



IOWA ADMINISTRATIVE BULLETIN

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NUMBER 4
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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Acting Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 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 2010

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. 23 '09	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10
Jan. 8	Jan. 27	Feb. 16	Mar. 3	Mar. 5	Mar. 24	Apr. 28	July 26
Jan. 22	Feb. 10	Mar. 2	Mar. 17	Mar. 19	Apr. 7	May 12	Aug. 9
Feb. 5	Feb. 24	Mar. 16	Mar. 31	Apr. 2	Apr. 21	May 26	Aug. 23
Feb. 19	Mar. 10	Mar. 30	Apr. 14	Apr. 16	May 5	June 9	Sep. 6
Mar. 5	Mar. 24	Apr. 13	Apr. 28	Apr. 30	May 19	June 23	Sep. 20
Mar. 19	Apr. 7	Apr. 27	May 12	May 14	June 2	July 7	Oct. 4
Apr. 2	Apr. 21	May 11	May 26	***May 26***	June 16	July 21	Oct. 18
Apr. 16	May 5	May 25	June 9	June 11	June 30	Aug. 4	Nov. 1
Apr. 30	May 19	June 8	June 23	***June 23***	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
May 26	June 16	July 6	July 21	July 23	Aug. 11	Sep. 15	Dec. 13
June 11	June 30	July 20	Aug. 4	Aug. 6	Aug. 25	Sep. 29	Dec. 27
June 23	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	***Sep. 1***	Sep. 22	Oct. 27	Jan. 24 '11
July 23	Aug. 11	Aug. 31	Sep. 15	Sep. 17	Oct. 6	Nov. 10	Feb. 7 '11
Aug. 6	Aug. 25	Sep. 14	Sep. 29	Oct. 1	Oct. 20	Nov. 24	Feb. 21 '11
Aug. 20	Sep. 8	Sep. 28	Oct. 13	Oct. 15	Nov. 3	Dec. 8	Mar. 7 '11
Sep. 1	Sep. 22	Oct. 12	Oct. 27	***Oct. 27***	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	***Nov. 10***	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	***Nov. 24***	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	***Dec. 8***	Dec. 29	Feb. 2 '11	May 2 '11
Oct. 27	Nov. 17	Dec. 7	Dec. 22	***Dec. 22***	Jan. 12 '11	Feb. 16 '11	May 16 '11
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Dec. 8	Dec. 29	Jan. 18 '11	Feb. 2 '11	Feb. 4 '11	Feb. 23 '11	Mar. 30 '11	June 27 '11
Dec. 22	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
6	Wednesday, September 1, 2010	September 22, 2010
7	Friday, September 17, 2010	October 6, 2010
8	Friday, October 1, 2010	October 20, 2010

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 14, 2010, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"

Continuing education, ch 10	Filed	ARC 9002B	8/11/10
Applicants for reinstatement—fees, 12.2(3)	Notice	ARC 8988B	8/11/10
Rules of professional ethics and conduct, ch 13	Filed	ARC 9003B	8/11/10

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Years of service incentive; exigency leave for covered servicemembers, 53.12, 63.4(1)	Filed	ARC 8979B	8/11/10
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AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Cattle and bison—pre-entry permits and tuberculosis tests, 65.2(3), 65.4(3)	Notice	ARC 8985B	8/11/10
Meat and poultry inspection, 76.1 to 76.4, 76.13, 76.14	Filed	ARC 9012B	8/25/10

ARCHAEOLOGIST[685]

REGENTS BOARD[681]"umbrella"

Operations of office of the state archaeologist; uniform rules, amend chs 1, 2, 4, 6 to 8, 10 to 12, 14; adopt ch 15	Filed	ARC 9025B	8/25/10
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CAPITAL INVESTMENT BOARD, IOWA[123]

Tax credits—venture capital funds, fund of funds, 3.9, 4.4	Filed	ARC 9030B	8/25/10
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EDUCATION DEPARTMENT[281]

Pupil transportation, 43.25, 43.34, 43.38	Notice	ARC 9013B	8/25/10
Public charter and innovation zone schools, 68.1 to 68.7, 68.11 to 68.15	Notice	ARC 9014B	8/25/10
Teacher and administrator quality programs—beginning administrator, 83.2	Notice	ARC 9015B	8/25/10
Supplementary weighting plan, 97.2	Notice	ARC 9016B	8/25/10
Financial management of categorical funding, amendments to ch 98	Notice	ARC 9017B	8/25/10

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

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COMMERCE DEPARTMENT[181]"umbrella"

References—examination applicants, 4.1(5)	Notice	ARC 9021B	8/25/10
Examination application—correct forms for references, 4.1(7)"a"	Notice	ARC 9022B	8/25/10
Structural engineering examination, 4.1(8)"b"	Notice	ARC 9024B	8/25/10
Comity application—correct forms for references, 4.2(1)	Notice	ARC 9023B	8/25/10

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Regulation of greenhouse gas emissions, 22.100, 33.3(1)	Notice	ARC 8999B	8/11/10
Animal feeding operations, amendments to ch 65	Filed	ARC 8998B	8/11/10
Underground storage tanks—technical standards and corrective actions, amendments to ch 135	Filed	ARC 9011B	8/25/10

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Filing of campaign disclosure statements and reports, 4.1(2), 4.8(1), 4.13, 4.55(2)	Filed	ARC 9031B	8/25/10
Dual executive branch compensation, 6.6	Filed	ARC 9035B	8/25/10
Sales of goods or services to state agencies by officials and employees—filing of report, 6.10	Filed	ARC 9036B	8/25/10
Providing false information to the board during an investigation, 9.7	Filed	ARC 9037B	8/25/10

HUMAN SERVICES DEPARTMENT[441]

Medicaid members—brokerage program for provision of nonemergency medical transportation, 7.1, 78.13, 81.10(5)	Filed	ARC 8994B	8/11/10	
Promoting healthy marriage program, ch 47 div I, 47.1, 47.2	Notice	ARC 9019B	8/25/10	
Interim assistance reimbursement, ch 57	Notice	ARC 8991B, also Filed Without Notice	ARC 8990B	8/11/10
Food assistance—methodology for standard utility allowance, 65.8	Filed	ARC 8992B	8/11/10	
Food assistance program—categorical eligibility, 65.39	Notice	ARC 9020B	8/25/10	
Medical assistance—coverage for oxygen and nutritional products, 78.10	Filed	ARC 8993B	8/11/10	

Nursing facilities—modifications to Medicaid rate reductions, 81.6, 81.10, 81.20(3)	
<u>Filed Without Notice</u> ARC 8995B	8/11/10
Collection of court-ordered support, 95.6, 95.7(8)“b,” 98.81 <u>Notice</u> ARC 9026B	8/25/10
Dependent adult abuse—“at-risk adult,” reports, referrals, assessment and safety plan, 176.1, 176.6 <u>Notice</u> ARC 9027B	8/25/10

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Coordination of benefits, rescind 38.1 to 38.11, 38.19; amend 38.12(1) <u>Notice</u> ARC 9006B	8/11/10
Securities regulation—duties, procedures, electronic filing of forms, amendments to ch 50 <u>Notice</u> ARC 9010B	8/11/10
Retrospective payment of claims for registered nurse practitioners and physician assistants, 70.10 <u>Filed</u> ARC 9038B	8/25/10

IOWA FINANCE AUTHORITY[265]

Multifamily loan program for workforce housing loan assistance, 3.5(1), 3.8 to 3.12 <u>Filed</u> ARC 9028B	8/25/10
Jump-start housing assistance program, 29.5(2), 29.6(5) <u>Filed</u> ARC 9029B	8/25/10

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

OSHA regulations—adoption by reference, 10.20, 26.1 <u>Filed</u> ARC 8997B	8/11/10
Conveyance safety program, 71.1, 71.5, 71.9, 71.11, 71.14, 71.16 <u>Notice</u> ARC 8996B	8/11/10
Bonding requirements for out-of-state contractors, 150.2, 150.4, 150.13 to 150.15 <u>Filed</u> ARC 8984B	8/11/10

NATURAL RESOURCE COMMISSION[571]

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General license regulations—determination of residency status, 15.2, 15.9 to 15.11 <u>Filed</u> ARC 9004B	8/11/10
Suspension, revocation or denial of issuance or renewal of license—college student aid debt, 15.52, 15.53(3), 15.54 <u>Filed</u> ARC 9005B	8/11/10
Falconry regulations, 101.1 to 101.5 <u>Notice</u> ARC 9008B	8/11/10
Falconry regulations for hunting game, 102.1, 102.2, 102.4 <u>Notice</u> ARC 9007B	8/11/10

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Pharmacy technicians, amendments to chs 3, 5 <u>Filed Emergency</u> ARC 9009B	8/11/10
Temporary designation of controlled substances, 10.38 <u>Filed Emergency</u> ARC 8989B	8/11/10
Designation of imitation controlled substances, 10.41 <u>Filed Emergency</u> ARC 9000B	8/11/10

PUBLIC HEALTH DEPARTMENT[641]

Backflow prevention assembly tester registration, 26.2, 26.4, 26.5, 26.8 <u>Filed</u> ARC 8981B	8/11/10
Radiation, amendments to chs 38 to 41, 45 <u>Filed</u> ARC 8982B	8/11/10
Dental screening, 51.1 to 51.16 <u>Filed Emergency After Notice</u> ARC 8980B	8/11/10
Prescription drug donation repository in disaster emergencies, 109.12 to 109.14 <u>Filed</u> ARC 8983B	8/11/10

PUBLIC SAFETY DEPARTMENT[661]

Licensing of fire protection system installers and maintenance workers, adopt ch 276 <u>Filed</u> ARC 9032B	8/25/10
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RACING AND GAMING COMMISSION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Licensees’ responsibilities; gambling games; accounting and cash control, amendments to chs 5, 11, 12 <u>Filed</u> ARC 9018B	8/25/10
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REGENTS BOARD[681]

Application fees, 1.7 <u>Filed</u> ARC 9034B	8/25/10
Application fees, 1.7 <u>Filed</u> ARC 9033B	8/25/10

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

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

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

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

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

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-3084
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Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

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

Representative Tyler Olson
P.O. Box 2389
Cedar Rapids, Iowa 52406

Representative Nathan Reichert
1155 Iowa Avenue
Muscatine, Iowa 52761

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

James Larew
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319
Telephone (515)281-0208

EDUCATION DEPARTMENT[281]

Public charter and innovation zone schools, 68.1 to 68.7, 68.11 to 68.15 IAB 8/25/10 ARC 9014B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 14, 2010 1 to 2 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Regulation of greenhouse gas emissions, 22.100, 33.3(1) IAB 8/11/10 ARC 8999B	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	September 13, 2010 1 p.m.
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HUMAN SERVICES DEPARTMENT[441]

Collection of court-ordered support, 95.6, 95.7(8)"b," 98.81 IAB 8/25/10 ARC 9026B	Meeting Room A, Public Library 210 Court St. Burlington, Iowa	September 15, 2010 9:30 to 10:30 a.m.
	Conference Room A, Second Floor 6200 Aurora Ave. Urbandale, Iowa	September 15, 2010 10 to 11 a.m.
	Suite 225, Second Floor, Commerce Bldg. 520 Nebraska St. Sioux City, Iowa	September 16, 2010 9 to 10 a.m.
	Liberty Room, First Floor Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	September 16, 2010 1 to 2 p.m.

INSURANCE DIVISION[191]

Coordination of benefits—updates and clarifications, rescind 38.1 to 38.11, 38.19; amend 38.12(1) IAB 8/11/10 ARC 9006B	330 Maple St. Des Moines, Iowa	September 3, 2010 10:30 a.m.
Securities regulations—electronic filing of forms, updates and clarifications, 50.1, 50.10(1), 50.12, 50.18(2), 50.60(7) IAB 8/11/10 ARC 9010B	330 Maple St. Des Moines, Iowa	September 3, 2010 10 a.m.

LABOR SERVICES DIVISION[875]

Conveyance safety program, 71.1, 71.5, 71.9, 71.11, 71.14, 71.16 IAB 8/11/10 ARC 8996B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	September 1, 2010 9 a.m. (If requested)
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NATURAL RESOURCE COMMISSION[571]

Falconry regulations, 101.1 to 101.5 IAB 8/11/10 ARC 9008B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 31, 2010 9 a.m.
Falconry regulations for hunting game, 102.1, 102.2, 102.4 IAB 8/11/10 ARC 9007B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	August 31, 2010 9 a.m.

NURSING BOARD[655]

Intravenous therapy scope of
practice for LPNs, 6.1, 6.3, 6.5
IAB 7/14/10 **ARC 8930B**

Des Moines West Room, Holiday Inn
1050 6th Ave.
Des Moines, Iowa

September 15, 2010
6 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Notification prior to hospital
discharge of mentally impaired
person, ch 88
IAB 7/28/10 **ARC 8941B**
(See also **ARC 8942B**)

First Floor Conference Room 125
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

September 7, 2010
9:30 a.m.

The following list will be updated as changes occur.

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

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

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

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ARC 9013B

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 43, “Pupil Transportation,” Iowa Administrative Code.

Upon routine review of the provisions of Chapter 43, agency staff discovered a few rules that were not previously amended to conform to statutory changes. Accordingly, Items 1 through 3 conform to 2003 Iowa Acts, chapter 180, section 52, which no longer requires a school district to obtain separate body and chassis bids; Items 4 and 5 more accurately state contract law; and Item 6 conforms to the Smokefree Air Act of 2008 (Iowa Code chapter 142D).

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 14, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

These amendments are intended to implement Iowa Code chapter 285.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **43.25(1)**.

ITEM 2. Amend subrule 43.25(2) as follows:

43.25(2) Notify ~~body and chassis~~ dealers of intent to purchase school transportation equipment and request bids.

ITEM 3. Amend subrule 43.25(7) as follows:

43.25(7) Sign ~~separate~~ contracts or orders for purchase of ~~body and chassis~~ school transportation equipment. ~~Purchase~~ The purchase agreement must provide that the dealer will deliver equipment which will pass initial state inspection at no further cost to the school and further provide that the school board shall withhold at least \$150 until the vehicle passes initial state inspection.

ITEM 4. Amend subrule 43.34(16) as follows:

43.34(16) The Immoral conduct or the use of alcoholic beverages ~~or immoral conduct~~ by the contractor or driver employed by the contractor shall ~~automatically cancel this contract~~ result in appropriate sanctions as provided in Iowa Code section 321.375.

ITEM 5. Rescind subrule **43.34(19)**.

ITEM 6. Amend rule 281—43.38(285) as follows:

281—43.38(285) Driver restrictions.

43.38(1) The driver of a school bus shall not smoke ~~when there are passengers on the bus~~ or on any school property.

43.38(2) and **43.38(3)** No change.

43.38(4) The driver shall ensure that aisles and exits are not blocked.

ITEM 7. Amend **281—Chapter 43**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section 285.4~~ chapter 285.

ARC 9014B**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to amend Chapter 68, “Iowa Public Charter Schools,” Iowa Administrative Code.

Upon initial enactment of Iowa’s Charter Schools Act (Iowa Code chapter 256F) in 2003, Chapter 68 was adopted in September 2003. There are presently fewer than ten charters. 2010 Iowa Acts, Senate File 2033, added the concept of innovation zone schools to Iowa Code chapter 256F. An innovation zone school is similar to a charter school, but a charter school is a public attendance center chartered and governed by the local school board of the school district in which the charter school is located, whereas an innovation zone school is a public attendance center established by a consortium that must include at least two school districts and an area education agency.

Items 1 through 7, 13, and 16 reflect the addition of language pertaining to innovation zone schools, necessitated by the enactment of 2010 Iowa Acts, Senate File 2033.

In Item 8, the amendment to the number of points awarded is to emphasize that innovation is of great importance to the State Board.

The proposed amendment in Item 9 reflects actual practice. Because the State Board does not meet every month, it is not always possible to meet the existing 60-day deadline. On the other hand, actual practice is for the Department to give notice to applicants of the State Board’s decision about a charter application well within 5 days.

In Item 10, proposed language is added to implement 2010 Iowa Acts, Senate File 2033. Similar language is added in Item 15.

The amendment in Item 11 is proposed to correct a misstatement of the statute. Pursuant to Iowa Code chapter 290, only an affected student or parent of a minor affected student may invoke the appeal procedure in that chapter.

Item 15 includes the proposed rules for proposal of innovation zone schools by innovation zone consortia, approval and review process of the schools, and process for renewal or termination of the schools.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 14, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on September 14, 2010, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Education by calling (515)281-5296 and advise of their specific needs.

These amendments are intended to implement Iowa Code chapter 256F as amended by 2010 Iowa Acts, Senate File 2033.

The following amendments are proposed.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 1. Amend **281—Chapter 68**, title, as follows:

IOWA PUBLIC CHARTER AND INNOVATION ZONE SCHOOLS

ITEM 2. Amend **281—Chapter 68** by changing the parenthetical implementation statute from “256F” to “256F,83GA,SF2033” wherever it appears.

ITEM 3. Adopt the following **new** division heading to precede rule 281—68.1(256F,83GA,SF2033):

DIVISION I
GENERAL PROVISIONS

ITEM 4. Amend rule 281—68.1(256F,83GA,SF2033) as follows:

281—68.1(256F,83GA,SF2033) Purpose. All charter schools and innovation zone schools in Iowa are public schools whose purpose is established pursuant to Iowa Code chapter 256F as amended by 2010 Iowa Acts, Senate File 2033. A charter school may be established by creating a new school within an existing public school or by converting an existing public school to charter status. This chapter provides the criteria and weighting for those criteria that the state board shall use to determine if an application for a public charter school or innovation zone school shall be approved.

ITEM 5. Amend rule **281—68.2(256F,83GA,SF2033)**, definitions of “Advisory council” and “Family unit,” as follows:

“*Advisory council*” means a council appointed by the school board of a charter school or an innovation zone consortium. ~~No~~ With respect to a charter school, no more than one member of the council may be a member of the school board. ~~A~~ a district’s school improvement advisory committee may also serve as its advisory council. With respect to an innovation zone consortium, no more than one member of the council may be a member of any participating school board. ~~The All advisory council is~~ councils are subject to the provisions of Iowa Code ~~chapter~~ chapters 21 and 22.

“*Family unit*” means a household in which reside one or more students enrolled at the existing public school ~~whose board seeks to convert the school to~~ that is the subject of either a charter school application or an innovation zone school application.

ITEM 6. Adopt the following **new** definitions of “Innovation zone consortium” and “Innovation zone school” in rule **281—68.2(256F,83GA,SF2033)**:

“*Innovation zone consortium*” means a consortium of two or more school districts and an area education agency in which one or more of the school districts are located which receives approval from the state board to establish an innovation zone school.

“*Innovation zone school*” means a public school established as an innovation zone school pursuant to an innovation zone school contract entered into by an innovation zone consortium to meet one or more of the purposes in Iowa Code section 256F.1 as amended by 2010 Iowa Acts, Senate File 2033.

ITEM 7. Adopt the following **new** division heading to precede rule 281—68.3(256F,83GA,SF2033):

DIVISION II
CHARTER SCHOOLS

ITEM 8. Amend subrule 68.4(2) as follows:

68.4(2) Ranking of applications. Applications shall be ranked on a point system, and applications shall be recommended in rank order beginning with the application with the highest points. In the event that two or more applications tie, the applications will be reviewed until the tie is broken.

The maximum points for an application shall be 100. The maximum points for each criterion provided in Iowa Code section 256F.5 as amended by 2010 Iowa Acts, Senate File 2033, section 16, shall be as follows:

a. *Overview.* The mission, purpose, innovation, and specialized focus of the charter school. The maximum number of points that can be awarded is ~~40~~ 40.

EDUCATION DEPARTMENT[281](cont'd)

b. Organization and structure. The maximum number of points that can be awarded is ~~25~~ 10. The description of the organization and structure shall include:

(1) to (9) No change.

c. Facilities/financial support. The maximum number of points that can be awarded is ~~25~~ 10. The description of the facilities/financial support shall include:

(1) to (5) No change.

d. No change.

ITEM 9. Amend subrule 68.4(3) as follows:

68.4(3) State board review. The state board shall review the recommendations provided by the department. The state board shall, by a majority vote, approve or deny an application within ~~60~~ 90 calendar days of receipt of the application and shall notify applicants within ~~14~~ 5 days of the state board's decision. An approved application shall be a part of the contract for the operation of the charter school. The terms of the contract for the operation of the charter school shall also outline the reasons for revocation or nonrenewal of the charter.

ITEM 10. Adopt the following new paragraph **68.7(1)“d”**:

d. The charter school has failed to demonstrate improvement in student progress in reading, mathematics, and science from that which existed prior to the establishment of the charter school to the present as evidenced by achievement scores on the latest administration of the state assessment for which scores are available, or as evidenced by alternative but equivalent locally determined performance measures including but not limited to additional administrations of the state assessment, portfolios of student work, student performance rubrics, or end-of-course assessments.

ITEM 11. Amend subrule 68.7(2) as follows:

68.7(2) Revocation by school board. A school board considering the revocation of a contract with its charter school shall notify the advisory council, the family units, and the teachers and administrators employed by the charter school at least 60 days prior to the date by which the contract must be renewed, but not later than the last day of classes in the school year. The decision of a school board to revoke or fail to renew a charter school contract is subject to appeal by ~~a member of the advisory council, an affected student, or an individual employed by the charter school~~ or parent of an affected student who is a minor under procedures set forth in Iowa Code chapter 290.

ITEM 12. Rescind subrule **68.7(4)**.

ITEM 13. Reserve rules **281—68.8** to **281—68.10**.

ITEM 14. Adopt the following new division heading:

DIVISION III
INNOVATION ZONE SCHOOLS

ITEM 15. Adopt the following new rules 281—68.11(256F,83GA,SF2033) to 281—68.15(256F,83GA,SF2033):

281—68.11(256F,83GA,SF2033) Application process. An innovation zone consortium shall submit an application to establish an innovation zone school to the state board no later than December 15 immediately preceding the school year for which the innovation zone school desires to start operations. The application shall demonstrate the support, as of approximately the date of submission of the application, of at least 50 percent of the teachers employed at the proposed innovation zone school and at least 50 percent of the affected family units. The application shall set forth the manner in which the innovation zone school will comply with federal and state laws regarding instruction to students who are English language learners and regarding the National School Lunch Act and Child Nutrition Act.

281—68.12(256F,83GA,SF2033) Review process. Upon timely receipt of an application from an innovation zone consortium for the proposed establishment of an innovation zone school, the department shall appoint a minimum of five individuals knowledgeable in student achievement and nontraditional

EDUCATION DEPARTMENT[281](cont'd)

learning environments to review each application for an innovation zone school. A reviewer shall not participate in the review of any application in which the individual may have an interest, direct or indirect.

68.12(1) *Cap on number of innovation zone schools.* Pursuant to Iowa Code section 256F.3 as amended by 2010 Iowa Acts, Senate File 2033, section 10, the state board shall approve the establishment of not more than ten innovation zone schools.

68.12(2) *Allocation of points on applications.* Points shall be allocated to applications; the maximum points for any one application shall be 100. The maximum points for each criterion shall be as set forth in paragraphs 68.4(2) "a" to "d." The department shall make a recommendation to the state board regarding whether an application should be approved or denied by the state board.

68.12(3) *State board review.* The state board shall review the recommendations provided by the department. The state board shall, by a majority vote, approve or deny an application within 90 calendar days of receipt of the application and shall notify applicants within 5 days of the state board's decision. An approved application shall be a part of the contract for the operation of the innovation zone school. The terms of the contract for the operation of the innovation zone school shall also outline the reasons for revocation or nonrenewal of the approval of the innovation zone school.

281—68.13(256F,83GA,SF2033) Ongoing review by department. An innovation zone school shall be reviewed periodically by the department to ensure continuing compliance with the innovation zone school's contract. At the department's sole discretion, the department may schedule mandatory meetings with the administrators of the innovation zone school and the administrators of the school's innovation zone consortium.

281—68.14(256F,83GA,SF2033) Renewal of contract. After the initial four-year contract for an innovation zone school and at the end of each renewal period thereafter, the local boards that formed the innovation zone consortium shall take affirmative action either to request renewal from the state board of the approval of the consortium's innovation zone school contract or to dissolve the innovation zone school. If seeking renewal of the contract from the state board, the local boards that formed the innovation zone consortium shall first hold a joint public hearing on the issue of renewal of the contract and shall submit to the department a copy of the minutes of the public hearing showing that a majority of the local board members voted in favor of requesting renewal of the state board's approval of the consortium's innovation zone school contract. Any action to request renewal of the contract must specify the number of years, which shall not be more than four years, for which renewal is requested.

An innovation zone consortium must submit a new application to the department if the consortium modifies any of the terms of the original contract.

281—68.15(256F,83GA,SF2033) Revocation of contract.

68.15(1) *Reasons for revocation.* An innovation zone school contract may be revoked by the state board or by the innovation zone consortium that established the school if either the board or the consortium determines that one or more of the following occurred:

a. The innovation zone school has failed to meet the provisions set forth in the contract for the operation of the innovation zone school.

b. The innovation zone school has failed to comply with the provisions in Iowa Code chapter 256F as amended by 2010 Iowa Acts, Senate File 2033.

c. The innovation zone school has failed to meet generally accepted accounting principles for public entities.

d. The innovation zone school has failed to demonstrate improvement in student progress in reading, mathematics, and science from that which existed prior to the establishment of the innovation zone school to the present as evidenced by achievement scores on the latest administration of the state assessment for which scores are available, or as evidenced by alternative but equivalent locally determined performance measures including but not limited to additional administrations of the state assessment, portfolios of student work, student performance rubrics, or end-of-course assessments.

EDUCATION DEPARTMENT[281](cont'd)

68.15(2) *Revocation by innovation zone consortium.* An innovation zone consortium considering the revocation of a contract with its innovation zone school shall notify the advisory council, the family units, and the teachers and administrators employed by the innovation zone school at least 60 days prior to the date by which the contract must be renewed but not later than the last day of classes in the school year. The decision of an innovation zone consortium to revoke or fail to renew an innovation zone school contract is subject to appeal under procedures set forth in Iowa Code chapter 290 by an affected student or parent of an affected student who is a minor.

68.15(3) *Revocation by state board.* If the state board determines that reason exists under subrule 68.15(1) to revoke the contract for an innovation zone school, the state board shall notify the innovation zone consortium and the advisory council of the consortium of the state board's intention to revoke the contract at least 60 days prior to the revocation of the contract, and the consortium shall assume oversight authority, operational authority, or both oversight and operational authority. The notice shall state the grounds for the proposed action in writing and in reasonable detail. The consortium may request in writing an informal hearing before the state board within 14 days of receipt of notice of revocation of the contract. Upon receiving a timely written request for a hearing, the state board shall give reasonable notice to the consortium of the hearing date. The state board shall conduct an informal hearing before taking final action. Final action to revoke a contract shall be taken in a manner least disruptive to the students enrolled in the innovation zone school. The state board shall take final action to revoke or approve continuation of a contract by the last day of classes in the school year. If the final action to revoke a contract under Iowa Code section 256F.8 as amended by 2010 Iowa Acts, Senate File 2033, section 19, occurs prior to the last day of classes in the school year, an innovation zone school student may enroll in the student's resident district. The decision of the state board to revoke a contract under Iowa Code section 256F.8 as amended by 2010 Iowa Acts, Senate File 2033, section 19, is solely within the discretion of the state board and is final.

ITEM 16. Amend **281—Chapter 68**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 256F as amended by 2010 Iowa Acts, Senate File 2033.

ARC 9015B

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 83, “Teacher and Administrator Quality Programs,” Iowa Administrative Code.

The original definition of “beginning administrator” in Iowa Code chapter 284A (the chapter was enacted in 2006) precluded all superintendents from the definition because no person may be licensed or serve as a school district superintendent in Iowa if the person holds an “initial” administrator license. This outcome was inadvertent; much of the beginning administrator program is targeted toward beginning superintendents. 2010 Iowa Acts, Senate File 2376, section 35, fixes the error, and this proposed amendment implements that change.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment on or before September 14, 2010, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office

EDUCATION DEPARTMENT[281](cont'd)

Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

This amendment is intended to implement 2010 Iowa Acts, Senate File 2376, section 35.

The following amendment is proposed.

Amend rule **281—83.2(284,284A)**, definition of “Beginning administrator,” as follows:

“*Beginning administrator*” means an individual serving under an ~~initial~~ administrator license, issued by the board of educational examiners under Iowa Code chapter 272, who is assuming a position as a school district ~~administrator~~ principal or superintendent for the first time.

ARC 9016B**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to amend Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

The proposed amendment in Item 1 implements changes made by Iowa Code chapter 261E, the Senior Year Plus Program.

2010 Iowa Acts, Senate File 2291, section 7, amended Iowa Code section 257.11(8) to clarify that students with disabilities who are served by special education programs or services are not to be denied participation in other weighted programming. This was also an area of confusion regarding students served by at-risk programming. Accordingly, Item 2 addresses both of these programs by clarifying that, while special education programming and at-risk programming are not eligible for additional supplementary weighting, students who are served by such programming are not to be denied participation in other weighted programs for which the students are eligible.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 14, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Su McCurdy, Administrative Consultant, Iowa Department of Education, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-7700.

These amendments are intended to implement 2010 Iowa Acts, Senate File 2291, section 7, and Iowa Code chapter 261E.

The following amendments are proposed.

ITEM 1. Amend subrule 97.2(5) as follows:

97.2(5) Attend class in a community college. All of the following conditions must be met for any student attending a community college-offered class to be eligible for supplementary weighting under paragraph 97.2(1)“d.”

a. The course must supplement, not supplant, high school courses.

(1) ~~The course must not replace the identical course that was offered by the school district in the preceding year or the second preceding year.~~ For purposes of these rules, to comply with the “supplement, not supplant” requirement, the content of a course provided to a high school student for postsecondary credit shall not consist of substantially the same concepts and skills as the content of a course provided by the school district.

(2) The course must not be ~~required~~ used by the school district in order to meet the minimum accreditation standards in Iowa Code section 256.11.

EDUCATION DEPARTMENT[281](cont'd)

- b.* to *f.* No change.
- g.* The course must be taught in such a manner as to result in student work and student assessment that meets which meet college-level expectations.

h. No change.

ITEM 2. Amend subrule 97.2(6) as follows:

97.2(6) Ineligibility. The following students are ineligible for supplementary weighting:

- a.* No change.
- b.* Students eligible for the special education weighting plan provided in Iowa Code section 256B.9 when being served by special education programs or services that carry additional weighting.

c. to *i.* No change.

j. Students enrolled in an at-risk program or alternative school program when being served by such program.

k. No change.

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EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

This chapter, which provides guidance on financial management of multiple public school funds, was adopted effective September 30, 2009, with the exception of rules 281—98.12(257,299A) and 281—98.112(275), both of which were delayed 70 days by the Administrative Rules Review Committee at the Committee’s meeting of September 8, 2009. At its meeting held December 8, 2009, the Committee took no further action on rule 281—98.112(275), but voted to delay the effective date of rule 281—98.12(257,299A) until the adjournment of the 2010 Session of the General Assembly. During the 2010 Session, 2010 Iowa Acts, Senate File 2376, was enacted, specifying in section 40 thereof the lawful purposes of the per-pupil funding received by a school district that operates a home school assistance program. That provision is implemented in Item 3. Because it was necessary to amend the chapter, other items have been edited, as follows:

Item 1 includes two common definitions, taking the definitions from statute (Iowa Code sections 276.3 and 299A.8, respectively) for the ease of the reader.

Item 2 requires amending because market factor incentive pay from Iowa Code section 284.11 (2007) has ceased to exist, but school districts need guidance regarding their unspent funds.

Items 4 and 5 correct confusion that developed regarding the Department’s erroneous reference to “dean of students” in the to-be-stricken language. A dean of students is a school administrator, and school administrators are addressed later in both rules.

Items 6 and 9 include changes made to Iowa Code section 257.9, subsections 6 and 7, to the names of funds. Such changes were not made in the substantive sections of statutes, so the Department has chosen to use both names.

Items 7, 8, and 10 make necessary adjustments to acknowledge that the educational excellence Phase II program and the educator quality basic salary program were combined and that they and the educational excellence Phase I program are no longer grants-in-aid but are budgetary allocations.

Item 11 implements the change to the definition of “textbook” in 2010 Iowa Acts, Senate File 2178.

EDUCATION DEPARTMENT[281](cont'd)

Item 12 includes a clarification that is important for auditors and for the state appeals board and that was inadvertently omitted when the chapter was first adopted.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before September 14, 2010, at 4:30 p.m. Comments on the proposed amendments should be directed to Su McCurdy, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-8777.

These amendments are intended to implement 2010 Iowa Acts, Senate File 2178, 2010 Iowa Acts, Senate File 2376, section 40, and Iowa Code chapters 257 and 284.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “Community education” and “Dual enrollment” in rule **281—98.1(256,257)**:

“*Community education*” means a life-long education process concerning itself with every facet that affects the well-being of all citizens within a given community. It extends the role of the school from one of teaching children through an elementary and secondary program to one of providing for citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.

Community education energizes people to strive for the achievement of determined goals and stimulates capable persons to assume leadership responsibilities. It welcomes and works with all groups, it draws no lines. It is the one institution in the entire community that has the opportunity to reach all people and groups and to gain their cooperation.

“*Dual enrollment*” means enrollment of a child who receives competent private instruction, including a child over compulsory attendance age, in a school district to enable the child to participate in any academic or extracurricular activity on the same basis as similarly-situated public school children.

ITEM 2. Amend subrule 98.2(4) as follows:

98.2(4) Discontinued funding. In the event that a categorical funding source is discontinued and an unexpended balance remains, the school district or area education agency shall carry forward the unexpended balance and expend the remaining balance within the subsequent 24 months for the purposes which were allowed in the final year that the funding was allocated or granted prior to discontinuation unless a rule in this chapter provides for a longer period. This subrule does not apply to market factor incentive pay funding, which may be carried forward until expended, but any expenditures from the market factor incentive pay funding must be appropriate under Iowa Code section 284.11 (2007 and 2007 Supplement).

ITEM 3. Rescind rule 281—98.12(257,299A) and adopt the following **new** rule in lieu thereof:

281—98.12(257,299A) Home school assistance program. The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district.

98.12(1) Appropriate uses of categorical funding. Appropriate uses of the home school assistance program funding include, but are not limited to, the following:

- a. Assisting parents with instruction.
- b. Services to support students enrolled in a home school assistance program, to support the parents of the students, and to support home school assistance program staff.
- c. Salary and benefits for the supervising teacher of the home school assistance program. If the teacher is a part-time home school assistance program teacher and a part-time regular classroom teacher, then the portion of time that is related to providing the home school assistance program can be charged to the program, but the regular classroom portion cannot.
- d. Salary and benefits for clerical and office staff of the home school assistance program. If the staff member’s employment supports other programs of the school district, only that portion of the staff

EDUCATION DEPARTMENT[281](cont'd)

member's salary and benefits that is related to providing the home school assistance program can be charged to the program.

- e. Staff development for the home school assistance program teacher.
- f. Travel for the home school assistance program teacher.
- g. Resources, materials, computer software, supplies, and purchased services (1) that are necessary to provide the services of home school assistance and (2) that will remain with the school district for its home school assistance program.
- h. A copier and computer hardware that support the home school assistance program.

98.12(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the home school assistance program funding include, but are not limited to, indirect costs or use charges; operational or maintenance costs in addition to the cost of maintaining school district facilities; capital expenditures; student transportation except in cases of home school assistance program-approved field trips or other educational activities; administrative costs; concurrent enrollment program costs, including postsecondary enrollment options program costs; or any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys to parents or students utilizing the program.

ITEM 4. Amend paragraph **98.18(1)“a”** as follows:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of students participating in the at-risk or alternative school programs ~~and salary and benefits for guidance counselors or a dean of students when the teacher (or counselor) is dedicated to working directly and exclusively with identified students beyond the services provided by the school district to students who are not identified as at risk.~~ If the teacher (or counselor) is part-time at-risk and part-time regular classroom teacher (counselor), then the portion of time that is related to the at-risk program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

ITEM 5. Amend paragraph **98.21(2)“a”** as follows:

a. Salary and benefits for the teacher(s) and guidance counselor(s) of students participating in the dropout prevention programs, alternative programs, and alternative schools, ~~and salary and benefits for guidance counselors or a dean of students when the teacher (or counselor) is dedicated to working directly and exclusively with identified students to provide services beyond those provided by the school district to students who are not identified as at risk of becoming dropouts.~~ If the teacher (or counselor) is a part-time dropout prevention and part-time regular classroom teacher (counselor), then the portion of time that is related to the dropout prevention program may be charged to the program, but the portion of time that is related to the regular classroom shall not.

ITEM 6. Amend rule 281—98.23(256D,257), catchwords, as follows:

281—98.23(256D,257) Iowa early intervention block grant, also known as early intervention supplement.

ITEM 7. Rescind rule 281—98.24(257,294A) and adopt the following **new** rule in lieu thereof:

281—98.24(257,284) Teacher salary supplement. Beginning with the fiscal year 2009-2010, the educational excellence Phase II program and the educator quality basic salary program were combined and converted from grants-in-aid categorical funding to a budgetary allocation categorical funding. Remaining balances in the educational excellence Phase II program and the educator quality basic salary program shall be expended for the same purposes as the teacher salary supplement. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors of a school district and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position.

98.24(1) *Appropriate use of categorical funding.* Appropriate use of the teacher salary supplement funding is limited to additional salary for teachers, including amounts necessary for the district to comply with statutory teacher salary minimums; the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity

EDUCATION DEPARTMENT[281](cont'd)

retirement system established under Iowa Code chapter 294; and payments to another school district or districts as negotiated in a whole grade sharing agreement pursuant to Iowa Code section 282.10, subsection 4. Teacher salary supplement funding shall be fully expended in the fiscal year for which it is allocated; however, in the event that a small amount is remaining and it would not be cost-effective to reallocate the remainder to teachers in the fiscal year, the school district or area education agency shall carry forward the remainder and add it to the amount to be allocated to teachers in the subsequent fiscal year.

98.24(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the teacher salary supplement funding include any expenditures other than the appropriate use described in subrule 98.24(1) hereof.

ITEM 8. Rescind and reserve rule **281—98.25(257,284)**.

ITEM 9. Amend rule 281—98.26(257,284), catchwords, as follows:

281—98.26(257,284) Educator quality professional development, also known as professional development supplement.

ITEM 10. Rescind and reserve rule **281—98.41(257,294A)**.

ITEM 11. Amend rule 281—98.44(257,301) as follows:

281—98.44(257,301) Nonpublic textbook services. Textbooks adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools.

98.44(1) *Appropriate uses of categorical funding.* The appropriate use of the nonpublic textbook services funding shall be for the public school district to purchase nonsectarian textbooks for the use of pupils attending accredited nonpublic schools located within the boundaries of the public school district. "Textbook" means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, and other computer courseware and magnetic media, and laptop computers or other portable personal computing devices which are used for nonreligious instructional use only.

In the event that a participating accredited nonpublic school physically relocates to another school district, textbooks purchased for the nonpublic school with funds appropriated for that purpose in accordance with the Iowa Code shall be transferred to the school district in which the accredited nonpublic school has relocated and may be made available to the accredited nonpublic school by the school district in which the nonpublic school has relocated. Funds distributed to a former school district for purposes of purchasing textbooks and that are unexpended shall also be transferred from the former school district to the school district in which the accredited nonpublic school has relocated.

98.44(2) *Inappropriate uses of categorical funding.* Inappropriate uses of nonpublic textbook services funding include, but are not limited to, reimbursements to accredited nonpublic schools for purchases made by the accredited nonpublic school, sectarian textbooks, computer hardware other than laptop computers or other portable personal computing devices which are used for nonreligious instructional use only, installation of hardware or other purchased services, teacher manuals or any other materials not available to the students attending the accredited nonpublic school, or any other expenditure that does not fit the definition of textbook. Funding provided for one nonpublic school located within the boundaries of the public school district shall not be used for another accredited nonpublic school, even if the accredited nonpublic school is associated with the same parent organization.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 12. Amend rule 281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) as follows:

281—98.60(24,29C,76,143,256,257,274,275,276,279,280,282,283A,285,291,296,298,298A,300,301,423E,423F,565,670) Levies and funds. Tax levies or funds that are required by law to be expended only for the specific items listed in statute shall be accounted for in a similar way to categorical funding. Each fund is mutually exclusive and completely independent of any other fund. No fund shall be used as a clearing account for another fund, ~~and~~ no fund may retire the debt of another fund unless specifically authorized in statute, and transfers between funds shall be accomplished only as authorized in statute.

ITEM 13. Amend **281—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298, 298A, 299A as amended by 2010 Iowa Acts, Senate File 2376, section 40, 300, 301 as amended by 2010 Iowa Acts, Senate File 2178, 423E, 423F, 565, and 670 and sections 11.6(1)“a”(1), 256C.4(1)“c,” and 256D.4(3) and 284.13.

ARC 9021B

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

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 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 4, “Engineering Licensure,” Iowa Administrative Code.

This amendment clarifies the requirements regarding references for any examination applicants who must meet an experience requirement before taking an examination. This amendment will enable examination applicants to submit materials that fulfill Board requirements and therefore provide for a more efficient application process.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before September 14, 2010. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to robert.lampe@iowa.gov.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

This amendment was approved by the Board on September 3, 2009.

The following amendment is proposed.

Amend subrule 4.1(5) as follows:

4.1(5) References. References are required for any applicant ~~that~~ who must meet an experience requirement prior to taking an examination.

a. An applicant for the Principles and Practice of Engineering examination shall submit five references on forms provided by the board.

(1) At least three of the five references shall be from licensed professional engineers.

(2) At least one reference shall be from a supervisor. If the applicant has had more than one supervisor, at least two of the references shall be from a supervisor of the applicant. An applicant shall submit supervisor references to verify at least four years of qualifying experience.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

(3) If an applicant has had professional experience under more than one employer, the applicant shall provide references from individuals with knowledge of the work performed under a minimum of two employers.

(4) The board reserves the right to contact references, supervisors, or employers for information about the applicant's professional experience and competence or to request additional references.

(5) All licensed professional engineers who submit references for an applicant shall be sufficiently familiar with the applicant's work product to formulate credible opinions on the applicant's capacity to assume responsible charge of professional engineering works and services.

(6) At least one of the licensed professional engineers who provides references for the applicant shall have provided professional tutelage in the course of a mentoring relationship on such matters as technical skills; professional development; the exercise of professional judgment, ethics, and standards in the application of engineering principles and in the review of such matters by others; and the professional obligations of assuming responsible charge of professional engineering works and services.

(7) Applicants who have not been supervised by a licensed professional engineer for at least four years of qualifying experience shall submit one or more references to verify tutelage by unlicensed supervisors, as provided in paragraph 4.1(7) "a."

(8) The board uses references partially as a means of verifying an applicant's record of experience. The applicant must distribute a reference form to individuals who are asked to submit references for the applicant. To each reference form, the applicant shall attach a copy of the portion of the applicant's experience record that is being addressed by the referring individual.

b. An applicant for the Fundamentals of Engineering examination whose engineering degree is not from an ABET/EAC or CEAB accredited engineering program must provide a reference from a supervisor on a form provided by the board.

ARC 9022B

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

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 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 4, "Engineering Licensure," Iowa Administrative Code.

This amendment clarifies the examination application process by directing the applicants to use the correct forms for references.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before September 14, 2010. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to robert.lampe@iowa.gov.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

This amendment was approved by the Board on January 14, 2010.

The following amendment is proposed.

Amend paragraph **4.1(7) "a"** as follows:

a. Quality. Experience ~~Experience~~ Qualifying experience shall be supervised and of such quality as to demonstrate that the applicant has developed technical skill and initiative in the correct application

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

of engineering principles. Such experience should demonstrate the applicant's capacity to review the applications of these principles by others and to assume responsibility for engineering work of professional character. To be readily acceptable, an applicant's experience shall be under the tutelage and supervision of a professional engineer. ~~However, an~~ An applicant who is an engineer intern and whose tutelage or portion of tutelage has not been under experience was not attained under the supervision of a licensed professional engineer must submit a cover letter to the board requesting consideration of such experience along with the application. The applicant shall also submit on forms provided by the board a letter of reference from the applicant's supervisor(s). The letter of reference shall assess include an assessment of the applicant's performance, development, integrity, and ability to assume responsible charge and shall contain a description of the supervisor's background in education and experience and the nature of the unlicensed tutelage provided to the applicant. Whether directly supervised by a licensed professional engineer or not, all applicants must have received professional tutelage (instruction, guidance, mentoring, review, and critique) from one or more licensed professional engineers to qualify to take the professional engineering examination. Accordingly, all applicants must submit at least one reference from the licensed professional engineer(s) who provided professional tutelage as described in subparagraph 4.1(5)"a"(6). The board may require the applicant to submit additional letters of reference or other evidence of suitable tutelage and supervision. The board may require an oral interview with the applicant or other evidence to verify the applicant's knowledge and experience in the principles and practice of engineering. The board may conduct interviews with persons providing tutelage or supervision to the applicant.

ARC 9024B

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

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 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 4, "Engineering Licensure," Iowa Administrative Code.

This amendment updates the rule to include a provision for the forthcoming change to the Structural Engineering examination. The examination, previously consisting of two 8-hour examinations, is being changed to a single 16-hour examination. The amendment also clarifies how the Structural branch license may be obtained.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before September 14, 2010. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to robert.lampe@iowa.gov.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

This amendment was approved by the Board on March 4, 2010.

The following amendment is proposed.

Amend paragraph **4.1(8)"b"** as follows:

b. Principles and Practice of Engineering examination (professional examination). The Principles and Practice of Engineering examination is a written, ~~eight~~ 8-hour examination designed to determine proficiency and qualification to engage in the practice of professional engineering only in a

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

specific branch. The Principles and Practice of Engineering 16-hour Structural examination is a written, 16-hour examination designed to determine proficiency and qualification to engage in the practice of structural engineering. A separate examination shall be required for each branch in which licensure is granted. An applicant may obtain a Structural branch license by passing either the Principles and Practice of Engineering Civil (Structural) examination or the Principles and Practice of Engineering 16-hour Structural examination.

ARC 9023B

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

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 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 4, “Engineering Licensure,” Iowa Administrative Code.

This amendment clarifies the comity application process by directing the applicants to use the correct forms for references.

Any interested person may make written or oral suggestions or comments on the proposed amendment on or before September 14, 2010. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to robert.lampe@iowa.gov.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

This amendment is intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

This amendment was approved by the Board on January 14, 2010.

The following amendment is proposed.

Amend subrule 4.2(1) as follows:

4.2(1) References. An applicant for licensure by comity shall submit references on forms provided by the board to verify at least four years of satisfactory experience after the receipt of the qualifying degree. This experience must be under the supervision of a licensed professional engineer, or the applicant must provide unlicensed tutelage references verifying at least four years of satisfactory engineering experience, as provided in paragraph 4.1(7)“a.” The board reserves the right to contact employers for information about the applicant’s professional experience and competence.

ARC 9019B

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 234.6(4), the Department of Human Services proposes to amend Chapter 47, “Diversion Initiatives,” Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments implement a new program, the Promoting Healthy Marriage Program. This program will use federal funds from the Temporary Assistance to Needy Families (TANF) block grant to provide information to certain households about the benefits of a healthy and stable marriage. The Department is implementing this program as a means of expanding categorical eligibility for Food Assistance, as directed by the Iowa General Assembly in 2010 Iowa Acts, House File 2526, section 7(4)(d)(2).

There will be no separate application for the Promoting Healthy Marriage Program. Eligibility for the program will automatically be determined when a household applies for Food Assistance. There will be no asset test for eligibility. The income limit will be 160 percent of the federal poverty level for the household size. Eligibility for this program will also establish categorical eligibility for the Iowa Food Assistance Program. Related amendments to Food Assistance rules are published herein as **ARC 9020B**.

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

Any interested person may make written comments on the proposed amendments on or before September 14, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, 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.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Rescind **441—Chapter 47**, Preamble.

ITEM 2. Adopt the following **new** Division I title and preamble:

DIVISION I
PROMOTING HEALTHY MARRIAGE

PREAMBLE

These rules implement the Iowa promoting healthy marriage program. This program uses federal funds from the Temporary Assistance to Needy Families (TANF) block grant to provide information to certain households about the benefits of a healthy and stable marriage. Eligibility for this program also establishes categorical eligibility for the Iowa food assistance program under 441—Chapter 65.

ITEM 3. Adopt the following **new** rules 441—47.1(234) and 441—47.2(234):

441—47.1(234) Eligibility criteria. Eligibility for the promoting healthy marriage program is always determined in conjunction with determination of eligibility for the food assistance program under 441—Chapter 65.

47.1(1) Application. There is no separate application for the promoting healthy marriage program. Eligibility for the program is determined whenever the department determines a household's eligibility for food assistance.

47.1(2) Resources. There is no asset test for the promoting healthy marriage program.

47.1(3) Income. The household's gross countable monthly income determined according to rule 441—65.29(234) must be less than or equal to 160 percent of the current federal poverty guidelines for the household size.

47.1(4) Otherwise eligible for food assistance. The household must meet all eligibility criteria for the food assistance program except as provided in this rule. A household that includes a member who is currently disqualified from the food assistance program due to an intentional program violation is not eligible for the promoting healthy marriage program.

47.1(5) Minimum food assistance benefit. The household must be eligible for a monthly food assistance benefit greater than zero. Households with a monthly food assistance benefit of zero are not eligible for the promoting healthy marriage program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—47.2(234) Notice and eligibility period. A household that meets all of the eligibility criteria in rule 441—47.1(234) shall receive written notice of its eligibility for the promoting healthy marriage program.

47.2(1) Written information. Households determined eligible for the program shall receive written information about the benefits of a healthy and stable marriage.

47.2(2) Eligibility period. A household that is determined eligible for the promoting healthy marriage program shall remain eligible for the program until the earlier of the following events:

- a. The household fails to meet the eligibility criteria under rule 441—47.1(234), or
- b. The household's food assistance certification period under 441—Chapter 65 ends.

ITEM 4. Adopt the following **new** implementation sentence for Division I:

These rules are intended to implement Iowa Code section 234.6.

ARC 9020B**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 234.6(4), the Department of Human Services proposes to amend Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

The proposed amendment would implement an option in the federal Supplemental Nutrition Assistance Program regulations at 7 CFR 273.2(j) to expand categorical eligibility beyond households in which all members receive Family Investment Program or Supplemental Security Income benefits. Households that are categorically eligible for Food Assistance are not subject to Food Assistance income and asset limits.

The mechanism for this expansion is broad-based categorical eligibility, under which households that are determined eligible for Iowa's new Promoting Healthy Marriage Program will be categorically eligible for Food Assistance. The gross income limit for that new program is 160 percent of the federal poverty level, which compares to the standard Food Assistance gross income limit of 130 percent of the federal poverty level. Notice of Intended Action for the Promoting Healthy Marriage Program is published herein as **ARC 9019B**.

This amendment does not provide for waivers in specified situations because the expansion of categorical eligibility is a benefit to the persons affected.

Any interested person may make written comments on the proposed amendment on or before September 14, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by E-mail to policyanalysis@dhs.state.ia.us or by fax to (515)281-4980.

This amendment is intended to implement Iowa Code section 234.12 and 2010 Iowa Acts, House File 2526, section 7(4)(d)(2).

The following amendment is proposed.

Amend rule 441—65.39(234) as follows:

441—65.39(234) Categorical eligibility.

65.39(1) Notwithstanding anything to the contrary in these rules or in federal regulations, a household in which all members are recipients of a state or local general assistance (GA) program ~~are~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

program is subject to categorical eligibility provisions of the food assistance program provided that the state or local program:

- 1- a. Has income limits at least as stringent as the food assistance gross income test; and
- 2- b. Gives assistance other than one-time emergency payments that cannot be given for more than one continuous month.

65.39(2) Notwithstanding anything to the contrary in these rules or in federal regulations, a household is subject to categorical eligibility provisions of the food assistance program for any month in which the household is determined eligible for the Iowa promoting healthy marriage program pursuant to rule 441—47.2(234).

ARC 9026B**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 sections 217.6, 217.34, and 252B.5, the Department of Human Services proposes to amend Chapter 95, “Collections,” and Chapter 98, “Support Enforcement Services,” Iowa Administrative Code.

These amendments adjust rules on services provided by the Child Support Recovery Unit for collection of court-ordered support through state and federal offsets to do the following:

- Align to existing provisions in the Iowa Code by removing the criterion of failure to pay current support and delinquent support for 12 consecutive months. This change will broaden the pool of obligors subject to offset and should result in additional collections for families and the state of Iowa.
- Improve customer service by streamlining the return of excess offset funds and offset funds belonging to an unobligated joint owner or unobligated spouse. Verbal requests for the release of the portion of the refund belonging to an unobligated spouse will be allowed. The obligor will not be required to sign a form before excess funds are released.
- Improve customer service by streamlining the notice process and allowing for communication by means other than U.S. mail.
- Align the rules to the streamlined electronic process to notify the Department of Administrative Services when the Department of Human Services issues a prooffset notice.

These amendments do not provide for waivers in specified situations because state statutes, federal statutes, and federal regulations require the Department to offset many government payments owed to individuals for the payment of past-due support. The Department has no authority to waive statutory provisions.

Any interested person may make written comments on the proposed amendments on or before September 14, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, 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.

The Department will also hold public hearings for the purpose of receiving comments on these proposed amendments at the following times and locations:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Meeting Room A Burlington Public Library 210 Court Street Burlington, Iowa	September 15, 2010 9:30 to 10:30 a.m.
Conference Room A, Second Floor 6200 Aurora Avenue Urbandale, Iowa	September 15, 2010 10 to 11 a.m.
Suite 225, Second Floor Commerce Building 520 Nebraska Street Sioux City, Iowa	September 16, 2010 9 to 10 a.m.
Liberty Room, First Floor Mohawk Square 22 N. Georgia Avenue Mason City, Iowa	September 16, 2010 1 to 2 p.m.

Persons with disabilities who require assistive services or devices to observe or participate should contact the Bureau of Policy Coordination at (515)281-8440 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 8A.504, 252B.3, 252B.4 and 252B.5(4).

The following amendments are proposed.

ITEM 1. Amend rule 441—95.6(252B) as follows:

441—95.6(252B) Offset against state income tax refund or rebate. The department will make a claim against an obligor's state income tax refund or rebate when a support payment is delinquent as set forth in ~~rule 11—40.1(8A)~~ 11—Chapter 40. A claim against an obligor's state income tax refund or rebate shall apply to support which the department is attempting to collect.

95.6(1) By the first day of each month, the department shall submit to the department of administrative services a list of obligors who:

~~a. Are~~ are delinquent at least \$50 in support payments; ~~and~~.

~~b. Have not paid the current support obligation plus a monthly payment on the delinquency in each of the preceding 12 months.~~

95.6(2) When the department claims an obligor's state income tax refund or rebate, the department shall ~~mail~~ send a preoffset notice to the obligor to inform the obligor of the amount the department intends to claim and apply to support. The department shall ~~mail~~ send a preoffset notice when:

~~a.~~ The department of administrative services notifies the department that the obligor is entitled to a state income tax refund or rebate; and

~~b.~~ The obligor has a delinquency of \$50 or greater; ~~and~~.

~~c. The obligor has not paid the current support obligation plus a monthly payment on the delinquency in each of the 12 months preceding the month in which the preoffset notice is mailed.~~

95.6(3) When the obligor wishes to contest a claim, a written request shall be submitted to the department within 15 days after the preoffset notice is ~~mailed~~ sent. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

95.6(4) The spouse's proportionate share of a joint return filed with an obligor, as determined by the department of revenue, shall be released by the department of revenue unless other claims are made on that portion of the joint income tax refund. The request for release of a spouse's proportionate share shall be ~~in writing and~~ received by the department within 15 days after the ~~mailing~~ date of the preoffset notice.

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~95.6(5) Rescinded IAB 4/30/03, effective 7/1/03. The department shall refund any amount incorrectly offset to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due.~~

~~95.6(6) The department shall notify an obligor of the final decision regarding the claim against the tax refund or rebate by mailing sending a final disposition of support recovery claim notice to the obligor.~~

~~95.6(7) Application of offset. Offsets shall be applied as provided in rule 441—95.3(252B).~~

~~This rule is intended to implement Iowa Code sections 8A.504, 252B.3, and 252B.4 and 252B.5(4).~~

ITEM 2. Amend paragraph **95.7(8)“b,”** first unnumbered paragraph, as follows:

~~c. The department shall refund the amount incorrectly set off to the obligor unless the obligor agrees in writing to apply the refund of the incorrect offset to any other support obligation due. Prior to the receipt of the refund, the obligor shall sign Form 470-2082, Adjustment of Federal Tax or Nontax Offset Agreement, agreeing to repay any amount of the offset the Department of the Treasury later requires the department to return.~~

ITEM 3. Amend subrule 98.81(2) as follows:

~~98.81(2) Notification of offset. The department shall mail a preoffset notice to an obligor and the department of administrative services within Within ten days of receiving notification from the department of administrative services that the obligor is entitled to a payment, the department shall:~~

~~a. Send a preoffset notice to the obligor. The preoffset notice shall inform the obligor of the amount the department intends to claim and apply to the support obligation and shall contain all information required by Iowa Code subsection 8A.504(2) and 11—subrule 40.4(4).~~

~~b. Notify the department of administrative services that the preoffset notice has been sent to the obligor.~~

ITEM 4. Renumber subrules **98.81(4)** to **98.81(6)** as **98.81(5)** to **98.81(7)**.

ITEM 5. Adopt the following **new** subrule 98.81(4):

98.81(4) Joint owner. A joint owner's proportionate share of the payment, as determined by the department of administrative services, shall be released unless other claims are made on that portion of the payment. The department must receive a request for release of a joint owner's share within 15 days of the date of the preoffset notice. The request may be made by either owner.

ITEM 6. Amend renumbered subrule 98.81(5) as follows:

98.81(5) Final disposition of offset. The department shall notify an obligor of the final decision regarding the claim against the offset by mailing sending a final disposition of support recovery claim notice to the obligor.

ITEM 7. Amend renumbered subrule 98.81(7) as follows:

98.81(7) Percentage of payment offset. The amount of offset shall be 50 percent of the total payment due the obligor, unless the payment results from lottery winnings, from gambling winnings, or from a payment for a claim under treasurer of state rules on unclaimed property at 781—Chapter 9, in which case the amount of offset shall be 100 percent of the payment. The amount taken shall not exceed the delinquent amount due on the case owed by the obligor.

ARC 9027B**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 217.6, the Department of Human Services proposes to amend Chapter 176, “Dependent Adult Abuse,” Iowa Administrative Code.

The proposed amendments:

- Add a new definition of “at-risk adult” which applies to the dependent adult’s need for continued monitoring and services.
- Update procedures for storing the Department’s report on the evaluation or assessment, as a result of the implementation of a new data system for dependent adult abuse information.
- Add procedures for referrals to other agencies, safety plans, and periodic visits.
- Require two new forms, a uniform assessment tool and a safety plan, to assist the Department in making more thorough assessments of dependency and risk for all alleged victims of abuse and to enhance the safety of at-risk adults.

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

Any interested person may make written comments on the proposed amendments on or before September 14, 2010. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, 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.

These amendments are intended to implement 2009 Iowa Code Supplement section 235B.16A.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition of “At-risk adult” in rule **441—176.1(235B)**:

“*At-risk adult*” means an adult who, because of a significant impairment due to a physical or mental disability or both, is unable to meet essential daily needs without assistance and whose personal health or safety is at risk due to such impairments, the environment, substance abuse problems, a lack of services or social supports, a refusal to accept services, or other risk factors identified through an assessment.

ITEM 2. Amend subrules 176.6(5) and 176.6(6) as follows:

176.6(5) Completion of evaluation or assessment report. Upon completion of its evaluation or assessment, the department shall complete a report that describes its findings and includes all actions taken or contemplated.

a. ~~The department, upon completion of its evaluation, shall transmit a copy of complete its report, including actions taken or contemplated, to the registry within 20 working days of the receipt of the abuse report allegations, unless the worker’s supervisor grants an extension of time for good cause shown. The worker’s supervisor may grant an extension for a maximum of 30 working days. No more than three extensions shall be granted.~~

b. Upon completion of an evaluation, the department shall enter its report into the system on dependent adults (SODA).

c. ~~The department, upon Upon completion of its an assessment in reports when the alleged abuse is the result of the acts or omissions of the dependent adult, the department shall place the report, including actions taken or contemplated, in the case file of the dependent adult and on SODA. The central registry shall be notified as to the disposition of the assessment.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

176.6(6) *Report to county attorney.* The department shall ~~also~~ transmit a copy of the report of its evaluation or assessment to the appropriate county attorney. The county attorney shall notify the ~~county~~ local office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.

ITEM 3. Adopt the following new subrules 176.6(13) to 176.6(15):

176.6(13) *Referrals to other agencies.* During an assessment or evaluation of suspected abuse of a dependent adult, the department shall:

a. Make a referral to the division of labor services of the department of workforce development if an issue is discovered that concerns wages, workplace safety, or labor and employment matters under the jurisdiction of that agency.

b. Make a referral to the civil rights commission if an issue is discovered that involves discrimination under the jurisdiction of that agency.

176.6(14) *Assessment of dependency and risk.* After the first visit to a dependent adult who is alleged to be abused, the department shall complete an assessment of the adult using Form 470-3246, Dependent Adult Assessment Tool. The department shall assess:

a. The adult's dependency,

b. The risk to the adult's health or safety, and

c. The areas in which the adult is either dependent or independent.

176.6(15) *Follow-up for at-risk adults.* When it has not been possible or necessary to obtain a court order for services to an at-risk adult, the department shall attempt to persuade the at-risk adult to agree to accept services and to participate in preparing a safety plan. If the adult refuses to sign Form 470-4835, Safety Plan for At-Risk Adult, and to accept services, the department shall provide periodic visits.

a. Purpose. The purpose of the visits shall be to:

(1) Assess the adult for increased risk or impairment,

(2) Monitor the adult's situation to determine the feasibility of intervening with protective services, and

(3) Persuade the adult to accept services and to sign Form 470-4835, Safety Plan for At-Risk Adult.

b. Exemption. If it has been determined there is a physical threat to the safety of the department employee who is attempting to visit an at-risk adult, the department shall not attempt a periodic visit unless the physical threat to safety has been removed.

c. Criteria to continue visits. Periodic visits shall continue if:

(1) The adult's health or safety has deteriorated somewhat but not to the point that a court order is necessary; or

(2) The adult's health or safety has remained the same and there is a possibility the adult may in the future agree to services and to participating in preparing a safety plan.

d. Criteria to end visits. Periodic visits shall be terminated when:

(1) The adult agrees to services and services are arranged; or

(2) The adult's health or safety has deteriorated to the point that the department has requested court action pursuant to subrule 176.6(8); or

(3) The adult's health or safety has not changed six months after the initial report of alleged abuse; there appears no possibility the adult will ever agree to services; and the adult is competent to make decisions.

PUBLIC SAFETY DEPARTMENT

PUBLIC SAFETY DEPARTMENT

In re: Dispensing of ethanol-blend fuels of more than 15 percent ethanol	}	ORDER Docket Number: DPS-2010-ORD-1
References: Iowa Code section 455G.31 661 IAC 221.4(2)	}	Subject: Dispensing of Ethanol Blended Fuels from Listed Dispensers

BACKGROUND

The State Fire Marshal is authorized and required by Iowa Code chapter 101 to establish “reasonable rules for the safe transportation, storage, handling and use of flammable liquids.” The rules established by the State Fire Marshal pursuant to this provision include a requirement that flammable liquids, which include motor vehicle fuels such as gasoline, ethanol-blended gasoline, and diesel fuel, be dispensed from devices that have been “listed” (approved) by an independent testing laboratory.

Previously, there has not been a dispenser listed for use with blends of gasoline and ethanol with concentrations of ethanol of more than 15 percent. However, Iowa Code section 455G.31 and 661 Iowa Administrative Code 221.4(2) provide an exception to the general requirement that dispensers for flammable liquids be listed for use with the fuel dispensed, in order to allow the dispensing of ethanol blends of up to 85 percent ethanol (E-85). Specific conditions are included in the statute and administrative rule to ensure the safety of installations at which ethanol blends up to E-85 are dispensed from dispensers not listed for such use.

Iowa Code section 455G.31 requires the State Fire Marshal to monitor the prospective “commercial availability” of listed E-85 dispensers. Once the Fire Marshal has determined that such a dispenser is commercially available, the Fire Marshal is required to issue an order, to be published in the Iowa Administrative Bulletin, stating that a dispenser has been listed for use with E-85. The statute further provides that (1) beginning 60 days following the publication of the order in the Bulletin, any new dispenser installed for use with E-85 shall be a dispenser listed for such use, and (2) beginning four years following publication of the order in the Bulletin, any E-85 dispensed in Iowa shall be dispensed only from a dispenser listed for use with E-85.

FINDINGS

The State Fire Marshal finds the following:

- (1) At least one motor vehicle fuel dispenser has been listed by an independent testing laboratory for use in dispensing E-85.
- (2) At least one motor vehicle fuel dispenser listed by an independent testing laboratory for dispensing E-85 is commercially available in Iowa.

ORDER

Pursuant to the authority of Iowa Code section 455G.31, the State Fire Marshal hereby orders the following:

- (1) This order shall be published in the Iowa Administrative Bulletin on August 25, 2010.
- (2) On or after October 25, 2010, any new dispenser installed for dispensing any ethanol blended gasoline containing more than 15 percent ethanol shall be a dispenser listed by an independent testing laboratory for use with the product dispensed.

PUBLIC SAFETY DEPARTMENT(cont'd)

(3) On or after August 26, 2014, any dispenser used to dispense any ethanol blended gasoline containing more than 15 percent ethanol shall be a dispenser listed by an independent testing laboratory for use with the product dispensed.

**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION,
IOWA**

Public Notice

**NOTICE OF OFFICIAL CONTRACT LIMITATION AMOUNT ADJUSTMENT
COMMENCING SEPTEMBER 1, 2010, AND ENDING AUGUST 31, 2011**

In accordance with Iowa Code subsection 8D.11(1)(c), the Iowa Telecommunications and Technology Commission (Iowa Communications Network) Executive Director hereby publishes the official adjusted contract limitation amount for the period commencing on September 1, 2010, and ending on August 31, 2011, of \$2,093,377.

The rate becomes effective on September 1, 2010. The rate was determined by applying the formula specified in the statute. According to the federal Department of Labor, Bureau of Labor Statistics, the consumer price index for all urban consumers increased 1.1 percent from June 2009 to June 2010.

Pursuant to Iowa Code section 8D.11(1)(c), this notice is exempt from the rule-making process in Iowa Code chapter 17A.

Questions with respect to this notice may be directed to:

David Lingren, Interim Executive Director
Iowa Telecommunications and Technology
Commission
400 E. 14th Street
Des Moines, Iowa 50319
Telephone: (515)725-4707
E-mail: dave.lingren@iowa.gov

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for August is 5.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be

TREASURER OF STATE(cont'd)

eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective July 9, 2010, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .15%
One year to 397 days	Minimum .40%
More than 397 days	Minimum .90%

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

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

ARC 9012B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(11) and 189A.13, the Department of Agriculture and Land Stewardship hereby amends Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

The amendments update references to federal regulations in order to retain recognition of the state meat and poultry program. Adoption by reference of the federal regulations codifies existing industry practice.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 16, 2010, as **ARC 8842B**. No comments were received from the public. No changes were made to the Noticed amendments.

These amendments are intended to implement Iowa Code chapter 189A.

These amendments will become effective September 29, 2010.

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 [76.1 to 76.4, 76.13, 76.14] is being omitted. These amendments are identical to those published under Notice as **ARC 8842B**, IAB 6/16/10.

[Filed 7/28/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9025B**ARCHAEOLOGIST[685]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3 and chapter 263B, the Office of the State Archaeologist hereby amends Chapters 1, 2, 4, 6, 7, 8, 10, 11, 12, and 14 and adopts new Chapter 15, "Public Records and Fair Information Practices," Iowa Administrative Code.

These amendments are designed to comply with requirements in state and federal law, to provide a contested case procedure consistent with Iowa Code chapter 17A, and to more accurately reflect the operations of the Office of the State Archaeologist.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8870B**. The Office received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 263B.

These amendments shall become effective on September 29, 2010.

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, 2, 4, 6 to 8, 10 to 12, 14; adopt Ch 15] is being omitted. These amendments are identical to those published under Notice as **ARC 8870B**, IAB 6/30/10.

[Filed 8/4/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9030B**CAPITAL INVESTMENT BOARD, IOWA[123]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 15E.63, the Iowa Capital Investment Board hereby adopts amendments to Chapter 3, “Tax Credit for Investments in Venture Capital Funds,” and Chapter 4, “Investment Tax Credits Relating to Investments in a Fund of Funds Organized by the Iowa Capital Investment Corporation,” Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXII; No. 27, p. 2971, on June 30, 2010, as **ARC 8875B**.

Item 1 adopts new rule 123—3.9(15E) to provide for the repeal of the tax credit for investments in venture capital funds.

Item 2 amends the implementation clause for 123—Chapter 3.

Item 3 amends rule 123—4.4(15E) to provide for a reduction in the amount of contingent tax credits related to investments in the Iowa Fund of Funds to \$60 million.

Item 4 amends the implementation clause for 123—Chapter 4.

These amendments are being submitted by the Department of Revenue on behalf of the Iowa Capital Investment Board pursuant to an Administrative Services Agreement between the Department and the Board.

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

These amendments will become effective September 29, 2010, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 15E.51 and 15E.66 as amended by 2010 Iowa Acts, Senate File 2380.

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 [3.9, 4.4] is being omitted. These amendments are identical to those published under Notice as **ARC 8875B**, IAB 6/30/10.

[Filed 8/5/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9011B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission hereby amends Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

These amendments: (1) revise the risk-based evaluation process for water lines, adding in gasketed drinking water lines and different action levels based on material composition and usage; (2) allow consideration of “no action required” status if the contaminant plumes at low risk leaking underground storage tank (LUST) sites are demonstrated to be stable and when an institutional control is implemented; and (3) expand the Department’s authority to require confirmation sampling prior to acceptance of a no action required classification or to waive “exit monitoring” criteria when a groundwater professional can justify a no action required classification for the site. Existing policy regarding confirmation soil sampling has been added to update the rules with the current practice.

Iowa State University (ISU) and the American Water Works Association Research Foundation (AWWARF) released the results of their laboratory study titled “Impact of Hydrocarbons on PE/PVC Pipes and Pipe Gaskets.” The research suggested that polyvinyl chloride (PVC) pipe material was

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

more resistant than previously believed, that polyethylene (PE) and polybutylene (PB) pipes were extremely susceptible to petroleum contamination, and that gaskets were potentially the weak link for exposure to petroleum in a water distribution system. Subsequent to the ISU study, the Department convened a technical advisory group to study these results and other technical literature. The group found that PVC was more resistant than previously believed when the Department's initial plastic water line rules were generated, but that PVC water lines were still deemed at risk in gross contamination. Additional research confirmed the findings related to PE/PB pipe and gaskets. Literature also reports that synergistic effects of mixed chemicals can magnify the potential for contaminant permeation. Amendments to Chapter 135 incorporate these new findings in the evaluation process for potable water distribution lines near LUST sites.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8676B**. Written comments were received, and public hearings were held on April 28, April 29, and April 30, 2010.

Several of the comments received related to:

- Implementation of the new provisions that set forth assessment and corrective action requirements for at risk water lines,
- Expectations for groundwater professionals in determining the construction material of the water line piping,
- The use of the risk-based corrective action modeling software and updating of the software,
- Treatment of evaluations already in progress, and
- A request for guidance on defining "stable contaminant plumes."

There was also a comment questioning whether the Department should be regulating Total Extractable Hydrocarbons (TEH) because research on permeation of plastic lines and gaskets is lacking. Because the Department is aware of cases where TEH has been found in tap samples, the recommendation that TEH not be regulated was rejected. Therefore, the Department will continue to require assessment and corrective action at sites with TEH using the current numerical standards set forth in subrule 135.9(1), rule 567—135.14(455B) and 567—Chapter 135, Appendices A and B.

Another recommendation was to require solid copper piping without fittings whenever water service lines are replaced in areas of contamination. While the Department agrees with the recommendation, it does not have regulatory authority over service line construction. However, as part of corrective action measures for a leaking underground storage tank site, these amendments require that high risk conditions be alleviated. In practice, if other alternatives cannot be implemented to achieve this goal (e.g., cleanup of contamination, relocating the service outside the area that is contaminated), the amendments require the use of materials and gaskets that are resistant to permeation.

Lastly, there was a comment related to the new provision giving the Department the option to require confirmation sampling prior to accepting a proposal to classify a site as "no action required." The suggestion was to have this sampling be conducted using Department resources rather than requiring the owner/operator to conduct the sampling. Stakeholders requested that the Department better define under what circumstances this sampling would be required (this provision was included in paragraph 135.12(6)"f," Item 22 of the Noticed amendments). Further, because soil confirmational sampling for all sites was stricken in Item 20 of the Noticed amendments, the Department recognized there may be special circumstances where data should be validated prior to closing a site. Therefore, no changes have been made to paragraph "f" as a result of the public comments.

Several changes have been made to the amendments since publication of the Notice of Intended Action for the purpose of clarification and correction. A cross reference to 567—Chapter 43 has been added in Items 7, 9, 10 and 18 to identify the administrative rules containing the Department standards for water line and gasket materials. In Item 15, the words "enclosed pathway" have been changed to "enclosed space" for consistency in terminology, and the second sentence has been modified to add the word "required" as follows: "Therefore, for these pathways, sites are classified as high risk, low risk or no action required based on specified criteria below and in 567—135.10(455B)." The first sentence of the Note in Appendix B has been clarified as follows: "The 1/8th safety factor was applied above to the target levels for ethylbenzene and total xylenes for Groundwater, PVC or Gasketed Service Lines, thence the

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

target levels for Groundwater, PVC or Gasketed Mains, were derived.” Finally, three corrections were made in Item 26, PVC or Gasketed Mains: the term “benzene” was changed to “toluene” in the second sentence of the paragraph pertaining to toluene, and the units of measure for the Ethylbenzene and Total Xylenes sections were corrected by changing “ug/L” to “µg/L.”

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(4) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

These amendments are intended to implement Iowa Code section 455B.474.

These amendments shall become effective on September 29, 2010.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **567—135.2(455B)**:

“*Asbestos-cement pipe*” (AC refers to asbestos-cement) means a pipe or conduit constructed of asbestos fiber, Portland cement, and water, which can be used to transport water.

“*Backflow preventer*” means a check valve used to ensure water flows in one direction and designed to prevent contamination from an end user, such as a home, from getting into the general water supply. An approved backflow preventer shall be a reduced-pressure backflow preventer or an antisiphon device which complies with the standards of the American Water Works Association and has been approved by the Foundation for Cross-Connection Control and Hydraulic Research.

“*Cast iron pipe*” means a pipe or conduit used as a pressure pipe for transmission of water, gas, or sewage or as a water drainage pipe. It comprises predominantly a gray cast iron tube historically used uncoated, with newer types having various coatings and linings to reduce corrosion and improve hydraulics.

“*Ductile iron pipe*” means a pipe or conduit commonly used for potable water distribution and for the pumping of sewage. The predominant wall material is ductile iron, a spheroidized graphite cast iron, and commonly has an internal cement mortar lining to inhibit corrosion from the carried water and various types of external coatings to inhibit corrosion from the environment.

“*Gasket*” means any type of pipe seals made of a variety of rubbers including but not necessarily limited to styrene-butadiene rubber (SBR), nitrile-butadiene rubber (NBR or nitrile), ethylene propylene diene monomer (EPDM), neoprene (CR), and fluoroelastomer rubber (FKM), which are used to seal pipe connections.

“*Polybutylene pipe*” (PB refers to polybutylene) means a water supply pipe comprised of a form of plastic resin that was used extensively from 1978 until 1995. The piping systems were used for underground water mains and as interior water distribution piping. Polybutylene mains are usually blue in color, but may be gray, black, or white. The pipe is usually ½ inch or 1 inch in diameter, and it may be found entering a residence through the basement wall or floor, concrete slab or through the crawlspace; frequently it enters the residence near the water heater.

“*Polyethylene pipe*” (PE refers to polyethylene) means a water supply pipe comprised of thermoplastic material produced from the polymerization of ethylene. PE pipe is manufactured by extrusion in sizes ranging from ½ inch to 63 inches. PE pipe is available in rolled coils of various lengths or in straight lengths of up to 40 feet. PE pipe is available in many forms and colors, including single-extrusion colored or black pipe, black pipe with co-extruded color striping, and black or natural pipe with a co-extruded colored layer. PE pipe has been demonstrated to be very permeable to petroleum while still retaining its flexible structure.

“*Polyvinyl chloride pipe*” (PVC refers to polyvinyl chloride) means a pipe made from a plastic and vinyl combination material. The pipes are durable, hard to damage, and long-lasting. A PVC pipe is very resistant and does not rust, nor is it likely to rot or wear over time. PVC piping is most commonly used in water systems, underground wiring, and sewer lines.

“*Portland cement*” means hydraulic cement (cement that not only hardens by reacting with water but also forms a water-resistant product) and is produced by pulverizing clinkers consisting essentially of hydraulic calcium silicates, usually containing one or more forms of calcium sulfate as an inter ground addition.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

“*Service line*” means a pipe connected to a business or residence from a water main, typically of a size not exceeding 6 inches in diameter, and including its gaskets and other appurtenances. For purposes of this chapter, service lines refer to pipes specifically used for drinking water transmission.

“*Water line*” means a hollow cylinder or tubular conduit that routinely contains and conveys potable water and is constructed of nonearthen materials, including but not limited to asbestos-cement, copper, high-density polyethylene (HDPE), polybutylene, polyethylene, and wood. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures, as well as the gaskets, which contain and convey potable water.

“*Water main pipe*” means a main line to the water distribution system with feeder lines or service lines connected to it and which typically is 6 inches or greater in diameter, and includes its gaskets and other appurtenances.

ITEM 2. Amend rule **567—135.2(455B)**, definitions of “Groundwater to plastic water line pathway” and “Soil to plastic water line pathway,” as follows:

“*Groundwater to plastic water line pathway*” means a pathway through groundwater which leads to a plastic water line.

“*Soil to plastic water line pathway*” means a pathway which leads from soil to a plastic water line.

ITEM 3. Amend paragraph **135.9(1)“a”** as follows:

a. *Pathway assessment.* The pathways to be evaluated at Tier 1 are the groundwater ingestion pathway, soil leaching to groundwater pathway, groundwater vapor to enclosed space pathway, soil vapor to enclosed space pathway, soil to plastic water line pathway, groundwater to plastic water line pathway and the surface water pathway. Assessment requires a determination of whether a pathway is complete, an evaluation of actual and potential receptors, and a determination of whether conditions are satisfied for obtaining no further action clearance for individual pathways, or for obtaining a complete site classification of “no action required.” A pathway is considered complete if a chemical of concern has a route which could be followed to reach an actual or potential receptor.

ITEM 4. Amend subrule **135.9(1)**, Iowa Tier 1 Look-Up Table, as follows:

Iowa Tier 1 Look-Up Table

Media	Exposure Pathway	Receptor	Group 1				Group 2: TEH	
			Benzene	Toluene	Ethylbenzene	Xylenes	Diesel*	Waste Oil
Groundwater (ug/L) (ug/L)	Groundwater Ingestion	Actual	5	1,000	700	10,000	1,200	400
		Potential	290	7,300	3,700	73,000	75,000	40,000
	Groundwater Vapor to Enclosed Space	All	1,540	20,190	46,000	NA	2,200,000	NA
	Groundwater to Plastic Water Line	All	290	7,300	3,700	73,000	75,000	40,000
	Groundwater to Water Line	PVC or Gasketed Mains	7,500	6,250	40,000	48,000	75,000	40,000
		PVC or Gasketed Service Lines	3,750	3,120	20,000	24,000	75,000	40,000
		PE/PB/AC Mains or Service Lines	200	3,120	3,400	19,000	75,000	40,000
	Surface Water	All	290	1,000	3,700	73,000	75,000	40,000

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Media	Exposure Pathway	Receptor	Group 1				Group 2: TEH	
			Benzene	Toluene	Ethylbenzene	Xylenes	Diesel*	Waste Oil
Soil (mg/kg)	Soil Leaching to Groundwater	All	0.54	42	15	NA	3,800	NA
	Soil Vapor to Enclosed Space	All	1.16	48	79	NA	47,500	NA
	Soil to Plastic Water Line	All	1.8	120	43	NA	10,500	NA
	Soil to Water Line	All	2.0	3.2	45	52	10,500	NA

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

ITEM 5. Amend paragraph **135.9(3)“g”** as follows:

g. A receptor survey including but not limited to the following: existing buildings, enclosed spaces (basements, crawl spaces, utility vaults, etc.), conduits (gravity drain lines, sanitary and storm sewer mains and service lines), plastic water lines and other utilities within 500 feet of the source. For conduits and enclosed spaces, there must be a description of construction material, conduit backfill material, slope of conduit and trenches (include flow direction of sewers), burial depth of utilities or subsurface enclosed spaces, and the relationship to groundwater elevations.

ITEM 6. Amend subrule 135.9(8), introductory paragraph, as follows:

135.9(8) *Groundwater to plastic water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with plastic water lines and causing infusion to the drinking water.

ITEM 7. Amend paragraphs **135.9(8)“a,” “c” and “d”** as follows:

a. *Pathway completeness and receptor evaluation.*

(1) Actual receptors. This pathway is considered complete for an actual receptor if there is an existing plastic water line within 200 feet of the source and the first encountered groundwater is less than 20 feet below ground surface.

(2) No change.

c. *Utility company notification.* The utility company which supplies water service to the area must be notified of all actual and potential plastic water line impacts as soon as knowledge of a potential risk is determined. ~~Notification of potential plastic water line impacts may be postponed until completion of Tier 2 if a Tier 2 assessment is required.~~

d. *Corrective action response.*

(1) For actual receptors, if the Tier 1 levels are exceeded for this pathway, all plastic water lines within 200 feet must be replaced with nonplastic lines water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the plastic water lines must be relocated beyond the 200-foot distance from the source. A Tier 2 assessment must be conducted for this pathway if lines are not replaced or relocated.

(2) No change.

ITEM 8. Amend subrule 135.9(9), introductory paragraph, as follows:

135.9(9) *Soil to plastic water line pathway assessment.* This pathway addresses the potential for creating a drinking water ingestion risk due to contact with plastic water lines and infusion into the drinking water.

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ITEM 9. Amend paragraphs **135.9(9)“a,” “c” and “d”** as follows:

a. Pathway completeness and receptor evaluation.

(1) Actual receptors. This pathway is considered complete for an actual receptor if a ~~plastic~~ water line exists within 200 feet of the source.

(2) No change.

c. Utility company notification. The utility company which supplies water service to the area must be notified of all actual and potential ~~plastic~~ water line impacts as soon as knowledge of a potential risk is determined. ~~Notification of potential plastic water line impacts may be postponed until completion of Tier 2 if a Tier 2 assessment is required.~~

d. Corrective action response. For actual receptors, if the Tier 1 levels are exceeded for this pathway, ~~the plastic water lines may be replaced with nonplastic lines or the plastic lines must be relocated to a distance beyond 200 feet of the source~~ all water lines within 200 feet must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department, or the water lines must be relocated beyond the 200-foot distance from the source. Excavation of soils to below Tier 1 levels may be undertaken in accordance with 135.9(7)“h.” If none of these options is implemented, a Tier 2 assessment must be conducted for this pathway.

ITEM 10. Amend paragraphs **135.10(3)“i” and “k”** as follows:

i. Special procedure for the groundwater to ~~plastic~~ water line pathway.

(1) Target level. The applicable target level is the Tier 1 level for ~~plastic~~ the specific type of water lines line.

(2) High risk classification. A site designated as granular or nongranular bedrock shall be classified high risk for this pathway if the highest groundwater elevation is higher than three feet below the bottom of a ~~plastic~~ water line as provided in 135.10(8)“a”(1), risk classification cannot be determined as provided in 567—135.12(455B) due to limitations on placement of monitoring wells, and ~~plastic~~ water lines exist within 200 feet of a monitoring well which exceeds the Tier 1 level.

k. High risk corrective action response. Owners and operators have the option to conduct a Tier 3 assessment in accordance with 567—135.11(455B).

(1) and (2) No change.

(3) For water line pathways. For high risk sites, active remediation must be conducted to reduce concentrations below the applicable target levels, or water lines and gaskets must be replaced or relocated, including the use of institutional and technological controls. If lines are polybutylene, polyethylene, or asbestos-cement, the lines must be removed or relocated. All water lines that are replaced must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department.

~~(3)~~ (4) Other pathways. For high risk sites other than groundwater ingestion and water lines, active remediation must be conducted to reduce concentrations below the applicable target levels including the use of institutional and technological controls.

ITEM 11. Amend paragraph **135.10(5)“a”** as follows:

a. General. The soil leaching to groundwater pathway is evaluated using a one-dimensional model which predicts vertical movement of contamination through soil to groundwater and transported by the groundwater to a receptor. The model is used to predict the maximum concentrations of chemicals of concern that would be present in groundwater beneath a source which is representative of residual soil contamination and maximum soil concentrations. The predicted groundwater concentrations then must be used as a groundwater source concentration to evaluate its impact on other groundwater transport pathways, including the groundwater ingestion pathway, the groundwater vapor pathway, the groundwater ~~plastic~~ water line pathway and the surface water pathway.

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ITEM 12. Amend subrule 135.10(8) as follows:

135.10(8) *Groundwater to ~~plastic~~ water line pathway assessment.*

a. Pathway completeness and receptor evaluation.

(1) Actual receptors include all ~~plastic~~ water lines where the highest groundwater elevation is higher than three feet below the bottom of the ~~plastic~~ water line at the measured or predicted points of exposure. The highest groundwater elevation is the estimated average of the highest measured groundwater elevations for each year. All ~~plastic~~ water lines must be evaluated for this pathway regardless of distance from the source and regardless of the Tier 1 evaluation, if the lines are in areas with actual data above the applicable Tier 1 level and modeled data above the SSTL line. If actual data exceeds modeled data, then all ~~plastic~~ water lines are considered actual receptors if they are within a distance extending 10 percent beyond the edge of the contaminant plume defined by the actual data.

(2) No change.

(3) The point(s) of exposure is the ~~plastic~~ water line, and the points of compliance are monitoring wells between the source and the ~~plastic~~ water line which would be effective in monitoring whether the line has been or may be impacted by chemicals of concern.

b. Plume definition. If this pathway is complete for an actual receptor, the groundwater plume must be defined to the Tier 1 levels, with an emphasis between the source and any actual ~~plastic~~ water lines. The water inside the ~~plastic~~ water lines shall be analyzed for all chemicals of concern.

c. No change.

d. Pathway classification. Upon completion of analysis of field data and modeled data, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). The water quality inside the ~~plastic~~ water lines is not a criteria criterion for clearance of this pathway.

e. Utility company notification. The utility company which supplies water service to the area must be notified of all actual and potential ~~plastic~~ water line impacts as soon as knowledge of a potential risk is determined. If the extent of contamination has been defined, this information must be included in utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

f. Corrective action response.

(1) For actual receptors, unless the pathway is classified as no further action, corrective action for this pathway must be conducted as provided in 567—135.12(455B). If the concentrations of chemicals of concern in a water line exceed the Tier 1 levels for actual receptors for the groundwater ingestion pathway, immediate corrective action must be conducted to eliminate exposure to the water, including but not limited to replacement of the line with an approved ~~nonplastic~~ material.

(2) No change.

ITEM 13. Amend subrule 135.10(9), catchwords, as follows:

135.10(9) *Soil to ~~plastic~~ water line pathway assessment.*

ITEM 14. Amend paragraphs **135.10(9)**“a,” “c,” “d” and “e” as follows:

a. Pathway completeness and receptor evaluation.

(1) Actual receptors include all ~~plastic~~ water lines within ten feet of the soil plume defined to the Tier 1 level. All ~~plastic~~ water lines must be evaluated for this pathway regardless of distance from the source; if the lines are in areas where Tier 1 levels are exceeded.

(2) No change.

c. Target level. The point(s) of exposure ~~include~~ includes all areas within ten feet of the ~~plastic~~ water line. The target level at the point(s) of exposure is the Tier 1 level.

d. Pathway classification. Upon completion of analysis of field data ~~and modeled data~~, the pathway must be classified high risk, low risk or no further action as provided in 567—135.12(455B). Measurements of water quality inside the ~~plastic~~ water lines may be required, but are not allowed as criteria to clear this pathway.

e. Utility company notification. The utility company which supplies water service to the area must be notified of all actual and potential ~~plastic~~ water line impacts as soon as knowledge of the potential risk is determined. If the extent of contamination has been defined, this information must be included in

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utility company notification, and any previous notification made at Tier 1 must be amended to include this information.

ITEM 15. Amend subrule **135.12(1)**, first unnumbered paragraph, as follows:

For the soil vapor to enclosed ~~pathway~~ space and soil to ~~plastic~~ water line pathways, there are no horizontal transport models to use for predicting future impacts. Therefore, for these pathways, sites are classified as high risk, low risk or no action required based on specified criteria below and in 567—135.10(455B).

ITEM 16. Amend paragraph **135.12(2)“a”** as follows:

a. For the soil vapor to enclosed space and soil to ~~plastic~~ water line pathways, sites shall be classified as high risk if the target levels for actual receptors are exceeded as provided in 135.10(7) and 135.10(9).

ITEM 17. Reletter paragraphs **135.12(3)“b”** to **“h”** as **135.12(3)“c”** to **“i.”**

ITEM 18. Adopt the following new paragraph **135.12(3)“b”**:

b. For the groundwater to water line and soil to water line receptors, these objectives are achieved by active remediation, replacement or relocation of water line receptors from areas within the actual plume plus some added site-specific distance to provide a safety factor to areas outside the site-specific target level line. In areas of free product, all water lines regardless of construction material must be relocated unless there is no other option and the department has approved an alternate plan of construction. If water lines and gaskets are replaced in an area of contamination, they must be replaced with water line materials and gasket materials of appropriate construction in accordance with current department standards set forth in 567—Chapter 43 and with no less than nitrile or FKM gaskets or as otherwise approved by the department. If a service line is replaced and remains in a contaminated area, a backflow preventer shall be installed to prevent impacts to the larger water distribution system.

ITEM 19. Amend relettered paragraphs **135.12(3)“c”** and **“i”** as follows:

c. For the soil vapor ~~and soil to plastic water line pathway~~, these objectives are achieved by active remediation of soil contamination below the target level at the point(s) of exposure or other designated point(s) of compliance using the same measurement methods for receptor evaluation under 135.10(7) and 135.10(9).

i. Following completion of corrective action, the site must meet exit monitoring criteria to be reclassified as no action required as specified in 135.12(6)“~~b.”~~“c.” At any point where an institutional or technological control is implemented and approved by the department, the site may be reclassified as no action required consistent with 135.12(6).

ITEM 20. Amend paragraphs **135.12(5)“a”** and **“d”** as follows:

a. Purpose. For sites or pathways classified as low risk, the purpose of monitoring is to determine if concentrations are decreasing such that reclassification to no action required may be appropriate or if the contaminant plume is stable such that reclassification to no action required can be achieved with implementation of an institutional control in accordance with 135.12(8), or if concentrations are increasing above the site-specific target level line such that reclassification to high risk is appropriate. Monitoring is necessary to evaluate impacts to actual receptors and assess the continued status of potential receptor conditions. Low risk monitoring shall be conducted and reported by a certified groundwater professional.

d. Soil monitoring.

(1) No change.

(2) For the soil leaching to groundwater pathway potential receptors, annual groundwater monitoring is required for a minimum of three years as provided in “c” above. If groundwater concentrations are below the applicable SSTL line for all three years ~~and a final soil sample taken from the source shows no significant vertical movement~~, no further action is required. If groundwater concentrations exceed the applicable SSTL line in any of the three years, corrective action is required to reduce soil concentrations to below the Tier 1 levels for soil leaching to groundwater. Therefore, annual monitoring of soil is not applicable.

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(3) For the soil to plastic water line pathway potential receptors, notification of the utility company is required. Notification will result in reclassification to no action required. Therefore, annual monitoring of soil is not applicable.

ITEM 21. Amend paragraphs **135.12(6)“b”** and **“c”** as follows:

b. For initial classification, groundwater pathways shall be classified as no action required if the field data is below the site-specific target level line and all field data is at or less than the simulation line, and confirmation monitoring has been completed successfully. Confirmation sampling for groundwater and soil is a second sample which confirms the no action required criteria.

c. For reclassification from high or low risk, a pathway shall be classified as no action required if all field data is below the site-specific target level line and if exit monitoring criteria have been met, except as provided in 135.12(6)“g.” ~~Exit~~ To satisfy exit monitoring criteria, means the three most recent consecutive groundwater samples from all monitoring wells must show a steady or declining trend and the most recent samples ~~are~~ must be below the site-specific target level line. Other criteria include the following: The first of the three samples for the source well and transition well must be more than detection limits; concentrations cannot increase more than 20 percent from the first of the three samples to the third sample; concentrations cannot increase more than 20 percent of the previous sample; and samples must be separated by at least six months.

ITEM 22. Adopt the following new paragraphs **135.12(6)“f”** and **“g”**:

f. Prior to acceptance of a request to classify the site as no action required, and in the event there is a question of validity of the data or sampling methods, laboratory analysis procedures, indication of plume movement, or the department obtains information about new conditions at the site, the department may conduct or require the owner to conduct confirmation sampling of the soil, groundwater, soil gas, or indoor vapor to confirm that the no action required criteria have been met.

g. The department may waive, at its discretion, the exit monitoring criteria based on a certified groundwater professional's written justification to support a no action required classification for the site based on a reasoned assessment of data, trends, receptor status, and corrective actions performed. One example is when steady and declining criteria have not been met due solely to variations among a laboratory's lowest achievable detection limits.

ITEM 23. Amend rule 567—135.14(455B) as follows:

567—135.14(455B) Action levels. The following corrective action levels apply to petroleum-regulated substances as regulated by this chapter. These action levels shall be used to determine if further corrective action under 567—135.6(455B) through 567—135.12(455B) or 567—135.15(455B) is required as the result of tank closure sampling under 135.15(3) or other analytical results submitted to the department. The contaminant concentrations must be determined by laboratory analysis as stated in 567—135.16(455B). Final cleanup determination is not limited to these contaminants. The contamination corrective action levels are:

	Soil (mg/kg)	Groundwater (ug/L)
Benzene	0.54	5
Toluene	42 <u>3.2</u>	1,000
Ethylbenzene	15	700
Xylenes	No limit <u>52</u>	10,000
Total Extractable Hydrocarbons	3,800	1,200

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ITEM 24. Amend 567—Chapter 135, Appendix A, Iowa Tier 1 Look-Up Table, as follows:

Iowa Tier 1 Look-Up Table

Media	Exposure Pathway	Receptor	Group 1				Group 2: TEH	
			Benzene	Toluene	Ethylbenzene	Xylenes	Diesel*	Waste Oil
Groundwater ($\mu\text{g/L}$) ($\mu\text{g/L}$)	Groundwater Ingestion	Actual	5	1,000	700	10,000	1,200	400
		Potential	290	7,300	3,700	73,000	75,000	40,000
	Groundwater Vapor to Enclosed Space	All	1,540	20,190	46,000	NA	2,200,000	NA
	Groundwater to Plastic Water Line	All	290	7,300	3,700	73,000	75,000	40,000
	Groundwater to Water Line	PVC or Gasketed Mains	7,500	6,250	40,000	48,000	75,000	40,000
		PVC or Gasketed Service Lines	3,750	3,120	20,000	24,000	75,000	40,000
		PE/PB/AC Mains or Service Lines	200	3,120	3,400	19,000	75,000	40,000
	Surface Water	All	290	1,000	3,700	73,000	75,000	40,000
Soil (mg/kg)	Soil Leaching to Groundwater	All	0.54	42	15	NA	3,800	NA
	Soil Vapor to Enclosed Space	All	1.16	48	79	NA	47,500	NA
	Soil to Plastic Water Line	All	1.8	120	43	NA	40,500	NA
	Soil to Water Line	All	2.0	3.2	45	52	10,500	NA

NA: Not applicable. There are no limits for the chemical for the pathway, because for groundwater pathways the concentration for the designated risk would be greater than the solubility of the pure chemical in water, and for soil pathways the concentration for the designated risk would be greater than the soil concentration if pure chemical were present in the soil.

TEH: Total Extractable Hydrocarbons. The TEH value is based on risks from naphthalene, benzo(a)pyrene, benz(a)anthracene, and chrysene. Refer to Appendix B for further details.

Diesel*: Standards in the Diesel column apply to all low volatile petroleum hydrocarbons except waste oil.

Assumptions Used for Iowa Tier 1 Look-Up Table Generation

1. Groundwater ingestion pathway. The maximum contaminant levels (MCLs) were used for Group 1 chemicals. The target risk for carcinogens for actual receptors is 10^{-6} and for potential receptors is 10^{-4} . A hazard quotient of one, and residential exposure and building parameters are assumed.
2. Groundwater vapor to enclosed space pathway. Residential exposure and residential building parameters are assumed; no inhalation reference dose is used for benzene; the capillary fringe is assumed to be the source of groundwater vapor; and the hazard quotient is 1 and target risk for carcinogens is 1×10^{-4} .
3. Groundwater to plastic water line. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of 10^{-4} .
4. Surface water. This pathway uses the same assumptions as the groundwater ingestion pathway for potential receptors, including a target risk for carcinogens of 10^{-4} , except for toluene which has a chronic level for aquatic life of 1,000 as in the definition for surface water criteria in 567—135.2(455B).
5. Soil leaching to groundwater. This pathway assumes the groundwater will be protected to the same levels as the groundwater ingestion pathway for potential receptors, using residential exposure and a target risk for carcinogens of 10^{-4} .
6. Soil vapor to enclosed space pathway. The target risk for carcinogens is 1×10^{-4} ; the hazard quotient is 1; no inhalation reference dose is used for benzene; residential exposure factors are assumed; and the average of the residential and nonresidential building parameters are is assumed.

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7. Soil to plastic water line pathway. This pathway uses the soil leaching to groundwater model with nonresidential exposure and a target risk for carcinogens of 10^{-4} .

In addition to these assumptions, the equations and parameter values used to generate the Iowa Tier 1 Look-Up Table are described below.

ITEM 25. Amend 567—Chapter 135, Appendix B, Diesel and Waste Oil section, first, second and third tables, by striking the word “Plastic” in the phrases “Groundwater to Plastic Water Line” and “Soil to Plastic Water Line.”

ITEM 26. Amend 567—Chapter 135, Appendix B, by adopting the following new paragraphs at the end thereof:

Water Line Calculations

**Explanation of Target Levels for
Petroleum Fuel-Derived BTEX Compounds in Groundwater and Soil**

GROUNDWATERPVC or Gasketed Mains

Benzene: 7,500 µg/L

Gasoline-saturated groundwater was considered to be an extreme condition of environmental contamination, and it was considered unacceptable to leave water lines, regardless of material, in contact with this level of benzene contamination. While Ong et al. (2008) showed that gasoline-saturated groundwater would not pose a significant risk of permeation exceeding the 5 µg/L MCL for benzene of gasketed DI or PVC water mains, a safety factor of 1/8th was applied to the level of benzene in premium gasoline-saturated water determined by Ong et al. (2008). A 1/2 safety factor was compounded for each of four potential safety risks: material defects in the pipe (= 1/2), presence of service line taps (= 1/4), stagnation of water (= 1/6), and water line breaks (= 1/8). This was an average of 67.5 mg/L ± 4.9 mg/L for multiple preparations of gasoline-saturated water and was rounded to 60.0 mg/L to conservatively account for the statistical uncertainty. Hence,

$$\text{Target Level} = \frac{1}{8} \times 60,000 \text{ µg/L} = 7,500 \text{ µg/L benzene}$$

Toluene: 6,250 µg/L

The target level for toluene was determined similarly to that for benzene. The level of toluene in premium gasoline-saturated water was determined by Ong et al. (2008) to be 56.2 mg/L ± 4.9 mg/L and conservatively rounded to 50.0 mg/L. Hence,

$$\text{Target Level} = \frac{1}{8} \times 50,000 \text{ µg/L} = 6,250 \text{ µg/L toluene}$$

Ethylbenzene: 40,000 µg/L

The target level was set to be double that for PVC or Gasketed Service Lines (20,000 µg/L – see below).

Total Xylenes: 48,000 µg/L

The target level was set to be double that for PVC or Gasketed Service Lines (24,000 µg/L – see below).

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PVC or Gasketed Service Lines*Benzene: 3,750 µg/L*

The target level was set to be one-half of that for PVC or Gasketed Mains (7,500 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation.

Toluene: 3,120 µg/L

Similar to benzene, the target level was set to be one-half of that for PVC or Gasketed Mains (6,250 µg/L as above) since service lines tend to be of higher risk than mains owing to their smaller diameter and greater potential for stagnation. Odd-even rounding to 3 significant figures was applied.

Ethylbenzene: 20,000 µg/L

The target level was based on two observations by Ong et al. (2008): (1) premium gasoline-saturated water has an average concentration of 3.4 mg/L ethylbenzene and (2) ethylene permeates high density polyethylene 46 times slower than does benzene (presumably, this is reasonably representative of other materials such as rubber gaskets). The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$\text{Target Level} = 3,400 \mu\text{g/L} \times 46 \times \frac{1}{8} = 19,550 \mu\text{g/L} = 20,000 \mu\text{g/L}$$

Total Xylenes: 24,000 µg/L

Similar to ethylbenzene, the target level was based on (1) premium gasoline-saturated water has an average concentration of 19 mg/L total xylenes and (2) total xylenes permeate high density polyethylene 10 times slower than does benzene. The 1/8 safety factor was also applied, as above. Odd-even rounding to 2 significant figures was applied. Hence:

$$\text{Target Level} = 19,000 \mu\text{g/L} \times 10 \times \frac{1}{8} = 23,750 \mu\text{g/L} = 24,000 \mu\text{g/L}$$

PE/PB/AC*Benzene: 200 µg/L*

The target level was set at the concentration of benzene in groundwater surrounding a 1" HDPE service line (SIDR 9 IPS) that would result in a concentration of 2 µg/L benzene in the service line after a 24 hr stagnation period. This level was chosen because 2 µg/L is generally the minimum reportable concentration of benzene in laboratory reports received by the department.

The permeation rate is a function of the concentration of benzene in the groundwater as described by Ong et al. (2008), equation 3.4a:

$$P_m = 0.0079C_{bulk}^{1.1323}$$

where P_m is the benzene permeation rate in µg/cm²/day through the pipe described above (cm² refers to the inner surface of the pipe) and C_{bulk} is the concentration of benzene in the groundwater (mg/L).

For any length of exposed 1" SIDR 9 IPS pipe, l (cm), the concentration in the pipe after 24 hr stagnation, C_{24hr} (µg/L), can be computed from P_m and the ratio of the inner surface of the pipe to the internal volume:

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$$C_{24hr} = P_m \times \left(\frac{2\pi r l}{\pi r^2 l / 1000} \right) = 0.0079 C_{bulk}^{1.1323} \times \frac{2000}{r}$$

where r is the inside radius of the pipe (cm), l is the length of exposed pipe (cm), and dividing by 1000 converts from cm^3 to liters (and, therefore, $2000/r$ converts $\mu\text{g}/\text{cm}^2/\text{day}$ to $\mu\text{g}/\text{L}/\text{day}$).

Solving for C_{bulk} (mg/L) with $C_{24hr} = 2 \mu\text{g}/\text{L}$ and $r = 1.28$ cm (per manufacturer's specifications):

$$C_{bulk}^{1.1323} = \frac{2 \times 1.28}{0.0079 \times 2000}$$

and

$$C_{bulk} = \sqrt[1.1323]{0.162} = 0.200 \text{ mg/L} = 200 \mu\text{g/L}$$

While the target level is expressed as $200 \mu\text{g}/\text{L}$ for clarity, the underlying data support only two significant figures. In a stricter treatment of the data, this would be expressed as $20 \times 10^1 \mu\text{g}/\text{L}$.

Toluene: 3,120 $\mu\text{g}/\text{L}$

The target level was set to be equal to that for PVC or Gasketed Service Lines. Calculations similar to those used above for benzene (Ong et al. (2008), equation 3.4b) indicate that $3,120 \mu\text{g}/\text{L}$ toluene in groundwater would result in $50 \mu\text{g}/\text{L}$ inside a 1" SIDR 9 IPS HDPE pipe after 24 hours of stagnation, which is 1/20th of the $1,000 \mu\text{g}/\text{L}$ MCL for toluene.

Ethylbenzene: 3,400 $\mu\text{g}/\text{L}$

The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water (see discussion above for PVC or Gasketed Mains/Benzene). Unlike other target levels based on contaminant concentrations in gasoline-saturated water, the 1/8th safety factor was not applied because of the very low permeation rate of ethylbenzene through HDPE, the relatively low solubility of ethylbenzene in water, and the relatively high MCL ($700 \mu\text{g}/\text{L}$). Ong et al. (2008) found that permeation of HDPE by aqueous ethylbenzene was minimal and of no consequence for public health.

Total Xylenes: 19,000 $\mu\text{g}/\text{L}$

The target level was set to be equal to the concentration of ethylbenzene in premium gasoline-saturated water following the same reasoning for ethylbenzene (above). The permeation rate and water solubility are also very low, and the MCL is $10,000 \mu\text{g}/\text{L}$. Ong et al. (2008) found that permeation of HDPE by aqueous xylenes was minimal and of no consequence for public health.

SOIL

Target levels for soil were set to be the same for mains and service lines of any material discussed above under "Groundwater." The underlying data support two significant figures for target levels in soil. Odd-even rounding was applied where appropriate.

Benzene: 2.0 mg/Kg

The target level was derived from the concentration of benzene (mg/Kg) that would result if soil that was 10% moisture and 1% organic matter was equilibrated with premium gasoline-saturated water ($60 \text{ mg}/\text{L}$ benzene – as per discussion of PVC or Gasketed Mains/Benzene above). The equilibrium concentration in soil was calculated using the approach of Chiou et al. (1983). The 1/8th safety factor discussed previously for groundwater was applied. Accordingly:

$$C_T = C_w K_d + C_w \theta$$

where C_T is the total concentration of benzene in soil (mg/Kg), θ is the fraction of moisture in the soil (Kg/Kg), and K_d is the partition coefficient from water to soil (L/Kg). Further:

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$$K_d = K_{om}f_{om}$$

where K_{om} is the partition coefficient from water to organic matter in the soil, which is 16.8 L/Kg for benzene in soils with naturally occurring organic matter (Chiou et al. (1983)), and f_{om} is the fraction of organic matter in the dry soil (Kg/Kg).

For soil containing 1% naturally occurring organic matter and 10% moisture, the total concentration of benzene upon exposure to premium gasoline-saturated groundwater (60 mg/L benzene, as per above discussion of PVC or Gasketed Mains) would be:

$$C_T = \left(\frac{60 \text{ mg}}{\text{L}} \times \left(\frac{16.8 \text{ L}}{\text{Kg}} \times \frac{0.01 \text{ Kg}}{\text{Kg}} \right) \right) + \left(\frac{60 \text{ mg}}{\text{L}} \times \frac{0.1 \text{ Kg}}{\text{Kg}} \right) = \frac{16 \text{ mg}}{\text{Kg}}$$

Applying the 1/8th safety factor:

$$\text{Target Level} = \frac{1}{8} \times \frac{16 \text{ mg}}{\text{Kg}} = \frac{2.0 \text{ mg}}{\text{Kg}}$$

Toluene: 3.2 mg/Kg

The target level was derived in the same manner as for benzene except that the concentration of toluene in premium gasoline-saturated water is 50 mg/L and K_{om} is 42 L/Kg. Accordingly:

$$C_T = \left(\frac{50 \text{ mg}}{\text{L}} \times \left(\frac{42 \text{ L}}{\text{Kg}} \times \frac{0.01 \text{ Kg}}{\text{Kg}} \right) \right) + \left(\frac{50 \text{ mg}}{\text{L}} \times \frac{0.1 \text{ Kg}}{\text{Kg}} \right) = \frac{26 \text{ mg}}{\text{Kg}}$$

and

$$\text{Target Level} = \frac{1}{8} \times \frac{26 \text{ mg}}{\text{Kg}} = \frac{3.2 \text{ mg}}{\text{Kg}}$$

Ethylbenzene: 45 mg/Kg

The target level was based on the target level set for Groundwater/PVC or Gasketed Mains (40,000 $\mu\text{g/L}$, rounded from 39,100 $\mu\text{g/L}$, or 39.1 mg/L) and the principles of Chiou et al. (1983) discussed above. In a manner similar to that for benzene in soil, C_W was 3.4 mg/L, K_d was 0.106 L/Kg, and C_T was calculated to be 3.9 mg/Kg. The target level for soil that is equivalent to the target level set for groundwater was calculated as follows:

$$\text{Target Level mg/Kg} = 39.1 \text{ mg/L} \times \frac{3.9 \text{ mg/Kg}}{3.4 \text{ mg/L}} = 45 \text{ mg/Kg}$$

Total Xylenes: 52 mg/Kg

The target level was set in the same manner as for ethylbenzene (above), based on the groundwater target level of 48,000 $\mu\text{g/L}$ (rounded from 47.5 mg/L). C_W was 19 mg/L, K_d was 1.001 L/Kg (assuming a mixture of m-, o-, and p-xylenes which is 60%, 20%, and 20%, respectively, which is typical of xylenes derived from petroleum), and C_T was calculated to be 21 mg/Kg. Hence:

$$\text{Target Level mg/Kg} = 47.5 \text{ mg/L} \times \frac{21 \text{ mg/Kg}}{19 \text{ mg/L}} = 52 \text{ mg/Kg}$$

NOTE: The 1/8th safety factor was applied above to the target levels for ethylbenzene and total xylenes for Groundwater, PVC or Gasketed Service Lines, thence the target levels for Groundwater, PVC or Gasketed Mains, were derived. Consequently, the 1/8th safety factor has also been applied to the target levels for both ethylbenzene and total xylenes in soil.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/10.

ARC 9031B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendments reflect the statutory requirements that by January 1, 2012, almost all campaign disclosure statements and reports will be filed electronically through the Board's Web site, and the amendments also resolve conflicts with current Board rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8795B**. No oral or written comments on the amendments were received. These amendments are identical to those published under Notice.

The Board adopted these amendments on August 4, 2010.

These amendments are intended to implement Iowa Code section 68A.201 as amended by 2010 Iowa Acts, Senate File 2128, section 1; Iowa Code section 68A.401 as amended by 2010 Iowa Acts, Senate File 2128, section 3; and Iowa Code sections 68A.402 and 68A.402B.

These amendments will become effective on September 29, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [4.1(2), 4.8(1), 4.13, 4.55(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 8795B**, IAB 6/2/10.

[Filed 8/5/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9035B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

Iowa Code section 68B.2B prohibits a state official or employee from receiving compensation simultaneously from more than one executive branch agency unless the official or employee provides notice to the Board within 20 days of accepting employment with the second state agency. Pursuant to Iowa Code section 68B.2B(2), the Board is directed to adopt rules to administer the statute. The

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

amendment implements the reporting form by which a state official or employee who is subject to the statute shall provide notice to the Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8793B**. No oral or written comments on the amendment were received. This amendment is identical to that published under Notice.

The Board adopted this amendment on August 4, 2010.

This amendment is intended to implement Iowa Code section 68B.2B.

This amendment will become effective on September 29, 2010.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [6.6] is being omitted. This amendment is identical to that published under Notice as **ARC 8793B**, IAB 6/2/10.

[Filed 8/6/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9036B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

Pursuant to Iowa Code section 68B.3, officials and employees are prohibited from selling goods or services to state agencies when the sale exceeds \$2,000 unless the sale was made after public notice and was competitively bid. 2010 Iowa Acts, Senate File 2067, sections 2 and 3, amends the statute to require an official or employee making such a sale to file a report with the Board disclosing the sale. The amendments reflect this new statutory requirement.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8794B**. No oral or written comments on the amendments were received. These amendments are identical to those published under Notice.

The Board adopted these amendments on August 4, 2010.

These amendments are intended to implement Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3.

These amendments will become effective on September 29, 2010.

The following amendments are adopted.

ITEM 1. Amend rule 351—6.10(68B), introductory paragraph, as follows:

351—6.10(68B) Prohibition on sales; when public bids required—disclosure of income. Pursuant to Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3, an official or employee shall not sell, in any one occurrence, goods or services having a value in excess of \$2,000 to a state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding and the official or employee making the sale files Form Public Bid with the board within 20 days of making the sale. This prohibition includes sales to the state agency in which the official or employee serves or is employed.

ITEM 2. Adopt the following **new** subrule 6.10(3):

6.10(3) Filing of report. An official or employee making a sale to a state agency pursuant to Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3, shall file Form Public Bid within 20 days of making the sale. The form shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319; by fax at (515)281-4073; or as an E-mail attachment. The

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

failure to timely file Form Public Bid with the board within 20 days of making the sale may subject the official or employee to board sanctions under Iowa Code chapter 68B and rule 351—9.4(68B).

ITEM 3. Amend rule **351—6.10(68B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68B.3 as amended by 2010 Iowa Acts, Senate File 2067, sections 2 and 3.

[Filed 8/6/10, effective 9/29/10]

[Published 8/25/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/10.

ARC 9037B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 9, "Complaint, Investigation, and Resolution Procedures," Iowa Administrative Code.

2010 Iowa Acts, Senate File 2067, section 5, directs the Board to adopt rules relating to situations in which a person provides false information to the Board during a Board investigation. The amendment reflects that statutory directive.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8803B**. No oral or written comments on the amendment were received. This amendment is identical to that published under Notice.

The Board adopted this amendment on August 4, 2010.

This amendment is intended to implement 2009 Iowa Code Supplement section 68B.32A as amended by 2010 Iowa Acts, Senate File 2067, section 5.

This amendment will become effective on September 29, 2010.

The following amendment is adopted.

Adopt the following new rule 351—9.7(68B):

351—9.7(68B) Providing false information to the board during an investigation. A person providing false information to the board during a board investigation of a potential violation of Iowa Code chapter 68A or 68B, Iowa Code section 8.7, or rules adopted by the board may be subject to the complaint or administrative resolution process as provided under Iowa Code chapter 68B and rule 351—9.4(68B). For purposes of this rule, "providing false information" means the intentional providing of a false material statement of fact, falsely denying knowledge of a material fact, or providing a material statement of fact with a reckless disregard for the truth of the statement.

This rule is intended to implement 2009 Iowa Code Supplement section 68B.32A as amended by 2010 Iowa Acts, Senate File 2067, section 5.

[Filed 8/6/10, effective 9/29/10]

[Published 8/25/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/10.

ARC 9038B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 514F.6 and 2010 Iowa Acts, Senate File 2201, section 16, the Insurance Division hereby amends Chapter 70, "Utilization Review," Iowa Administrative Code.

INSURANCE DIVISION[191](cont'd)

The amendment implements 2010 Iowa Acts, Senate File 2201, section 16, which includes advanced registered nurse practitioners and physician assistants in the provisions addressing retrospective payment of clean claims for covered services during the credentialing period.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8884B**. No public comment was received on this amendment. This amendment is identical to the amendment published under Notice of Intended Action.

This amendment will become effective on September 29, 2010.

This amendment is intended to implement Iowa Code section 514F.6 as amended by 2010 Iowa Acts, Senate File 2201, section 16.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [70.10] is being omitted. This amendment is identical to that published under Notice as **ARC 8884B**, IAB 6/30/10.

[Filed 8/6/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9028B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(1)"r," the Iowa Finance Authority hereby amends Chapter 3, "Multifamily Housing," Iowa Administrative Code.

The purpose of these amendments is to facilitate the construction and rehabilitation of workforce and affordable multifamily housing by establishing a mechanism for loaning funds to cities and counties to reloan for housing development purposes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8790B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 8789B** on the same date. The Authority did not receive any public comment on the proposed amendments. The Authority has made no changes to the amendments as published under Notice.

The Iowa Finance Authority adopted these amendments on August 4, 2010.

These amendments are intended to implement Iowa Code sections 16.1(1)"ad"(18), 16.3, 16.5(1), and 16.5C.

These amendments will become effective on September 29, 2010, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [3.5(1), 3.8 to 3.12] is being omitted. These amendments are identical to those published under Notice as **ARC 8790B** and Adopted and Filed Emergency as **ARC 8789B**, IAB 6/2/10.

[Filed 8/5/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9029B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

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

The purpose of these amendments is to modify and clarify certain provisions of the program of housing assistance for persons affected by the natural disasters that occurred in Iowa in 2008.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8908B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 8907B** on the same date. The Authority did not receive any public comment on the proposed amendments. The Authority has made no changes to the amendments as published under Notice.

The Iowa Finance Authority adopted these amendments on August 4, 2010.

These amendments are intended to implement Iowa Code sections 16.5(1)“r” and 16.40 and 2009 Iowa Acts, Senate File 289.

These amendments will become effective on September 29, 2010, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [29.5(2), 29.6(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 8908B** and Adopted and Filed Emergency as **ARC 8907B**, IAB 6/30/10.

[Filed 8/5/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9032B**PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of 2009 Iowa Code Supplement section 100D.5, the State Fire Marshal hereby adopts new Chapter 276, “Licensing of Fire Protection System Installers and Maintenance Workers,” Iowa Administrative Code.

During its 2008 session, the Iowa General Assembly enacted Iowa Code chapter 100D, which establishes a new licensing program for fire protection system installers and maintenance workers within the Fire Marshal Division of the Department of Public Safety. This law was amended during the 2009 session by 2009 Iowa Acts, House File 400, and again in 2010 by 2010 Iowa Acts, Senate File 2355.

Administrative rules to implement the requirements of 2009 Iowa Code Supplement chapter 100D were first proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on September 23, 2009, as **ARC 8153B**. Numerous comments were received regarding the rules as proposed in that Notice, and a variety of difficulties in implementing the law as written at that time were identified. Consequently, the previous rule making was put on hold and the Notice of Intended Action was allowed to expire so that legislative action could take place during the 2010 session of the Iowa General Assembly to address these concerns. The enactment of 2010 Iowa Acts, Senate File 2355, was the result, and a new Notice of Intended Action was published in the Iowa Administrative Bulletin on June 16, 2010, as **ARC 8855B**.

The rules adopted herein provide for the establishment and administration of the licensing program, including licensing requirements, license fees, insurance and bonding requirements, disciplinary action against licensees, application forms, examination procedures, and procedures for reporting violations of these rules.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

A public hearing on the proposed rules was held on July 6, 2010. Several persons commented on the proposed rules, either at the public hearing or by submitting written comments. Notable among these comments were the following: a request that licensees be required to be bonded, as authorized by the statute; an objection to limitations on the number of apprentices supervised by a licensee and to the requirement that apprentices be registered in a program approved by the United State Department of Labor; a request that further clarity be offered regarding the process and criteria for approvals which may be required from the State Fire Marshal, such as for continuing education courses or for meeting testing requirements other than using the path specifically prescribed by the statute; and a request that further explanation be offered regarding the content of required continuing education courses.

No change was made regarding bonding and insurance requirements nor to language regarding apprentice fire protection system installers and maintenance workers. The statute permits the Fire Marshal to require that licensees be bonded and insured at levels deemed adequate by the Fire Marshal. The Fire Marshal finds that requiring liability insurance of the licensee or the licensee's employer provides adequate protection to the public. The language in these rules regarding apprentices closely follows the language of the statute.

Language has been added to the rules specifying how approval may be obtained from the Fire Marshal for meeting testing requirements and for continuing education courses. In addition, the licensure fee has been reduced from the amount included in the proposed rules (\$250 for a two-year license) to \$200 for a two-year license, and language has been added to clarify that licenses issued between October 1, 2010, and December 31, 2010, shall expire on December 31, 2012, at no additional cost to the licensee. Finally, several minor editorial corrections have been made.

The rules adopted herein are subject to the general waiver provisions which apply to rules of the Fire Marshal.

These rules will become effective on October 1, 2010.

These rules are intended to implement 2009 Iowa Code Supplement chapter 100D as amended by 2010 Iowa Acts, Senate File 2355.

The following amendment is adopted.

Adopt the following **new** 661—Chapter 276:

CHAPTER 276

LICENSING OF FIRE PROTECTION SYSTEM INSTALLERS AND MAINTENANCE WORKERS

661—276.1(100D) Establishment of program. There is established within the fire marshal division a fire protection system installer and maintenance worker licensing program. The program is established pursuant to 2009 Iowa Code Supplement chapter 100D as amended by 2010 Iowa Acts, Senate File 2355.

276.1(1) Licensing required. A person shall not act as a fire protection system installer and maintenance worker without being currently licensed as a fire protection system installer and maintenance worker by the fire marshal, except for the following as provided in 2009 Iowa Code Supplement section 100D.11 as amended by 2010 Iowa Acts, Senate File 2355:

a. A person licensed as a professional engineer pursuant to Iowa Code chapter 542B who is providing consultation or develops plans or other work concerning the installation or design of fire protection systems shall not be required to be licensed pursuant to this chapter.

b. A person whose work on fire protection systems is limited to routine maintenance shall not be required to be licensed pursuant to this chapter.

c. A person who is licensed as a plumber pursuant to Iowa Code chapter 105 and whose work is within the scope of that license shall not be required to be licensed pursuant to this chapter.

d. A person who is working as an apprentice fire protection system installer and maintenance worker under the direct supervision of a responsible managing employee or under the direct supervision of a licensed fire sprinkler installer and maintenance worker who is on site while the work is being performed shall not be required to be licensed pursuant to this chapter. For purposes of this rule, "direct

PUBLIC SAFETY DEPARTMENT[661](cont'd)

supervision” means that the person supervising the person performing the work shall be on the job site while the work being supervised is performed.

e. A person who demolishes fire protection system components shall not be required to be licensed pursuant to this chapter when the work involves the demolition of a complete fire protection system or if the work results in a fire protection system’s being placed out of service. If a fire protection system has been placed out of service, work required to place it into service must be performed by a person licensed to perform such work pursuant to this chapter. A person who demolishes a fire protection system or components thereof shall comply with any local ordinance, statute or administrative rule which requires notification to a local fire authority or the state fire marshal.

f. A person who is a responsible managing employee of a fire extinguishing system contractor certified pursuant to Iowa Code chapter 100C shall not be required to be licensed pursuant to this chapter, provided that the work performed which is subject to the provisions of this chapter is within the scope of the endorsement or endorsements of the certification of the certified contractor employing the responsible managing employee.

276.1(2) Endorsement. Any person acting as a fire protection system installer and maintenance worker shall do so only in relation to systems and work covered by the endorsements on the person’s license. The license of each installer and maintenance worker shall carry an endorsement for one or more of the following:

- a.* Automatic sprinkler system installation and maintenance;
- b.* Special hazards fire suppression system installation and maintenance;
- c.* Installation of preengineered dry chemical or wet agent fire protection systems;
- d.* Maintenance of preengineered dry chemical or wet agent fire protection systems;
- e.* Installation of preengineered water-based fire protection systems in one- and two-family dwellings;
- f.* Maintenance of preengineered water-based fire protection systems in one- and two-family dwellings;
- g.* Any combination thereof.

276.1(3) Length of licensure. Licensure shall normally be for two years and shall expire on December 31 of the year following the issuance of the license. A license which is effective on a date other than January 1 shall be effective on the date on which the license is issued and shall expire on December 31 of the year following the year in which the license is issued. The fee for licenses issued for less than a full two-year period shall be prorated on the basis of the number of quarters for which the license shall be in effect.

EXCEPTION: Any license issued before January 1, 2011, shall expire on December 31, 2012.

276.1(4) Inquiries. Inquiries regarding the fire protection system installer and maintenance worker licensing program may be addressed to:

Fire Protection System Installer and Maintenance Worker Licensing Program
Fire Marshal Division
Iowa Department of Public Safety
215 East 7th Street
Des Moines, Iowa 50319

Inquiries may be addressed by electronic mail to fesccp@dps.state.ia.us; by telephone to (515)725-6145; or by facsimile to (515)725-6172.

661—276.2(100D) Definitions. The following definitions apply to rules 661—276.1(100D) through 661—276.6(100D):

“*Apprentice fire protection system installer and maintenance worker*” means a person, other than a trainee, who is registered in an apprenticeship program approved by the United States Department of Labor and who is engaged in learning the fire protection system industry trade under the direct supervision of a responsible managing employee of a certified fire extinguishing system contractor or licensed fire protection system installer and maintenance worker.

“*Department*” means the department of public safety.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

“Fire extinguishing system contractor” means a person(s) engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, service, alteration, addition, testing, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state, as defined in Iowa Code section 100C.1, and who is certified pursuant to Iowa Code chapter 100C.

“Fire protection system” means a sprinkler, standpipe, hose system, special hazard system, dry system, foam system, or any water-based fire protection system, whether engineered or preengineered and whether manually or automatically activated, used for fire protection purposes which may include an integrated system of underground and overhead piping and which may be connected to a water source.

“Fire protection system installation” means to set up or establish a fire protection system for use in an indicated space.

“Fire protection system installer and maintenance worker” means a person who, having the necessary qualifications, training, experience, and technical knowledge, conducts fire protection system installation and maintenance and who is licensed by the department to install or maintain the types of fire protection systems endorsed on the person’s license.

“Fire protection system maintenance” means to provide repairs, including all inspections and tests, required to keep a fire protection system and its component parts in an operative condition at all times and the replacement of the system or its component parts when they become undependable or inoperable.

“Listed” means equipment, materials, or services included in a list published by a nationally recognized independent testing organization concerned with evaluation of products or services that maintains periodic inspection of the production of listed equipment or materials or periodic evaluation of services and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose.

“Preengineered fire protection system” means a fire protection system that has a predetermined flow rate, nozzle pressure, and quantity of extinguishing agent.

“Responsible managing employee” means a person who is an owner, partner, officer, or manager employed full-time by a fire extinguishing system contractor and who meets the requirements for a responsible managing employee established in Iowa Code chapter 100C and 661—Chapter 275.

“Routine maintenance” means the repair or replacement of existing fire protection system components of the same size and type, for which no changes in configuration are made. “Routine maintenance” does not mean any new installation or any expansion or extension of any existing fire protection system, nor does it mean inspection and testing.

“Temporary license” means a license issued to a fire protection system installer and maintenance worker who is licensed or certified in another state and who will perform work in Iowa only within areas covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6.

“Trainee” means a person who is engaged in learning the fire protection system industry trade under the direct supervision of a responsible managing employee or a licensed fire protection system installer and maintenance worker who is not a trainee. “Trainee” does not mean a person who is an apprentice fire protection system installer and maintenance worker.

661—276.3(100D) Licensing requirements. A fire protection system installer and maintenance worker shall meet all of the following requirements in order to receive a license from the fire marshal and shall continue to meet all requirements throughout the period of licensure. A licensee shall notify the fire marshal, in writing on a form designated by the fire marshal, within 30 calendar days if the licensee fails to meet any requirement for licensure.

276.3(1) Liability insurance. Each licensee, other than a trainee, shall maintain general and complete operations liability insurance covering any work that the licensee is authorized to perform pursuant to any endorsements on the license in the following amounts: \$500,000 per person, \$1,000,000 per occurrence, and \$1,000,000 property damage.

a. The carrier of any insurance coverage maintained to meet this requirement shall notify the fire marshal 30 days prior to the effective date of cancellation or reduction of the coverage.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

b. The licensee shall cease work immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A licensee shall not initiate any work which requires licensure pursuant to this chapter or to 2009 Iowa Code Supplement chapter 100D as amended by 2010 Iowa Acts, Senate File 2355, which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the licensee has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

EXCEPTION: A licensee is not required to maintain insurance coverage provided that the licensee's employer maintains insurance coverage equivalent to the requirements of this subrule.

276.3(2) Compliance. Each licensee shall maintain compliance with all other applicable provisions of law related to operation in the state of Iowa and in any political subdivision in which the licensee is performing work.

276.3(3) Training and experience requirements. An applicant for a license shall meet the following training and experience requirements:

a. For endorsement for automatic sprinkler system installation and maintenance, the applicant shall show evidence of the following:

(1) Satisfactory completion of an apprenticeship program in fire sprinkler installation and maintenance approved by the United States Department of Labor, including four years of employment as an apprentice fire protection system installer and maintenance worker, and

(2) A passing score on either the United Association Star Fire Sprinkler Mastery Exam or on another examination administered by a nationally recognized third-party testing organization and approved as equivalent by the state fire marshal.

EXCEPTION: Prior to August 1, 2012, an applicant who was employed as a fire protection system installer as of July 1, 2008, may receive endorsement for automatic sprinkler system installation and maintenance upon submission of evidence of completion of 8500 hours of employment as a fire protection system installer and maintenance worker and any of the following:

1. Satisfactory completion of an apprenticeship program in fire sprinkler installation and maintenance of four or more years in duration, approved by the United States Department of Labor.

2. Passing the United Association Star Fire Sprinkler Mastery Exam or another examination administered by a nationally recognized third-party testing organization and approved as equivalent by the state fire marshal.

3. Certification by the National Institute for Certification in Engineering Technologies in Automatic Sprinkler System Layout at Level I, or another form of certification or testing administered by a nationally recognized organization and approved as equivalent by the state fire marshal. An applicant for licensure or the applicant's employer may request approval from the state fire marshal of a form of certification or testing as equivalent to that required by this paragraph by contacting the program as indicated in subrule 276.1(4) and following the instructions given to request such approval. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.

b. For endorsement for special hazards fire protection system installation and maintenance, the applicant shall show evidence of the following:

(1) Satisfactory completion of an apprenticeship program in installation and maintenance of special hazards fire protection systems approved by the United States Department of Labor, and

(2) Certification by the National Institute for Certification in Engineering Technologies in Special Hazards Protection Systems at Level I, or another form of certification or testing by a nationally recognized organization approved as equivalent by the state fire marshal. An applicant for licensure or the applicant's employer may request approval from the state fire marshal of a form of certification or testing as equivalent to that required by this subparagraph by contacting the program as indicated in subrule 276.1(4) and following the instructions given to request such approval. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.

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EXCEPTION 1: If the state fire marshal determines that no appropriate apprenticeship program is readily available, the fire marshal may allow the substitution of documentation of 8500 hours or more of employment in installation and maintenance of special hazards systems in lieu of meeting the apprenticeship requirement. Credit for such work experience obtained on or after October 1, 2010, shall be awarded only for work performed as an apprentice fire protection system installer and maintenance worker or as a licensed fire protection system installer and maintenance worker trainee. An applicant for a license, a certified contractor, or another employer of an applicant for a license may request determination by the state fire marshal that no appropriate apprenticeship is readily available to the applicant. In order to make such a request, the person making the request shall contact the program as specified in subrule 276.1(4) for instructions regarding information to be submitted.

EXCEPTION 2: Prior to August 1, 2012, an applicant who was employed as a fire protection system installer as of July 1, 2008, may receive endorsement for special hazards fire protection system installation and maintenance upon submission of evidence of completion of 8500 hours of employment as a fire protection system installer and maintenance worker and either of the following:

1. Satisfactory completion of an apprenticeship program in installation and maintenance of special hazards fire protection systems of four or more years in duration, approved by the United States Department of Labor.

2. Certification by the National Institute for Certification in Engineering Technologies in Special Hazards Systems Installation and Maintenance at Level I, or another form of certification or testing administered by a nationally recognized organization and approved as equivalent by the state fire marshal. An applicant for licensure or the applicant's employer may request approval from the state fire marshal of a form of certification or testing as equivalent to that required by this paragraph by contacting the program as indicated in subrule 276.1(4) and following the instructions given to request such approval. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.

c. For endorsement for installation or maintenance of preengineered dry chemical or wet agent fire protection systems, the applicant shall show evidence of the following:

- (1) To be endorsed as a preengineered kitchen fire extinguishing system installer, the applicant shall have successfully completed training and an examination verified by a preengineered system manufacturer, an agent of a preengineered system manufacturer, or an organization that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.

- (2) To be endorsed as a preengineered kitchen fire extinguishing system maintenance worker, the applicant shall have successfully completed training by the applicant's employer or the system's manufacturer and passed a written or online examination for preengineered kitchen fire extinguishing system maintenance that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any testing which occurs on or after January 1, 2011, such approval shall be obtained in advance.

- (3) To be endorsed as a preengineered industrial fire extinguishing system installer, the applicant shall possess a training and examination certification from a preengineered system manufacturer, an agent of a preengineered system manufacturer, or an organization that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this

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subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.

(4) To be endorsed as a preengineered industrial fire extinguishing system maintenance worker, the applicant shall have been trained by the applicant's employer and shall have passed a written or online examination for preengineered industrial fire extinguishing system maintenance that is approved by the state fire marshal. Completion of training and examination which would qualify the applicant for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this subparagraph. An organization which wishes to be approved pursuant to this subparagraph shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. For any training which commences on or after January 1, 2011, or testing which occurs on or after July 1, 2011, such approval shall be obtained in advance.

d. For endorsement for installation of preengineered water-based fire protection systems in one- and two-family dwellings, the applicant shall show evidence of satisfactory completion of any training required by the manufacturer for installation of any system that the applicant will install. Completion of training and examination which would qualify the person for equivalent endorsement as a responsible managing employee of a certified fire extinguishing system contractor shall be deemed to meet the requirement of this paragraph.

276.3(4) Continuing education. A license may be renewed only if the licensee has completed 16 or more hours of continuing education in subjects related to the license and its endorsements during the two years preceding the date on which the new license will become effective if it is issued. The continuing education must consist of courses approved by the fire marshal and must have been completed by the licensee during the two years prior to the effective date of the renewal. Any person or organization which wishes to obtain approval for continuing education courses to satisfy the provisions of this subrule shall contact the program as specified in subrule 276.1(4) and shall follow the instructions received from the program. After January 1, 2011, prior approval must be obtained before a licensee may take a course for which credit toward the requirements of this subrule will be sought.

276.3(5) Temporary license requirements. A person may be issued a temporary license upon submission of an application to the state fire marshal with proof of equivalent licensure or certification in another state, accompanied by the applicable fee. The state fire marshal may require the submission of any documentation of licensure or certification in another state that the state fire marshal deems necessary. A temporary license may be used only in an area which is or has been within the past 180 days subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6. A temporary license shall be in effect for 90 days from the date of issuance and may be renewed once for an additional 90 days.

661—276.4(100D) Application and fees.

276.4(1) Application. Any person seeking licensure as a fire protection system installer and maintenance worker shall submit a completed application form to the fire marshal. The application shall be filed no later than 30 days prior to the date on which licensure is required or on which an existing license expires. An application form may be obtained from the fire marshal or from the Web site of the fire protection system installer and maintenance worker licensing program. The application form shall be submitted with all required attachments and the required license fee established in subrule 276.4(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The Web site for the fire protection system installer and maintenance worker licensing program is <http://www.dps.state.ia.us/fm/building/fscpp/index.shtml>.

276.4(2) License fee.

a. The fee for a permanent or provisional license, except for a trainee license, shall be \$200. If an application is denied, all except \$25 of the fee may be refunded if the applicant applies to the fire marshal for a refund. No refund of the license fee shall be made if the license is revoked or if the denial

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of the license is based on the applicant's knowingly including false or misleading information on the application. If an application for a license provides for more than one endorsement as provided in subrule 276.1(2), there shall be an additional fee of \$25 for each endorsement beyond the first.

b. The fee for a trainee license shall be \$100.

c. The fee for a temporary license shall be \$50. A temporary license may be renewed once; the renewal fee shall be \$50.

276.4(3) Payment. The license fee shall be submitted by draft, check, or money order in the applicable amount payable to the Iowa Department of Public Safety. The memo portion of the check should have the following notation: "Fire Protection System Installer and Maintenance Worker Licensing Program."

276.4(4) Amended license.

a. The fee for issuance of an amended license is \$25. The fee shall be submitted with a request for an amended license. A licensee shall request and the fire marshal shall issue an amended license for any of the following reasons:

- (1) A change in employer;
- (2) A change in insurance coverage; or
- (3) A change in any other material information included in or with the initial or renewal application.

A change of address is a material change. However, if the request for an amended license is solely for a change of business address, the former address of the business is in an area subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6, and the relocation occurs as a result of flooding or storm damage or other conditions which form a basis for the issuance of the disaster emergency proclamation, the fee shall not apply, although an amended license shall be issued.

b. Other changes in the information required in the application form, including renewal of insurance coverage with a new expiration date, shall be reported to the fire marshal but shall not require issuance of an amended license or payment of the amended license fee.

276.4(5) Attachments. Required attachments to the application for a license include, but are not limited to, the following:

a. Documentation verifying that the applicant has in force the insurance coverage required by subrule 276.3(1). The documentation shall include an acknowledgment that the applicant's or employer's insurance coverage extends to any work performed by the licensee within the scope of licensure pursuant to this chapter. The documentation may consist of a letter from the insurance carrier, a copy of the insurance certificate with an endorsement showing the required information, or a signed statement from the applicant's employer attesting that the employer has insurance coverage in effect equivalent to the coverage required by subrule 276.3(1).

b. If the application requests licensure based on work experience, the applicant shall attach a notarized affidavit attesting that the applicant has the required experience.

NOTE: An applicant may contact the fire protection system installer and maintenance worker licensing program for assistance with the wording of the affidavit.

661—276.5(100D) Complaints.

276.5(1) Complaints regarding the performance of any licensed fire protection system installer and maintenance worker; failure of a licensee to meet any of the requirements established in 2009 Iowa Code Supplement chapter 100D as amended by 2010 Iowa Acts, Senate File 2355, or this chapter or any other provision of law; or persons operating as fire protection system installers and maintenance workers without licensure may be filed with the fire marshal. Complaints should be addressed as follows:

Fire Protection System Installer and Maintenance Worker Licensing Program
Fire Marshal Division
Iowa Department of Public Safety
215 East 7th Street
Des Moines, Iowa 50319

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276.5(2) Complaints may be submitted by electronic mail to fescpp@dps.state.ia.us or by facsimile to (515)725-6172.

276.5(3) Complaints should be as specific as possible and shall clearly identify the licensee or other person against whom the complaint is filed. Complaints shall be submitted in writing. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

661—276.6(100D) Denial, suspension, or revocation of licensure; civil penalties; appeals. If a licensee or person who performs work requiring a license violates any provision of these rules or any other provision of law related to work requiring licensure pursuant to this chapter, the fire marshal may deny, suspend or revoke a license or assess a civil penalty to a licensee or to a person who performs work requiring licensure pursuant to this chapter and who is not licensed.

276.6(1) Denial. The fire marshal may deny an application for licensure:

a. If the applicant makes a false statement on the application form or in any other submission of information required for licensure. “False statement” means providing false information or failing to include material information, such as a previous criminal conviction or action taken by another jurisdiction, when requested on the application form or otherwise in the application process.

b. If the applicant fails to meet all of the requirements for licensure established in this chapter.

c. If the applicant is currently barred for cause from licensure equivalent to that provided for in this chapter in another jurisdiction.

d. If an applicant has previously been barred for cause from operating in another jurisdiction as a fire protection system installer and maintenance worker and if the basis of that action reflects upon the integrity of the applicant in operating as a fire protection system installer and maintenance worker. If an applicant is found to have been previously barred for cause from operating as a fire protection system installer and maintenance worker in another jurisdiction and is no longer barred from doing so, the fire marshal shall evaluate the record of that action with regard to the likelihood that the applicant would operate with integrity as a licensee. If an applicant is denied licensure under this paragraph, the applicant shall be notified of the specific reasons for the denial.

e. If the applicant has been convicted of a crime which reflects upon the integrity of the applicant in operating as a fire protection system installer and maintenance worker. If an applicant is found to have a criminal record, the fire marshal shall evaluate that record with regard to the likelihood that the applicant would operate with integrity as a licensee. If an applicant is denied licensure under this paragraph, the applicant shall be notified of the specific reasons for the denial.

276.6(2) Suspension. A suspension of a license may be imposed by the fire marshal for any violation of these rules or 2009 Iowa Code Supplement chapter 100D as amended by 2010 Iowa Acts, Senate File 2355, or for a failure to meet any legal requirement to operate as a fire protection system installer and maintenance worker in this state. Failure to provide any notice to the fire marshal as required by these rules shall be grounds for suspension. An order of suspension shall specify the length of the suspension and shall specify that correction of all conditions which were a basis for the suspension is a condition of reinstatement of the license even after the period of the suspension.

276.6(3) Revocation.

a. A revocation is a termination of a license. A license may be revoked by the fire marshal for repeated violations or for a violation which creates an imminent danger to the safety or health of individuals protected by a fire protection system incorrectly installed by a licensee or when information comes to the attention of the fire marshal which, if known to the fire marshal when the application was being considered, would have resulted in denial of the license.

b. A new application for a license from an applicant whose license has previously been revoked shall not be considered for a period of one year after the effective date of the revocation and, in any event, until every condition which was a basis for the revocation has been corrected. The fire marshal may specify in the revocation order a period longer than one year before a new application for a license may be considered. When a new application for a license from a person whose license was previously

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revoked is being considered, the applicant may be denied a license based upon the same information which was the basis for revocation even after any such period established by the fire marshal has expired.

276.6(4) *Civil penalties.* The fire marshal may impose a civil penalty of up to \$500 per day during which a violation has occurred and for every day until the violation is corrected. A civil penalty may be imposed in lieu of or in addition to a suspension or may be imposed in addition to a revocation. A civil penalty shall not be imposed in lieu of a revocation.

276.6(5) *Suspension or revocation for nonpayment of child support.* The following procedures shall apply to actions taken by the fire marshal on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code chapter 252J:

a. The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

b. The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service upon the licensee.

c. Licensees shall keep the fire marshal informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J and shall provide the fire marshal with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

d. All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 252J.

e. In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code sections 252J.8 and 252J.9, the fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the fire marshal 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.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively to the fire marshal or within the department of public safety.

NOTE: The procedures established in subrule 276.6(5) implement the requirements of Iowa Code chapter 252J. The provisions of Iowa Code chapter 252J establish mandatory requirements for an agency which administers a licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A but must be appealed directly to district court.

276.6(6) *Suspension or revocation for nonpayment of debts owed state or local government.* The following procedures shall apply to actions taken by the fire marshal on a certificate of noncompliance received from the Iowa department of revenue pursuant to Iowa Code chapter 272D:

a. The notice required by Iowa Code section 272D.3 shall be served upon the licensee by regular mail.

b. The effective date of revocation or suspension of a license, as specified in the notice required by Iowa Code section 272D.3, shall be 20 days following service upon the licensee.

c. Licensees shall keep the fire marshal informed of all court actions and centralized collection unit actions taken under or in connection with Iowa Code chapter 272D and shall provide the fire marshal with copies, within 7 days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

d. All applicable fees for an application or reinstatement must be paid by the licensee before a license will be issued, renewed, or reinstated after the fire marshal has denied the issuance or renewal of a license or has suspended or revoked a license pursuant to Iowa Code chapter 272D.

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e. In the event the licensee files a timely district court action following service of a notice pursuant to Iowa Code section 272D.8, the fire marshal shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the fire marshal to proceed. For the purpose of determining the effective date of revocation or suspension of the license, the fire marshal 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.

f. Suspensions or revocations imposed pursuant to this subrule may not be appealed administratively to the fire marshal or within the department of public safety.

NOTE: The procedures established in subrule 276.6(6) implement the requirements of Iowa Code chapter 272D. The provisions of Iowa Code chapter 272D establish mandatory requirements for an agency which administers a licensing program, such as the one established in this chapter, and provide that actions brought under these provisions are not subject to contested case procedures established in Iowa Code chapter 17A but must be appealed directly to district court.

276.6(7) Appeals. Any denial, suspension, or revocation of a license, or any civil penalty imposed upon a licensee or other person under this rule, other than one imposed pursuant to subrule 276.6(5) or 276.6(6), may be appealed by the licensee or other person within 14 days of receipt of the notice. Appeals of actions taken by the fire marshal under this rule shall be to the commissioner of public safety and shall be treated as contested cases following the procedures established in rules 661—10.301(17A) through 661—10.332(17A).

These rules are intended to implement 2009 Iowa Code Supplement chapter 100D as amended by 2010 Iowa Acts, Senate File 2355.

[Filed 8/5/10, effective 10/1/10]

[Published 8/25/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/10.

ARC 9018B**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 adopts amendments to Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 11, "Gambling Games," and Chapter 12, "Accounting and Cash Control," Iowa Administrative Code.

Item 1 clarifies the existing subrule regarding firearms possession within licensed facilities.

Item 2 specifies the need for a standard operating procedure addressing surveillance maintenance, emergency plans, and capabilities.

Item 3 removes "implements of gambling" from the items for which written notice of sale or removal is required.

Item 4 allows for bonus systems that are connected or integrated with slot machines.

Item 5 allows for the keno payout to be 70 percent.

Item 6 makes unclaimed ticket adjustments consistent with slot machine tickets.

Item 7 prohibits gaming floor designation for the sole purpose of keno runners when no other gambling games are present.

Item 8 allows for slot machines that incorporate an ability-based bonus as a small percentage of the overall slot machine payout.

Item 9 clarifies what type of slot system access commission representatives have.

Item 10 clarifies what types of meters must be recorded by the slot machine game.

Item 11 clarifies what slot machines are progressive slot machines and what games are considered bonus features.

Item 12 clarifies what revenue exceptions shall be reported to the commission representative.

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Item 13 requires surveillance departments to be operated in an autonomous fashion.

Item 14 requires control for access to, method for removal of, and procedures governing the record of implements of gambling, such as cards and dice.

Item 15 clarifies key control of table game containers.

Item 16 clarifies key control of slot machine containers.

Item 17 clarifies what changes to the slot system shall be logged.

Item 18 allows for an emergency drop during defined circumstances.

Item 19 allows for alternative wear by the drop team when conducting the drop.

Item 20 allows for empty containers to be stored in a secure cart after the count.

Item 21 allows for the removal of containers for repair or destruction.

Item 22 clarifies when the table game information shall be reconciled in the accounting department.

These amendments are identical to those published under Notice of Intended Action in the May 5, 2010, Iowa Administrative Bulletin as **ARC 8726B**.

A public hearing was held on May 25, 2010, and no comments were received.

These amendments will become effective September 29, 2010.

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 [amendments to Chs 5, 11, 12] is being omitted. These amendments are identical to those published under Notice as **ARC 8726B**, IAB 5/5/10.

[Filed 7/30/10, effective 9/29/10]

[Published 8/25/10]

[For replacement pages for IAC, see IAC Supplement 8/25/10.]

ARC 9034B**REGENTS BOARD[681]****Adopted and Filed**

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

The amendment revises rule 681—1.7(262) to increase University of Iowa application fees for undergraduate international students from \$60 to \$85 and application fees for graduate/professional international students from \$85 to \$100 and adopts a new \$40 fee for nondegree students. The amendment increases Iowa State University application fees for undergraduate domestic students from \$30 to \$40, graduate domestic students from \$30 to \$40 and graduate international students from \$70 to \$90. A new application fee of \$40 for nondegree students is adopted for the University of Northern Iowa. The fee increases will help offset processing costs. The addition of the new application fees at the University of Iowa and the University of Northern Iowa for nondegree students is necessary because the processing of these applications takes as much time as the processing of applications for degree students.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 16, 2010, as **ARC 8854B**. A comment period was established. No comments were received. This amendment is identical to that published under Notice.

The Board of Regents adopted this amendment on August 5, 2010.

This amendment shall become effective on September 29, 2010.

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is adopted.

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Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$60 <u>\$85</u>
Graduate/professional domestic student	\$60
Graduate/professional international student	\$85 <u>\$100</u>
PharmD student	\$100
Re-entry fee	\$20
<u>Nondegree student</u>	<u>\$40</u>

Iowa State University

Undergraduate domestic student	\$30 <u>\$40</u>
Undergraduate international student	\$50
Graduate domestic student	\$30 <u>\$40</u>
Graduate international student	\$70 <u>\$90</u>
Veterinary Medicine	\$60

University of Northern Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$50
<u>Nondegree student</u>	<u>\$40</u>

This rule is intended to implement Iowa Code section 262.9(3).

[Filed 8/6/10, effective 9/29/10]

[Published 8/25/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/10.

ARC 9033B

REGENTS BOARD[681]

Adopted and Filed

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

The amendment revises rule 681—1.7(262) to increase the application fees for graduate domestic students at the University of Northern Iowa from \$30 to \$50; for graduate international students at the

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University of Northern Iowa from \$50 to \$70; and for students in Veterinary Medicine at Iowa State University from \$60 to \$75.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8807B**. A comment period was established. No comments were received. This amendment is identical to that published under Notice.

The Board of Regents adopted this amendment on August 5, 2010.

This amendment shall become effective on September 29, 2010.

This amendment is intended to implement Iowa Code section 262.9(3).

The following amendment is adopted.

Amend rule 681—1.7(262) as follows:

681—1.7(262) Application fees. Application fees required for admission to the University of Iowa, Iowa State University and the University of Northern Iowa are as follows:

University of Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$60
Graduate/professional domestic student	\$60
Graduate/professional international student	\$85
PharmD student	\$100
Re-entry fee	\$20

Iowa State University

Undergraduate domestic student	\$30
Undergraduate international student	\$50
Graduate domestic student	\$30
Graduate international student	\$70
Veterinary Medicine	\$60 <u>\$75</u>

University of Northern Iowa

Undergraduate domestic student	\$40
Undergraduate international student	\$50
Graduate domestic student	\$30 <u>\$50</u>
Graduate international student	\$50 <u>\$70</u>

This rule is intended to implement Iowa Code section 262.9(3).

[Filed 8/6/10, effective 9/29/10]

[Published 8/25/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/25/10.