admission index cannot be calculated may, after an individual review of their academic and test records, and at the discretion of the admissions officers:

1. Be admitted unconditionally,
2. Be admitted conditionally,
3. Be required to enroll for a tryout period during a preceding summer session, or
4. Be denied admission.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

An alternative regent admission index (RAI) will be calculated for each freshman applicant using the equation below when the high school has not provided a class rank.

$$\text{RAI} = \frac{(3 \times \text{ACT composite score})}{\text{composite score}} \pm \frac{(30 \times \text{high school grade point average})}{\text{grade point average}} \pm \frac{(5 \times \text{number of high school courses completed in the core subject areas})}{\text{school courses completed in the core subject areas}}$$

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NOTE: For purposes of calculating the alternative regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school GPA is expressed on a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

Freshman applicants from Iowa high schools who have an RAI of at least 245 and who meet the minimum number of high school courses required by the regent universities will qualify for automatic admission to any of the three regent universities. Freshman applicants who have an RAI below 245 may also be admitted to a specific regent university; however, each regent university will review these applications on an individual basis, and admission decisions will be specific to each institution.

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**ARC 2049C**

## **TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 305.15, 307.10 and 307.12, the Iowa Department of Transportation on June 10, 2015, adopted amendments to Chapter 4, "Public Records and Fair Information Practices," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the April 29, 2015, Iowa Administrative Bulletin as **ARC 1974C**.

The amendments within Items 1 to 5 update Chapter 4 to reflect the technological changes in the way records are created, stored, requested and accessed; correct the address of the records center; clarify rule language; correct citations, implementation statutes, and implementation sentences; and comply with Iowa Code sections 22.8 and 23.6. The amendment in Item 6 rewrites the rule concerning confidential records to eliminate several subrules that were simply repeating Iowa Code section 22.7, add a new subrule to include all records that are exempt from disclosure under Iowa Code section 22.7, and correct and add other subrules to comply with Iowa Code sections 21.5(1)“j,” 22.2, 22.7, 321.11A and 804.29.

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.

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

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

These amendments are intended to implement Iowa Code sections 21.5(1), 22.2, 22.7, 22.8, 23.6, 321.11A and 804.29.

These amendments will become effective August 12, 2015.

Rule-making actions:

ITEM 1. Amend rule 761—4.1(22,304) as follows:

### **761—4.1(22,304 305) General provisions.**

#### **4.1(1) Scope of chapter.**

a. and b. No change.

c. This chapter does not make available records compiled by the department in reasonable anticipation of court litigation or formal administrative proceedings. The availability of these records to the public or to any subject individual or party to such litigation or proceedings shall be governed by applicable legal and constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations of the department.

## TRANSPORTATION DEPARTMENT[761](cont'd)

**4.1(2) Custodian.** The custodian of a record is the person who heads the departmental office responsible for that record. The department's electronic Records Management Manual identifies the offices that are responsible for particular records.

a. No change.

b. ~~The A~~ custodian's ~~designees~~ designee may include but ~~are~~ is not limited to the records center and the department's general counsel.

c. No change.

**4.1(3) Address of records center.** The address of the department's records center is: Records Center Management Section, Office of Document Services Information Technology Division, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

**4.1(4) Records Management Manual.**

a. The department's electronic Records Management Manual contains the records management information required by Iowa Code chapter ~~304~~ 305, including descriptions of department records and their formats, management, maintenance, storage, retention, security, and disposal.

b. ~~Chapter III of the~~ The manual also contains the descriptive information on records that is required by Iowa Code section 22.11. ~~Chapter III, as revised through 2001, is made a~~ The manual is updated as needed and its provisions are made a part of these rules.

c. The manual is available for examination and copying at the department's records center and at various other departmental offices located throughout the state. A copy of the manual may also be obtained ~~at cost, upon request,~~ from the records center.

**4.1(5) Availability of open records.** Open records of the department are available to the public for examination and copying unless otherwise provided by ~~rule or statute~~ state or federal law, regulation or rule.

**4.1(6) and 4.1(7)** No change.

**4.1(8) Existing records.** A request for access shall apply only to records that exist at the ~~times~~ time the request is made and access is provided. The department is not required to create, compile or procure a record solely for the purpose of making it available. EXCEPTIONS: See Iowa Code section 22.3A and subrule ~~4.4(5)~~ 4.4(4).

**4.1(9)** No change.

This rule is intended to implement Iowa Code chapter 22 and section ~~304.17~~ 305.15.

ITEM 2. Amend subrule 4.3(7) as follows:

**4.3(7) Copies.** A photocopy of an open record may be made on department photocopiers. If a photocopier is not available in the office where an open record is kept, the custodian shall permit its examination in that office and, if requested, arrange to have a copy made elsewhere. Most department records are stored in electronic formats; therefore, if the requested record is electronic, an electronic copy will be provided. If the requester is unable to open and read an electronic copy, or if the record does not exist in electronic form, a hard copy will be provided.

ITEM 3. Amend subrule 4.3(8) as follows:

**4.3(8) Fees.** The department may charge fees for records as authorized by Iowa Code section 22.3 or another provision of law. Under Iowa Code section 22.3, the fee for the copying service, whether electronic or hard copy, shall not exceed the cost of providing the service.

ITEM 4. Amend rule 761—4.4(22) as follows:

**761—4.4(22) Access to confidential records.** The following provisions are in addition to those specified in rule 761—4.3(22) and are minimum requirements. A statute or another department rule may impose additional requirements for access to certain classes of confidential records. A confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The department shall not refuse to release the nonconfidential information simply because of the manner in which the record is compiled or stored.

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**4.4(1)** No change.

**4.4(2)** *Release of confidential records by the custodian.* The custodian may release a confidential record or a portion of it:

*a. to e.* No change.

*f.* To the public information board pursuant to Iowa Code section 23.6.

**4.4(3)** *Release of confidential records by the director.*

*a.* No change.

*b.* Before the director of transportation releases a record to a person not covered in subrule 4.4(2), the director of transportation may notify the subject of the record of the impending release and may give the subject a reasonable amount of time to seek an injunction.

~~**4.4(4)** *Mixed record.* A confidential record may, due to its nature or the way it is compiled or stored, contain a mixture of confidential and nonconfidential information. The department shall not refuse to release the nonconfidential information simply because the record is compiled or stored in this fashion.~~

~~**4.4(5)**~~ **4.4(4)** *Information released.* If a person is provided access to less than an entire record, the department shall take measures to ensure that the person is furnished only the information that is to be released. This may be done by providing to the person either an extraction of the information to be released, or a copy of the record from which the information not to be released has been deleted.

This rule is intended to implement Iowa Code section 22.11.

ITEM 5. Amend rule 761—4.6(22) as follows:

**761—4.6(22) Requests for confidential treatment.**

**4.6(1)** A person may request that all or a portion of a record be confidential. The request must be submitted in writing to the custodian and:

*a. and b.* No change.

*c.* Demonstrate that disclosure of the information would clearly not be in the public interest.

*e. d.* Give the reasons why the any person or persons would be aggrieved or adversely affected substantially and irreparably injured by disclosure of the information. The person requester may be required to provide any proof necessary to support these reasons.

**4.6(2)** and **4.6(3)** No change.

This rule is intended to implement Iowa Code ~~section~~ sections 22.8 and 22.11.

ITEM 6. Rescind rule 761—4.9(22) and adopt the following new rule in lieu thereof:

**761—4.9(22) Confidential records.** This rule describes the types of departmental information or records that are confidential. This rule is not exhaustive. A citation of the legal authority for confidentiality follows each description. The following records shall be kept confidential. Records are listed by category, according to the legal basis for withholding them from public inspection.

Descriptions:

**4.9(1)** Records which are exempt from disclosure under Iowa Code section 22.7.

**4.9(2)** Records which constitute attorney work product, attorney-client communications, or are otherwise privileged. (Attorney work product is confidential under Iowa Code sections 22.7, 622.10 and 622.11, Iowa R. C. P. 1.503, Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Iowa Rules of Professional Conduct, and case law.)

**4.9(3)** Those portions of the department's staff manuals, instructions or other statements issued by the department which set forth criteria or guidelines to be used by its departmental staff in auditing, making inspections, settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the department. (Iowa Code sections 17A.2 and 17A.3)

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**4.9(4)** The detailed minutes and recordings of closed sessions of the commission. However, if a closed session regards a real estate purchase or sale, the minutes and recording shall be available for public inspection when the transaction discussed is completed. (Iowa Code section 21.5)

**4.9(5)** Vehicle accident reports submitted to the department by drivers and peace officers. (Iowa Code sections 321.266 and 321.271)

*a.* However, access shall be granted to those persons authorized by Iowa Code section 321.271.

*b.* Reserved.

**4.9(6)** Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest including, but not limited to, a citation and affidavits, until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. (Iowa Code section 804.29)

*a.* However, the information in the record may be disseminated without court order during the course of official duties to the persons authorized in Iowa Code section 804.29.

*b.* Reserved.

**4.9(7)** All information filed with the court for the purpose of securing a warrant for a search, including, but not limited to, an application and affidavits, until such time as a peace officer has executed the warrant and has made return thereon. (Iowa Code section 808.13)

*a.* During the period of time that information is confidential, it shall be sealed by the court, and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate or other court employee, in the course of official duties.

*b.* Reserved.

**4.9(8)** Information obtained by the department from the examining of reports, returns or records required to be filed or kept under the provisions of Iowa Code chapter 452A, except where disclosure is authorized by Iowa Code chapter 452A. (Iowa Code section 452A.63)

**4.9(9)** Sealed bids, until the time set for the public opening of bids, whereupon bids are unsealed and no longer confidential. (Iowa Code section 72.3)

**4.9(10)** Those records which, if disclosed, would diminish competition or would give an improper advantage to persons who are in an adverse position to the department. These records shall be kept confidential until the transaction to which they relate is consummated. However, if disclosure would reveal information which would hinder future competition, the records shall be kept confidential. (Iowa Code sections 17A.2, 17A.3, 22.7 and 313.10, Iowa Code chapter 553, and 761—Chapter 20)

*a.* Examples of records which could, in the proper circumstances, be determined to be within this category include, but are not limited to:

(1) Detailed estimates of the cost of a proposed contract.

(2) Economic analyses for determining pavement types.

(3) Negotiations for a proposed contract.

(4) Methodology for determining unfair bidding practices or bid rigging.

(5) Price quotations solicited.

(6) The value of points assigned to a bid rating formula prior to the time set for public opening of bids.

(7) Laboratory testing reports of suppliers' products. These may also be trade secrets. The subject of the report has the right of access to it.

*b.* Reserved.

**4.9(11)** Audit reviews for determining equal employment opportunity contract compliance. (Iowa Code section 22.7 and 5 U.S.C. §§ 552 and 552a)

*a.* The subject of the audit review has the right of access to it.

*b.* Reserved.

**4.9(12)** All financial records and any information contained within them that are made available to the department, unless otherwise expressly permitted to be divulged by federal or state law. (Iowa Code sections 22.7 and 422.20 and 5 U.S.C. §§ 552 and 552a)

**4.9(13)** Personal information in any motor vehicle record, including personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee

## TRANSPORTATION DEPARTMENT[761](cont'd)

or card holder to the department for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency. (Iowa Code sections 22.7 and 321.11 and 18 U.S.C. § 2721 et seq.)

*a.* Information other than personal information contained on electronic driver's license or nonoperator's identification card records that is provided by the licensee or card holder to the department for use by law enforcement, first responders, emergency medical service providers, and other medical personnel responding to or assisting with an emergency may be disclosed only as provided in Iowa Code sections 321.11 and 321.11A, 18 U.S.C. § 2721 et seq., and 761—Chapters 415, 610 and 611.

*b.* The subject of the personal information has the right of access to the information.

**4.9(14)** A report received by the department from a physician licensed under Iowa Code chapter 148, an advanced registered nurse practitioner licensed under Iowa Code chapter 152 and licensed with the board of nursing, a physician assistant licensed under Iowa Code chapter 148C or an optometrist licensed under Iowa Code chapter 154 regarding a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. (Iowa Code section 321.186)

**4.9(15)** Certain records regarding undercover driver's licenses issued to peace officers, as specified in 761—Chapter 625. (Iowa Code sections 22.7 and 321.189A)

*a.* The subject of the record and the head of the law enforcement agency employing the subject have the right of access to the record.

*b.* Reserved.

**4.9(16)** Records related to confidential plates issued for government vehicles. (Iowa Code section 321.19)

*a.* The head of the agency to which the vehicle is assigned has the right of access to the record.

*b.* Reserved.

**4.9(17)** Certified transcripts of labor payrolls (also known as certified payroll records) filed by contractors for federal-aid construction contracts, in accordance with the following paragraphs. (Iowa Code section 22.7, 5 U.S.C. §§ 552 and 552a, and 42 U.S.C. § 405)

*a.* The social security numbers in a certified payroll record are confidential. The record itself may be confidential if its release would give advantage to competitors and serve no public purpose.

*b.* The prime contractor and subcontractor, if applicable, that filed the record have the right of access to it.

*c.* Certified payroll records shall be released to the U.S. Department of Labor and Federal Highway Administration during investigations.

*d.* The custodian may release a certified payroll record with social security numbers withheld to representatives of the Iowa Labor Management Work Preservation Fund.

*e.* The custodian may release a certified payroll record with social security numbers withheld to persons outside the department other than the persons listed in paragraphs 4.9(17) "b" to "d" according to the following procedure:

(1) The request for the record must be in writing.

(2) The custodian shall send a copy of the request by registered mail to the prime contractor. If the request is for subcontractor information, the custodian shall send copies of the request to both the subcontractor and prime contractor.

(3) The requested record shall not be released until 14 calendar days have expired from receipt of the request by the contractor(s) to give the contractor(s) an opportunity to seek an injunction.

**4.9(18)** Information concerning an open or pending railroad accident investigation conducted on behalf of or in conjunction with the Federal Railroad Administration or National Transportation Safety Board to the extent necessary to prevent denial of funds, services or essential information from the United States government. (Iowa Code section 22.9)

**4.9(19)** A geographic computer database, except upon terms and conditions acceptable to the department. (Iowa Code section 22.2)

**4.9(20)** Confidential information, as defined in Iowa Code section 86.45, filed with the workers' compensation commissioner. (Iowa Code section 22.7)

## TRANSPORTATION DEPARTMENT[761](cont'd)

**4.9(21)** An intelligence assessment and intelligence data under Iowa Code chapter 692, except where disclosure is required or authorized by the Iowa Code. (Iowa Code chapter 692 and Iowa Code section 22.7)

**4.9(22)** Information in a record that would permit the commission, subject to Iowa Code chapter 21, to hold a closed session pursuant to Iowa Code section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information or unless otherwise authorized by the Iowa Code. (Iowa Code section 22.7)

**4.9(23)** All other information or records that by law are or may be confidential.

This rule is intended to implement Iowa Code chapters 22, 553 and 692; Iowa Code sections 17A.2, 17A.3, 21.5, 72.3, 313.10, 321.11, 321.11A, 321.19, 321.186, 321.189A, 321.266, 321.271, 422.20, 452A.63, 622.10, 622.11, 804.29 and 808.13; 5 U.S.C. §§ 552 and 552a; 18 U.S.C. § 2721 et seq.; and 42 U.S.C. § 405.

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