



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXXII
August 12, 2009

NUMBER 4
Pages 403 to 452

CONTENTS IN THIS ISSUE

Pages 412 to 452 include **ARC 8024B** to **ARC 8044B**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice, Labeling of biodiesel fuel and
ethanol blended gasoline, 85.48 **ARC 8041B** 412

ALL AGENCIES

Agency identification numbers 410
Citation of administrative rules 405
Schedule for rule making 406

CIVIL REPARATIONS TRUST FUND

Notice 413

COLLEGE STUDENT AID COMMISSION[283] EDUCATION DEPARTMENT[281]"umbrella"

Notice, All Iowa opportunity scholarship
program—eligibility, 8.3 **ARC 8036B** 413

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, General, 1.1, 16.3, 20.2, 20.6,
22.1, 25.3(7)"b," 25.8, 25.9, 27.11(5),
29.6, 29.13, 30.4, 51.19(9) **ARC 8044B** 414
Notice, Nonpayment of state debt, ch 36
ARC 8042B 418

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice, Information technology training
program, amendments to ch 103 **ARC 8032B** 420
Notice, Lean manufacturing institute;
supply chain development program,
rescind ch 110; amend ch 111 **ARC 8031B** 421
Notice, Management talent recruitment
program, amendments to ch 112 **ARC 8030B** 423

Notice, Community attraction and
tourism development (CATD)
programs, 211.2, 211.8, 211.9, 211.103
ARC 8033B 424

Filed Emergency, Community attraction
and tourism development (CATD)
programs, 211.2, 211.8, 211.9, 211.103
ARC 8034B 436

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Notice of Repeal 425
Amended Notice, Iowa antidegradation
implementation procedure—"Appendix
B – Outstanding Iowa Waters," 61.2(2)
ARC 8038B 425

Filed, Water quality standards—revisions
to surface water classifications, 61.3(5)
ARC 8039B 442

Filed, Solid waste comprehensive
planning requirements, amendments to
ch 101 **ARC 8037B** 446

HUMAN SERVICES DEPARTMENT[441]

Notice, Medicaid for children with
disabilities, 75.1(43)"d"(3) **ARC 8040B** 428

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Filed, Construction contractor
registration—fees, 150.6 **ARC 8035B** 450

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Filed, Licensure of podiatrists, 220.2 to
220.4, 220.6, 220.7 **ARC 8028B** 451

PUBLIC HEARINGS

Summarized list 407

RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Filed, Organization; contested cases;
licensure; gambling games; accounting
and cash control, amend chs 1, 4 to 6,
11; adopt ch 12 **ARC 8029B** 452

REVENUE DEPARTMENT[701]

Notice, Penalty and enforcement; form of
invoice; motor fuel and undyed special
fuel tax rates and bills of lading, 10.71,
67.12, 68.2, 68.18 **ARC 8043B** 429

TRANSPORTATION DEPARTMENT[761]

Notice, Bridge safety fund, ch 162 **ARC 8027B**. . . . 433

Notice, Issuance of temporary restricted
license to repeat OWI offenders,
620.3(6) **ARC 8025B** 434

Filed Emergency, Bridge safety fund,
ch 162 **ARC 8026B** 438

Filed Emergency, Issuance of temporary
restricted license to repeat OWI
offenders, 620.3(6) **ARC 8024B** 439

USURY

Notice 435

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.

KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Deputy Editor		(515)281-8157
	Fax:	(515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2009

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, August 19, 2009	September 9, 2009
7	Friday, September 4, 2009	September 23, 2009
8	Friday, September 18, 2009	October 7, 2009

PLEASE NOTE:

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

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

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

AGENCY	HEARING LOCATION	DATE AND TIME
DENTAL BOARD[650]		
General, amendments to chs 1, 16, 20, 22, 25, 27, 29, 30, 51 IAB 8/12/09 ARC 8044B	Board Conference Room 400 SW 8th St., Suite D Des Moines, Iowa	September 1, 2009 10 a.m.
Nonpayment of state debt, ch 36 IAB 8/12/09 ARC 8042B	Board Conference Room 400 SW 8th St., Suite D Des Moines, Iowa	September 1, 2009 10 a.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Information technology training program, amendments to ch 103 IAB 8/12/09 ARC 8032B	ICN/Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 2, 2009 3:30 to 4 p.m.
Lean manufacturing institute; supply chain development program, rescind ch 110; amend ch 111 IAB 8/12/09 ARC 8031B	Second Floor Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 11, 2009 10 a.m.
Management talent recruitment program, amendments to ch 112 IAB 8/12/09 ARC 8030B	Second Floor Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 11, 2009 10 a.m.
Community attraction and tourism development (CATD) programs, 211.2, 211.8, 211.9, 211.103 IAB 8/12/09 ARC 8033B	Iowa Room 200 E. Grand Ave. Des Moines, Iowa	September 3, 2009 1:30 to 3:30 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Iowa antidegradation implementation procedure— “Appendix B – Outstanding Iowa Waters,” 61.2(2) IAB 7/15/09 ARC 7945B (See also ARC 7368B , IAB 11/19/08)	Elkader Opera House 207 N. Main St. Elkader, Iowa	September 1, 2009 11 a.m.
	Northeast Iowa Comm. College – Waukon Room 115 1220 3rd Ave., Suite 102 Waukon, Iowa	September 1, 2009 6 p.m.
	Mahan Bldg., Iowa Lakeside Laboratory 1838 Highway 86 Milford, Iowa	September 3, 2009 6 p.m.
Wastewater discharge from well drilling sites, 64.3(1), 64.4(2), 64.6, 64.15(6), 64.16(5) IAB 7/15/09 ARC 7945B	Municipal Utilities Conference Room 15 W. 3rd St. Atlantic, Iowa	August 12, 2009 10 a.m.
INSPECTIONS AND APPEALS DEPARTMENT[481]		
Elder group homes, ch 68 IAB 7/15/09 ARC 7960B (Joint hearing with ARC 7959B) (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	August 14, 2009 3 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
INSPECTIONS AND APPEALS DEPARTMENT[481] (Cont'd)		
(ICN Network)	Room 113, Galva-Holstein High School 519 E. Maple Holstein, Iowa	August 14, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	August 14, 2009 3 p.m.
	Meeting Room D, Public Library 123 S. Linn St. Iowa City, Iowa	August 14, 2009 3 p.m.
Adult day services programs, ch 70 IAB 7/15/09 ARC 7959B (Joint hearing with ARC 7960B) (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	August 14, 2009 3 p.m.
	Room 113, Galva-Holstein High School 519 E. Maple Holstein, Iowa	August 14, 2009 3 p.m.
	Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	August 14, 2009 3 p.m.
	Meeting Room D, Public Library 123 S. Linn St. Iowa City, Iowa	August 14, 2009 3 p.m.
NATURAL RESOURCE COMMISSION[571]		
Snagging paddlefish, 81.1, 81.2(4) IAB 7/29/09 ARC 8019B	Room D, Clinton County Admin. Bldg. 1900 N. 3rd St. Clinton, Iowa	August 26, 2009 7 p.m.
Fishing tournaments—electronic submission of applications, 88.3 IAB 7/29/09 ARC 8020B	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 20, 2009 1 p.m.
Nonresident deer hunting, 94.1(5) IAB 7/29/09 ARC 8016B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
Wild turkey spring hunting, 98.9(5) IAB 7/29/09 ARC 8017B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
Wild turkey fall hunting, 99.1, 99.2(4) IAB 7/29/09 ARC 8018B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
Nonambulatory deer hunting licenses, 106.1(9) IAB 7/29/09 ARC 8015B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 18, 2009 10 a.m.
PUBLIC SAFETY DEPARTMENT[661]		
Iowa sex offender registry, 83.2, 83.3 IAB 7/29/09 ARC 7975B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	September 8, 2009 8:30 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
TRANSPORTATION DEPARTMENT[761]		
Bridge safety fund, ch 162 IAB 8/12/09 ARC 8027B	Third Floor Conference Rm., Admin. Bldg. 800 Lincoln Way Ames, Iowa	September 3, 2009 10 a.m. (If requested)
Issuance of temporary restricted license to repeat offenders, 620.3(6) IAB 8/12/09 ARC 8025B	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	September 4, 2009 10 a.m. (If requested)
UTILITIES DIVISION[199]		
Abbreviated franchise petition, 11.1(9), 11.2(3), 11.3(1)“g,” 11.5(11) IAB 7/29/09 ARC 8012B (See also ARC 7859B , IAB 6/17/09)	Board Hearing Room 350 Maple St. Des Moines, Iowa	August 20, 2009 1:30 p.m.

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

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

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

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

The following list will be updated as changes occur:

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

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

ARC 8041B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****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 214.10, 214A.2 and 215.24, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 85, "Weights and Measures," Iowa Administrative Code.

The proposed amendments would eliminate the need for the labeling of biodiesel fuel containing 5 percent or less of biodiesel. The new labeling requirements for biodiesel are set out. Wholesalers selling ethanol blended gasoline or biodiesel fuel would be required to provide the exact volume of the ethanol or biodiesel on the sales slip or invoice.

Any interested persons may make written comments or suggestions on these proposed amendments on or before 4:30 p.m. on September 1, 2009. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@Iowagriculture.gov.

No waiver provision is included in these proposed amendments. However, the Department's general waiver provisions, found at 21—Chapter 8, apply.

These amendments are intended to implement 2009 Iowa Acts, Senate File 478, sections 118 to 121. The following amendments are proposed.

ITEM 1. Adopt the following **new** paragraph **85.48(10)"e"**:

e. Biodiesel fuel containing 5 percent or less of biodiesel does not require the biodiesel label.

ITEM 2. Adopt the following **new** paragraph **85.48(10)"f"**:

f. Biodiesel fuel containing more than 5 percent but not more than 20 percent of renewable fuel must indicate on the label whether biodiesel or biomass-based diesel is the renewable fuel contained in the product. The label must also indicate that the fuel contains biodiesel or biomass-based diesel in quantities greater than 5 percent but not more than 20 percent. A specific blend percentage is not required.

ITEM 3. Adopt the following **new** paragraph **85.48(10)"g"**:

g. Biodiesel fuel containing more than 20 percent renewable fuel must indicate on the label whether biodiesel or biomass-based diesel is the renewable fuel contained in the product. The label must also reflect the specific percentage of biodiesel or biomass-based diesel in the product.

ITEM 4. Adopt the following **new** subrule 85.48(16):

85.48(16) Ethanol blended gasoline shall be designated E-xx where "xx" is the volume percent of ethanol in the ethanol gasoline. Ethanol blended gasoline formulated with a percentage of ethanol between 70 and 85 percent by volume shall be designated as E-85. Biodiesel fuel shall be designated as B-xx where "xx" is more than 20 percent renewable fuel by volume.

ITEM 5. Adopt the following **new** subrule 85.48(17):

85.48(17) A wholesale dealer selling ethanol blended gasoline or biodiesel fuel to a purchaser shall provide the purchaser with a statement indicating the actual volume present. The statement may be on the sales slip provided or a similar document such as a bill of lading or invoice. This statement shall include the specific amount of biodiesel, even if the amount of renewable fuel is 5 percent or less.

CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of June 30, 2009, is approximately \$12,660.00. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 8036B

COLLEGE STUDENT AID COMMISSION[283]

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 261.3, the College Student Aid Commission hereby proposes to amend Chapter 8, "All Iowa Opportunity Scholarship Program," Iowa Administrative Code.

The purpose of this amendment is to modify the current eligibility requirements for the All Iowa Opportunity Scholarship Program pursuant to Iowa Code section 261.87 as amended by 2009 Iowa Acts, Senate File 470, section 28.

Interested persons may submit comments orally or in writing by 4:30 p.m. on September 1, 2009, to the Executive Director, College Student Aid Commission, 200 Tenth Street, Fourth Floor, Des Moines, Iowa 50309; telephone (515)725-3400.

This amendment is intended to implement Iowa Code section 261.87 as amended by 2009 Iowa Acts, Senate File 470, section 28.

The following amendment is proposed.

Amend rule 283—8.3(261) as follows:

283—8.3(261) Eligibility requirements.

8.3(1) Applicants for the all Iowa opportunity scholarship program must complete the Free Application for Federal Student Aid (FAFSA) by the date specified in the application instructions and any additional applications or documents required by the commission. In addition to completing the FAFSA, an applicant must be:

a. An Iowa resident who begins his or her initial period of postsecondary enrollment within two academic years of graduation from high school;

b. An Iowa high school ~~graduate who graduated from high school with at least a 2.5 cumulative grade point average on a 4.0 grade scale or its equivalent~~ student with at least a 2.5 cumulative grade point average on a 4.0 scale or its equivalent; and

c. Enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program eligible for federal student aid under Title IV of the federal Higher Education Act leading to an undergraduate degree, diploma, or certificate from an eligible college or university.

8.3(2) To maintain eligibility, recipients must maintain satisfactory academic progress as defined by the eligible college or university.

COLLEGE STUDENT AID COMMISSION[283](cont'd)

8.3(3) Individuals who have military obligations may delay the initial period of enrollment for up to four academic years beyond high school graduation or must begin postsecondary enrollment within two academic years of discharge. Exceptions for health or other personal reasons for delaying the initial period of enrollment will be reviewed by commission staff on a case-by-case basis.

ARC 8044B**DENTAL BOARD[650]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby gives Notice of Intended Action to amend Chapter 1, "Administration," Chapter 16, "Prescribing, Administering, and Dispensing Drugs," Chapter 20, "Dental Assistants," Chapter 22, "Dental Assistant Radiography Qualification," Chapter 25, "Continuing Education," Chapter 27, "Standards of Practice and Principles of Professional Ethics," Chapter 29, "Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia," Chapter 30, "Discipline," and Chapter 51, "Contested Cases," Iowa Administrative Code.

Items 1 and 4 update supervision definitions for consistency with Board rules and state law. The definition of "inactive status" has also been changed to clarify existing procedures.

Item 2 adopts a new definition of "overpayments." The Board is unable to process refunds in the state accounting system, which has resulted in delays in processing applications and renewals.

Items 3 and 16 specify that a licensee may not self-prescribe, self-administer or self-dispense controlled substances or tramadol, or prescribe, administer, or dispense these medications to members of the licensee's immediate family.

Item 6 clarifies that graduates of accredited dental assisting programs are eligible for dental assistant registration.

Item 8 clarifies that persons who participate in dental radiography must be licensed by the Board, be currently registered as a dental assistant or hold an active nursing license, and have an active qualification in dental radiography.

Item 9 clarifies courses that may be claimed by licensees or registrants for continuing education credit.

Items 10 and 11 clarify the existing procedures used to place a license or registration on inactive status and to reinstate an inactive license or registration.

Item 13 requires that a dentist provide radiographs that are of diagnostic quality when transferring patient records.

Items 14 and 15 specify standards for use and record-keeping requirements for nitrous oxide inhalation analgesia.

Item 18 changes the quarterly fee charged to cover the Board's expenses associated with monitoring a licensee's or registrant's compliance with the settlement agreement if the licensee or registrant agrees to the provision as part of a settlement agreement to resolve a contested case.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7. However, pursuant to 650—27.12(17A,147,153,272C) and 650—30.4(147,153,272C), rules in Chapters 27 and 30 are not subject to waiver. .

Any interested person may make written comments or suggestions on the proposed amendments on or before September 1, 2009. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

DENTAL BOARD[650](cont'd)

Also, there will be a public hearing on September 1, 2009, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

These amendments were approved at the July 15, 2009, regular meeting of the Iowa Dental Board.

These amendments are intended to implement Iowa Code chapters 153 and 272C.

The following amendments are proposed.

ITEM 1. Amend rule **650—1.1(153)**, definitions of “General supervision of a dental assistant,” “Inactive status,” “Personal supervision” and “Practice of dentistry,” as follows:

“*General supervision of a dental assistant*” means that a dentist has delegated the services to be provided by a registered dental assistant, which are limited to all extraoral duties, dental radiography, and intraoral suctioning. The dentist need not be present in the facility while these services are being provided.

“*Inactive status*” means the status of a practitioner licensed or registered pursuant to Iowa Code chapter 153 who is not currently engaged in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa and who has ~~obtained a certificate of exemption from compliance with the requirements for continuing dental education~~ paid the required renewal fee but who has not met the requirements for continuing education.

“*Personal supervision*” means the dentist is physically present in the treatment room to oversee and direct ~~the all~~ intraoral or chairside services of the dental assistant trainee and a licensee or registrant is physically present to oversee and direct all extraoral services of the dental assistant.

“*Practice of dentistry*” as defined in Iowa Code section 153.13 includes the rendering of professional services in this state as an employee or independent contractor or the rendering of any dental decisions, including diagnosing, treatment planning, determining the appropriateness of proposed dental care, or engaging in acts that constitute the practice of dentistry.

The following classes of persons shall also be deemed to be engaged in the practice of dentistry:

1. Persons publicly professing to be dentists, dental surgeons, or skilled in the science of dentistry, or publicly professing to assume the duties incident to the practice of dentistry.

2. Persons who perform examinations, diagnosis, treatment, and attempted correction by any medicine, appliance, surgery, or other appropriate method of any disease, condition, disorder, lesion, injury, deformity, or defect of the oral cavity and maxillofacial area, including teeth, gums, jaws, and associated structures and tissue, which methods by education, background, experience, and expertise are common to the practice of dentistry.

3. Persons who offer to perform, perform, or assist with any phase of any operation incident to tooth whitening, including the instruction or application of tooth whitening materials or procedures at any geographic location. For purposes of this paragraph, “tooth whitening” means any process to whiten or lighten the appearance of human teeth by the application of chemicals, whether or not in conjunction with a light source.

ITEM 2. Adopt the following new definition of “Overpayment” in rule **650—1.1(153)**:

“*Overpayment*” means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded.

ITEM 3. Adopt the following new subrules 16.3(7) and 16.3(8):

16.3(7) A dentist shall not self-prescribe, self-administer, or self-dispense controlled substances or tramadol.

16.3(8) Prescribing, administering, or dispensing controlled substances or tramadol to members of the licensee’s immediate family is not allowed except for an acute dental condition or on an emergency basis for a dental condition when the licensee conducts an examination, establishes a patient record, and maintains proper documentation.

DENTAL BOARD[650](cont'd)

ITEM 4. Amend rule **650—20.2(153)**, definitions of “Direct supervision” and “General supervision,” as follows:

“*Direct supervision*” means that the dentist is present in the treatment facility, but it is not required that the dentist be physically present in the treatment room while the registered dental assistant is performing acts assigned by the dentist.

“*General supervision*” means that a dentist has delegated the services to be provided by a registered dental assistant. The dentist need not be present in the facility while these services are being provided.

ITEM 5. Amend paragraph **20.6(1)“a”** as follows:

a. ~~The employer of~~ A dentist supervising a dental assistant trainee must notify the board in writing of such employment within seven days of the time the dental assistant begins work.

ITEM 6. Amend subparagraph **20.6(2)“a”(3)** as follows:

(3) Be a graduate of ~~a postsecondary~~ an accredited dental assisting program approved by the board; and

ITEM 7. Amend subparagraph **20.6(2)“b”(3)** as follows:

(3) Evidence of successful completion of a course of study approved by the board and sponsored by a board-approved ~~postsecondary school,~~ accredited dental assisting program in the areas of infection control, hazardous materials, and jurisprudence. The course of study may be taken at a board-approved ~~postsecondary school,~~ accredited dental assisting program or on the job using curriculum approved by the board for such purpose.

ITEM 8. Amend rule 650—22.1(136C,153) as follows:

650—22.1(136C,153) Qualification required. ~~A dental assistant person who is not otherwise actively licensed by the board shall not participate in dental radiography unless the assistant person holds a current registration certificate or active nursing license and holds an active radiography qualification issued by the board, and a dentist provides general supervision.~~

ITEM 9. Amend paragraph **25.3(7)“b”** as follows:

b. Acceptable subject matter includes courses in patient treatment record keeping, risk management, sexual boundaries, communication, and OSHA regulations, and courses related to clinical practice. A course on Iowa jurisprudence that has been prior-approved by the board is also acceptable subject matter.

ITEM 10. Amend rule 650—25.8(153) as follows:

650—25.8(153) Exemptions for inactive practitioners. ~~A licensee or registrant who is not engaged in practice in the state of Iowa, residing in or out of the state of Iowa, may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. place the license or registration on inactive status by submitting a written renewal form and paying the required renewal fee. No continuing education hours are required to renew a license or registration on inactive status until reinstatement. The application~~ A request to place a license or registration on inactive status shall also contain a statement that the applicant will not engage in the practice of the applicant’s profession in Iowa without first complying with all regulations rules governing reinstatement after exemption of inactive practitioners. The application for a certificate of exemption shall be submitted upon the form provided by the board.

ITEM 11. Amend rule 650—25.9(153), introductory paragraph, as follows:

650—25.9(153) Reinstatement of inactive practitioners. ~~Inactive practitioners who have been granted a waiver of compliance with these regulations and obtained a certificate of exemption shall, prior to engaging in the practice of dentistry, dental hygiene, or dental assisting in the state of Iowa, satisfy the following requirements for reinstatement:~~

DENTAL BOARD[650](cont'd)

ITEM 12. Amend paragraph **25.9(2)“b”** as follows:

b. Completion of a total number of hours of ~~accredited~~ approved continuing education computed by multiplying 15 by the number of years ~~a certificate of exemption shall have been in effect~~ the license has been on inactive status for a dentist or dental hygienist, up to a maximum of 75 hours for a dentist or dental hygienist, or by multiplying 10 by the number of years ~~a certificate of exemption shall have been in effect~~ the registration has been on inactive status for a dental assistant, up to a maximum of 50 hours for a dental assistant; or

ITEM 13. Amend subrule 27.11(5) as follows:

27.11(5) Confidentiality and transfer of records. Dentists shall preserve the confidentiality of patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient’s legal guardian, the dentist shall furnish the dental records or copies or summaries of the records, including dental radiographs or copies of the radiographs that are of diagnostic quality, as will be beneficial for the future treatment of that patient. The dentist may charge a nominal fee for duplication of records, but may not refuse to transfer records for nonpayment of any fees.

ITEM 14. Adopt the following new paragraph **29.6(1)“e”**:

e. Ensures the patient is continually monitored by qualified personnel while receiving nitrous oxide inhalation analgesia.

ITEM 15. Amend rule 650—29.13(153) as follows:

650—29.13(153) Record keeping. The patient chart must include preoperative and postoperative vital signs, drugs administered, dosage administered, anesthesia time in minutes, and monitors used. Intermittent vital signs shall be taken and recorded in the patient chart during procedures and until the patient is fully ambulatory. The chart should contain the name of the person to whom the patient was discharged. For nitrous oxide inhalation analgesia, the patient chart must include the concentration administered and duration of administration, as well as any vital signs taken.

ITEM 16. Amend rule **650—30.4(147,153,272C)**, numbered paragraph “**18**,” as follows:

18. Indiscriminately or promiscuously prescribing, administering, or dispensing any drug or prescribing or dispensing any drug for other than lawful purposes- including, but not limited to, self-prescribing, self-administering or self-dispensing controlled substances or tramadol, or prescribing, dispensing, or administering controlled substances or tramadol to members of the licensee’s immediate family, except for an acute dental condition or on an emergency basis for a dental condition when the licensee conducts an examination, establishes a patient record, and maintains proper documentation. Immediate family includes the licensee’s spouse or domestic partner and either of the licensee’s, spouse’s, or domestic partner’s parents, stepparents or grandparents; the licensee’s children or stepchildren and any child’s spouse, domestic partner, or children; the siblings of the licensee or the licensee’s spouse or domestic partner and the sibling’s spouse or domestic partner; or anyone else living with the licensee.

ITEM 17. Amend rule **650—30.4(147,153,272C)**, numbered paragraphs “**22**” and “**34**,” as follows:

22. Employment of or permitting an unlicensed or unregistered person or a person with a lapsed license or registration to practice dentistry, dental hygiene, or dental assisting.

34. Engaging in the practice of dentistry, dental hygiene, or dental assisting with ~~an expired~~ a lapsed or inactive renewal license, permit, or registration, or engaging in dental radiography with a lapsed or inactive dental radiography qualification.

ITEM 18. Amend subrule 51.19(9) as follows:

51.19(9) A provision for payment of the actual costs or a ~~\$100~~ \$300 quarterly fee to cover the board’s expenses associated with monitoring a licensee’s or registrant’s compliance with the settlement agreement may be included in the settlement agreement. Actual costs include mileage, meals, travel expenses, hourly investigative time, and all incidental expenses associated with monitoring compliance. Monitoring costs shall be considered repayment receipts as defined in Iowa Code section 8.2.

ARC 8042B**DENTAL BOARD[650]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Dental Board hereby gives Notice of Intended Action to adopt new Chapter 36, "Nonpayment of State Debt," Iowa Administrative Code.

The amendment adopts a new chapter pursuant to Iowa Code chapter 272D that establishes procedures to deny a license, permit, or registration, or take disciplinary action against a license, permit, or registration upon receipt of a certificate of noncompliance from the centralized collection unit of the Iowa Department of Revenue.

These rules are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed rules on or before September 1, 2009. Such written comments should be directed to Jennifer Hart, Executive Officer, Iowa Dental Board, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on September 1, 2009, beginning at 10 a.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

This amendment was approved at the July 15, 2009, regular meeting of the Iowa Dental Board.

These rules are intended to implement Iowa Code chapter 272D.

The following amendment is proposed.

Adopt the following **new** 650—Chapter 36:

CHAPTER 36
NONPAYMENT OF STATE DEBT

650—36.1(272D) Definitions. For the purpose of this chapter, the following definitions shall apply.

"Act" means Iowa Code chapter 272D.

"Applicant" means an individual who is seeking the issuance of a license.

"Board" means the Iowa dental board.

"Centralized collection unit" means the centralized collection unit of the Iowa department of revenue.

"Certificate of noncompliance" means a document provided by the centralized collection unit of the department of revenue certifying that the named applicant, licensee, permit holder, or registrant has an outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

"Denial notice" means a board notification denying an application for the issuance or renewal of a license, permit, or registration as required by the Act.

"Revocation or suspension notice" means a board notification suspending a license, registration, or permit for an indefinite or specified period of time or a notification revoking a license, permit, or registration as required by the Act.

DENTAL BOARD[650](cont'd)

“*Withdrawal certificate*” means a document provided by the centralized collection unit certifying that the certificate of noncompliance is withdrawn and that the board may proceed with issuance, reinstatement, or renewal of a license, permit, or registration.

650—36.2(272D) Issuance or renewal of a license—denial. The board shall deny the issuance or renewal of a license, permit, or registration upon the receipt of a certificate of noncompliance from the centralized collection unit. This rule shall apply in addition to the procedures set forth in the Act.

36.2(1) *Service of denial notice.* Notice shall be served upon the applicant, licensee, permit holder, or registrant by certified mail, return receipt requested; by personal service; or through authorized counsel.

36.2(2) *Effective date of denial.* The effective date of the denial of the issuance or renewal of a license, permit, or registration, as specified in the denial notice, shall be 60 days following service of the denial notice upon the applicant, licensee, permit holder, or registrant.

36.2(3) *Preparation and service of denial notice.* The executive director of the board is authorized to prepare and serve the denial notice upon the applicant, licensee, permit holder, or registrant.

36.2(4) *Licensees, permit holders, registrants, and applicants responsible to inform board.* Licensees, permit holders, registrants, and applicants shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with the Act. Licensees, permit holders, registrants, and applicants shall also provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawals of certificates issued by the centralized collection unit.

36.2(5) *Reinstatement following denial.* All board fees required for application, renewal, or reinstatement must be paid by applicants, licensees, permit holders, or registrants before a license, permit, or registration will be issued, renewed, or reinstated after the board has denied the issuance or renewal of a license, permit, or registration pursuant to the Act.

36.2(6) *Effect of filing in district court.* In the event an applicant, licensee, permit holder, or registrant files a timely district court action following service of a board denial notice, the board shall continue with the intended action described in the denial notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the denial of the issuance or renewal of a license, permit, or registration, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

36.2(7) *Final notification.* The board shall notify the applicant, licensee, permit holder, or registrant in writing through regular first-class mail, or such other means as the board determines appropriate in the circumstances, within ten days of the effective date of the denial of the issuance or renewal of a license, permit, or registration and shall similarly notify the applicant, licensee, permit holder, or registrant if the license, permit, or registration is issued or renewed following the board’s receipt of a withdrawal certificate.

650—36.3(272D) Suspension or revocation of a license. The board shall suspend or revoke a license, permit, or registration upon the receipt of a certificate of noncompliance from the centralized collection unit according to the procedures set forth in the Act. This rule shall apply in addition to the procedures set forth in the Act.

36.3(1) *Service of revocation or suspension notice.* A revocation or suspension notice shall be served upon the licensee, permit holder, or registrant by certified mail, return receipt requested; by personal service; or through authorized counsel.

36.3(2) *Effective date of revocation or suspension.* The effective date of the suspension or revocation of a license, permit, or registration, as specified in the revocation or suspension notice, shall be 60 days following service of the notice upon the licensee, permit holder, or registrant.

36.3(3) *Preparation and service of revocation or suspension notice.* The executive director of the board is authorized to prepare and serve the revocation or suspension notice upon the licensee, permit holder, or registrant and is directed to notify the licensee, permit holder, or registrant that the license,

DENTAL BOARD[650](cont'd)

permit, or registration will be suspended, unless the license, permit, or registration is already suspended on other grounds. In the event that the license, permit, or registration is on suspension, the executive director shall notify the licensee, permit holder, or registrant of the board's intention to revoke the license, permit, or registration.

36.3(4) *Responsibility to inform board.* The licensee, permit holder, or registrant shall keep the board informed of all court actions and all centralized collection unit actions taken under or in connection with the Act. Licensees, permit holders, or registrants shall also provide the board copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to the Act, all court orders entered in such actions, and any withdrawal certificates issued by the centralized collection unit.

36.3(5) *Reinstatement following suspension or revocation.* A licensee, permit holder, or registrant shall pay all board fees required for renewal or reinstatement before a license, permit, or registration will be reinstated after the board has suspended or revoked a license, permit, or registration pursuant to the Act.

36.3(6) *Effect of filing in district court.* In the event a licensee, permit holder, or registrant files a timely district court action pursuant to the Act, and following service of a revocation or suspension notice, the board shall continue with the intended action described in the revocation or suspension notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the board to proceed. For purposes of determining the effective date of the suspension or revocation, the board shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

36.3(7) *Final notification.* The board shall notify the licensee, permit holder, or registrant in writing through regular first-class mail, or by such other means as the board determines appropriate in the circumstances, within ten days of the effective date of the suspension or revocation, and shall similarly notify the licensee, permit holder, or registrant if the license, permit, or registration is reinstated following the board's receipt of a withdrawal certificate.

650—36.4(272D) Sharing of information. Notwithstanding any statutory confidentiality provision, the board may share information with the centralized collection unit of the department of revenue through automated means for the sole purpose of identifying applicants, licensees, permit holders, or registrants subject to enforcement under Iowa Code chapter 272D.

These rules are intended to implement Iowa Code chapter 272D.

ARC 8032B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 103, "Information Technology Training Program," Iowa Administrative Code.

The proposed amendments update Iowa Code citations; add references to 2009 Iowa Acts, Senate File 142, which permits moneys in the Innovation and Commercialization Fund to be used for information technology training; expand the program to businesses outside the targeted industries of biosciences, advanced manufacturing, and information technology; and limit eligible equipment or software costs to \$1,000, respectively.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Public comments concerning the proposed amendments will be accepted until 4 p.m. on September 2, 2009. Interested persons may submit written or oral comments by contacting Kim Bentley, Program Manager, Innovation and Commercialization Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3193.

A public hearing to receive comments about the proposed amendments will be held from 3:30 to 4 p.m. on September 2, 2009, at the above address in the ICN/Main Conference Room.

These amendments are intended to implement Iowa Code section 15.411(5) and 2009 Iowa Acts, Senate File 142.

The following amendments are proposed.

ITEM 1. Amend **261—Chapter 103**, parenthetical implementation statutes, as follows:

(15,83GA,SF142)

ITEM 2. Amend rule 261—103.1(15,83GA,SF142) as follows:

261—103.1(15,83GA,SF142) Authority. The authority for establishing rules governing the information technology training program under this chapter is provided in ~~2007 Iowa Acts, House File 829, section 4(5)~~ Iowa Code section 15.411(10).

ITEM 3. Amend subrule 103.6(2) as follows:

103.6(2) Equipment and software, when used for training, may be an allowable cost. If equipment or software is purchased for use in training but is subsequently retained for use in the general operation of the applicant's business, only the prorated portion of the equipment or software costs directly related to the training shall be eligible for program funding. Prorated costs for equipment or software shall not exceed \$1,000, respectively.

ITEM 4. Amend rule 261—103.7(15,83GA,SF142) as follows:

261—103.7(15,83GA,SF142) Eligible business. To be eligible for this program, the business, or a department of the business, must be engaged in the delivery of information technology services ~~in the targeted industries of biosciences, advanced manufacturing, or information technology as identified by the North American Industry Classification System,~~ and the business must be located in Iowa.

ITEM 5. Amend subrule 103.13(3) as follows:

103.13(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to ~~2007 Iowa Acts, House File 829, section 10,~~ Iowa Code section 15.104(9) "l" and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

ITEM 6. Amend **261—Chapter 103**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ section 15.411(5) and 2009 Iowa Acts, Senate File 142.

ARC 8031B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to rescind Chapter 110, "Lean

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Manufacturing Institute,” and to amend Chapter 111, “Supplier Capacity and Product Database Program,” Iowa Administrative Code.

The amendments update Iowa Code citations; add references to 2009 Iowa Acts, Senate File 142, section 1, which permits moneys in the Innovation and Commercialization Fund to be used for supply chain initiatives; revise the title of Chapter 111; add a definition of “performance improvement programs,” and rescind Chapter 110, “Lean Manufacturing Institute.” The revised Supply Chain Development Program incorporates activities currently found in Chapter 110. These amendments will allow applicants with projects that qualified under the Lean Manufacturing Institute to qualify under the Supply Chain Development Program.

Public comments concerning the proposed amendments will be accepted until 4 p.m. on September 11, 2009, the same date as the public hearing. Interested persons may submit written or oral comments by contacting Mark Laurenzo, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3191; fax (515)725-3010.

A public hearing about the proposed amendments has been scheduled for September 11, 2009, at 10 a.m., in the Second Floor Main Conference Room, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department, and advise of specific needs.

These amendments are intended to implement Iowa Code section 15.411 as amended by 2009 Iowa Acts, Senate File 142, section 1.

The following amendments are proposed.

ITEM 1. Rescind and reserve **261—Chapter 110**.

ITEM 2. Amend **261—Chapter 111**, title, as follows:

~~SUPPLIER CAPACITY AND PRODUCT DATABASE~~ SUPPLY CHAIN
DEVELOPMENT PROGRAM

ITEM 3. Amend the parenthetical implementation statutes in **261—Chapter 111** as follows:
(~~82GA, ch 122~~ 15,83GA,SF142)

ITEM 4. Amend rule 261—111.1(15,83GA,SF142) as follows:

261—111.1(15,83GA,SF142) Authority. The authority for establishing rules governing the supplier capacity and product database supply chain development program is ~~2007 Iowa Acts, chapter 122, section 7(2)~~ Iowa Code section 15.411(10).

ITEM 5. Rescind the definition of “Supplier capacity and product database” in rule **261—111.3(15,83GA,SF142)**.

ITEM 6. Adopt the following new definition of “Performance improvement programs” in rule **261—111.3(15,83GA,SF142)**:

“Performance improvement programs” means process management philosophies, best practices, and appropriate tools from methodologies in use in manufacturing total quality and value systems that support supply chain development and provide a competitive advantage.

ITEM 7. Amend subrule 111.4(2) as follows:

111.4(2) Funds shall be used for the analysis of targeted industry clusters and the development and delivery of manufacturing supply chain development programs. Funds may be used for personnel salaries, software, research data services, and training the development and delivery of performance improvement programs. ~~Funds shall not be used to purchase equipment.~~ Funds may be used for the systematic design and layout planning for manufacturing operational areas and to purchase machinery and equipment.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ITEM 8. Amend subrule 111.11(3) as follows:

111.11(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to ~~2008 Iowa Acts, House File 2450, section 6(9)“l,”~~ Iowa Code section 15.104(9)“l” and any other reports deemed necessary by the department, the board, the general assembly or the governor’s office.

ITEM 9. Amend **261—Chapter 111**, implementation sentence, as follows:

These rules are intended to implement ~~2007 Iowa Acts, chapter 122, section 7(2)~~ Iowa Code section 15.411 as amended by 2009 Iowa Acts, Senate File 142, section 1.

ARC 8030B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 112, “Management Talent Recruitment Program,” Iowa Administrative Code.

The proposed amendments update Iowa Code citations; add references to 2009 Iowa Acts, Senate File 142, which permits moneys in the Innovation and Commercialization Fund to be used for recruiting management talent; revise the purpose of the program to include recruitment of in-state management talent; and revise the definition of “early-stage company” to mean a company with five or fewer years of operating experience.

Public comments concerning the proposed amendments will be accepted until 4 p.m. on September 11, 2009. Interested persons may submit written or oral comments by contacting Mark Laurenzo, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3191; fax (515)725-3010.

A public hearing about the proposed amendments will be held on September 11, 2009, at 10 a.m. in the Second Floor Main Conference Room, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code section 15.411 as amended by 2009 Iowa Acts, Senate File 142.

The following amendments are proposed.

ITEM 1. Amend **261—Chapter 112**, parenthetical implementation statutes, as follows:
(~~82GA, ch122~~ 15,83GA,SF142)

ITEM 2. Amend rule 261—112.1(15,83GA,SF142) as follows:

261—112.1(15,83GA,SF142) Authority. The authority for establishing rules governing the management talent recruitment program is ~~2007 Iowa Acts, chapter 122, section 7(8)~~ Iowa Code section 15.411(10).

ITEM 3. Amend rule 261—112.2(15,83GA,SF142) as follows:

261—112.2(15,83GA,SF142) Purpose. The purpose of this program is to develop activities for the recruitment of ~~out-of-state~~ executive and operations management personnel. New or expanding targeted

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

industries will be provided technical assistance to identify a network of potential human capital resources appropriate for the targeted industries' business life cycle.

ITEM 4. Amend rule ~~261—112.3(15,83GA,SF142)~~, definition of "Early-stage company," as follows:

"Early-stage company" means a company with ~~three~~ five or fewer years of operating experience.

ITEM 5. Amend subrule 112.11(3) as follows:

112.11(3) Reporting. An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to ~~2008 Iowa Acts, House File 2450, section 6(9) "l,"~~ Iowa Code section 15.104(9) "l" and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

ITEM 6. Amend ~~261—Chapter 112~~, implementation sentence, as follows:

These rules are intended to implement ~~2007 Iowa Acts, chapter 122, section 7(8)~~ Iowa Code section 15.411 as amended by 2009 Iowa Acts, Senate File 142.

ARC 8033B**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to amend Chapter 211, "Community Attraction and Tourism Development (CATD) Programs," Iowa Administrative Code.

The amendments incorporate recent legislative changes made by 2009 Iowa Acts, House File 822, that impact the committee structure within the Vision Iowa Board. Pursuant to 2009 Iowa Acts, House File 822, the Community Attraction and Tourism (CAT) Review Committee will continue to review CAT applications and the Vision Iowa Review Committee will evaluate and rank River Enhancement Community Attraction and Tourism (RECAT) applications. Pursuant to 2009 Iowa Acts, Senate File 336, an applicant for financial assistance under the CAT or RECAT program may apply to the Vision Iowa Board for a waiver of any local or private matching moneys required by the Board. These amendments establish a process by which the Vision Iowa Board will review requests to waive any local or private matching moneys.

Public comments concerning the proposed amendments will be accepted until 3:30 p.m. on September 3, 2009. Interested persons may submit written comments to Alaina Santizo, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3197.

A public hearing is scheduled for September 3, 2009, from 1:30 to 3:30 p.m. in the Iowa Room of the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 8034B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code chapter 15F as amended by 2009 Iowa Acts, House File 822 and Senate File 336.

ENVIRONMENTAL PROTECTION COMMISSION

Notice of Repeal

Iowa Code subparagraph subdivision 459.312(10)(a)(2)(e) provides that Iowa Code subparagraph subdivisions 459.312(10)(a)(2)(b) through (e) are repealed when the Iowa Department of Natural Resources completes the phased-in implementation of the phosphorus index for previously submitted manure management plans. Department administrative rules at 567 Iowa Administrative Code 65.17(1)“d” set forth the implementation schedule and provide that a person who submitted an original manure management plan prior to April 1, 2002, shall submit a phosphorus index with the first manure management plan update on and after August 25, 2008. Manure management plan annual updates are required to be submitted according to staggered dates during the year as provided in Iowa Code subsection 459.312(3) and 567 IAC 65.16(3)“b.” Accordingly, all manure management plan updates subject to the above-described August 25, 2008, deadline are required to be submitted within the next year and ending on August 25, 2009. Therefore, the Department hereby provides notification that Iowa Code subparagraph subdivisions (b) through (e) are repealed effective August 25, 2009.

ARC 8038B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends the Notice of Intended Action published in the November 19, 2008, Iowa Administrative Bulletin as **ARC 7368B** to revise the “Iowa Antidegradation Implementation Procedure” proposed to be incorporated by reference in 567—paragraph 61.2(2)“e.”

The revisions modify the listings in “Appendix B – Outstanding Iowa Waters.” Several of the proposed creeks have been removed based on a scientific review of existing water quality conditions that do not meet the proposed criteria for Outstanding Iowa Waters at this time and the potential adverse regulatory impacts. In addition, several new creeks have been added based on a scientific review of existing water quality conditions that do meet the proposed criteria for Outstanding Iowa Waters.

The Amended Notice of Intended Action also removes Dalton Lake, listed in Appendix B as an Outstanding Iowa Water. The Commission invites further discussion and comments to determine which Iowa lakes, if any, should be designated as Outstanding Iowa Waters in the Adopted and Filed rule making. The Commission is specifically requesting information for inclusion or exclusion of any of the Iowa Great Lakes.

As a result of the revisions, persons are invited to present oral or written comments at three public hearings which will be held as follows:

September 1, 2009	11 a.m.	Elkader Opera House 207 N. Main Street Elkader, Iowa
September 1, 2009	6 p.m.	Northeast Iowa Community College - Waukon Room 115 1220 3rd Avenue, Suite 102 Waukon, Iowa
September 3, 2009	6 p.m.	Iowa Lakeside Laboratory Mahan Building 1838 Highway 86 Milford, Iowa

Detailed information regarding Iowa’s water quality standards and the Department’s rules, including the full version of the “Iowa Antidegradation Implementation Procedure,” can be found on the Department’s Web site at <http://www.iowadnr.com/water/standards/index.html>.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Any person may submit written suggestions or comments on the proposed amendments through September 15, 2009. Such written material may be submitted to Adam Schnieders, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by E-mail to adam.schnieders@dnr.iowa.gov. Persons who have questions may contact Adam Schnieders at (515)281-7409.

The proposed revisions change the listings in “Appendix B – Outstanding Iowa Waters” as follows:

Appendix B – Outstanding Iowa Waters

STREAMS	DESCRIPTION	Length (Miles)
Baron Springs	Mouth (S2, T91N, R6W, Clayton Co.) to spring source (S4, T91N, R6W, Clayton Co.)	1.99
<u>Bear Creek</u>	<u>From road crossing in SW1/4, NW1/4, S11, T86N, R10W, Benton Co. to E. line of S25, T87N, R10W, Buchanan Co.</u>	<u>5.2</u>
Bear Creek	Confluence with N. Bear Cr. (S25, T100N, R7W, Winneshiek Co.) to spring source (Mestad Spring) (S29, T100N, R7W, Winneshiek Co.)	4.97
Bear Creek	Mouth (S8, T92N, R7W, Fayette Co.) to W. line of S6, T92N, R7W, Fayette Co.	3.94
Bohemian Creek	Mouth (Winneshiek Co.) to Howard Co. Rd. V58 (W. line of S2, T97N, R11W, Howard Co.)	12.58
<u>Bloody Run</u>	<u>From W. line of S22, T95N, R4W, Clayton Co. to confluence with Unnamed Creek (NAD83) UTM Coordinates X(Easting) 645284.89 Y(Northing) 4766657.44</u>	<u>8.59</u>
<u>Brownfield Creek</u>	<u>Mouth (Clayton Co.) to spring source (S31, T91N, R3W, Clayton Co.)</u>	<u>0.94</u>
Brush Creek	N. line of S23, T85N, R3E, Jackson Co. to N. line of S1, T85N, R3E, Jackson Co.	5.82
Buck Creek	Mouth (S29, T93N, R2W, Clayton Co.) to W. line of S9, T93N, R3W, Clayton Co.	13.26
Canoe Creek	Winneshiek Co. Rd. W38 to W. line of Section 8, T99N, R8W, Winneshiek Co.	7.34
Clear Creek	Mouth (Allamakee Co.) to W. line of S25, T99N, R4W, Allamakee Co.	3.79
Coon Creek	Mouth (Winneshiek Co.) to rd. crossing in S13, T98N, R7W, Winneshiek Co.	3.22
<u>Deer Creek</u>	<u>E. line of S1, T100N, R19W, Worth Co. to road crossing in SE1/4, S35, T100N, R19W, Worth Co.</u>	<u>1.6</u>
<u>Dousman Creek</u>	<u>Mouth (S33, T96N, R3W, Allamakee Co.) to Allamakee-Clayton Co. line</u>	<u>3.44</u>
<u>Duck Creek</u>	<u>Mouth (S14, T100N, R6W, Allamakee Co.) to Iowa-Minnesota state line</u>	<u>1.98</u>
Ensign Creek (aka Ensign Hollow)	Mouth (S28, T92N, R6W, Clayton Co.) to spring source (S29, T92N, R6W, Clayton Co.)	1.05
Fenehel Creek (a.k.a. Richmond Springs)	Mouth (S5, T90N, R6W, Delaware Co.) to Richmond Springs (Center of S4, T90N, R6W, Delaware Co.)	1.26
Fountain Spring Creek (aka Odell Br.)	Mouth (SE1/4, S10, T90N, R4W, Delaware Co.) to W. line of NW1/4, S16, T90N, R4W, Delaware Co.	2.82
French Creek	Mouth (Allamakee Co.) to E. line of S23, T99N, R5W, Allamakee Co.	5.58
Grannis Creek	Mouth (S30, T95N, R7W, Fayette Co.) to W. line of S36, T93N, R8W, Fayette Co.	3.56
Hickory Creek	Mouth (Allamakee Co.) to S. line of S28, T96N, R5W, Allamakee Co.	3.24
<u>Jones Creek</u>	<u>Mouth (S19, T98N, R4W, Allamakee Co.) to bridge crossing at Clonkitty Rd. (S14, T98N, R5W, Allamakee Co.)</u>	<u>5.75</u>
<u>Kleinlein Creek</u>	<u>Mouth (Clayton Co.) to spring source (South Spring) (S10, T91N, R6W, Clayton Co.)</u>	<u>3.96</u>
<u>Lime Creek</u>	<u>From confluence with unnamed tributary in NE1/4, NW1/4, S34, T87N, R10W, Buchanan Co. to N. line of S23, T87N, R10W, Buchanan Co.</u>	<u>3.0</u>

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

STREAMS	DESCRIPTION	Length (Miles)
Little Mill Creek	Mouth (Jackson Co.) to W. line of S29, T86N, R4E, Jackson Co.	6.74
Little Paint Creek	Mouth to N. line of S30, T97N, R3W	1.92
Little Turkey River	Clayton Delaware Co. line to S. line of S11, T90N, R3W, Delaware Co.	3.25
Ludlow Creek	Mouth (S2, T96N, R6W, Allamakee Co.) to confluence with an unnamed tributary (S33, T97N, R6W, Allamakee Co.)	2.00
Maquoketa River	Confluence with South Fork Maquoketa River (S16, T90N, R6W, Delaware Co.) to Hwy 3 (N. Line S24, T91N, R7W, Fayette Co.)	8.61
Middle Fork Little Maquoketa River	W. line of S31, T90N, R1E, Dubuque Co. to N. line of S33, T90N, R1W, Dubuque Co.	4.94
Mill Creek (aka Big Mill Creek)	Confluence with Little Mill Cr. to confluence with Unnamed Cr. (S1, T86N, R3E, Jackson Co.)	8.04
Mink Creek	Mouth (S30, T93N, R6W, Clayton Co.) to W. line of S15, T93N, R7W, Fayette Co.	5.94
Mossey Glen Creek	Mouth (S3, T91N, R5W, Clayton Co.) to S. line of S10, T91N, R5W, Clayton Co.	1.96
Nichols Creek (aka Bigalk Cr.)	Mouth (S18, T100N, R10W, Winneshiek Co.) to W. line of S23, T100N, R11W, Howard Co.	4.18
North Bear Creek	Mouth (S25, T100N, R7W, Winneshiek Co.) to Iowa-Minnesota state line	6.39
North Cedar Creek	Mouth (S8, T94N, R3W, Clayton Co.) to W. line of S24, T94N, R4W, Clayton Co.	4.62
Otter Creek	Mouth (Fayette Co.) to confluence with Unnamed Cr. (a.k.a. Glovers Cr., S22, T94N, R8W, Fayette Co.)	10.89
Paint Creek	Little Paint Cr. to Rd. crossing, S18, T97N, R4W, Allamakee Co.	12.37
Patterson Creek	Mouth (Allamakee Co.) to E. line of S3, T98N, R6W, Allamakee Co.	4.85
Pine Creek (aka South Pine Creek)	Mouth (S26, T99N, R7W, Winneshiek Co.) to N. line of S21, T99N, R7W, Winneshiek Co.	2.80
Ram Hollow	Mouth (S11, T90N, R3W, Clayton Co.) to spring source (S10, T90N, R3W, Delaware Co.)	0.66
Silver Creek	Mouth (S4, T99N, R5W, Allamakee Co.) to S. line of S31, T99N, R5W, Allamakee Co.	8.31
Smith Creek (aka Trout River)	Mouth (S21, T98N, R7W, Winneshiek Co.) to S. line of S33, T98N, R7W, Winneshiek Co.	3.42
South Canoe Creek	Mouth (S22, T99N, R8W, Winneshiek Co.) to bridge crossing at Winn Rd. (S21, T99N, R8W, Winneshiek Co.)	1.90
Sny Magill Creek	Mouth (S23, T94N, R3W, Clayton Co.) to W. line of S6, T94N, R3W, Clayton Co.)	7.57
Spring Branch Creek	Mouth (S10, T88N, R5W, Delaware Co.) to spring source (S35, T89N, R5W, Delaware Co.)	2.83
Spring Creek	Mouth (Mitchell Co.) to N. line of S8, T97N, R16W, Mitchell Co.	3.93
Storybook Hollow	Mouth (S7, T86N, R4E, Jackson Co.) to S. line of S12, T86N, R3E, Jackson Co.	1.37
Trout Run	Mouth (S16, T98N, R4W, Allamakee Co.) through one mile reach	1.0
Turtle Creek	Mouth (Mitchell Co.) to E. line of S7, T99, R17W, Mitchell Co.	3.45
Twin Springs Creek	Mouth (S17, T98N, R8W, Winneshiek Co.) to springs in Twin Springs Park (S20, T98N, R8W, Winneshiek Co.)	0.61
Unnamed Creek	Mouth (S1, T86N, R3E, Jackson Co.) to W. line of S1, T86N, R3E, Jackson Co.	0.73
Unnamed Creek (aka Cold Water Cr.)	Mouth (S32, T100N, R9W, Winneshiek Co.) to N. line of S31, T100N, R9W, Winneshiek Co.	2.46

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

STREAMS	DESCRIPTION	Length (Miles)
<u>Unnamed Creek (aka Erickson Spring Branch)</u>	<u>Mouth (S23, T98N, R4W, Allamakee Co.) to W. line of S23, T98N, R4W, Allamakee Co.</u>	<u>0.91</u>
<u>Unnamed Creek (aka Glovers Cr.)</u>	<u>Mouth (S22, T94N, R8W, Fayette Co.) to W. line of S15, T94N, R8W, Fayette Co.</u>	<u>1.43</u>
Unnamed Creek (aka S. Fk. Big Mill)	Mouth (S8, T86N, R4E, Jackson Co.) to W. line of S17, T86N, R4E, Jackson Co.	0.97
<u>Unnamed Stream (aka Trout Run)</u>	<u>Mouth (S27, T98N, R8W, Winneshiek Co.) to S. line of S27, T98N, R8W, Winneshiek Co.</u>	<u>0.54</u>
Village Creek	Mouth (Allamakee Co.) to W. line of S19, T98N, R4W, Allamakee Co.	13.32
<u>Wapsipinicon River</u>	<u>Confluence with UT in McIntire (S34, T100N, R15W Mitchell Co.) to N. line of (S20, T100N, R15W, Mitchell Co.)</u>	<u>5.24</u>
Waterloo Creek	Mouth (S35, T100N, R6W, Allamakee Co.) to Iowa-Minnesota state line	9.39
<u>West Branch French Creek</u>	<u>Mouth (S23, T99N, R5W, Allamakee Co.) to confluence with Unnamed Creek (S26, T99N, R5W, Allamakee Co.)</u>	<u>0.67</u>
<u>Wexford Creek</u>	<u>Mouth (S5, T97N, R2W, Allamakee Co.) to W. line of S25, T98N, R3W, Allamakee Co.</u>	<u>4.42</u>
Grand Total		<u>336.96</u> <u>112.39 miles</u>

LAKES	Description (Section, Township, Range)	Size (Acres)
Big Spirit Lake SGMA	S33, T100N, R36W	5,684
East Okoboji Lake SGMA	S29, T99N, R36W	1,835
Lower Gar Lake SGMA	S32, T99N, R36W	251
Minnewashta Lake SGMA	S29, T99N, R36W	122
Upper Gar Lake SGMA	S29, T99N, R36W	36
West Okoboji Lake SGMA	S20, T99N, R36W	3,847
Dalton Lake	S34, T84N, R5E	2

ARC 8040B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

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

This amendment will make the income policy for the coverage group Medicaid for children with disabilities, also known as "Medicaid for Kids with Special Needs," less restrictive. The Department implemented this coverage group January 1, 2009, as directed by 2008 Iowa Acts, chapter 1188, section 55. Upon review of the Medicaid State Plan amendment for this group, the Centers for Medicare and Medicaid Services has advised the Department that the state cannot apply an income policy more restrictive than that in effect for the federal Supplemental Security Income (SSI) program. The reason for this interpretation is that Iowa has an agreement under Section 1634 of the Social Security Act

HUMAN SERVICES DEPARTMENT[441](cont'd)

in which the state agrees to authorize Medicaid eligibility based upon a person's entitlement to SSI benefits.

As originally promulgated, subrule 75.1(43) followed SSI policy except for the exclusions and deductions that SSI allows to be applied to a disabled person's income when determining eligibility. This amendment will remove that exception and allow all of SSI's income exclusions and deductions, such as the deduction of \$65 plus one-half of any earned income for the household. The result will be that more children could attain eligibility under this coverage group.

This amendment does not provide for waivers in specified situations because it removes a restriction on eligibility.

Any interested person may make written comments on the proposed amendment on or before September 2, 2009. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249A.3.

The following amendment is proposed.

Amend subparagraph **75.1(43)“d”(3)** as follows:

(3) For this purpose, the income of all persons included in the child's household shall include all earned and unearned income as defined for purposes of the Supplemental Security Income program by 20 CFR Sections 416.1102, 416.1103, 416.1110, 416.1111, and 416.1120 to 416.1123 as amended to August 20, 2008, without regard to exclusions or deductions from income applied in determining eligibility for Supplemental Security Income be determined as provided for SSI-related groups under subrule 75.13(2).

ARC 8043B**REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 17A and sections 452A.59 and 452A.76, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Chapter 67, “Administration,” and Chapter 68, “Motor Fuel and Undyed Special Fuel,” Iowa Administrative Code.

Item 1 amends rule 701—10.71(421) to correct an Iowa Code reference.

Item 2 amends subrule 10.71(1) to reflect the increase in the penalties for the illegal use of dyed fuel.

Item 3 amends subrule 10.71(2), paragraphs “a” through “e,” to reflect the increase in the penalties for the illegal importation of untaxed fuel.

Item 4 amends subrule 10.71(5) to reflect the increase in the penalty for a person interfering with the inspection of fuel or shipping papers by authorized Department of Revenue or Department of Transportation personnel.

Item 5 amends the implementation clause for rule 701—10.71(452A).

Item 6 amends rule 701—67.12(452A) and the implementation clause to require that an invoice for the transportation of ethanol blended gasoline or biodiesel blended fuel state its designation.

Item 7 amends subrule 68.1(1) to show that the tax rates for gasoline (21¢) and ethanol blended gasoline (19¢) are the same for fiscal year 2010 as they were for fiscal year 2009.

REVENUE DEPARTMENT[701](cont'd)

Item 8 amends subrule 68.1(2) to exclude aviation gasoline from the formula for determining the tax rate for gasoline and ethanol blended fuel beginning calendar year 2009 for tax rates effective July 1, 2010, and after.

Item 9 amends the implementation clause for rule 701—68.2(452A).

Item 10 amends rule 701—68.18(452A) and the implementation clause to require a bill of lading to identify the percentage of renewable fuel in the product being transported and state whether any diesel fuel being transported is dyed or undyed.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than September 14, 2009, to the Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, or at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 1, 2009. Such written comments should be directed to the Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 4, 2009.

These amendments are intended to implement Iowa Code section 452A.3 as amended by 2009 Iowa Acts, Senate File 419, section 44; section 452A.10; section 452A.12 as amended by 2009 Iowa Acts, Senate File 478, section 140; section 452A.60; section 452A.74A as amended by 2009 Iowa Acts, Senate File 478, section 141; and section 452A.76.

The following amendments are proposed.

ITEM 1. Amend rule 701—10.71(421), parenthetical implementation statute, as follows:

701—10.71(~~421~~ 452A) Penalty and enforcement provisions.

ITEM 2. Amend subrule 10.71(1) as follows:

10.71(1) *Illegal use of dyed fuel.* The illegal use of dyed fuel in the supply tank of a motor vehicle shall result in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

- a. A ~~\$200~~ \$500 ~~fine~~ penalty for the first violation.
- b. A ~~\$500~~ \$1,000 ~~fine~~ penalty for a second violation within three years of the first violation.
- c. A ~~\$1,000~~ \$2,000 ~~fine~~ penalty for third and subsequent violations within three years of the first violation.

ITEM 3. Amend paragraphs **10.71(2)“a”** to **“e”** as follows:

a. For a first violation, the importing vehicle shall be detained and a ~~fine~~ penalty of ~~\$2,000~~ \$4,000 shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable for payment of the ~~fine~~ penalty.

b. For a second violation, the importing vehicle shall be detained and a ~~fine~~ penalty of ~~\$5,000~~ \$10,000 shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the ~~fine~~ penalty.

REVENUE DEPARTMENT[701](cont'd)

c. For third and subsequent violations, the importing vehicle and the fuel shall be seized and a ~~fine penalty~~ of ~~\$10,000~~ \$20,000 shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the ~~fine penalty~~.

d. If the owner or operator of the importing vehicle or the owner of the fuel fails to pay the tax and ~~fine penalty~~ for a first or second offense, the importing vehicle and the fuel may be seized. The Iowa department of revenue, the Iowa department of transportation, or any peace officer, at the request of either department, may seize the vehicle and the fuel.

e. If the operator or owner of the importing vehicle or the owner of the fuel moves the vehicle or the fuel after the vehicle has been detained and a sticker has been placed on the vehicle stating that "this vehicle cannot be moved until the tax, penalty, and interest have been paid to the department of revenue," an additional penalty of ~~\$5,000~~ \$10,000 shall be assessed against the operator or owner of the importing vehicle or the owner of the fuel.

ITEM 4. Amend subrule 10.71(5) as follows:

10.71(5) Prevention of inspection. The Iowa department of revenue or the Iowa department of transportation may conduct inspections for coloration, markers, and shipping papers at any place where taxable fuel is or may be loaded into transport vehicles, produced, or stored. Any attempts by a person to prevent, stop, or delay an inspection of fuel or shipping papers by authorized personnel shall be subject to a civil penalty of not more than ~~\$1,000~~ \$2,000 per occurrence. Any law enforcement officer requested by the Iowa department of revenue or Iowa department of transportation may physically inspect, examine, or otherwise search any tank, fuel supply tank of a vehicle, reservoir, or other container that can or may be used for the production, storage, or transportation of any type of fuel.

ITEM 5. Amend rule **701—10.71(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 452A.74A as amended by 1995 2009 Iowa Acts, chapter 155, section 36 Senate File 478, section 141.

ITEM 6. Amend rule 701—67.12(452A) as follows:

701—67.12(452A) Form of invoice. Whenever an invoice is required to be kept or prepared by Iowa Code chapter 452A, the invoice must:

1. Be prepared by someone other than the purchaser and include the seller's name, address, and identification number.
2. Include the purchaser's name and address.
3. Contain a serial number of three or more digits.
4. Include the calendar date of purchase.
5. Indicate the type of fuel purchased. Diesel fuel must be designated as dyed or undyed.
6. Indicate the quantity of fuel purchased in gross gallons.
7. Indicate the total purchase price and show separately the amount of state and federal fuel tax included in the purchase price or include a statement that all state and applicable federal taxes are included in the purchase price.

8. For ethanol blended gasoline or biodiesel blended fuel, state its designation as provided in Iowa Code section 214A.2.

~~8. 9.~~ Be prepared on paper which will prevent erasure or alteration or on another form approved by the department.

This rule is intended to implement Iowa Code ~~sections~~ section 452A.10, section 452A.12 as amended by 2009 Iowa Acts, Senate File 478, section 140, and section 452A.60 as amended by 1995 Iowa Acts, chapter 155.

ITEM 7. Amend subrule 68.2(1) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

REVENUE DEPARTMENT[701](cont'd)

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through June 30, 2009 <u>2010</u>)
LPG	20¢ per gallon
Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through June 30, 2009 <u>2010</u>)
E-85 gasoline	17¢ per gallon beginning January 1, 2006, through June 30, 2007
	19¢ per gallon (for July 1, 2007, through June 30, 2009 <u>2010</u>)
Aviation gasoline	8¢ per gallon
Special fuel (diesel)	22.5¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	16¢ per 100 cu. ft.

ITEM 8. Amend subrule **68.2(2)**, introductory paragraph, as follows:

68.2(2) Except as otherwise provided in this subrule, until June 30, 2012, this subrule shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state. The rate of the excise tax shall be based on the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel distributed in this state. Aviation gasoline shall not be used, beginning calendar year January 1, 2009, in determining the percentage basis for the tax rates effective July 1, 2010, and after. The number of gallons of ethanol blended gasoline and motor fuel distributed in this state shall be based on the total taxable gallons of ethanol blended gasoline and motor fuel as shown on the fuel tax monthly reports issued by the department for January through December for each determination period. The department shall determine the percentage for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period. The rate for the excise tax shall be as follows:

ITEM 9. Amend rule **701—68.2(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 452A.3 as amended by ~~2007~~ 2009 Iowa Acts, Senate File ~~604~~ 419, section 44, and sections 452A.8 and 452A.85.

ITEM 10. Amend rule 701—68.18(452A) as follows:

701—68.18(452A) Bill of lading or manifest requirements. Whenever a bill of lading or manifest is required to be issued, carried, retained, or submitted by these rules, it shall meet the following minimum requirements:

1. Contain the name and address of the refinery, terminal, ethanol plant, biodiesel plant or point of origin.
2. Contain the date of withdrawal or import.
3. Contain the name of the shipper-supplier-consignor.
4. Contain the name of the purchaser-consignee.
5. Contain the place of actual destination.
6. Contain the name of the transporter.
7. ~~The~~ Contain the gross gallons by fuel type.
8. Contain the designation for ethanol blended gasoline or biodiesel blended fuel as provided in Iowa Code section 214A.2.
9. Contain a statement designating whether diesel fuel is dyed or undyed.

REVENUE DEPARTMENT[701](cont'd)

~~8.~~ 10. Have machine printed thereon a serial number of not less than four digits.

This rule is intended to implement Iowa Code sections 452A.10, 452A.12, 452A.60, and 452A.76 as amended by 1995 Iowa Acts, chapter 155.

ARC 8027B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to adopt new Chapter 162, "Bridge Safety Fund," Iowa Administrative Code.

2009 Iowa Acts, Senate File 376, section 34, created the Bridge Safety Fund under the authority of the Transportation Commission and required the Department of Transportation to adopt rules. These proposed new rules administer the expenditure of funds appropriated by the General Assembly in 2009 Iowa Acts, Senate File 376, section 13, subsection 6, for infrastructure projects relating to functionally obsolete and structurally deficient bridges on the state's primary road system. The proposed rules describe the purpose and source of funds, provide definitions, provide general information, and establish eligibility requirements.

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.

Any person or agency may submit written comments concerning these proposed rules or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rules, as given in this Notice, that are the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than September 1, 2009.

A meeting to hear requested oral presentations is scheduled for Thursday, September 3, 2009, at 10 a.m. at the Administration Building, Third Floor Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed rules may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by September 14, 2009.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 8026B**. The content of that submission is incorporated by reference.

These rules are intended to implement 2009 Iowa Acts, Senate File 376, section 34.

ARC 8025B**TRANSPORTATION DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 620, "OWI and Implied Consent," Iowa Administrative Code.

Iowa Code section 321J.4(2) was amended by 2009 Iowa Acts, Senate File 419, section 13, to reduce the minimum period of ineligibility from one year to 45 days for a temporary restricted license (TRL) for a person convicted of operating while intoxicated (OWI) who has had a previous conviction or revocation under Iowa Code chapter 321J. The legislation became effective July 1, 2009.

This amendment was undertaken in response to an amendment to 23 U.S.C. § 164, "Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence," effected by the SAFETEA-LU Technical Corrections Act of 2008, Public Law No. 110-244, § 115, 122 Stat. 1572 (June 6, 2008), which previously required states to impose a one-year hard revocation of driving privileges on a repeat offender but which now allows states to impose either a one-year hard revocation or a 45-day hard revocation followed by a period of restricted driving to and from work, school, or an alcohol treatment program. (A "hard" revocation means no restricted driving is allowed during the period of revocation.) Because the amendment to Iowa Code section 321J.4(2) appears clearly calculated to remain within the requirements of 23 U.S.C. § 164, and because said intent demands an interpretation of the proper scope during the first year of revocation of a TRL issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) that is not addressed in current rule, a new subrule is needed to address the proper scope of such a TRL. Further, the National Highway Traffic Safety Administration (NHTSA), which enforces compliance with the requirements of 23 U.S.C. § 164, has reviewed the amendment to Iowa Code section 321J.4(2) and communicated to the Department that it renders Iowa out of compliance with the requirements of 23 U.S.C. § 164, absent a corresponding administrative rule that makes clear that the Department is interpreting and enforcing Iowa Code section 321J.4(2) in compliance with the requirements of 23 U.S.C. § 164. The new subrule will clarify Iowa's compliance with these federal requirements and prevent reallocation of necessary federal highway funds.

A new subrule is proposed for addition to rule 761—620.3(321J) to provide that, any other provision of 761—Chapter 620 of the Department's rules notwithstanding, any TRL issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) shall be limited during the first year of the two-year revocation period to driving to and from work when necessary to maintain the person's present employment and shall not be allowed for any other purpose, including but not limited to transporting dependent children to and from a location for child care. After the first year of the two-year revocation period, a TRL issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) may permit the person to drive to and from work as well as for any other work purpose when necessary to maintain the person's present employment, and may include permission for the person to transport dependent children to and from a location for child care when that activity is essential to continuation of the person's employment. The new subrule also provides that all pleadings and orders submitted by the Department under Iowa Code section 321J.4(9) in regard to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) will be in accord with the requirements of the new subrule, and the Department shall enforce any order authorizing the Department to issue a TRL to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) according to the requirements of the new subrule. The new subrule would apply to revocations arising from convictions entered on or after July 1, 2009.

TRANSPORTATION DEPARTMENT[761](cont'd)

The Department shall not grant any waivers under the provisions of this new subrule because any waiver would nullify the purpose of this rule making and result in a diversion of highway construction funds.

Any person or agency may submit written comments concerning this proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed amendment, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than September 1, 2009.

A meeting to hear requested oral presentations is scheduled for Friday, September 4, 2009, at 10 a.m. at the Iowa Department of Transportation's Motor Vehicle Division offices located at 6310 SE Convenience Boulevard, Ankeny, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 8024B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 321J.4(2) as amended by 2009 Iowa Acts, Senate File 419, section 13.

USURY

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

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

ARC 8034B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 211, "Community Attraction and Tourism Development (CATD) Programs," Iowa Administrative Code.

The amendments incorporate recent legislative changes made by 2009 Iowa Acts, House File 822, that impact the committee structure within the Vision Iowa Board. Pursuant to 2009 Iowa Acts, House File 822, the Community Attraction and Tourism (CAT) Review Committee will continue to review CAT applications and the Vision Iowa Review Committee will evaluate and rank River Enhancement Community Attraction and Tourism (RECAT) applications. Pursuant to 2009 Iowa Acts, Senate File 336, an applicant for financial assistance under the CAT or RECAT program may apply to the Vision Iowa Board for a waiver of any local or private matching moneys required by the Board. These amendments establish a process by which the Vision Iowa Board will review requests to waive any local or private matching moneys.

The Vision Iowa Board approved these amendments on July 8, 2009. The IDED Board adopted these amendments on July 16, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable and contrary to the public interest because these amendments implement legislative changes that became effective on July 1, 2009, and establish a procedure for the Vision Iowa Board to act in a timely manner on waiver requests that may be submitted by an applicant.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments be made effective on July 17, 2009. These amendments confer a benefit on the public by not disrupting the operation of the programs and by allowing the Vision Iowa Board to take action on pending applications.

These amendments are also published herein under Notice of Intended Action as **ARC 8033B** to allow for public comment.

These amendments became effective on July 17, 2009.

These amendments are intended to implement Iowa Code chapter 15F as amended by 2009 Iowa Acts, House File 822 and Senate File 336.

The following amendments are adopted.

ITEM 1. Amend rule **261—211.2(15F)**, definitions of "RECAT fund" and "River enhancement," as follows:

"*RECAT fund*" means the river enhancement community attraction and tourism fund established pursuant to ~~2008 Iowa Acts, Senate File 2430, section 7~~ Iowa Code section 15F.205.

"*River enhancement community attraction and tourism project*" means ~~an attraction that promotes and enhances recreational opportunities on and near rivers or lakes within cities~~ a project that creates or enhances recreational opportunities and community attractions on and near lakes or rivers or river corridors within cities across the state under the purview of the program.

ITEM 2. Adopt the following new definition of "Vision Iowa program review committee" in rule **261—211.2(15F)**:

"*Vision Iowa program review committee*" means the committee established by Iowa Code section 15F.304(2) as amended by 2009 Iowa Acts, House File 822, and identified as the following members of the vision Iowa board: four members of the general public, the mayor of a city with a population of 20,000 or more, the director of the Iowa department of economic development or designee, the treasurer of state or designee, and the auditor of state or designee. The chairperson and vice chairperson of the vision Iowa board may serve as ex officio members of any subcommittee of the board.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ITEM 3. Amend rule 261—211.8(15F) as follows:

261—211.8(15F) Application review criteria. Applications meeting the threshold requirements of rule 261—211.7(15F) will be reviewed by IDED staff and passed on to the vision Iowa board. IDED staff shall provide a review, analysis and evaluation of the applications to the CAT and vision Iowa program review committee committees of the vision Iowa board. All eligible applications will be reviewed by the vision Iowa board. The CAT review committee shall evaluate and rank CAT applications and the vision Iowa program review committee shall evaluate and rank RECAT applications based on the following criteria:

211.8(1) to 211.8(6) No change.

ITEM 4. Amend rule 261—211.9(15F) as follows:

261—211.9(15F) Application procedure. Subject to availability of funds, applications are reviewed by IDED staff on an ongoing basis and reviewed at least quarterly by the board. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. A review, analysis and evaluation from the IDED staff will be submitted to the CAT and vision Iowa program review committee committees of the board, who will then make a final recommendation to the complete board for final approval, denial or deferral. The vision Iowa board has the option of funding a component of a proposed project if the entire project does not qualify for funding.

211.9(1) Application forms shall be available upon request from IDED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4827 725-3197; and on IDED's Web site at www.iowalifechanging.com.

211.9(2) and 211.9(3) No change.

ITEM 5. Adopt the following new rule 261—211.103(15F):

261—211.103(15F) Procedures for waiver of local or private matching moneys.

211.103(1) General information. Within the parameters of this rule, the board may, for good cause shown, waive any requirements for local or private matching moneys for CAT and RECAT beginning July 1, 2009, and ending June 30, 2010. 2009 Iowa Acts, Senate File 336, allows a community to apply to the board for a project-specific waiver of any local or private matching moneys required of the applicant by the board pursuant to Iowa Code section 15F.202. This rule also establishes a process for applicants to apply for a waiver of requirements for local or private matching moneys that the department has established by rule for the CATD programs.

211.103(2) Definitions of "good cause." For purposes of this rule, "good cause" includes but is not limited to documentation of the following:

a. Disaster area. An applicant can establish good cause by demonstrating that the proposed project is located or plans to locate in an area declared a disaster area by the governor or by a federal official. To qualify for a waiver on the basis of a disaster area, an applicant shall meet all of the following criteria:

(1) The project must be located within an area declared a disaster area by the governor or by a federal official.

(2) The community must apply for the waiver within 36 months of the date of the disaster declaration.

(3) The community must document why a waiver is necessary as a result of the natural disaster.

b. Reserved.

211.103(3) Waiver procedures and board action.

a. Waiver requests shall be submitted in writing to the department at the time the CAT or RECAT application is submitted. The request shall include documentation of good cause as defined in subrule 211.103(2).

b. Waiver requests will be reviewed as part of the application review process and acted upon by the board. If a request for a waiver is approved, the board will proceed with a final decision on the application.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

c. The board may approve all or a portion of the request or deny or defer action on waiver requests. The board reserves the right to condition its approval upon terms and conditions the board deems appropriate for the specific project.

ITEM 6. Amend **261—Chapter 211**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 15F as amended by ~~2008 Iowa Acts, Senate File 2430 and House File 2450~~ 2009 Iowa Acts, House File 822, and 2009 Iowa Acts, Senate File 336.

[Filed Emergency 7/17/09, effective 7/17/09]

[Published 8/12/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/09.

ARC 8026B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation adopts new Chapter 162, "Bridge Safety Fund," Iowa Administrative Code.

2009 Iowa Acts, Senate File 376, section 34, created the Bridge Safety Fund under the authority of the Transportation Commission and required the Department of Transportation to adopt rules. These new rules administer the expenditure of funds appropriated by the General Assembly in 2009 Iowa Acts, Senate File 376, section 13, subsection 6, for infrastructure projects relating to functionally obsolete and structurally deficient bridges on the state's primary road system. The rules describe the purpose and source of funds, provide definitions, provide general information, and establish eligibility requirements.

For good cause and pursuant to Iowa Code section 17A.4(3), the Department of Transportation finds that notice and public participation prior to adoption of these rules pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest due to the project development and construction time needed to complete the bridge projects and expend funds in accordance with 2009 Iowa Acts, Senate File 376, which became effective on May 14, 2009, and which appropriated funds for the fiscal year beginning July 1, 2009.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department of Transportation finds the normal effective date of these rules, 35 days after publication, should be waived and the rules be made effective July 15, 2009. These new rules confer a benefit upon the public by providing for the prompt implementation of 2009 Iowa Acts, Senate File 376.

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 rules are also published herein under Notice of Intended Action as **ARC 8027B** to allow for public comment.

These rules became effective on July 15, 2009.

These rules are intended to implement 2009 Iowa Acts, Senate File 376, section 34.

The following amendment is adopted.

Adopt the following new 761—Chapter 162:

CHAPTER 162 BRIDGE SAFETY FUND

761—162.1(83GA,SF376) Purpose and source of funds. This chapter implements 2009 Iowa Acts, Senate File 376, section 34, which creates a bridge safety fund. 2009 Iowa Acts, Senate File 376, section 13, subsection 6, appropriates \$50 million to the department from tax-exempt revenue bonds to be used

TRANSPORTATION DEPARTMENT[761](cont'd)

for infrastructure projects relating to functionally obsolete and structurally deficient bridges on the state's primary road system.

761—162.2(83GA,SF376) Definitions.

"Functionally obsolete" means the classification of a highway structure indicating one or more geometric features of the structure are below the standard required for current traffic. The classification is based on criteria established by the Federal Highway Administration in the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges."

"Primary road system" means the same as defined in Iowa Code section 306.3.

"Structurally deficient" means the classification of a highway structure indicating one or more elements of the structure are in need of monitoring or repair. The classification is based on criteria established by the Federal Highway Administration in the "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges."

761—162.3(83GA,SF376) General information.

162.3(1) Information regarding this chapter is available from the Office of Bridges and Structures, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1564.

162.3(2) The publication entitled "Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges," December 1995, may be obtained from the office of bridges and structures or is available on the Internet at <http://www.fhwa.dot.gov/bridge/mtguide.pdf>.

761—162.4(83GA,SF376) Eligibility.

162.4(1) In order for a bridge to be eligible for funding under this chapter, it must:

- a. Be on the state's primary road system as defined in rule 761—162.2(83GA,SF376).
- b. Be either functionally obsolete or structurally deficient as defined in rule 761—162.2(83GA,SF376).
- c. Be able to be developed, designed, constructed, completed and paid for within the prescribed time frames of 2009 Iowa Acts, Senate File 376.

162.4(2) The aggregate estimated cost of the projects must fall within the \$50 million that was appropriated to the bridge safety fund in 2009 Iowa Acts, Senate File 376.

These rules are intended to implement 2009 Iowa Acts, Senate File 376, section 34.

[Filed Emergency 7/15/09, effective 7/15/09]

[Published 8/12/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/09.

ARC 8024B

TRANSPORTATION DEPARTMENT[761]**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation adopts an amendment to Chapter 620, "OWI and Implied Consent," Iowa Administrative Code.

Iowa Code section 321J.4(2) was amended by 2009 Iowa Acts, Senate File 419, section 13, to reduce the minimum period of ineligibility from one year to 45 days for a temporary restricted license (TRL) for a person convicted of operating while intoxicated (OWI) who has had a previous conviction or revocation under Iowa Code chapter 321J. The legislation became effective July 1, 2009.

This amendment was undertaken in response to an amendment to 23 U.S.C. § 164, "Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence," effected by the SAFETEA-LU Technical Corrections Act of 2008, Public Law No. 110-244, § 115, 122 Stat. 1572 (June 6, 2008), which previously required states to impose a one-year hard revocation of driving privileges on a repeat offender but which now allows states to impose either a one-year hard revocation

TRANSPORTATION DEPARTMENT[761](cont'd)

or a 45-day hard revocation followed by a period of restricted driving to and from work, school, or an alcohol treatment program. (A “hard” revocation means no restricted driving is allowed during the period of revocation.) Because the amendment to Iowa Code section 321J.4(2) appears clearly calculated to remain within the requirements of 23 U.S.C. § 164, and because said intent demands an interpretation of the proper scope during the first year of revocation of a TRL issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) that is not addressed in current rule, a new subrule is needed to address the proper scope of such a TRL. Further, the National Highway Traffic Safety Administration (NHTSA), which enforces compliance with the requirements of 23 U.S.C. § 164, has reviewed the amendment to Iowa Code section 321J.4(2) and communicated to the Department that it renders Iowa out of compliance with the requirements of 23 U.S.C. § 164, absent a corresponding administrative rule that makes clear that the Department is interpreting and enforcing Iowa Code section 321J.4(2) in compliance with the requirements of 23 U.S.C. § 164. The new subrule will clarify Iowa’s compliance with these federal requirements and prevent reallocation of necessary federal highway funds.

A new subrule is added to rule 761—620.3(321J) to provide that, any other provision of 761—Chapter 620 of the Department’s rules notwithstanding, any TRL issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) shall be limited during the first year of the two-year revocation period to driving to and from work when necessary to maintain the person’s present employment and shall not be allowed for any other purpose, including but not limited to transporting dependent children to and from a location for child care. After the first year of the two-year revocation period, a TRL issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) may permit the person to drive to and from work as well as for any other work purpose when necessary to maintain the person’s present employment, and may include permission for the person to transport dependent children to and from a location for child care when that activity is essential to continuation of the person’s employment. The new subrule also provides that all pleadings and orders submitted by the Department under Iowa Code section 321J.4(9) in regard to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) will be in accord with the requirements of the new subrule, and the Department shall enforce any order authorizing the Department to issue a TRL to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) according to the requirements of the new subrule. The new subrule will apply to revocations arising from convictions entered on or after July 1, 2009.

For good cause and pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to adoption of these rules pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest. The amendment to Iowa Code section 321J.4(2) was effective on July 1, 2009, and therefore demands implementation of a statute regarding its proper enforcement on or as soon as is reasonably practical after that date. Additionally, under NHTSA standard procedure, NHTSA will issue a statement of noncompliance with 23 U.S.C. § 164 on or around July 1, 2009, and will then allow Iowa 30 days in which to challenge that determination. NHTSA will make a final determination of compliance or noncompliance after that challenge is submitted, and if a final determination of noncompliance is entered, NHTSA will, on October 1, 2009, reallocate federal highway construction funds in an amount estimated to be just under \$9 million. Following the standard procedure for notice and public participation set forth in Iowa Code section 17A.4 will place proper enforcement of the amendment to Iowa Code section 321J.4(2) well beyond July 1, 2009, and October 1, 2009. Such delay would prevent Iowa from meeting NHTSA’s compliance requirements and deadlines and would result in the diversion of substantial and necessary highway construction funds.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds the normal effective date of this amendment, 35 days after publication, should be waived and the amendment be made effective July 14, 2009. As explained above, the new subrule must become effective on or as soon after July 1, 2009, as is reasonably practicable to provide for proper enforcement of the amendment to Iowa Code section 321J.4(2) and to allow Iowa to confirm compliance with NHTSA’s requirements within the time frame for challenge and before the October 1, 2009, reallocation date.

TRANSPORTATION DEPARTMENT[761](cont'd)

The Department shall not grant any waivers under the provisions of this new subrule because any waiver would nullify the purpose of this rule making and result in a diversion of highway construction funds.

This amendment is also published herein under Notice of Intended Action as **ARC 8025B** to allow for public comment.

This amendment became effective on July 14, 2009.

This amendment is intended to implement Iowa Code section 321J.4(2) as amended by 2009 Iowa Acts, Senate File 419, section 13.

The following amendment is adopted.

Adopt the following **new** subrule 620.3(6):

620.3(6) *Issuance of temporary restricted license to repeat offender whose driving privilege is revoked under Iowa Code section 321J.4(2).*

a. It is the opinion of the department that the amendment to Iowa Code section 321J.4(2) by 2009 Iowa Acts, Senate File 419, section 13, was undertaken in response to changes to 23 U.S.C. § 164, “Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence,” effected by the SAFETEA-LU Technical Corrections Act of 2008, Public Law No. 110-244, § 115, 122 Stat. 1572 (June 6, 2008), and that Iowa Code section 321J.4(2) as amended by 2009 Iowa Acts, Senate File 419, section 13, is intended to remain and be interpreted in conformance with the requirements of 23 U.S.C. § 164, including the requirements for restricted driving privileges after 45 days.

b. Accordingly, any provision in subrules 620.3(1) to 620.3(5) notwithstanding, any temporary restricted license issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) shall be limited during the first year of the two-year revocation period to driving to and from work when necessary to maintain the person’s present employment, and shall not be allowed for any other purpose, including but not limited to transporting dependent children to and from a location for child care. After the first year of the two-year revocation period, a temporary restricted license issued to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) may permit the person to drive to and from work as well as for any other work purpose when necessary to maintain the person’s present employment and may permit the person to transport dependent children to and from a location for child care when that activity is essential to continuation of the person’s employment.

c. All pleadings and orders submitted by the department under Iowa Code section 321J.4(9) in regard to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) will be in accord with the requirements of this subrule, and the department shall enforce any order authorizing the department to issue a temporary restricted license to a person whose driving privilege is revoked under Iowa Code section 321J.4(2) according to the requirements of this subrule.

d. The department interprets 2009 Iowa Acts, Senate File 419, section 13, as applying to convictions entered on or after July 1, 2009, and accordingly this subrule shall apply to revocations arising from convictions entered on or after July 1, 2009.

[Filed Emergency 7/14/09, effective 7/14/09]

[Published 8/12/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/09.

ARC 8039B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 61, "Water Quality Standards," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7624B**. Six public hearings were held with notice of the hearings sent to various individuals, organizations, associations and interest groups, and to statewide news network organizations. Comments were received from approximately 252 persons and organizations. A responsiveness summary addressing the comments can be obtained from the Department of Natural Resources.

The adopted amendment has been modified from that published in the Notice. Prior to presenting the amendment to the Environmental Protection Commission for approval, the Department made specific changes to two stream segments. The modifications were made after all comments from the public comment process were considered. The changes made to the amendment prior to presentation to the Commission are as follows:

1. Ballard Creek (Story Co.) — added Class A3 near the City of Cambridge.
2. Little Maquoketa River (Dubuque Co.) — changed from Class A2 to Class A1 from Durango to Asbury Road.

The modified amendment was presented to the Environmental Protection Commission on June 16, 2009, and July 21, 2009. Public comments were accepted, and the amendment was discussed by the Commission. The Commission adopted the above changes to the stream classifications, adopted by reference in this rule making, at the July 21, 2009, meeting. In addition to adopting the two changes described above, the Commission also adopted the following revisions:

The following stream segment has been removed from the rule making because the Commission determined that this stream warrants a Class A1 recreational use designation:

- Hartgrave Creek in Franklin County and Butler County from the Mouth (S34, T92N, R18W, Butler Co.) to confluence with Squaw Cr. (S28, T92N, R19W, Franklin Co.).

The following stream segment has been changed by the Commission to a Class A3 recreational use designation.

- Little Bear Creek in Poweshiek County throughout the City of Brooklyn (from E. Line S23, T80N, R14W Poweshiek Co. to the confluence with Unnamed Creek (NW14, SE1/4, S22, T80N, R14W Poweshiek Co.)).

The Commission tabled action on 32 stream segments proposed for Class A2 and approved the remainder of the streams listed in the Notice of Intended Action.

In addition to the modifications and revisions described above, this Adopted and Filed rule making changes the Commission's Water Quality Standards (WQS) from those proposed under Notice of Intended Action as summarized below:

The following stream segments were approved:

Class A2 Stream Segments

1. Big Bear Creek (Poweshiek/Iowa Co.)
2. Deep Creek (Plymouth Co.)
3. East Nodaway River
4. Elk Run (Black Hawk Co.)
5. Flint Creek (Des Moines Co.)
6. Granger Creek (Dubuque Co.)
7. Little Bear Creek (Poweshiek Co.) (previous A2 segment split into two segments)
8. Little Bear Creek (Poweshiek Co.) (previous A2 segment split into two segments)
9. Mud Creek (Benton Co.)
10. Otter Creek (Franklin Co.)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

11. Otter Creek (Franklin Co.)
12. Shoal Creek (Appanoose Co.)
13. South Timber Creek (Marshall Co.)
14. Spring Creek (Franklin Co.)
15. Spring Creek (Franklin Co.)
16. Squaw Creek (Franklin Co.)
17. Squaw Creek (Linn Co.)
18. Stony Creek (Clay Co.)
19. Timber Creek (Marshall Co.)
20. Unnamed Creek (City of Carroll)
21. Willow Creek (Cerro Gordo Co.)

Class A2, B(WW-2) Stream Segments

1. Apple Creek (Linn Co.)
2. Bear Creek (Wapello Co.)
3. Brush Creek (Marshall Co.)
4. Bulger Creek (Dallas Co.)
5. Burr Oak Creek (Jefferson Co.)
6. Clear Creek (Cerro Gordo Co.)
7. Crooked Creek (Cedar Co.)
8. Drainage Ditch #4 (Wright Co.)
9. Drainage Ditch #13 (Hancock Co.)
10. Drainage Ditch #81 (Worth Co.)
11. Dry Creek (Benton/Linn Co.)
12. East Branch Blue Creek (Linn Co.)
13. Fourmile Creek (Kossuth Co.)
14. Fudge Creek (Wapello Co.)
15. Hawkeye-Dolbee Diversion Channel (Des Moines Co.)
16. Indian Creek (Tama Co.)
17. Little Flint Creek (Des Moines Co.)
18. Lutes Creek (Marshall Co.)
19. Marvel Creek (Adair Co.)
20. Murray Creek (O'Brien Co.)
21. Neola Creek (Pottawattamie Co.)
22. North Timber Creek (Marshall Co.)
23. Orange City Slough (Sioux Co.)
24. Sewer Creek (Jasper Co.)
25. Sixmile Creek (Sioux Co.)
26. Snipe Creek (Marshall Co.)
27. Sugar Creek (Keokuk Co.)
28. Unnamed Creek (#1) (City of Atkins)
29. Unnamed Creek (#1) (City of Brighton)
30. Unnamed Creek (#1) (City of Elkhart)
31. Unnamed Creek (#1) (HWH Company)
32. Unnamed Creek (#1) (Lakewood Estates MHP)
33. Unnamed Creek (#1) (Little Sioux Corn Processing)
34. Unnamed Creek (#1) (Missouri Valley Energy – Exira)
35. Unnamed Creek (#1) (Missouri Valley Energy – Exira)
36. Unnamed Creek (#1) (Siouxland Energy)
37. Unnamed Creek (#2) (City of Atkins)
38. Unnamed Creek (#2) (City of Brighton)
39. Unnamed Creek (#2) (City of Elkhart)
40. Unnamed Creek (#2) (City of Middletown)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

41. Unnamed Creek (#2) (City of Milo)
42. Unnamed Creek (aka Johnson's Creek)
43. Unnamed Creek (Bulk Petroleum)
44. Unnamed Creek (Chantland-PVS Company)
45. Unnamed Creek (City of Creston WWTP)
46. Unnamed Creek (City of Earlville)
47. Unnamed Creek (City of Hedrick)
48. Unnamed Creek (City of Hills)
49. Unnamed Creek (City of Malvern)
50. Unnamed Creek (City of Remsen)
51. Unnamed Creek (City of Sioux Center)
52. Unnamed Creek (City of Sully)
53. Unnamed Creek (Corn Belt Power) (aka Bull Ditch)
54. Unnamed Creek (DNR Viking Lake)
55. Unnamed Creek (Ecosystems Inc.)
56. Unnamed Creek (Echo Valley MHP #2)
57. Unnamed Creek (Heartland Lysine)
58. Unnamed Creek (IAMU)
59. Unnamed Creek (McCreary Community Building)
60. Unnamed Creek (Siouxpreme Packing)
61. Unnamed Creek (Tri-Center Community School)
62. Unnamed Creek (Wells Dairy Mill Plant)
63. Waugh Branch (Keokuk Co.)
64. West Branch Blue Creek (Benton Co.)

Class A2, B(WW-3) Stream Segments

1. Barlene Creek (Lee Co.)
2. Unnamed Creek (#1) (City of Milo)

Class A3, B(WW-2) Stream Segments

1. Brewers Creek (Hamilton Co.)
2. Crow Creek (Jefferson Co.)
3. Dry Creek (Linn Co.)
4. Unnamed Creek (John Deere Davenport Works)
5. Unnamed Creek (Magellan Pipeline – Johnson Co.)
6. Unnamed Creek (Wells Dairy – North Plant)

Class A3 Stream Segments

1. Big Bear Creek (Poweshiek/Iowa Co.)
2. Black Hawk Creek (Black Hawk/Grundy Co.)
3. Elk Run (Black Hawk Co.)
4. Indian Creek (Linn Co.)
5. Mosquito Creek (Pottawattamie Co.)
6. Otter Creek (Franklin Co.)
7. Plum Creek (Delaware Co.)
8. Spring Creek (Franklin Co.)
9. Squaw Creek (Franklin Co.)
10. Willow Creek (Cerro Gordo Co.)
11. Willow Creek (Cerro Gordo Co.)

Class HH Stream Segments

1. Milford Creek (Dickinson Co.)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Action was tabled on the recreational use designations for the following stream segments that are proposed as Class A2:

1. Ballard Creek (Story Co.)
2. Black Hawk Creek (Black Hawk/Grundy Co.)
3. Blue Creek (Benton/Linn Co.)
4. Brewers Creek (Hamilton Co.)
5. Deep Creek (Plymouth Co.)
6. Fourmile Creek (Union Co.)
7. Hawkeye Creek (Des Moines Co.)
8. Honey Creek (Delaware Co.)
9. Indian Creek (Audubon/Shelby/Cass Co.)
10. Indian Creek (Sac Co.)
11. Indian Creek (Sioux Co.)
12. Little Cedar River (Mitchell Co.)
13. Little Maquoketa River (Dubuque Co.)
14. Little Walnut Creek (Appanoose Co.)
15. Mitchell Creek (Jefferson Co.)
16. Mosquito Creek (Pottawattamie/Harrison/Shelby Co.)
17. Mud Creek (Polk Co.)
18. Platte River
19. Plum Creek (Delaware Co.)
20. Plum Creek (Delaware Co.)
21. Thompson River
22. Twelvemile Creek (Union Co.)
23. Unnamed Creek (#2) (City of Cincinnati)
24. Unnamed Creek (#2) (City of Hedrick)
25. Unnamed Creek (#2) (Oak Hills Subdivision)
26. Unnamed Creek (City of Huxley)
27. Unnamed Creek (IAAP)
28. Unnamed Creek (John Deere Engineering Center)
29. Unnamed Creek (Stacyville Co-op Creamery)
30. Waterman Creek (O'Brien Co.)
31. West Branch Floyd River
32. Willow Creek (Cerro Gordo Co.)

The aquatic life designations for the following tabled segments have been approved:

1. Blue Creek (Benton/Linn Co.)
2. Brewers Creek (Hamilton Co.)
3. Fourmile Creek (Union Co.)
4. Hawkeye Creek (Des Moines Co.)
5. Honey Creek (Delaware Co.)
6. Indian Creek (Audubon/Shelby/Cass Co.)
7. Indian Creek (Sioux Co.)
8. Little Walnut Creek (Appanoose Co.)
9. Mitchell Creek (Jefferson Co.)
10. Mosquito Creek (Pottawattamie/Harrison/Shelby Co.)
11. Platte River
12. Plum Creek (Delaware Co.)
13. Twelvemile Creek (Union Co.)
14. Unnamed Creek (#2) (City of Cincinnati)
15. Unnamed Creek (#2) (City of Hedrick)
16. Unnamed Creek (#2) (Oak Hills Subdivision)
17. Unnamed Creek (City of Huxley)

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

18. Unnamed Creek (IAAP)
19. Unnamed Creek (John Deere Engineering Center)
20. Unnamed Creek (Stacyville Co-op Creamery)
21. West Branch Floyd River

The stream descriptions provided in this preamble are designed to inform the public and may be subject to nonsubstantive corrections to conform to the format used in the surface water classification document. The surface water classification document adopted by reference herein also contains nonsubstantive revisions to previously adopted stream designations to correct typographical or descriptive errors. All designations conform to the previously approved use designations, as amended by the Commission.

Additional information on Iowa's Water Quality Standards and the Department's rules can be found on the Department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

This amendment may have an impact upon small businesses.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

This amendment will become effective September 16, 2009.

The following amendment is adopted.

Amend subrule 61.3(5) as follows:

61.3(5) Surface water classification. The department hereby incorporates by reference "Surface Water Classification," effective ~~June 11, 2008~~ September 16, 2009. This document may be obtained on the department's Web site at <http://www.iowadnr.com/water/standards/index.html>.

[Filed 7/23/09, effective 9/16/09]

[Published 8/12/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/09.

ARC 8037B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B.310, and 455D.3, the Environmental Protection Commission hereby amends Chapter 101, "Solid Waste Comprehensive Planning Requirements," Iowa Administrative Code.

These amendments are made to aid in clarification and ease of use of these rules and in order to correct inconsistencies between the Code of Iowa and the Iowa Administrative Code. The amendments were written by the Department largely due to suggested revisions received from stakeholders throughout the most recent cycle of solid waste comprehensive plan submittals.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 5, 2008, as **ARC 7310B**. A public hearing to receive comments on the proposed amendments was held on November 25, 2008. The initial comment period, scheduled to end on November 25, 2008, was extended until May 12, 2009, by an Amended Notice of Intended Action published in the Iowa Administrative Bulletin on April 22, 2009, as **ARC 7728B**, which afforded additional opportunities for the public to submit comments and added a second public hearing. Eight organizations commented on the proposed amendments during the public comment period. The following changes were made in response to the public comments received:

- The exclusion from goal progress calculations for contaminated soils has not been stricken from the rules as some contaminated soils cannot be feasibly remediated to a point at which they are exempt from regulation; leaving this exemption in rule will maintain an incentive for brownfield and contaminated site cleanup projects. As a result of this change, the definition for "contaminated soil" has not been rescinded. To provide additional clarification, the removal of contaminated soils as part of a brownfield or contaminated site cleanup was included as an event that should not negatively affect a planning area's goal progress calculation.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- The phrase “construction and demolition debris” has been stricken from the definition of “monowaste facility” as construction and demolition debris is a non-homogeneous material arising from a variable input stream, and not akin to waste streams like cement kiln dust, foundry sand and coal combustion residue.

- A new definition for “municipal solid waste sanitary disposal project” has been added to clarify to which facilities comprehensive planning requirements apply.

- For clarification, a correction of an inconsistency between the Code of Iowa and the Iowa Administrative Code was made with respect to comprehensive planning requirements and solid waste transfer stations transporting waste out of state for disposal.

These amendments are intended to implement Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B.310, and 455D.3.

These amendments shall become effective September 16, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 567—101.1(455B,455D) as follows:

567—101.1(455B,455D) Purpose and applicability.

~~101.1(1) Purpose.~~ The purpose of these rules is to provide general definitions and direction for comprehensive integrated solid waste management planning for every city and county of this state and to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill.

~~101.1(2) Applicability.~~ This chapter is intended to implement Iowa Code sections 455B.306, subsection 1 through subsection 5, and subsection 6, paragraph “e,” 455B.301A and 455D.3.

~~101.1(3) Authority.~~ Rescinded IAB 6/8/05, effective 7/13/05.

ITEM 2. Amend rule **567—101.2(455B,455D)**, definitions of “Monowaste facility,” “Planning cycle” and “Solid waste,” as follows:

“*Monowaste facility*” means any permitted facility with special permit provisions which limit the site to a single solid waste including, but not limited to, coal combustion residue, ~~construction and demolition debris~~, cement kiln dust and foundry sand.

“*Planning cycle*” means the length of time between the due date for each comprehensive plan update submittal as approved by the department, which ~~is the same frequency as sanitary disposal project permitting~~ shall be five years effective March 1, 2011.

“*Solid waste*” means ~~garbage, refuse, rubbish, and other similar discarded solid or semisolid materials including, but not limited to, such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles as defined by Iowa Code section 321.1, subsection 90. However, division IV of Iowa Code chapter 455B does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal project. Solid waste does not include hazardous waste as defined in Iowa Code section 455B.411 or source, special nuclear, or by product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979, or petroleum contaminated soil which has been remediated to acceptable state or federal standards~~ has the same meaning as found in Iowa Code section 455B.301. Pursuant to Iowa Code section 455B.301, the department has determined that solid waste includes those wastes exempted from federal hazardous waste regulation pursuant to 40 CFR 261.4(b), as amended through September 16, 2009, except to the extent that any such exempted substances are liquid wastes or wastewater.

ITEM 3. Rescind the definition of “Sanitary disposal project” in rule **567—101.2(455B,455D)**.

ITEM 4. Adopt the following **new** definition of “Municipal solid waste sanitary disposal project” in rule **567—101.2(455B,455D)**:

“*Municipal solid waste sanitary disposal project*” means all facilities and appurtenances, including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of household waste without creating a significant hazard to the public health or safety, and which are

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

approved by the executive director. A municipal solid waste sanitary disposal project also may receive other types of RCRA Subtitle D wastes, such as construction and demolition debris and commercial and industrial solid waste.

ITEM 5. Amend rules **567—101.2(455B,455D)**, **567—101.4(455B,455D)**, **567—101.5(455B,455D)**, **567—101.7(455B,455D)**, and **567—101.12(455B,455D)** to **567—101.14(455B,455D)** by replacing “sanitary disposal project” wherever it appears with “municipal solid waste sanitary disposal project.”

ITEM 6. Amend rule 567—101.3(455B,455D) as follows:

567—101.3(455B,455D) Waste management hierarchy. The state’s waste management hierarchy is listed in descending order of preference:

1. Volume reduction at the source;
2. Recycling and reuse, including composting;
3. Combustion with energy recovery;
- ~~3.~~ 4. Other approved techniques of solid waste management including, but not limited to, ~~combustion with energy recovery,~~ combustion for waste disposal, and disposal in sanitary landfills.

ITEM 7. Amend rule 567—101.7(455B,455D), introductory paragraph, as follows:

567—101.7(455B,455D) Base year adjustment method. ~~Using the base year adjustment method, the department will perform a goal progress calculation 12 months prior to the due date of the comprehensive plan update for each planning cycle. This goal progress calculation provided 12 months prior to the due date of the comprehensive plan update is for planning purposes only and is to be used to evaluate progress toward the state’s waste volume reduction and recycling goals.~~ Planning agencies may request that the department complete a goal progress recalculation once per fiscal year to resolve any discrepancies and to further evaluate progress toward the state’s waste volume reduction and recycling goals. At the time of approval of a comprehensive plan or comprehensive plan update, the department will use the most current complete fiscal year data set available to complete goal progress calculations, which will be used to meet the requirements outlined in subrule 101.13(8) and rule 567—101.14(455B,455D).

ITEM 8. Amend subrule 101.7(3), introductory paragraph, as follows:

101.7(3) Waste generated as part of an exceptional event or contaminated soils removed as part of a brownfield or contaminated site cleanup should not negatively affect a planning area’s goal progress calculation.

ITEM 9. Amend rule 567—101.8(455B,455D) as follows:

567—101.8(455B,455D) Submittal of initial comprehensive plans and comprehensive plan updates. Initial comprehensive plans and comprehensive plan updates filed with the department must include a signed electronic submission certificate, which can be printed ~~once~~ when all online forms have been submitted to the department for review. When hard-copy portions of the initial comprehensive plan or comprehensive plan update are submitted to the department, ~~an original and two copies are only one original copy is~~ necessary. Initial comprehensive plans and comprehensive plan updates are required to be double-sided and cannot be submitted in three-ring binders. Comprehensive plan updates shall be submitted in accordance with the schedule, as provided by the department 12 months prior to the due date of the first comprehensive plan update for each planning cycle. Planning agencies are not required to submit hard copies of the online forms for comprehensive plan ~~update~~ updates.

ITEM 10. Rescind subrules **101.10(1)** and **101.10(4)**.

ITEM 11. Renumber subrules **101.10(2)** and **101.10(3)** as **101.10(1)** and **101.10(2)**.

ITEM 12. Amend rule 567—101.12(455B,455D) as follows:

567—101.12(455B,455D) Solid waste comprehensive plan categories types. ~~Public or private entities~~ A city, county, or private agency operating or planning to operate a municipal solid waste sanitary

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

disposal project in Iowa, in conjunction with all local governments using the sanitary disposal project, shall file with the director one of two ~~categories~~ types of comprehensive plans detailing the method by which the ~~public or private entity, in conjunction with all local governments using the sanitary disposal project,~~ city, county, or private agency will comply with solid waste comprehensive planning requirements. The first ~~category~~ type is a comprehensive plan in which ~~municipal~~ solid waste is disposed of in a sanitary landfill within the planning area. The second ~~category~~ type is a comprehensive plan in which all ~~municipal~~ solid waste is consolidated at, and transported from, a permitted transfer station for disposal at a sanitary landfill in another comprehensive planning area or state.

101.12(1) A planning area that closes all of the municipal solid waste sanitary landfills located in the planning area and chooses instead to use a municipal solid waste sanitary landfill in another planning area ~~that may choose to retain its autonomy as long as the sanitary landfill in the other planning area complies with all the requirements under Subtitle D of the federal Resource Conservation and Recovery Act, with of this chapter, and all solid waste generated within the planning area being closing its landfills is consolidated at, and transported from, a permitted transfer station, may elect to retain autonomy as a planning area and.~~ For purposes of this subrule, a planning area closing its own landfills that chooses to retain its autonomy shall not be required to join the planning area where the that contains the landfill being used it is using for final disposal of its solid waste is located.

101.12(2) If a planning area ~~makes the election~~ chooses to retain autonomy under subrule 101.12(1) pursuant to this rule, the planning area receiving the solid waste from the planning area ~~making the election sending it~~ shall not be required to include the ~~planning area making the election in a sending planning area in its~~ comprehensive plan provided that no services other than the acceptance of solid waste for disposal are shared between the two planning areas ~~other than the acceptance of solid waste for sanitary landfill disposal.~~ The A planning area receiving the solid waste shall only be responsible for the permitting, planning, and waste reduction and diversion programs ~~in the planning area receiving the solid waste within that planning area.~~

101.12(3) If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station (e.g., asbestos or bulky construction and demolition waste), the department may establish permit conditions to address the transport and disposal of the solid waste. ~~An election may be made under this subrule~~ A planning area sending solid waste for disposal in another planning area may retain autonomy pursuant to subrule 101.12(1) only if the two both comprehensive planning areas enter into an agreement, pursuant to Iowa Code chapter 28E, that includes, ~~at a minimum, all~~ both of the following:

a. and b. No change.

ITEM 13. Amend rule ~~567—101.13(455B,455D)~~, second unnumbered paragraph, as follows:

If it is demonstrated to the department that any of the provisions outlined in paragraphs “1” through “3” below will not impact the planning area significantly, then the department may consider accepting a comprehensive plan amendment. ~~This chapter also provides the comprehensive planning requirements that apply to composting, recycling, processing, monowaste, monogenerator, and transfer station, and medical waste incineration facilities.~~ If during the planning cycle a change occurs to an existing planning area, the submission of an initial comprehensive plan may be required. An initial comprehensive plan is needed if:

ITEM 14. Amend subrule 101.13(2), catchwords, as follows:

101.13(2) *Comprehensive plan updates: for permitted municipal solid waste landfills, construction and demolition waste disposal sites, and transfer stations sanitary disposal projects.*

ITEM 15. Rescind and reserve subrules **101.13(3)** to **101.13(6)**.

ITEM 16. Amend subrule 101.14(2) as follows:

101.14(2) *Exclusions Exclusion.*

a. — ~~The fees specified in subrule 101.14(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department; or to~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~solid waste disposal facilities with special permit provisions which limit the site to the management of landscape waste and to disposal of coal combustion waste, cement kiln dust, construction and demolition waste and foundry sand; or to solid waste materials approved by the department for lining or capping or constructing berms, dikes or roads in the project.~~

~~b.~~ Fees do not apply to wastes which will not be buried at a sanitary landfill if such material is salvaged or recycled in accordance with the provisions of the landfill permit.

ITEM 17. Amend **567—Chapter 101**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 455B.301A, 455B.302, ~~455B.304~~, ~~455B.306~~, and ~~455D.7~~ 455D.3.

[Filed 7/23/09, effective 9/16/09]

[Published 8/12/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/09.

ARC 8035B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 91C.6, the Labor Commissioner hereby amends Chapter 150, "Construction Contractor Registration," Iowa Administrative Code.

This amendment updates a rule to reflect statutory changes set forth in 2009 Iowa Acts, Senate File 478, section 203. Effective July 1, 2009, 2009 Iowa Acts, Senate File 478, changed the contractor registration period from two years to one year and increased the registration fee from \$25 to \$50. This amendment rescinds the rule that reflects the \$25 fee and two-year registration period; makes technical changes; and adopts a new rule to assist with the transition to the new fee.

The principal reason for adoption of this rule is to implement legislative intent. No variance provision is included in these rules as 875—Chapter 1 sets forth applicable variance procedures.

Notice of Intended Action was published in the June 17, 2009, Iowa Administrative Bulletin as **ARC 7875B**. No public comment was received on this proposed rule. This rule is identical to that published under the Notice of Intended Action.

Except for the technical changes, this amendment was simultaneously Adopted and Filed Emergency as **ARC 7876B**. The paragraphs that appear herein as subrules 150.6(1) and 150.6(2) appeared in **ARC 7876B** as paragraphs 150.6(1)"a" and "b"; the language is identical.

This amendment is intended to implement Iowa Code chapter 91C and 2009 Iowa Acts, Senate File 478.

This amendment shall become effective on September 16, 2009, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Rescind rule 875—150.6(91C) and adopt the following **new** rule in lieu thereof:

875—150.6(91C) Fee.

150.6(1) New applications. A new application deposited in the U.S. mail shall be accompanied by the fee effective on the date the application is postmarked. A new application delivered in any other manner shall be accompanied by the fee effective on the date the application is received by the division.

150.6(2) Renewal applications. A timely renewal application shall be accompanied by the fee effective on the expiration date of the contractor's expiring registration. An application for renewal deposited in the U.S. mail after the expiration date of the contractor's expiring registration shall be accompanied by the fee effective on the date the application is postmarked. An application for renewal delivered to the division in a manner other than U.S. mail and after the expiration date of the contractor's

LABOR SERVICES DIVISION[875](cont'd)

expiring registration shall be accompanied by the fee effective on the date the application is received by the division.

150.6(3) Fee exemption. A contractor shall not be required to pay the fee if the application is submitted with a completed and accurate Fee Exemption Application Form. The Fee Exemption Application Form is available from the division.

150.6(4) Amendments to applications. A fee is not required for a permissible amendment to an application.

[Filed 7/23/09, effective 9/16/09]

[Published 8/12/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/12/09.

ARC 8028B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Podiatry hereby amends Chapter 220, "Licensure of Podiatrists," Iowa Administrative Code.

These amendments clarify that a residency program must be completed before permanent licensure is issued; remove language that requires the Board to give an applicant approval to sit for Part III of the examination; and require participating faculty of a podiatric college in Iowa who have clinical privileges to obtain permanent licensure, removing the faculty's eligibility for temporary licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 20, 2009, as **ARC 7779B**. A public hearing was held on June 17, 2009, from 9 to 9:30 a.m. in the Fifth Floor Board Room 526, Lucas State Office Building. No public comments were received, and no one attended the hearing.

Since publication of the Notice of Intended Action, a technical correction has been made to paragraph 220.6(2)"e" to remove the word "school's" from the phrase "into the school's residency program" at the end of the first sentence. Paragraph 220.6(2)"e" now reads as follows:

"e. Furnish an affidavit by the institution director or dean of an approved podiatric college from this state, attesting that the applicant has been accepted into a residency program. The residency program must be approved by the Council on Podiatric Medical Education (CPME) of the American Podiatric Medical Association;"

The amendments were adopted by the Board of Podiatry on July 10, 2009.

These amendments will become effective September 16, 2009.

These amendments are intended to implement Iowa Code chapters 147, 149 and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [220.2 to 220.4, 220.6, 220.7] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 7779B**, IAB 5/20/09.

[Filed 7/15/09, effective 9/16/09]

[Published 8/12/09]

[For replacement pages for IAC, see IAC Supplement 8/12/09.]

ARC 8029B

RACING AND GAMING COMMISSION[491]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby amends Chapter 1, "Organization and Operation," Chapter 4, "Contested Cases and Other Proceedings," Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," and Chapter 11, "Gambling Games," and rescinds Chapter 12, "Accounting and Cash Control," Iowa Administrative Code, and adopts a new Chapter 12 with the same title.

Item 1 brings rule 491—1.7(99D,99F) up to date with the current trend of the industry.

Items 2 and 3 add language regarding applicants who pose an immediate danger to the public health, safety, or welfare in order for the commission representative to summarily suspend the occupational license.

Item 4 requires the licensee to adopt policies and procedures regarding gambling setoff to comply with the Iowa Code.

Item 5 requires fingerprinting of all applicants applying for an occupational license.

Item 6 removes redundancies in subrule 6.5(1) and allows more discretion to the commission representative on issuing occupational licenses.

Item 7 removes the definition for "EPROM."

Item 8 amends the definition of "slot machine" to conform to industry standards.

Item 9 adds definitions for "currency" and "storage media."

Items 10 to 13, 15, 16 and 18 combine current rules to eliminate redundancies and update the language to conform with current industry standards.

Item 14 requires proposals for gambling game-based tournaments to be submitted 14 days in advance.

Item 17 requires licensees to first look for similar progressive games prior to transferring the jackpot.

Item 19 rewrites Chapter 12 to eliminate redundancies and update the chapter to conform with current industry standards.

These amendments were published under Notice of Intended Action in the May 6, 2009, Iowa Administrative Bulletin as **ARC 7758B**. A public hearing was held on May 26, 2009. One change has been made since the Notice of Intended Action: The last sentence of subrule 1.7(6) has been revised as a result of comments received from the racing industry. Subrule 1.7(6) now reads as follows:

1.7(6) Nurture of the racing industry. The commission will consider whether the proposed racetrack operation would serve to nurture, promote, develop, and improve the racing industry in Iowa and provide high-quality racing in Iowa. The commission will also consider if the proposed racetrack operation will maximize purses and is beneficial to Iowa breeders."

These amendments will become effective September 16, 2009.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend Chs 1, 4 to 6, 11; adopt Ch 12] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 7758B**, IAB 5/6/09.

[Filed 7/17/09, effective 9/16/09]

[Published 8/12/09]

[For replacement pages for IAC, see IAC Supplement 8/12/09.]