



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Acting Administrative Code Editor

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### CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 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
<b>*Dec. 23 '09*</b>	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	<b>***May 26***</b>	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	<b>***June 23***</b>	July 14	Aug. 18	Nov. 15
May 14	June 2	June 22	July 7	July 9	July 28	Sep. 1	Nov. 29
<b>***May 26***</b>	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
<b>***June 23***</b>	July 14	Aug. 3	Aug. 18	Aug. 20	Sep. 8	Oct. 13	Jan. 10 '11
July 9	July 28	Aug. 17	Sep. 1	<b>***Sep. 1***</b>	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
<b>***Sep. 1***</b>	Sep. 22	Oct. 12	Oct. 27	<b>***Oct. 27***</b>	Nov. 17	Dec. 22	Mar. 21 '11
Sep. 17	Oct. 6	Oct. 26	Nov. 10	<b>***Nov. 10***</b>	Dec. 1	Jan. 5 '11	Apr. 4 '11
Oct. 1	Oct. 20	Nov. 9	Nov. 24	<b>***Nov. 24***</b>	Dec. 15	Jan. 19 '11	Apr. 18 '11
Oct. 15	Nov. 3	Nov. 23	Dec. 8	<b>***Dec. 8***</b>	Dec. 29	Feb. 2 '11	May 2 '11
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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 17, 2010	October 6, 2010
8	Friday, October 1, 2010	October 20, 2010
9	Friday, October 15, 2010	November 3, 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\*\*\***

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Deletion of HOME housing fund requirements, amendments to chs 21, 25 IAB 9/8/10 <b>ARC 9060B</b>	Northwest First Floor Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 28, 2010 3 to 4 p.m.
Iowans helping Iowans business assistance program, 78.8 to 78.18 IAB 9/8/10 <b>ARC 9066B</b> (See also <b>ARC 9067B</b> herein)	Iowa Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 28, 2010 10 to 11 a.m.

**EDUCATION DEPARTMENT[281]**

Public charter and innovation zone schools, 68.1 to 68.7, 68.11 to 68.15 IAB 8/25/10 <b>ARC 9014B</b>	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 <b>ARC 8999B</b>	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	September 13, 2010 1 p.m.
Authorization permit for discharge of biological and chemical pesticides to waters of the United States, 60.3, 64.3, 64.4, 64.6, 64.8(2), 64.15(7), 64.16(6), 66.1 IAB 9/8/10 <b>ARC 9056B</b>	Municipal Utilities Conference Room 15 W. Third St. Atlantic, Iowa (Parking available in municipal lot south of building)	September 28, 2010 6 p.m.
	City Hall Community Room 15 N. Sixth St. Clear Lake, Iowa	September 29, 2010 1 p.m.
	Public Library 609 Cayuga St. Storm Lake, Iowa	September 30, 2010 11 a.m.
	Public Library 304 N. Franklin St. Manchester, Iowa	October 5, 2010 11 a.m.
	Public Library 115 W. Washington St. Washington, Iowa (Attendees requested to park around the city park across from the library)	October 6, 2010 11 a.m.
	Auditorium, Wallace State Office Bldg. 502 E. Ninth St. Des Moines, Iowa	October 7, 2010 6 p.m.

**HUMAN SERVICES DEPARTMENT[441]**

Collection of court-ordered support, 95.6, 95.7(8)"b," 98.81 IAB 8/25/10 <b>ARC 9026B</b>	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.

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

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]**

Regulatory asset adequacy issues  
summary, 5.34(7)“c”(1)  
IAB 9/8/10 **ARC 9069B**

Lobby Conference Room  
330 Maple St.  
Des Moines, Iowa

September 28, 2010  
10 a.m.

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(X factors) in deficiency reserve  
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Lobby Conference Room  
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Des Moines, Iowa

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

September 15, 2010  
6 p.m.

**TREASURER OF STATE[781]**

LIFT small business loan  
program—eligibility, 4.6(3)  
IAB 9/8/10 **ARC 9039B**

Room 114  
State Capitol Building  
Des Moines, Iowa

September 30, 2010  
2 p.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 9060B

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to amend Chapter 21, “Division Responsibilities,” and Chapter 25, “Housing Fund,” Iowa Administrative Code.

The proposed amendments remove requirements related to the HOME Housing Fund. In January of 2010, the Governor transferred the HOME Housing Fund to the Iowa Finance Authority by executive order. Because the Department no longer administers the HOME program, the proposed amendments delete references to and any programmatic details regarding the HOME Housing Fund. The Iowa Finance Authority has adopted rules to administer the program (265—Chapter 39).

The Department will receive public comments concerning the proposed amendments until 4:30 p.m. on September 28, 2010. Interested persons may submit written comments to Leslie Leager, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; E-mail [Leslie.Leager@iowa.gov](mailto:Leslie.Leager@iowa.gov); or telephone (515)725-3071.

The Iowa Department of Economic Development will hold a public hearing Tuesday, September 28, 2010, from 3 to 4 p.m. The public hearing will be held in the Northwest First Floor Conference Room at the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa.

These amendments are intended to implement Iowa Code section 15.108.

The following amendments are proposed.

ITEM 1. Amend subrule 21.2(2) as follows:

**21.2(2) *Investment management.*** Investment management staff provide compliance and monitoring activities for programs including, but not limited to, the community development block grant (CDBG) program, community development fund (CDF) program, emergency shelter grants program (ESGP), homeless shelter operation grants (HSOG) program, ~~HOME program~~, and revitalization assistance for community improvement (RACI).

ITEM 2. Amend subrule 21.2(4) as follows:

**21.2(4) *Infrastructure (project initiative and technical assistance).*** Functions performed in this category include, but are not limited to, administration of the following programs: CDBG, community facilities and services, ESGP, and HSOG, ~~and HOME~~.

ITEM 3. Amend rule 261—25.1(15) as follows:

**261—25.1(15) Purpose.** The primary purpose of the housing fund, made up of federal CDBG ~~and HOME~~ funds, is to ~~expand or~~ retain the supply of decent and affordable housing for low- and moderate-income Iowans.

ITEM 4. Amend rule 261—25.2(15) as follows:

**261—25.2(15) Definitions.** When used in this chapter, unless the context otherwise requires:

“*Activity*” means one or more specific owner-occupied housing rehabilitation activities, projects or programs assisted through the housing fund.

“*Administrative plan*” means a document that a housing fund recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

“*American Dream Downpayment Initiative (ADDI)*” means ~~a program to be used for the purpose of making down payment and closing cost or acquisition assistance to low income families who are~~

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

~~first-time homebuyers for the purchase of single-family housing that will serve as the family's principal residence.~~

~~"CDBG" means the community development block grant non-entitlement program, the grant program authorized by Title I of the Housing and Community Development Act of 1974, for counties and cities, except those designated by HUD as entitlement areas.~~

~~"CHDO" means community housing development organization, a nonprofit organization registered with the Iowa secretary of state and certified as such by IDEED, pursuant to 24 CFR 92.2 (April 1, 1997).~~

~~"Consolidated plan" means the state's housing and community development planning document and the annual action plan update approved by HUD.~~

~~"Development subsidies" means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing that is in compliance with the Iowa green communities criteria. In such cases, the total cost of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.~~

~~"Displaced homemaker" means an individual who (1) is an adult; (2) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.~~

~~"First-time homebuyer" means an individual or an individual and the individual's spouse who have not owned a home during the three-year period before the purchase of a home with HOME or ADDI assistance, except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with the individual's spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence during the three-year period before purchase of a home with HOME assistance, a dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.~~

~~"Gut rehabilitation" means an activity or project that involves the total removal and replacement of all interior (nonstructural) systems, equipment, components or features of a multifamily structure, whereby the existing structure will be reduced down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). "Gut rehabilitation" may also include structural or nonstructural modifications to the exterior of the structure.~~

~~"HART" means the housing application review team, a body of affordable housing funding agencies which meets to review housing proposals.~~

~~"HOME" means the HOME investment partnerships program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.~~

~~"Housing fund" means the program implemented by this chapter and funded through the state's annual HOME allocation from HUD and 25 percent of the state's CDBG allocation from HUD.~~

~~"HUD" means the U.S. Department of Housing and Urban Development.~~

~~"IDEED" means the Iowa department of economic development.~~

~~"IFA" means the Iowa finance authority.~~

~~"Iowa green communities criteria" means a set of rating factors, some optional and some mandatory, prepared by IDEED and intended to promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices.~~

~~"Lead hazard reduction or abatement carrying costs" means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. "Lead hazard reduction or abatement carrying costs" includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.~~

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

~~“LIHTC” means low-income housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through the Iowa finance authority for affordable rental housing development.~~

~~“Local financial support” means financial investment by the recipient through the use of the recipient’s own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the housing fund and that are used during the same time frame as the requested housing activity or project.~~

~~“Local support” means involvement, endorsement and investment by citizens, organizations and the governing body of the local government in which the housing project is located that promote the objectives of the housing activity or projects assisted through the housing fund.~~

~~“Net proceeds” means the amount determined by calculating the difference between the resale price and the amount of the outstanding principal loan balance owed plus any seller’s reasonable and customary closing costs associated with the resale.~~

~~“New construction rental units” means the on-site construction or erection of a building, or buildings, for the purpose of providing rental housing units. New construction rental units include conventional, on-site, stick-built construction and on-site erection or fabrication of manufactured housing units or components of units. New construction rental units also include the addition of any rental units outside the existing walls (the building envelope) of an existing building, or buildings, that are part of a rental rehabilitation, renovation or conversion project.~~

~~“Program income” means funds generated by a recipient or subrecipient from the use of CDBG or HOME funds.~~

~~“Reasonable and customary closing costs” means:~~

~~1. Seller’s reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, deed preparation fees, bringing current the seller’s county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.~~

~~2. Buyer’s reasonable and customary closing costs include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys’ fees, appraisal fees, and required inspection fees. Ineligible costs under this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, and lender discount points.~~

~~“Recaptured funds” means housing fund moneys which are recouped by the recipient when the housing unit assisted by the housing fund home ownership dollars does not continue to be the principal residence of the assisted homebuyer owner for the full affordability period required by federal statute the program.~~

~~“Recipient” means the entity under contract with IDED to receive housing funds and undertake the funded housing activity.~~

~~“Repayment” means housing fund moneys which the recipient must repay to IDED because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal requirements.~~

~~“Single-family unit” means one dwelling unit designated or constructed to serve only one household or family as the primary residence. Single-family units include a detached single unit, condominium unit, cooperative unit, or combined manufactured housing unit and lot.~~

~~“Single parent” means an individual who (1) is unmarried or is legally separated from a spouse and (2) is pregnant or has one or more minor children for whom the individual has custody or joint custody.~~

~~“Technical services” means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination~~

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

and verification, ~~(11) value determination (new construction) or after rehabilitation value determination (existing structures)~~, and ~~(12) (11) project-specific environmental clearance processes.~~

*“Technical services provision”* means the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, and (4) after rehabilitation value determination, and (5) project-specific environmental clearance.

ITEM 5. Amend rule 261—25.3(15) as follows:

**261—25.3(15) Eligible applicants.** Eligible applicants shall comply with all requirements in 261—23.5(15). Eligible applicants for housing fund assistance include all non-entitlement incorporated cities and all counties within the state of Iowa; ~~nonprofit organizations; CHDOs; and for-profit corporations, partnerships and individuals.~~

1. Any eligible applicant may apply directly.
2. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

ITEM 6. Amend rule 261—25.4(15) as follows:

**261—25.4(15) Eligible activities Eligibility and forms of assistance.**

~~25.4(1) Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance (including development subsidies);~~ The only eligible activity for the housing fund is owner-occupied housing rehabilitation, and other housing-related activities as may be deemed appropriate by IDED for low- to moderate-income households. Assisted housing ~~may~~ shall be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants as their principal residence. For owner-occupied housing rehabilitation, assisted households shall meet income limits established by federal program requirements. All single-family housing receiving rehabilitation assistance shall be rehabilitated in accordance with any locally adopted building or housing codes, standards, and ordinances. If locally adopted and enforced building or housing codes do not exist, the Iowa Minimum Housing Rehabilitation Standards shall apply.

~~a. Assisted units shall be affordable.~~

~~(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or a rent that does not exceed 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the assisted units shall rent at the lesser of the fair market rent or a rent that does not exceed 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly constructed units; 15 years for rehabilitated units receiving over \$40,000 per unit in assistance; 10 years for rehabilitated units receiving \$15,000 to \$40,000 per unit in assistance; and 5 years for projects receiving less than \$15,000 per unit.~~

~~(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction’s applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.~~

~~(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area. Assisted units shall remain affordable through recapture or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.~~

~~(4) For owner-occupied housing rehabilitation, the after rehabilitation value of the rehabilitated unit shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area.~~

~~b. Assisted households shall meet income limits established by federal program requirements.~~

~~(1) For rental activities, all assisted units shall be rented to households with incomes at or below 80 percent of the area’s median family income; at initial occupancy, 90 percent of the units shall be rented~~

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to households with incomes at or below 60 percent of the area's median family income and, for projects with five or more units, 20 percent of the units shall be rented initially to households with incomes at or below 50 percent of the area's median family income.

(2) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area's median family income.

(3) For home ownership assistance and owner-occupied rehabilitation, only households with incomes at or below 80 percent of the area median family income shall be assisted.

*c.* Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.

(1) All rental activities involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.

(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa's Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).

*d.* Iowa green communities criteria. All newly constructed housing (single-family and multifamily housing) and all multifamily rental activities involving gut rehabilitation shall meet the mandatory requirements of the Iowa green communities criteria. All other multifamily rental activities involving rehabilitation (that is, not gut rehabilitation) shall meet the applicable mandatory requirements of the Iowa green communities criteria regarding rehabilitation.

**25.4(2)** Eligible forms of IDED assistance to its recipients include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred-payment loans, forgivable loans or other forms of assistance as may be approved by IDED.

**25.4(3)** For all single-family housing renovation projects or activities assisting homeowners or homebuyers, the only form of housing fund assistance to the end beneficiary is a forgivable loan.

**25.4(4)** Special provisions for the American Dream Downpayment Initiative (ADDI). The purpose of the ADDI program is to provide down payment and closing cost or acquisition assistance for the purchase of a principal residence. This program is available only to low-income persons or households that are first-time homebuyers.

*a.* Applicant eligibility. Units of local government and nonprofit organizations may apply for ADDI funds.

*b.* Beneficiary requirements. Only first-time homebuyers (as defined in rule 261-25.2(15)) purchasing a principal residence and meeting income eligibility criteria may be the beneficiaries of ADDI assistance.

*c.* Eligible uses of funds. Only the purchase of single-family, single-unit housing may be assisted by the ADDI program and only in the following manner:

(1) As a down payment plus reasonable and customary closing costs on the purchase of a principal residence.

(2) As gap financing for the cost of acquisition of a principal residence for an eligible homebuyer.

*d.* Limitations on amounts of ADDI assistance.

(1) The per unit assistance is \$10,000.

(2) The maximum ADDI award per applicant is \$200,000.

*e.* ADDI program requirements. In addition to the housing fund program requirements stated within this chapter, the ADDI program requires specific federal regulations to be followed in the implementation of this program activity. Grant recipients must:

(1) Conduct targeted outreach to public housing tenants and families receiving rental assistance from public housing agencies to encourage low- and moderate-income (LMI) households to move from renting to home ownership.

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- ~~(2) Ensure long-term affordability of all assisted units.~~
- ~~(3) Document income eligibility determination for all assisted units.~~
- ~~(4) Document that all assisted properties meet the property standards at 24 CFR 92.251.~~
- ~~(5) Require that all housing units assisted with ADDI funds meet the HUD maximum per unit subsidy level.~~
- ~~(6) Meet all applicable cross-cutting federal regulations included in the HOME statute, including but not limited to: federal regulations pertaining to nondiscrimination, fair housing practices, minority outreach, lead-safe housing regulations in assisted units constructed prior to January 1, 1978, and the Uniform Relocation Act (URA).~~

~~f. ADDI is considered as a separate home ownership assistance activity. ADDI funds may be used as a stand-alone activity or utilized in conjunction with another housing fund-eligible home ownership activity.~~

ITEM 7. Amend rule 261—25.5(15) as follows:

**261—25.5(15) Application procedure review.** All potential housing fund applicants are encouraged, but not required, to complete and submit a HART form describing the proposed housing activity prior to the submittal of a formal housing fund application. If the proposal is determined to be appropriate for housing fund assistance, IDEED shall inform the applicant of the appropriate application procedure by mail.

**25.5(1) Joint applications.** HART forms shall be available upon request from IDEED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4825; and at [iowalifechanging.com/community](http://iowalifechanging.com/community).

**25.5(2) HART forms are accepted year-round.**

**25.5(3) Applicants may request technical assistance from staff contacts in the preparation of housing fund applications.**

*a.* If an applicant does not submit an application by the next application deadline, IDEED will determine the proposal inactive and remove it from the HART files.

*b.* Upon the submission of a housing fund application, no additional staff assistance shall be provided during the review period.

**25.5(4) Housing fund applications.** Housing fund applications shall be reviewed through an annual competition. IDEED reserves the right to withhold funding from the annual housing fund competitive cycle to compensate for insufficient numbers or quality of applications received; to ensure that IDEED meets its 15 percent CHDO set-aside from HOME funds; to add HOME funds to existing HOME awards within one year of the original award date; and to reallocate de-obligated or recaptured funds; and to fund projects that are consistent with Iowa green communities criteria. In the event that funds are withheld from the annual competitive cycle, IDEED will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IDEED.

**25.5(5) Joint applications.** For applicants requesting funding for both the housing fund and low-income housing tax credit (LIHTC) programs, the applicant may request application forms and related materials from the Iowa finance authority (IFA). IFA will make available an application package to a potential applicant. The applicant must submit the completed application, with required housing fund attachments, to IFA by the deadline established in the application package.

*a.* IDEED and IFA shall appoint a joint review team to discuss and review applications for housing fund and LIHTC funds. Staff for each agency may communicate frequently regarding common projects. Information contained in each application may be shared with each agency.

*b.* IDEED staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final award decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan (scoring and set-asides). Staff from each agency will make recommendations for funding to their respective decision makers. A decision by one agency does not bind the other agency to fund a project.

*c.* An applicant for the housing fund must meet the threshold requirements outlined in rules 25.4(15) and 25.6(15) and subrule 25.7(3) in order to be considered for an award under this subrule.

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ITEM 8. Amend rule 261—25.6(15) as follows:

**261—25.6(15) Minimum application requirements.** To be considered for housing fund assistance, an application shall meet the following threshold criteria:

**25.6(1)** The application shall propose ~~a housing activity~~ an owner-occupied housing rehabilitation program consistent with the housing fund purpose and eligibility requirements, sustainability and smart growth principles, and the state consolidated plan.

**25.6(2)** The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IDED reserves the right to deny funding to an applicant that has failed to comply with federal and state requirements in the administration of a previous project funded by IDED. Documentation of the ability of the applicant to provide technical services and of the availability of certified lead professionals and contractors ~~either trained in safe work practices or certified as abatement contractors~~ may also be required as applicable to the housing fund activity.

**25.6(3)** The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, consistency with sustainability and smart growth principles, and the feasibility of the proposed activity.

**25.6(4)** The application shall demonstrate local support for the proposed activity.

~~25.6(5) The application shall show that a need for housing fund assistance exists after all other financial resources have been identified and secured for the proposed activity.~~

~~25.6(6)~~ **25.6(5)** The application shall include a certification that the applicant will comply with all applicable state and federal laws and regulations.

~~25.6(7) An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IDED HOME funds requested. Sources of a local PJ financial commitment could include one or more of the following: HOME, CDBG, TIF, tax abatement, or general funds. This requirement is waived for awards made by the department during federal HOME program year 2010 (October 1, 2009—September 30, 2010).~~

~~25.6(8) An application for a home ownership assistance activity must indicate that recipients will require the beneficiaries of their home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:~~

~~a.—With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual home ownership assistance projects.~~

~~b.—The housing fund assistance may be recorded in junior position to the principal mortgage loan, but must be recorded in senior position to any and all other funding in all home ownership assistance projects. Recipients of housing fund home ownership assistance activities must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other forms of assistance, such as home equity loans.~~

~~c.—Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:~~

~~(1) Loan interest rates may be no higher than four percentage points above the federal prime interest rate at the time of loan closing;~~

~~(2) Loan terms will include an 80 percent or higher loan-to-value ratio;~~

~~(3) No less than a 15-year, fully amortized, fixed-rate mortgage may be used; and~~

~~(4) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.~~

~~d.—Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa Finance Authority; USDA Rural Development; Federal Home Loan Bank; HUD (including FHA and VA); Habitat for Humanity; Fannie Mae; or Freddie Mac.~~

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~~25.6(9)~~ An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time homebuyers only, and that the assisted unit will remain as the assisted homebuyer's principal residence throughout the required period of affordability.

ITEM 9. Amend rule 261—25.7(15) as follows:

**261—25.7(15) Application review criteria.** IDED shall evaluate applications and make funding decisions based on general activity criteria, need, impact, sustainability and ~~smart growth principles,~~ feasibility, and activity administration based upon the specific type of activity undertaken. ~~The activity criteria shall be a part of the application.~~ A workshop will be held at least 60 days prior to the application deadline to provide information, materials, and technical assistance to potential applicants.

~~25.7(1)~~ As applicable, the review criteria for home ownership assistance applications shall include the following:

- ~~a. — General criteria.~~
    - ~~1. — Activity objectives.~~
    - ~~2. — Total number of units.~~
    - ~~3. — Activities and cost estimates.~~
    - ~~4. — If new construction, availability of necessary infrastructure and utilities.~~
    - ~~5. — Form(s) of assistance.~~
    - ~~6. — Type(s) of assistance (e.g., mortgage buy-down, development subsidy, down-payment, closing costs, rehabilitation, and combinations thereof).~~
    - ~~7. — Median purchase price for single-family housing in the community.~~
    - ~~8. — Initial purchase price or after rehabilitation value per assisted unit limitation.~~
    - ~~9. — Mortgage lender participation documentation and the current underwriting standards.~~
    - ~~10. — Methodology to determine maximum amount of conventional financing affordable to buyer.~~
    - ~~11. — Selection criteria for participants and their access to the proposed activity.~~
    - ~~12. — Methodology to ensure that the property will be the buyer's principal residence throughout the period of affordability.~~
    - ~~13. — Assurance of compliance with HUD lead-safe housing regulations as applicable.~~
    - ~~14. — Compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards, local standards, codes, and ordinances, or the state building code, as each may be applicable.~~
    - ~~15. — Activity time line.~~
  - ~~b. — Need, impact and feasibility criteria.~~
    - ~~1. — Number and percentage of low- and moderate-income persons in the applicant community.~~
    - ~~2. — Evidence and documentation of need for the activity.~~
    - ~~3. — Percentage of need to be met through the activity.~~
    - ~~4. — Reasons mortgage applications have been denied by local lenders.~~
    - ~~5. — Housing costs, housing supply, condition of available housing, and vacancy rates.~~
    - ~~6. — If acquisition for new construction, documentation of need for new units.~~
    - ~~7. — Recent or current housing improvement activities.~~
    - ~~8. — Description of current and ongoing comprehensive community development efforts.~~
    - ~~9. — Publicity promoting the proposed activity and identification of local partners.~~
    - ~~10. — Number of potential participants and the method by which they were identified.~~
    - ~~11. — New businesses or industrial growth in the past five years.~~
    - ~~12. — Local involvement and financial support.~~
  - ~~c. — Administrative criteria.~~
    - ~~1. — Plan for activity administration.~~
    - ~~2. — Previous activity administrative experience.~~
    - ~~3. — Budget for general administration.~~
    - ~~4. — Recapture or resale provisions, terms, and enforcement procedures.~~
    - ~~5. — Prior funding received and performance targets completed.~~
- ~~25.7(2)~~ **25.7(1)** As applicable, the review criteria for owner-occupied housing rehabilitation applications shall include the following:

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

- a. General criteria.*
- 1- (1) Activity objectives.
  - 2- (2) ~~Area~~ Target area of benefit and reason for selection.
  - 3- (3) Condition of infrastructure in the activity area served.
  - 4- (4) Form of assistance to homeowners
  - 5- (5) Selection criteria for participants.
  - 6- (6) Method to determine that the property is the homeowner's principal residence.
  - 7- (7) ~~Compliance~~ Assurance of compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards.
  - 8- (8) Assurance of compliance with HUD lead-safe housing regulations, as applicable.
  - 9- (9) Plans for properties infeasible to rehabilitate.
  - 10- (10) Activity time line.
- b. Need, impact and feasibility criteria.*
- 1- (1) Evidence of need for the activity.
  - 2- (2) Percentage of need to be met through the activity.
  - 3- (3) Number and percentage of low- and moderate-income persons in the community.
  - 4- (4) Housing costs, housing supply, ~~condition of housing~~, vacancy rate of owner-occupied units in the activity area served.
  - 5- (5) Other recent or current housing improvement activities in the ~~activity area served or~~ community served.
  - 6- (6) Ongoing comprehensive community development efforts in the activity area served.
  - 7- (7) New businesses or industries in the past five years in the community, including startup dates.
  - 8- (8) Local involvement and financial support.
  - (9) Condition of housing in the target area in the following criteria:
    1. Number of housing units with minor deficiencies.
    2. Number of housing units requiring replacement of one or two of the major components.
    3. Number of housing units requiring both replacement of several major components and structural work.
    4. Number of dilapidated housing units.
- c. Administrative criteria.*
- 1- (1) Plan for activity administration.
  - 2- (2) Previous activity management experience.
  - 3- (3) Budget for general administration.
  - (4) Budget for technical services assistance.
  - 4- (5) List of prior CDBG ~~or HOME~~ owner-occupied rehabilitation funding and performance targets completed.
  - 6- If application is for a continuation of a prior activity, list of performance targets completed.
- 25.7(3)** ~~As applicable, the review criteria for rental housing assistance applications shall include the following:~~
- a. General criteria.*
- 1- ~~Activity objectives.~~
  - 2- ~~Total number of units and number of assisted units.~~
  - 3- ~~Activities and cost estimates.~~
  - 4- ~~Eligibility criteria for renters of assisted units (income, age, disability, other).~~
  - 5- ~~Rationale for activity location.~~
  - 6- ~~Availability and condition of infrastructure; availability of utilities.~~
  - 7- ~~Zoning compliance.~~
  - 8- ~~Environmental issues.~~
  - 9- ~~Potential tenant displacement including estimated Uniform Relocation Act (URA) costs.~~
  - 10- ~~Accessibility.~~
  - 11- ~~Assurance of compliance with HUD lead-safe housing regulations, as applicable.~~
  - 12- ~~Activity time line.~~

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*b. Need, impact and feasibility criteria.*

1. Evidence of need for the activity.
2. Percentage of need to be met through this activity.
3. Number and percentage of low and moderate income persons in the community.
4. Number of renters and owners.
5. Housing costs, housing supply, condition of available housing, rental vacancy rate in the community.
6. If new construction, documentation of need for new construction.
7. Other recent or current housing improvement activities in the activity area served or community served.
8. Ongoing comprehensive community development efforts in the activity area served or community served.
9. New businesses or industries in the past five years in the community.
10. Local involvement and financial support.
11. Opposition to the activity and plans to alleviate concerns.
12. Financial contribution to the activity from other sources (including all underwriting criteria).
13. Reason for "gap" in activity financing; justification for housing fund request amount.

*c. Administrative criteria.*

1. Plan for activity administration and property management.
2. Previous administrative experience.
3. Plan to ensure long-term affordability.
4. Plan for annual certification of tenant eligibility and compliance with the applicable property standards and any ongoing maintenance to ensure long-term lead-safe housing.
5. Previous CDBG or HOME funded housing activities and current status.
6. Applicant's other rental housing activities and addresses.

**25.7(4)** As applicable, the review criteria for tenant-based rental assistance applications shall include the following:

*a. General criteria.*

1. Activity objectives.
2. Rationale for amount of assistance per beneficiary.
3. Selection criteria for participants.
4. Form of assistance.
5. Use of assistance (rental and security deposits, rent assistance).
6. Length of time of assistance.
7. Portability of rental assistance.
8. Rent calculation.

*b. Need, impact and feasibility criteria.*

1. Number and percentage of low and moderate income persons in the applicant community.
2. Percentage of income that potential beneficiaries currently pay for rent.
3. Area rental housing costs by unit based on number of bedrooms.
4. Availability of affordable rental housing.
5. Public housing authority waiting list.
6. Documentation of other indicators of need for tenant-based rental assistance (TBRA).
7. Percentage of need to be met through this activity.
8. Alternatives to the proposed activity that were considered.
9. Coordination of this activity with other housing assistance.
10. Other providers of TBRA in the community.
11. Description of efforts to obtain additional funding from other sources for TBRA.
12. Evidence of local involvement and financial support.
13. Opposition to activity and method to address it.
14. Economic indicators in community (unemployment rate, increase/decrease opportunity).
15. Activity time line.

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~~16. Overall vacancy rate of rental units in the community.~~

~~e. Administrative criteria.~~

~~1. Plans for administering the activity.~~

~~2. Description of previous administrative experience.~~

~~3. Budget for administration.~~

~~4. Plan for annual certification of tenant eligibility and compliance with Section 8 HQS.~~

~~5. Prior CDBG or HOME housing grants.~~

~~6. Prior activities funded and performance targets completed.~~

~~25.7(5) 25.7(2)~~ IDED staff may conduct site evaluations of proposed activities.

ITEM 10. Amend rule 261—25.8(15) as follows:

**261—25.8(15) Allocation of funds.**

~~25.8(1)~~ IDED may retain a portion of the amount provided for at rule 261—23.4(15) of the state's annual CDBG allocation from HUD and up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

~~25.8(2)~~ Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

~~25.8(3)~~ IDED reserves the right to reserve a portion of the state's annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits.

~~25.8(4)~~ IDED will determine the appropriate source of funding, either CDBG or HOME, for each housing fund award based on the availability of funds, the nature of the housing activity and the recipient type.

~~25.8(5) 25.8(2)~~ IDED reserves the right to limit the amount of funds that shall be awarded for any single activity type.

~~25.8(6)~~ Awards shall be limited to no more than \$500,000 for all single-family activities assisting homeowners or homebuyers. Awards shall be limited to no more than \$900,000 for all multifamily rental activities.

~~25.8(7) 25.8(3)~~ Single-family per unit subsidies.

~~a.~~ The maximum per unit subsidy for all single-family activities involving rehabilitation projects is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; home-ownership assistance activities; technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with housing funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to \$4,500 per unit.

~~b.~~ Assistance for single-family activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

~~c.~~ Assistance for single-family activities providing development subsidies for newly constructed housing is limited to \$20,000 per unit. Development subsidies may be provided in addition to acquisition assistance activities.

~~25.8(8)~~ Multifamily per unit subsidies. The maximum per unit housing fund subsidy for all multifamily activities is \$60,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$60,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

~~25.8(9) 25.8(4)~~ Recipients shall identify general administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total housing fund award. Only local government and nonprofit recipients are eligible for general administrative funds.

~~25.8(10) 25.8(5)~~ IDED reserves the right to negotiate the amount and terms of a housing fund award.

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

~~25.8(11)~~ IDED reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

ITEM 11. Amend rule 261—25.9(15) as follows:

**261—25.9(15) Administration of awards.** Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

~~25.9(1)~~ A preaudit survey may be required for all for-profit and nonprofit direct recipients for grants that exceed \$150,000.

~~25.9(2)~~ **25.9(1)** A contract shall be executed between the recipient and IDED. These rules, the approved housing fund application, the housing fund management guide and all applicable federal and state laws and regulations shall be part of the contract.

*a.* The recipient shall execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for IDED to terminate the award.

*b.* Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Contracts may be conditioned upon the timely completion of these requirements.

*c.* Awards shall be conditioned upon commitment of other sources of funds ~~necessary to complete the housing activity included in the application budget.~~

*d.* Release of funds shall be conditioned upon IDED's receipt of an administrative plan for the funded activity.

*e.* Release of funds shall be conditioned upon IDED's receipt and approval of documentation of environmental clearance.

~~25.9(3)~~ **25.9(2)** Local administrative and technical services contracts.

*a.* Recipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed.

*b.* Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed.

*c.* Recipients that employ a third party to perform all or part of the general administration for the recipient and that also employ a third party to perform all or part of the technical services for the recipient shall conduct separate procurement transactions and shall enter into separate contractual agreements for each: one contract for general administration and one contract for technical services. Separate contracts are required even if both functions are performed by the same third-party entity.

~~25.9(4)~~ **25.9(3)** Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds.

~~25.9(5)~~ **25.9(4)** Record keeping and retention.

*a.* CDBG-funded projects. For CDBG-funded projects, the recipient shall retain all financial records, supporting documents and all other records pertinent to the funded activity for five years after the state of Iowa has closed out the corresponding program year with HUD.

~~*b.* HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in the following:~~

~~(1) For rental housing projects, records may be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates;~~

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

~~(2) For home ownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates;~~

~~(3) For tenant based rental assistance projects, records must be retained for five years after the period of rental assistance terminates;~~

~~(4) Written agreements must be retained for five years after the agreement terminates;~~

~~(5) For records covering displacements and acquisitions, see 24 CFR 92.508;~~

~~(6) For records relating to litigation, see 24 CFR 92.508.~~

*e. b.* Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

~~25.9(6)~~ **25.9(5)** Performance reports and reviews. Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform reviews or field inspections necessary to ensure recipient performance.

~~25.9(7)~~ **25.9(6)** Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the CEO of the recipient and are not considered valid until approved in writing by IDED following the procedure specified in the contract between the recipient and IDED.

~~25.9(8)~~ **25.9(7)** Contract closeout. Upon the contract expiration date or work completion date, as applicable, IDED shall initiate closeout procedures. Recipients shall comply with applicable audit requirements described in the housing fund application and management guide.

~~25.9(9)~~ **25.9(8)** Compliance with federal, state and local laws and regulations. Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

~~25.9(10)~~ **25.9(9)** Remedies for noncompliance. At any time, IDED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDED's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to IDED. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable federal, state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

~~25.9(11)~~ **25.9(10)** Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IDED staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IDED. Appeals should be addressed to the division administrator of the division of community and rural development. Appeals shall be in writing and submitted to IDED within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The IDEED director will make the final decision on all appeals.

**ARC 9066B****ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 15.104 and 15.108, the Iowa Department of Economic Development proposes to adopt amendments to Chapter 78, “Small Business Disaster Recovery Financial Assistance Program,” Iowa Administrative Code.

These amendments implement a new business loan program to provide disaster relief assistance to businesses physically damaged by the 2010 natural disasters that are in presidentially declared disaster areas eligible for individual assistance.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on September 28, 2010. Interested persons may submit written or oral comments by contacting Peggy Russell, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3009; or E-mail [peggy.russell@iowa.gov](mailto:peggy.russell@iowa.gov).

The Department will hold a public hearing on September 28, 2010, from 10 to 11 a.m. to receive comments on these amendments. The public hearing will be held in the Iowa Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9067B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 15.108.

**ARC 9056B****ENVIRONMENTAL PROTECTION COMMISSION[567]****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 455B.105(11), 455B.173, 455B.186 and 455B.197, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 64, “Wastewater Construction and Operation Permits,” and Chapter 66, “Pesticide Application to Waters,” Iowa Administrative Code.

The purpose of this rule making is to allow for the use of a new General Permit (No. 7) to authorize discharge of biological pesticides and chemical pesticides which leave a residue to waters of the United States, as required by U.S. Sixth Circuit Court of Appeals in their decision on January 7, 2009. This decision vacated the U.S. EPA’s final rule exempting pesticides applied in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the Clean Water Act (CWA) permitting requirements. The states and EPA have until April 9, 2011, to issue final general NPDES permits for pesticide applications.

Coverage under the draft NPDES Pesticides General Permit No. 7 (PGP) will be required for the application of: (1) biological pesticides whether or not they leave a residue, and (2) chemical pesticides which leave a residue (hereinafter collectively “pesticides”) that result in residue discharges to waters of

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

the United States. Applicable pesticide applications include those for control of aquatic nuisance insects; weeds, algae, and bacteria or fish parasites; aquatic nuisance animals; and forest canopy pests. Irrigation return flows and agricultural runoff are not covered under the PGP as they are specifically exempted from the CWA.

The draft permit requires all operators to implement Best Management Practices (BMPs) to minimize discharges resulting from pesticide applications. These BMPs include following label instructions, conducting regular equipment maintenance, and visually monitoring application sites when possible. Larger applicators will have additional requirements, including the submittal of a Notice of Intent (NOI) for coverage under the permit, the submittal of annual activity reports, and the preparation of pesticide discharge management plans.

The Commission invites further discussion and comments to determine if the thresholds proposed in the draft PGP that establish which operators submit an NOI are appropriate. The proposed thresholds are based on U.S. EPA's draft PGP and on comments from internal and external stakeholders. The Commission intends that only the largest pesticide applicators in the state will be required to submit NOIs for permit coverage. Specifically, the Commission is requesting information on how many operators in the state, including public entities, commercial applicators, and private applicators, will need to submit an NOI under the proposed thresholds. U.S. EPA has received comments on the thresholds proposed in its draft PGP, and the Commission will adjust the thresholds in Iowa's draft PGP as appropriate based on information from stakeholders and on U.S. EPA's final decision on the thresholds.

The Commission also invites further discussion and comments regarding the pesticide application activities covered, the appropriateness of the operator definition, and the reasonableness of the requirements for both NOI and non-NOI operators, as proposed in the draft PGP. Specifically, the Commission is requesting comments on whether more or less pesticide applications should be covered under the permit, if the operator definition is clear and reasonable, and if the requirements for NOI and non-NOI operators are overly burdensome or nonachievable.

The amendments to Chapters 60, 64, and 66 that are proposed herein to accompany the draft PGP found at [www.iowadnr.gov/water/npdes/pesticides.html](http://www.iowadnr.gov/water/npdes/pesticides.html) are summarized below.

Chapter 60:

(1) Add the new Notice of Intent, Notice of Termination, and Annual Reporting forms for the new General Permit No. 7.

Chapter 64:

(1) Exempt discharges of biological pesticides and chemical pesticide residues that do not reach the waters of the United States from the requirement to obtain a DNR operating permit.

(2) Require the issuance of a General Permit No. 7 (the PGP) for specific pesticide discharges that reach waters of the United States.

(3) Exempt pesticide discharges which do not meet the thresholds established in the PGP from the requirement to submit a Notice of Intent.

(4) Establish effective and expiration dates for the PGP.

(5) Exempt the PGP from the collection of permitting fees.

(6) Make other changes as needed to accommodate the issuance of the PGP.

Chapter 66:

(1) Add references to Chapter 64 and the PGP.

(2) Remove the existing requirements, the denial conditions, and the special conditions for the previous aquatic pesticides general permit. All of these requirements and conditions are included in the draft PGP.

Any interested person may file written comments on the proposed amendments on or before October 13, 2010. Written comments or questions regarding the proposed amendments should be directed to Courtney Cswercko, NPDES Section, Iowa Department of Natural Resources, 502 E. 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail [courtney.cswercko@dnr.iowa.gov](mailto:courtney.cswercko@dnr.iowa.gov).

Oral or written comments will also be accepted at six public hearings that will be held as follows:

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

September 28, 2010	6 p.m.	Atlantic Municipal Utilities Conference Room 15 West Third Street Atlantic, Iowa (Parking is available in the municipal lot south of the building.)
September 29, 2010	1 p.m.	Clear Lake City Hall Community Room 15 North Sixth Street Clear Lake, Iowa
September 30, 2010	11 a.m.	Storm Lake Public Library 609 Cayuga Street Storm Lake, Iowa
October 5, 2010	11 a.m.	Manchester Public Library 304 North Franklin Street Manchester, Iowa
October 6, 2010	11 a.m.	Washington Public Library 115 West Washington Street Washington, Iowa (The library requests that attendees park around the city park across the street from the library.)
October 7, 2010	6 p.m.	Wallace State Office Building Auditorium 502 E. Ninth Street Des Moines, Iowa

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

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

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 sections 455B.105(11), 455B.173, 455B.186 and 455B.197.

The following amendments are proposed.

ITEM 1. Adopt the following **new** paragraphs **60.3(2)“w”** and **“x”**:

w. Notice of Intent for Coverage Under NPDES General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” 542-XXXX.

x. Notice of Discontinuation From Coverage Under General Permit No. 7 542-XXXX.

ITEM 2. Reletter paragraph **60.3(3)“j”** as **60.3(3)“k.”**

ITEM 3. Adopt the following **new** paragraph **60.3(3)“j”**:

j. General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” Annual Monitoring Report 542-XXXX.

ITEM 4. Adopt the following **new** paragraph **64.3(1)“f”**:

f. Discharges from the application of biological pesticides and chemical pesticides which leave a residue where the discharge does not reach a water of the United States as defined in 40 CFR Part 122.2.

ITEM 5. Adopt the following **new** subparagraph **64.3(4)“b”(7)**:

(7) For the discharge of biological pesticides and chemical pesticides which leave a residue to a Water of the United States (as defined in 40 CFR Part 122.2) that meet any of the thresholds established in General Permit No. 7 after April X, 2011.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 6. Amend subparagraph **64.3(11)“b”(4)** as follows:

(4) Failure to submit such records and information as the director shall require both generally and as a condition of the ~~operation~~ permit in order to ensure compliance with the discharge conditions specified in the permit.

ITEM 7. Adopt the following **new** subparagraph **64.4(2)“a”(5)**:

(5) Discharges from the application of biological pesticides and chemical pesticides which leave a residue where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.

ITEM 8. Adopt the following **new** subparagraph **64.6(1)“a”(6)**:

(6) General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” Form 542-XXXX.

ITEM 9. Amend subparagraphs **64.6(1)“c”(2)** and **(3)** as follows:

(2) General ~~Permit~~ Permits No. 4, No. 5, No. 6, and No. 7. There are no public notification requirements for ~~this permit~~ these permits.

~~(3) General Permit No. 5. There are no public notification requirements for this permit.~~

ITEM 10. Amend paragraph **64.6(3)“c”** as follows:

c. The department finds that water well construction and well service discharge ~~is~~ are not managed in a manner consistent with the conditions specified in General Permit No. 6, ~~or~~

ITEM 11. Adopt the following **new** paragraph **64.6(3)“d”**:

d. The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7.

ITEM 12. Amend subrule 64.8(2) as follows:

**64.8(2) *Renewal of coverage under a general permit.*** Coverage under a general permit will be renewed subject to the terms and conditions in paragraphs “a” to “d.”

a. If a permittee intends to continue an activity covered by a general permit beyond the expiration date of the general permit, the permittee must reapply and submit a complete Notice of Intent ~~as follows:~~ in accordance with 64.6(1).

~~(1) For storm water discharge associated with industrial activity, complete Notice of Intent requirements are listed in 64.6(1).~~

~~(2) Reserved.~~

b. No change.

c. A person holding a general permit is subject to the terms of the permit until it expires or a Notice of Discontinuation is submitted in accordance with 64.6(5). If the person holding a general permit continues the activity beyond the expiration date, the conditions of the expired general permit will remain in effect provided the permittee submits a complete Notice of Intent for coverage under a renewed or reissued general permit within 180 days after the expiration date of the expired general permit. If the person continues an activity for which the general permit has expired and the general permit has not been reissued or renewed, the discharge must be permitted with an individual NPDES permit according to the procedures in 64.3(4) “a.”

d. No change.

ITEM 13. Adopt the following **new** subrule 64.15(7):

**64.15(7)** “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” NPDES General Permit No. 7, effective April X, 2011, to April X, 2016.

ITEM 14. Adopt the following **new** subrule 64.16(6):

**64.16(6)** “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides,” NPDES General Permit No. 7. No fees shall be assessed.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 15. Amend subrules 66.1(1) and 66.1(2) as follows:

**66.1(1) Prohibited discharges.** ~~Pesticides, including aquatic pesticides,~~ shall not be applied to any water of the state ~~designated in 567—subrule 61.3(5) as Class “A,” Class “C,” high quality, or high quality resource~~ except as provided in 66.1(2) ~~and 567—Chapter 64.~~

**66.1(2) Allowable applications.** ~~Aquatic pesticides~~ Pesticides may be applied to any water of the state ~~designated in 567—subrule 61.3(5) as Class “A,” Class “C,” high quality, or high quality resource~~ provided that the applicator has a valid Category 5 ~~aquatic pest control certification from the department of agriculture and land stewardship pursuant to 21—paragraph 45.22(2)“e,” and has received a permit from the department~~ United States, as defined in 40 CFR Part 122.2, in accordance with these rules. 567—Chapter 64 and NPDES General Permit No. 7, “Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides.”

ITEM 16. Rescind and reserve subrules **66.1(3)** to **66.1(5)**.

**ARC 9042B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Notice of Termination**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby terminates rule-making proceedings under the provisions of Iowa Code section 17A.4(1)“b” for proposed rule making relating to Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8827B**. The Notice was published to solicit comments on amendments Adopted and Filed Emergency and published as **ARC 8826B** on the same date. That filing implemented 2010 Iowa Acts, Senate File 2354, concerning permitted and prohibited campaign activities by certain organizations.

No comments were received during the Notice period, and the Board will not be amending the amendments that were Adopted and Filed Emergency. Therefore, the Board is not proceeding with further rule making on **ARC 8827B**.

**ARC 9041B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****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 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 4, “Campaign Disclosure Procedures,” Iowa Administrative Code.

The proposed amendment rescinds the requirement that a candidate, candidate’s committee, political party committee, or political committee (PAC) that advocates for or against state candidates provide a copy of a reconciled campaign bank statement each January. A reconciled bank statement will now be required to be filed only upon request by the Board or when the committee is dissolving.

The proposed amendment does not contain a waiver provision. The Board has adopted general waiver provisions in 351—Chapter 15.

Any interested person may make written comments on the proposed amendment on or before September 28, 2010. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign

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

Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code sections 68A.402A and 68B.32A(4).

The following amendment is proposed.

Rescind rule 351—4.21(68A) and adopt the following new rule in lieu thereof:

**351—4.21(68A) Filing of reconciled bank statement.** A candidate, a committee, an independent expenditure committee, or a sole individual filing Form Ind-Exp-I shall submit a copy of a campaign bank statement including a reconciliation to justify outstanding checks and other discrepancies between the ending balance on the bank statement and the ending balance on a campaign statement or report when requested to do so by the board. A committee that files a final campaign statement or report for purposes of dissolving shall comply with the requirements of subrule 4.55(5) concerning the filing of a final bank statement. The board may impose sanctions as provided in Iowa Code chapter 68B and rule 351—9.4(68B) against a person for failing to file a requested reconciled bank statement.

This rule is intended to implement Iowa Code sections 68A.402A and 68B.32A(4).

**ARC 9069B****INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 508.36, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 5, “Actuarial Opinion and Memorandum,” Iowa Administrative Code.

The rules in Chapter 5 prescribe requirements for statements of actuarial opinion that are to be submitted in accordance with Iowa Code section 508.36 and for memoranda in support thereof; rules applicable to the appointment of an appointed actuary; and guidance as to the meaning of “adequacy or reserves.” This proposed amendment provides an example in the regulatory asset adequacy issues summary. The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendment beginning December 8, 2010.

Any interested person may make written comments on this proposed amendment on or before September 28, 2010. Written comments may be sent to Matt Hargrafen, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to [matthew.hargrafen@iid.iowa.gov](mailto:matthew.hargrafen@iid.iowa.gov) or via facsimile to (515)281-3059.

A public hearing will be held on September 28, 2010, at 10 a.m. in the Lobby Conference Room of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapter 508.

The following amendment is proposed.

Amend subparagraph **5.34(7)“c”(1)** as follows:

(1) The regulatory asset adequacy issues summary shall include:

1. to 3. No change.

INSURANCE DIVISION[191](cont'd)

4. Comments on any interim results that may be of significant concern to the appointed actuary, for example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

5. and 6. No change.

**ARC 9059B**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 508.36, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 47, “Valuation of Life Insurance Policies,” Iowa Administrative Code.

Chapter 47 provides tables of select mortality factors and rules for their use, rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits, and rules concerning a minimum standard for the valuation of plans with secondary guarantees. This chapter is issued under the authority of Iowa Code section 508.36(3)“a”(3)(c) and is intended to implement Iowa Code section 508.36(6)“c.” This proposed amendment removes restrictions on the mortality adjustment factors (X factors) in the deficiency reserve calculation required by the Valuation of Life Insurance Policies Model Regulation. The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendment beginning December 8, 2010.

Any interested person may make written comments on this proposed amendment on or before September 28, 2010. Written comments may be sent to Matt Hargrafen, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to [matthew.hargrafen@iid.iowa.gov](mailto:matthew.hargrafen@iid.iowa.gov) or via facsimile to (515)281-3059.

A public hearing will be held on September 28, 2010, at 10 a.m. in the Lobby Conference Room of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code section 508.36(6)“c.”

The following amendment is proposed.

Amend paragraph **47.4(2)“c”** as follows:

c. For durations in the first segment, X percent of the select mortality factors in the appendix, subject to the following:

(1) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

~~(2) X shall not be less than 20 percent;~~

~~(3) X shall not decrease in any successive policy years;~~

(4) (2) X is such that, when using the valuation interest rate used for basic reserves, “1” below is greater than or equal to “2”;

1. The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

## INSURANCE DIVISION[191](cont'd)

2. The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

~~(5)~~ (3) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

~~(6)~~ (4) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of paragraph 47.4(2) "c";

~~(7)~~ (5) The appointed actuary may decrease X at any valuation date as long as X ~~does not decrease in any successive policy years and as long as it~~ continues to meet all the requirements of paragraph 47.4(2) "c"; and

~~(8)~~ (6) The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

~~(9)~~ (7) If X is less than 100 percent at any duration for any policy, the following requirements shall be met:

1. The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of 191—subrule 5.34(3); ~~and~~

2. The appointed actuary shall disclose, in the regulatory asset adequacy issues summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and

~~2.~~ 3. The appointed actuary shall annually opine for all policies subject to this chapter as to whether the mortality rates resulting from the application of X meet the requirements of paragraph 47.4(2) "c." This opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

**ARC 9065B**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 508.36, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 94, "Preferred Mortality Tables for Use in Determining Minimum Reserve Liabilities," Iowa Administrative Code.

The purpose of the rules in Chapter 94 is to recognize, permit and prescribe the use of mortality tables that reflect the differences in mortality between preferred and standard lives in determining minimum reserve liabilities in accordance with Iowa Code section 508.36 and Iowa Administrative Code 191—Chapter 47. This proposed amendment allows use of the 2001 CSO Mortality Table as a substitute on policies issued on or after January 1, 2004, and prior to January 1, 2007, with the consent of the Commissioner and subject to the conditions set forth in 191—94.4(508). The Division intends that Iowa insurance companies and insurance holding companies will comply with the amendment beginning December 8, 2010.

Any interested person may make written comments on this proposed amendment on or before September 28, 2010. Written comments may be sent to Matt Hargrafen, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to [matthew.hargrafen@iid.iowa.gov](mailto:matthew.hargrafen@iid.iowa.gov) or via facsimile to (515)281-3059.

## INSURANCE DIVISION[191](cont'd)

A public hearing will be held on September 28, 2010, at 10 a.m. in the Lobby Conference Room of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapter 508.

The following amendment is proposed.

Amend rule 191—94.3(508) as follows:

**191—94.3(508) 2001 CSO Preferred Class Structure Mortality Table.** At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to the conditions stated in this chapter, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. For policies issued on or after January 1, 2004, and prior to January 1, 2007, these tables may be substituted with the consent of the commissioner and subject to the conditions of rule 191—94.4(508). In determining such consent, the commissioner may rely on the consent of the commissioner of the company's state of domicile. No such election shall be made until the company demonstrates that at least 20 percent of the business to be valued using this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table for purposes of reserve valuation only, pursuant to the requirements of the National Association of Insurance Commissioners' model regulation, "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits Model Regulation."

**ARC 9078B**

**IOWA FINANCE AUTHORITY[265]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(1)"r" and 16.40, the Iowa Finance Authority proposes to adopt new Chapter 40, "Iowans Helping Iowans Housing Assistance Program," Iowa Administrative Code.

The purpose of this amendment is to adopt a program of housing assistance for persons affected by certain natural disasters occurring in Iowa in 2010.

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

The Authority will receive written comments on the proposed amendment until 4:30 p.m. on September 28, 2010. Comments may be addressed to Mark Thompson, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Mark Thompson at (515)725-4901 or E-mailed to [mark.thompson@iowa.gov](mailto:mark.thompson@iowa.gov).

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

IOWA FINANCE AUTHORITY[265](cont'd)

On August 20, 2010, the Authority adopted this amendment Emergency, pursuant to Iowa Code section 17A.4(3), to be effective immediately upon filing with the Administrative Rules Coordinator. The Adopted and Filed Emergency amendment is published herein as **ARC 9077B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

This amendment is intended to implement Iowa Code sections 16.5(1)“r” and 16.40.

## **ARC 9050B**

### **SECRETARY OF STATE[721]**

#### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These amendments are necessary to provide additional ballot space for county commissioners laying out the ballots for primary and general elections.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 28, 2010. Written suggestions or comments should be directed to Sarah Reisetter, Elections Director, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s office by telephone at (515)242-5071 or in person at the Secretary of State’s office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by September 28, 2010.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9049B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement 2009 Iowa Code Supplement sections 43.31 and 49.57A.

## **ARC 9039B**

### **TREASURER OF STATE[781]**

#### **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 12.43, the Treasurer of State hereby gives Notice of Intended Action to amend Chapter 4, “Linked Investments for Tomorrow (LIFT),” Iowa Administrative Code.

The rules in Chapter 4 provide guidelines for the Linked Investments for Tomorrow (LIFT) Small Business Loan Program. This amendment reflects changes pertaining to an eligibility requirement in the program.

## TREASURER OF STATE[781](cont'd)

Any interested persons may make written suggestions or comments on this proposed amendment on or before September 30, 2010. Such written materials should be directed to the Iowa Treasurer of State, State Capitol Building, Des Moines, Iowa 50319; fax (515)281-7562.

There will be a public hearing on September 30, 2010, at 2 p.m. in the State Treasurer's Office, Room 114, State Capitol Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code section 12.43(5) as amended by 2010 Iowa Acts, Senate File 2389, section 35.

The following amendment is proposed.

Amend subrule 4.6(3) as follows:

**4.6(3)** All owners of the business or borrowers must not have a combined net worth exceeding ~~\$750,000~~ \$975,000. Combined net worth, as defined by this program, shall equal assets less liabilities for each owner of the business and persons borrowing for the business combined. Married individuals may divide their total net worth and assign one half of the total to each individual. If both individuals are owners of the business or borrowers, then their combined net worth must be used to determine net worth requirements.

## ARC 9067B

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.108, the Iowa Department of Economic Development adopts amendments to Chapter 78, "Small Business Disaster Recovery Financial Assistance Program," Iowa Administrative Code.

These amendments implement a new business loan program to provide disaster relief assistance to businesses physically damaged by the 2010 natural disasters that are in presidentially declared disaster areas eligible for individual assistance.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable because of the immediate importance of providing support to businesses damaged by the 2010 natural disasters in those areas and because of the need for rule changes to implement the assistance program for disaster recovery.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and the amendments be made effective upon filing on August 20, 2010, as these amendments confer a benefit to businesses in areas eligible for individual assistance that were physically damaged by the 2010 natural disasters.

The Iowa Economic Development Board adopted these amendments on August 19, 2010.

These amendments are also published herein under Notice of Intended Action as **ARC 9066B** to allow for public comment. This emergency filing permits the Department to implement the disaster recovery program immediately.

These amendments are intended to implement Iowa Code section 15.108.

These amendments became effective on August 20, 2010.

The following amendments are adopted.

ITEM 1. Add the following **new** division title before rule 261—78.1(15):

DIVISION I  
2008 NATURAL DISASTER SMALL BUSINESS DISASTER RECOVERY  
FINANCIAL ASSISTANCE PROGRAM

ITEM 2. Reserve rules **261—78.8** to **261—78.10**.

ITEM 3. Add the following **new** division title after rule 261—78.10:

DIVISION II  
2010 IOWANS HELPING IOWANS BUSINESS ASSISTANCE PROGRAM

ITEM 4. Adopt the following **new** rules 261—78.11(15) to 261—78.18(15):

**261—78.11(15) Purpose.** The purpose of the Iowans helping Iowans business assistance program is to provide financial assistance to businesses that sustained physical damage due to the 2010 natural disasters. The department will make financial assistance available for working capital to help ensure businesses' survival for those businesses that suffered physical damage due to the 2010 natural disasters.

**261—78.12(15) Definitions.** Terms shall have the following definitions for purposes of this division:

"*2010 natural disasters*" means the natural disasters in and around Iowa resulting in the Presidential declaration of a major disaster for the state of Iowa, known as FEMA-1930-DR, dated July 29, 2010, and related determinations and updated designations.

"*Administrative entity*" means (1) selected cities that administer local disaster recovery programs, and (2) councils of governments established by Iowa Code chapter 28H, including organizations comprised of one or more councils of governments so established.

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

“*Business*” means a corporation, a professional corporation, a limited liability company, a partnership, a sole proprietorship or a nonprofit corporation. “*Business*” does not include a residential landlord or a home-based business for purposes of this division.

“*Department*” means the Iowa department of economic development.

“*Eligible lender*” means any of the following entities that provide disaster recovery loans to businesses: the U.S. Small Business Administration; a financial institution; an economic development organization; a rural electric or telephone cooperative with an established Economic Development Administration (EDA)-based or U.S. Department of Agriculture (USDA)-based revolving loan fund program or intermediary relending program.

“*Financial institution*” means a state bank as defined in Iowa Code section 524.103, subsection 39; a state bank chartered under the laws of any other state; a national banking association; a trust company; a federally chartered savings and loan association; an out-of-state, state chartered savings bank; a financial institution chartered by the federal home loan bank board; a non-Iowa chartered savings and loan association; an association incorporated or authorized to do business under Iowa Code chapter 534; a production credit association; a credit union; or such other financial institution as defined by the department for purposes of this division.

“*Program*” means the Iowans helping Iowans business assistance program.

**261—78.13(15) Eligible business.** An eligible business is one that meets the following requirements:

**78.13(1)** The business has sustained physical damage due to the 2010 natural disasters;

**78.13(2)** The business is located in the presidentially declared disaster area eligible for individual assistance, as designated by FEMA-1930-DR; and

**78.13(3)** The business has been approved for a loan directly related to a 2010 natural disaster purpose from an eligible lender. The business shall not be required to execute a loan offered by an eligible lender for a 2010 natural disaster-related purpose to be eligible for participation in this program. The disaster loan from the eligible lender used to determine eligibility for the program under this rule shall not be conditional upon receipt of financing from the program or any other sources.

**261—78.14(15) Eligible program activities; maximum amount of assistance.**

**78.14(1)** *Program funds available for working capital.* An eligible business may apply for funding for working capital to ensure the business’s survival. The maximum amount of financial assistance available for working capital to ensure the business’s survival is an amount equal to not more than 25 percent of the eligible lender’s approved loan amount offered to the business, up to a maximum of \$50,000.

**78.14(2)** *Total program assistance capped at \$50,000.* An eligible business shall not receive more than \$50,000 through the program. Participation in the program does not limit the eligible business’s participation in other programs administered by the department, unless specifically limited by law.

**261—78.15(15) Distribution of funds; application.**

**78.15(1)** *Distribution of funds.* The department will disburse funds to eligible businesses in the order applications are received and as long as funds are available for the program, as determined solely by the department. Incomplete applications shall not be deemed as received until all required information is received by the department, except as expressly allowed by the application.

**78.15(2)** *Application process.* Applicants shall be required to apply for financial assistance under the program using the department’s online application form available at [www.iowanshelpingiowans.com](http://www.iowanshelpingiowans.com).

**261—78.16(15) Form of assistance available to eligible businesses.** The department shall provide financial assistance through this program to eligible businesses, subject to an agreement with the business and in compliance with the terms and conditions described in this rule. The department may award funds in the form of a forgivable loan to eligible businesses. The department shall forgive a loan made to an eligible business under the program if the business remains open for business for at least 12 months from the date of the award. If the business closes or otherwise ceases to exist in substantially the same

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

capacity in which it existed at the time the loan was awarded under this program, the business shall repay the entire loan to the department immediately.

**261—78.17(15) Grants to administrative entities.**

**78.17(1)** The department may enter into agreements with administrative entities to administer the program on behalf of the department. Under such agreements, the department will provide grants to the administrative entities to administer and disburse financial assistance consistent with this division to eligible businesses. Nothing in this rule shall require the department to enter into an agreement with an administrative entity to administer the program on its behalf.

**78.17(2)** Each local administrative entity acting on behalf of the department under this rule shall enter into a contract with an eligible business to provide assistance under this program. The contract shall include terms and conditions that meet the requirements of these rules and repayment provisions if funds are not used in compliance with the program. Each local administrative entity shall provide oversight and contract administration to ensure that the recipients of program funds are meeting contract requirements. Each local administrative entity shall collect data relating to the program and shall submit a report to the department as required. The content and form of the report shall be consistent with the program and as directed by the department.

**78.17(3)** Administrative entities acting under this rule may elect to apply singly or join with other administrative entities. To the extent administrative entities act jointly or cooperatively in their participation in the Iowans helping Iowans housing assistance program administered by the Iowa finance authority pursuant to 265—Chapter 40, Iowa Administrative Code, the department may require the administrative entities to similarly act jointly or cooperatively in their participation under this division.

**261—78.18(15) Award; acceptance.**

**78.18(1) Award.** The director of the department shall have the authority to award loans and grants made under this program and to execute loan documents, grant agreements and other related documents.

**78.18(2) Acceptance.** A business recommended for a loan under this program shall execute the necessary loan documents and return them to the department by the time described in the intent to award letter; otherwise, the department may rescind the loan award.

These rules are intended to implement Iowa Code section 15.108.

[Filed Emergency 8/20/10, effective 8/20/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9062B**

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 80, "Iowa Small Business Loan Program," Iowa Administrative Code.

These rules implement a new small business loan program to promote the creation and retention of jobs in Iowa's economy and to assist businesses to be more competitive. The rules establish the process by which a business shall apply for, receive and manage loan funds under this program. The Legislature appropriated to the Department \$5 million for the program, which was created by 2010 Iowa Acts, Senate File 2389, sections 41 through 44.

Because the Legislature deemed the Act of immediate importance and made it effective upon enactment, the rules were Adopted and Filed Emergency and published in the June 30, 2010, Iowa Administrative Bulletin as **ARC 8920B** in conformance with the requirements of Iowa Code chapter 17A. The rules were also published under Notice of Intended Action in the Iowa Administrative Bulletin as **ARC 8919B** on the same date to allow for public comment.

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

The Department held a public hearing on July 6, 2010; no persons attended. The Department received two comments and input from a member of the Administrative Rules Review Committee. The comments focused on the minimal credit score requirements; what constituted a co-financed loan and how a co-financed loan would impact the credit score requirements; and what would constitute a qualified public or nonprofit business consultant.

The Department made the following changes to the rules published under Notice as **ARC 8919B** and Adopted and Filed Emergency as **ARC 8920B**:

- Clarified the definition of “co-financed loan” in rule 261—80.3(83GA,SF2389);
- Added a definition of “conventional lender” in rule 261—80.3(83GA,SF2389);
- Strengthened the requirement for recipients to secure the loan by exchanging the word “must” for the word “shall” in subrule 80.5(3);
- Provided more explanation about what would constitute unallowable uses in subrule 80.5(5);
- Provided more direction with regard to what constitutes a “qualified consultant” that may assist the small businesses under the program in subrule 80.6(1);
- Provided additional methods by which startup businesses may qualify for a loan under the program in subrule 80.7(2);
- Provided an alternative consideration for business owners who do not meet the minimal credit score requirement in paragraph “c” of subrule 80.8(1);
- By adding new subrules 80.9(3) and 80.9(4), clarified the award and approval process for loans and provided a time frame by which successful applicants must execute loan documents; and
- Made the security requirements under this program consistent with other business finance programs at the Department through modifications to subrule 80.9(5).

Pursuant to Iowa Code section 17A.5(2)“b”(2), these rules became effective upon filing on August 20, 2010. The Board finds that these rules confer a benefit on program recipients by permitting them to apply for consideration under the program with less restrictive rules and that an immediate effective date may allow more of Iowa’s small businesses to participate in the program.

The Iowa Economic Development Board adopted these rules on August 19, 2010.

These rules are intended to implement 2010 Iowa Acts, Senate File 2389, sections 41 through 44.

These rules became effective on August 20, 2010, at which time the Adopted and Filed Emergency rules published as **ARC 8920B** were thereby rescinded.

The following amendment is adopted.

Adopt the following new 261—Chapter 80:

CHAPTER 80  
IOWA SMALL BUSINESS LOAN PROGRAM

**261—80.1(83GA,SF2389) Purpose.** The purpose of the program is to promote the creation and retention of jobs in the state’s economy and to assist businesses to be more competitive by aiding entrepreneurs and small businesses in their efforts to upgrade or modernize equipment; realize additional efficiencies in their supply chains; improve their distribution and transportation margins; reduce facility costs through increased energy efficiency; and leverage other sources of business financing.

**261—80.2(83GA,SF2389) Authority.** The authority for establishing the program is provided in 2010 Iowa Acts, Senate File 2389, sections 41 through 44.

**261—80.3(83GA,SF2389) Definitions.**

“*Administrator*” means the organization designated by the department pursuant to rule 261—80.4(83GA,SF2389) to administer portions of the program.

“*Co-financed loan*” means a loan made under this program to a recipient who has contingent approval from another lender for leverage of other sources of business financing for the recipient’s Iowa small business at the time of origination of the loan. To be considered a co-financed loan under these rules, the other sources of business financing must meet or exceed at least one-third of the total amount

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

borrowed. For example, a recipient that is approved for a \$10,000 loan from the program must have leveraged at least \$5,000 from other sources for the recipient's loan to be considered a co-financed loan.

*"Conventional lender"* means a federally or state chartered bank or credit union or the United States Small Business Administration.

*"Department"* means the Iowa department of economic development.

*"Direct loan"* means a loan made under this program that is not part of a co-financing arrangement with another lender.

*"Director"* means the director of the department.

*"Iowa small business"* means a business located in Iowa that is owned, operated and actively managed by an Iowa resident and that has 35 or fewer full-time equivalent employees.

*"Program"* means the Iowa small business loan program.

*"Recipient"* means an Iowa small business that has applied for and received a loan under the program.

**261—80.4(83GA,SF2389) Administrator.** The department may enter into an agreement with and thereby designate a nonprofit organization to administer portions of the program provided the nonprofit organization is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and is designated by the United States Small Business Administration as a statewide microloan provider. Among other duties identified in the agreement, the administrator may manage the program application and review process to ensure consistency with these rules and may make recommendations to the department for loan approval under the program.

**261—80.5(83GA,SF2389) General loan terms.** In addition to terms and conditions in the loan agreement, loans made under the program shall have the following terms:

**80.5(1) Amount.** Loans made under the program may be for \$2,500 to \$50,000.

**80.5(2) Interest rates.** The interest rates for the following loans made available under the program shall be:

*a.* Direct loans: annual percentage rate of 3.9 percent.

*b.* Co-financed loans: annual percentage rate of 2 percent.

**80.5(3) Security.** Recipients shall provide collateral to secure the entire loan value. The department may require a first position on any collateral offered in connection with receiving a loan under the program or any equipment purchases or other uses that can be securitized. The department may, however, allow for a subordinated position on collateral on co-financed loans that involve a conventional lender.

**80.5(4) Term.** The term of any loan made under the program shall not exceed five years. The department may require a shorter loan term for loans at the sole discretion of the director.

**80.5(5) Unallowable uses.** Proceeds from any loans made under the program shall not be used for any of the following:

*a.* Compensation to employees, including without limitation any benefits and travel allowances.

*b.* Refinancing existing or future loans.

*c.* Working capital. Recipients shall not, without limitation, use the loan proceeds to keep cash on hand or fund inventories.

*d.* Payment of liabilities incurred prior to the origination of the loan, including unpaid taxes and money owed to creditors.

*e.* Charitable donations.

*f.* Purchase of real estate.

*g.* Purchase of a business unless the loan made under the program is leveraged with other sources of financing, including at least 10 percent equity investment by the owner.

*h.* Purchase of vehicles unless the vehicle is a special-use vehicle that shall only be used for purposes related to the Iowa small business throughout the term of the loan and personal use is not allowed.

*i.* Purchase of equipment unless the equipment is deployed and primarily used by the Iowa small business in Iowa throughout the life of the loan.

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

**261—80.6(83GA,SF2389) Eligibility.** An Iowa small business is eligible to apply for a loan under the program provided the Iowa small business meets the following requirements:

**80.6(1)** The Iowa small business has a business plan, has received assistance from an Iowa small business development center or qualified public or nonprofit business consultant as defined by the department, and has been declared eligible for program participation by such entity or person. For purposes of this rule, a qualified public or nonprofit business consultant may include individuals with appropriate expertise who are affiliated with department-sponsored business accelerators, John Pappajohn Centers for Entrepreneurship, or the Iowans for Social and Economic Development, otherwise known as ISED Ventures. All consultants must receive program orientation training from the administrator, agree to perform specific functions in reviewing and participating in the program, and receive approval by the department.

**80.6(2)** The Iowa small business is not in violation of environmental or worker safety laws or rules. This requirement shall apply only if the Iowa small business has been incorporated for at least two years.

**80.6(3)** The Iowa small business employs only workers legally authorized to work in the state.

**80.6(4)** The Iowa small business does not engage in the production, depiction or distribution of obscene material as defined in Iowa Code section 728.1.

**80.6(5)** The Iowa small business is not in bankruptcy or imminently contemplating filing for bankruptcy.

**80.6(6)** The Iowa small business has a demonstrated need for the funds and will use them for a purpose described in rule 261—80.1(83GA,SF2389).

**261—80.7(83GA,SF2389) Application.**

**80.7(1) General.** Applications will be evaluated at least monthly and in the order they are received. Iowa small businesses that desire to participate in the program shall submit to the administrator a standard application, which shall be made available on the department's Web site, [www.lifechanging.com](http://www.lifechanging.com). In addition to the information requested in the application, Iowa small businesses applying under this rule may also be required to submit the following documents:

- a. Business plan and summary.
- b. Financial statements that show total assets and total liabilities.
- c. Such other supporting documents as may be required by the administrator to demonstrate the Iowa small business's eligibility for the loan and its ability to repay the loan.
- d. An energy audit of the facilities for which the loan is sought, if the loan is proposed to be used to reduce facility costs.

**80.7(2) Startup businesses.** In addition to the requirements described in subrule 80.7(1), Iowa small businesses that have been incorporated for less than two years must submit the following additional information unless the business can document that its assets are three times greater than its liabilities, including the loan sought under this program:

- a. Contingent loan approval from a conventional loan source as an eligible co-financed loan under these rules; or
- b. Contingent loan approval from the Iowa microloan program as an eligible co-financed loan under these rules; or
- c. Contingent loan approval from the targeted small business loan program as an eligible co-financed loan under these rules.

**261—80.8(83GA,SF2389) Application review.**

**80.8(1) Criteria.** The administrator shall evaluate applications based on the following criteria:

- a. The quality of the Iowa small business's business plan and whether it projects a positive cash flow after the loan repayment.
- b. Cash flow of the Iowa small business.
- c. Credit score and credit history of the principal owner(s) of the Iowa small business and any owners of the Iowa small business with an interest of greater than 25 percent in the Iowa small business. Applicants with a credit score lower than 625 shall not be considered for a loan under this program unless

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

the applicant is able to demonstrate extenuating circumstances that have impacted the applicant's credit score, provide adequate explanation for the low credit score and show a recent positive credit history, and either secure a suitable guarantor or have one or more co-owners with credit scores above 625.

*d.* Value and quality of collateral.

*e.* Education and experience of the owner of the Iowa small business related to owning and operating a business.

*f.* The quality and results of a marketing plan related to the Iowa small business.

*g.* The legal history, including any UCC-1 filings, of the principal owner of the Iowa small business and any owners with an interest of greater than 25 percent in the Iowa small business to the extent that history could negatively impact the business.

**80.8(2) Additional information.** The administrator or the department may require additional information from the Iowa small business in reviewing applications made under the program.

**80.8(3) Additional expertise.** The administrator and the department may use or procure the services of individuals with particular or specialized expertise in evaluating applications.

**261—80.9(83GA,SF2389) Recommendation; loan agreement.**

**80.9(1) Recommendation.** Upon final review of the application, the administrator shall prepare loan closing documents, including a loan agreement, for those businesses the administrator recommends to participate in the program and deliver them, along with the business's file, to the department for its review and approval. The administrator shall recommend and make part of the proposed loan agreements requirements in addition to standard loan provisions when the business poses a higher risk.

**80.9(2) Loan agreement required.** The administrator shall prepare a loan agreement which includes, but is not limited to, a description of the project to be completed by the business, the term of the loan, conditions to disbursement, a requirement for annual reporting to the department, and the repayment requirements of the business or other penalties imposed on the business in the event the business does not fulfill its obligations described in the loan agreement and other specific repayment provisions ("clawback provisions") to be established on a project-by-project basis.

**80.9(3) Award.** The director shall have the authority to award loans made under this program and to execute loan documents and other related documents.

**80.9(4) Acceptance.** A business recommended for a loan under this program shall have 20 days from receipt of the notice of intended award issued by the department to execute the necessary loan documents and return them to the department; otherwise, the department may rescind the loan award. The 20-day time limit may be extended by the director.

**80.9(5) Security.** The department shall take security for any loan. The form of such security may include but not be limited to one or more of the following:

- a.* Real estate mortgage.
- b.* Lien on personal or real property.
- c.* Letter of credit.
- d.* Corporate or personal guaranty.
- e.* A certificate of deposit.

**261—80.10(83GA,SF2389) Repayment.** All loans made under the program shall be subject to repayment as described in the loan agreement. Loans made under the program shall not be forgivable.

**261—80.11(83GA,SF2389) Default.**

**80.11(1) Events of default.** The department may, for cause, determine that a recipient is in default under the terms of the loan agreement. The reasons for which the department may determine that the recipient is in default of the contract include, but are not limited to, any of the following:

*a.* Any material representation or warranty made by the recipient in connection with the application that was incorrect in any material respect when made.

*b.* A material change in the business ownership or structure occurs without prior written disclosure and the permission of the department.

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- c. A relocation or abandonment of the business during the term.
- d. Expenditure of funds for purposes not described in the application or authorized in the agreement.
- e. Failure of the recipient to make timely payments under the terms of the agreement, note or other obligation.
- f. Failure of the recipient to perform or comply with the terms and conditions of the contract.
- g. Failure of the recipient to comply with any applicable state rules or regulations.
- h. Failure of the recipient to file the required annual report.

**80.11(2) Closures.** If a recipient closes any of its facilities within the state prior to receiving the incentives and assistance, the department may reduce or eliminate all or a portion of the loan assistance. If a business closes any of its facilities within the state after executing a contract to receive the loan assistance, the department may consider this an event of default and the business may be subject to repayment of all or a portion of the loan assistance that it has received.

**80.11(3) Department actions upon default.**

- a. The department will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by recipients.
- b. If the department determines that the recipient is in default, the department may seek recovery of all program funds plus interest, assess penalties, negotiate alternative repayment schedules, suspend or discontinue collection efforts, and take other appropriate action as the department deems necessary.
- c. The department shall attempt to collect the amount owed. Negotiated settlements, write-offs or discontinuance of collection efforts is subject to final review and approval by the director.
- d. If the department refers defaulted contracts to outside counsel for collection, then the terms of the agreement between the department and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

These rules are intended to implement 2010 Iowa Acts, Senate File 2389, sections 41 through 44.

[Filed Emergency After Notice 8/20/10, effective 8/20/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9046B**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

In 2010 Iowa Acts, House File 2526, section 11(13), as amended by 2010 Iowa Acts, House File 2531, section 204, the General Assembly directed the Department to increase reimbursement to the University of Iowa Hospitals and Clinics for inpatient and outpatient hospital services by up to \$9,900,000. The state share of this increase is to be funded by the University of Iowa Hospitals and Clinics through certified public expenditures or a transfer to the medical assistance appropriation. Items 1 and 2 of these amendments incorporate this additional payment into the reimbursement methodology for inpatient and outpatient hospital services.

In 2010 Iowa Acts, Senate File 2156, section 16, the General Assembly amended Iowa Code section 249J.21 to remove language limiting payments to government-owned or government-operated nursing facilities to the facilities' costs. Item 3 of these amendments removes the corresponding language from the reimbursement methodology for nursing facilities.

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

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

The Council on Human Services adopted these amendments on August 11, 2010.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because these amendments are required by state legislation.

The Department also finds that these amendments confer a benefit on the facilities affected by increasing reimbursement. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement 2010 Iowa Acts, House File 2526, section 11(13), as amended by 2010 Iowa Acts, House File 2531, section 204, and Iowa Code section 249J.21 as amended by 2010 Iowa Acts, Senate File 2156, section 16.

These amendments became effective on August 12, 2010.

The following amendments are adopted.

ITEM 1. Adopt the following new paragraph **79.1(5)“z”**:

*z. Final settlement for state-owned teaching hospital.*

(1) Effective July 1, 2010, total annual payments to an Iowa state-owned hospital for inpatient and outpatient hospital services shall equal 100 percent of allowable medical assistance program costs, not to exceed the sum of the following:

1. Payments for inpatient hospital services calculated in accordance with subrule 79.1(5), plus
2. Payment for outpatient hospital services calculated in accordance with subrule 79.1(16), plus
3. \$9,900,000.

(2) One-twelfth of the \$9,900,000 increase in reimbursement shall be distributed to the hospital on a monthly basis.

(3) The Iowa Medicaid Enterprise shall complete a final settlement based on the hospital's Medicare cost report. If the aggregate payments are less than the hospital's actual medical assistance program costs, no additional payment shall be made.

(4) If the sum of the inpatient hospital service payments plus outpatient hospital service payments plus the \$9,900,000 exceeds 100 percent of allowable inpatient and outpatient costs, the department shall request and collect from the hospital the amount by which payments exceed actual medical assistance program costs.

ITEM 2. Adopt the following new paragraph **79.1(16)“w”**:

*w. Final settlement for state-owned teaching hospital.*

(1) Effective July 1, 2010, total annual payments to an Iowa state-owned hospital for inpatient and outpatient hospital services shall equal 100 percent of allowable medical assistance program costs, not to exceed the sum of the following:

1. Payments for inpatient hospital services calculated in accordance with subrule 79.1(5), plus
2. Payment for outpatient hospital services calculated in accordance with subrule 79.1(16), plus
3. \$9,900,000.

(2) One-twelfth of the \$9,900,000 increase in reimbursement shall be distributed to the hospital on a monthly basis.

(3) The Iowa Medicaid Enterprise shall complete a final settlement based on the hospital's Medicare cost report. If the aggregate payments are less than the hospital's actual medical assistance program costs, no additional payment shall be made.

(4) If the sum of the inpatient hospital service payments plus outpatient hospital service payments plus the \$9,900,000 exceeds 100 percent of allowable inpatient and outpatient costs, the department shall request and collect from the hospital the amount by which payments exceed actual medical assistance program costs.

ITEM 3. Rescind subparagraph **81.6(4)“a”(4)**.

[Filed Emergency 8/11/10, effective 8/12/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9047B****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services rescinds Chapter 165, “Family Development and Self-Sufficiency Program,” Iowa Administrative Code.

Authority to administer the Family Development and Self-Sufficiency Program has been transferred to the Community Action Agencies Division of the Department of Human Rights. The Community Action Agencies Division published a Notice of Intended Action to propose rules for this program in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8637B**. Those rules have been adopted and were published in the Iowa Administrative Bulletin on July 28, 2010, as **ARC 8955B**. The rules became effective September 1, 2010. Therefore, rules at 441—Chapter 165 are no longer needed.

Notice of Intended Action to rescind this chapter was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8655B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

This amendment does not provide for waivers in specified situations because the Department has no statutory authority to make decisions about the program.

The Council on Human Services adopted these amendments on August 11, 2010.

The Department finds that it will benefit the public not to have conflicting rules in effect for this program. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of the amendment is waived.

This amendment is intended to implement 2008 Iowa Acts, chapter 1072.

This amendment became effective on September 1, 2010.

The following amendment is adopted.

Rescind and reserve **441—Chapter 165**.

[Filed Emergency After Notice 8/11/10, effective 9/1/10]

[Published 9/8/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9077B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority hereby adopts new Chapter 40, “Iowans Helping Iowans Housing Assistance Program,” Iowa Administrative Code.

The purpose of these rules is to implement a program of housing assistance for persons affected by certain natural disasters that occurred in 2010.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that assistance to the victims of the natural disasters is needed immediately, and the normal notice and public participation process would delay implementation of the program. The Authority is also concurrently publishing these rules under Notice of Intended Action as **ARC 9078B** to allow for public comment.

The Authority finds that these rules confer a benefit on the persons adversely affected by the natural disasters, in that the rules provide assistance and ease and speed the administration of an important program benefiting those persons. These rules should be implemented as soon as feasible in order to

IOWA FINANCE AUTHORITY[265](cont'd)

facilitate the provision of assistance under the program; therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

The Authority adopted these rules on August 20, 2010.

These rules are intended to implement Iowa Code sections 16.5(1)“r” and 16.40.

These rules became effective on August 20, 2010.

The following amendment is adopted.

Adopt the following new 265—Chapter 40:

#### CHAPTER 40

#### IOWANS HELPING IOWANS HOUSING ASSISTANCE PROGRAM

**265—40.1(16) Purpose.** This chapter defines and structures the Iowans helping Iowans housing assistance program to aid individuals whose homes, located in parts of Iowa declared by the President of the United States to be disaster areas eligible for individual assistance, were destroyed or damaged by the natural disasters of 2010. Under the program, the authority may grant funds in accordance with this chapter to local government participants, including certain Iowa councils of governments, cities, and counties. The local government participants shall, in turn, loan funds to eligible residents under the conditions specified in this chapter to assist those eligible residents in purchasing homes generally comparable to those they lived in prior to the occurrence of the natural disasters of 2010 and in repairing or rehabilitating disaster-affected homes.

**265—40.2(16) Definitions.** For purposes of this chapter, the following definitions apply.

“*Authority*” means the Iowa finance authority.

“*COG*” means an Iowa council of governments as identified by Iowa Code chapter 28H.

“*Disaster-affected home*” means a primary residence that was destroyed or damaged by the natural disasters of 2010.

“*Disaster compensation*” means moneys received by an eligible resident as a result of damage caused to the eligible resident’s disaster-affected home by the natural disasters of 2010 from any of the following sources: (1) FEMA, (2) any other governmental assistance, or (3) proceeds of any insurance policy. “Disaster compensation” shall not include rental assistance received from FEMA or other sources.

“*Eligible repair expenses*” means the reasonable cost of repairing damage to a disaster-affected home necessitated by the natural disasters of 2010. “Eligible repair expenses” shall not include additions to or expansions of a disaster-affected home or the purchase or installation of luxury items that were not part of the disaster-affected home prior to the natural disasters of 2010.

“*Eligible resident*” means an individual or family who resided in a disaster-affected home that was a primary, owner-occupied residence at the time of the natural disasters of 2010 and who:

1. Is the owner of record of a right, title or interest in the disaster-affected home; and
2. Has been approved by FEMA for housing assistance as a result of the natural disasters of 2010.

In cases where multiple persons own a disaster-affected home together, such as by a tenancy in common or joint tenancy, such persons will generally be deemed collectively to be the “eligible resident,” provided the requirements set forth in paragraphs “1” and “2” above are met. In the event that multiple persons assert inconsistent ownership claims of a disaster-affected home, the local government participant shall review the facts and, if necessary, make an allocation among the various applicants.

“*FEMA*” means the Federal Emergency Management Agency.

“*Forgivable loan*” means a loan made to an eligible resident pursuant to the requirements of this chapter.

“*Local government participant*” means:

1. Any of the following Iowa cities: Ames, Des Moines, and Waterloo;
2. Any COG whose territory encompasses one or more Iowa counties that have been declared by the President of the United States to be disaster areas as a result of the natural disasters of 2010; and

## IOWA FINANCE AUTHORITY[265](cont'd)

3. Any county that is not part of any Iowa council of governments and has been declared by the President of the United States to be a disaster area as a result of the natural disasters of 2010.

“*Natural disasters of 2010*” means the severe storms, tornadoes, and flooding that occurred in Iowa beginning June 1, 2010, and designated by FEMA as FEMA-1930-DR.

“*Program*” means the Iowans helping Iowans housing assistance program described in this chapter.

“*Retention agreement*” means an agreement, to be recorded as a lien against the property for which assistance is provided, requiring that if an eligible resident sells a home that was purchased or repaired with the assistance of a loan made under this chapter, then that portion of the original principal amount that has not been forgiven, if any, shall be repaid.

**265—40.3(16) Grants to local government participants.****40.3(1) Allocation; grant agreement.**

a. *Initial allocation.* The authority shall make an initial allocation of the funds made available for the program to the local government participants pro rata based on the funds awarded by FEMA under its housing assistance program, preliminary damage assessments completed by the Iowa homeland security and emergency management division, or other factors as may be determined reasonable by the authority to each local government participant’s jurisdiction as a percentage of the total amount of funds awarded as a result of the natural disasters of 2010.

b. *Grant agreement.* The authority shall enter into a grant agreement with each local government participant, pursuant to which the authority may disburse funds to the local government participant for the purposes described in this chapter. The grant agreement shall be prepared by the authority and may contain such terms and conditions, in addition to those specified in this chapter, as the executive director may deem to be necessary and convenient to the administration of the program and to the efficient and responsible use of the granted funds.

**40.3(2) Review of requests for assistance.** The local government participant shall accept and review each request for assistance and shall determine whether the requesting party is an eligible resident. If the requesting party is determined to be an eligible resident, the local government participant shall determine whether the funds are being requested for a use permitted under the program and the amount available to the eligible resident under the terms of the program.

**40.3(3) Coordination with the Iowans helping Iowans business assistance program.** For presidentially declared disaster areas outside a COG region, counties may elect to apply singly, join with other counties, or join with an adjacent COG region. Likewise, a city named in the definition of “local government participant” in rule 265—40.2(16) may join with a COG, county, or multicounty entity. To the extent local government participants act jointly or cooperatively in their participation in the small business disaster recovery financial assistance program administered by the Iowa department of economic development pursuant to 261—Chapter 78, Iowa Administrative Code, the authority may require the local government participants to similarly act jointly or cooperatively in their participation under this chapter.

**40.3(4) Reallocation of unused funds.** Following one year, or following any three-month period during which a local government participant has requested no draws, the authority may reallocate all or part of any remaining portion of funds initially allocated to that local government participant to another local government participant with a demonstrated need for program funds.

**40.3(5) Administrative fees.** Each local government participant shall be entitled to receive an administrative fee equal to 5 percent of the funds it loans via the program, plus reasonable inspection fees as may be allowed in the grant agreement.

**40.3(6) Proceeds of repayments.** All loan amounts repaid to a local government participant by an eligible resident pursuant to this chapter shall be returned to the authority’s housing assistance fund created by Iowa Code section 16.40.

**265—40.4** Reserved.

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**265—40.5(16) Eligible uses.**

**40.5(1) Forgivable loans.** Local government participants may make forgivable loans, pursuant to the conditions set forth in rule 265—40.7(16), to eligible residents for the following eligible uses:

*a. Down payment assistance.* An eligible resident whose disaster-affected home was destroyed or damaged beyond reasonable repair may be provided down payment assistance for the purchase of replacement housing located within the local government participant's jurisdiction, but outside the 100-year flood plain, and, if necessary, for the cost of making reasonable repairs to the home being purchased to make it safe, decent, and habitable. The amount of down payment assistance available to an eligible resident (including any amount allowed for making reasonable repairs to the home being purchased) shall not exceed 25 percent of the purchase price of the home being purchased and, in no event, shall the down payment assistance and any amount allowed for repairs collectively exceed \$25,000.

(1) For purposes of calculating the amount of down payment assistance available to the eligible resident, the amount of the down payment assistance shall be reduced by the amount of any disaster compensation received by the eligible resident in excess of any amount necessary to pay off a mortgage or real estate purchase contract on the disaster-affected home.

(2) As a condition of receiving down payment assistance, the eligible resident shall agree that any disaster compensation received subsequent to the closing of the forgivable loan, if not applied toward repayment of a mortgage on the disaster-affected home, shall be used by the eligible resident to pay down the balance of the forgivable loan outstanding at the time the eligible resident receives such disaster compensation.

(3) Down payment assistance shall be allowed only for the purchase of a primary residence by means of a fully amortized mortgage loan from a regulated lender featuring a rate of interest that is fixed for at least 5 years and that has a term not to exceed 30 years.

(4) Eligible residents who receive down payment assistance under paragraph 40.5(1) "a" may not receive the assistance available under paragraph 40.5(1) "b."

(5) An eligible resident shall not use the assistance allowed under 40.5(1) "a" for the purchase of more than one home.

*b. Housing repair or rehabilitation.* An eligible resident whose disaster-affected home is not proposed, or located in an area proposed, by a municipality or county to the Iowa homeland security and emergency management division for property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2010) may receive financial assistance to pay for eligible repair expenses up to an amount not to exceed \$25,000 if the local government participant determines that the repair or rehabilitation of the home is feasible. The local government participant may establish eligibility criteria for housing repair or rehabilitation assistance for disaster-affected homes located in the 100-year flood plain, including but not limited to exclusion of such properties based upon local flood plain management requirements. The eligible resident shall establish the necessity and reasonable cost of the repairs or rehabilitation to the reasonable satisfaction of the local government participant.

(1) For purposes of calculating the amount of assistance available to the eligible resident pursuant to this paragraph, the cost of repairs to, or rehabilitation of, the disaster-affected home shall be reduced by the amount of any disaster compensation received.

(2) As a condition of receiving assistance pursuant to this paragraph, the eligible resident shall agree that any disaster compensation received subsequent to the closing of the forgivable loan shall be used by the eligible resident to pay down the balance of the forgivable loan outstanding at the time the eligible resident receives such disaster compensation.

(3) An eligible resident who receives assistance pursuant to this paragraph shall not be eligible for assistance under paragraph 40.5(1) "a."

*c. General conditions of assistance.* Any home to be purchased, repaired or rehabilitated using assistance under the program must be in compliance with all applicable state and local rules and ordinances, including, but not limited to, those relating to building codes, zoning, flood plain ordinances,

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lead-safe renovators and work practices, and asbestos inspection and removal. To be eligible for assistance, the home must be in compliance as of the time of closing, in the case of purchases, and as of the date of the final disbursement of forgivable loan proceeds, in the case of repair or rehabilitation.

**40.5(2)** Reserved.

**40.5(3)** Reserved.

**40.5(4)** *Expenses incurred prior to August 20, 2010.* In the event an eligible resident purchased a home or made or caused to be made repairs to a disaster-affected home located within the jurisdiction of a local government participant prior to August 20, 2010 (the effective date of this chapter), the eligible resident shall be eligible for reimbursement therefor under this chapter as though the purchase, repairs, or payments had taken place subsequent to such date.

**40.5(5)** *Applications for assistance.* To apply for down payment assistance or assistance for repair or rehabilitation of a disaster-affected home, the eligible resident shall apply to the local government participant in whose jurisdiction the disaster-affected home is located.

**265—40.6(16) Loan terms.** Loans made under the program shall, at a minimum, contain the following terms:

**40.6(1)** *Forgivability.* Forgivable loans made pursuant to the program shall be forgivable over a five-year period. One-fifth of the total principal amount loaned shall be forgiven following each full year the eligible resident owns the home for which the loan was made, beginning on the date of the final disbursement of forgivable loan proceeds.

**40.6(2)** *Zero percent interest.* Loans made pursuant to the program shall bear no interest.

**40.6(3)** *Five-year term.* All loans made pursuant to the program shall be for a term of five years.

**40.6(4)** *Repayment due upon sale of home.* Any principal of a forgivable loan that has not yet been forgiven at the time the home for which the forgivable loan was made is sold by the eligible resident (including property acquisitions) shall be due and payable upon such sale.

**40.6(5)** *Retention agreement.* Each loan made pursuant to this program shall be secured by a retention agreement which shall constitute a lien on the title of the real property for which the forgivable loan is made until such time as the forgivable loan has either been fully forgiven or paid in full; provided, however, that in the case of a property acquisition under the hazard mitigation grant program set forth in Iowa Code chapter 29C (or under any other comparable program implemented in whole or in part to assist in recovery from the natural disasters of 2010), payment of the following shall be waived:

*a.* That portion of the repayment due for a down payment assistance loan made under paragraph 40.5(1) “a”; and

*b.* That portion of the repayment due for a housing repair or rehabilitation assistance loan made under paragraph 40.5(1) “b” for which the eligible resident provides documentation that the assistance was expended for the purpose for which it was awarded.

**265—40.7(16) Financial assistance subject to availability of funding.** All financial assistance authorized pursuant to this chapter shall be subject to funds being made available to the authority for the purposes set forth herein.

These rules are intended to implement Iowa Code sections 16.5(1) “r” and 16.40.

[Filed Emergency 8/20/10, effective 8/20/10]

[Published 9/8/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9055B****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

These amendments make annual adjustments to season dates to comply with federal regulations and to ensure the seasons open on weekends.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 7, 2010, as **ARC 8682B**. A public hearing was held on April 27, 2010. A total of 41 comments were received during the comment period. The majority of the comments received wanted the duck season to open a week later in the south zone. A few participants also preferred more time to hunt Canada geese in October rather than in December and January. The changes made from the Notice reflect those preferences as well as changes in federal regulations.

The duck season length is the same as used for the 2009-2010 season and is the maximum allowed by federal regulations, which is 60 days. The dates for the second segment of duck season in the south zone are changed from the Notice of Intended Action, and the season will open October 23, a week later than the season in the north zone. Federal regulations for the 2010-2011 season allow the same bag limits for ducks to be used this year as were used last year, except the daily bag limit for pintails was increased from one to two. The youth waterfowl hunting season dates have been changed in the north zone from October 9 and 10 to October 2 and 3. The youth waterfowl hunting dates (October 9 and 10) in the south zone did not change. These dates increase the opportunity for youth hunters to be in the field.

The Canada goose season dates were changed in both the north and south zones because federal regulations increased the length of the Canada goose season from 90 to 107 days. These changes in the Canada goose season dates made it necessary to modify the season dates for the light goose season and the conservation order season. The Canada goose daily bag limit was increased from two to three, as permitted by federal regulation, after October 31. Although the three-bird daily bag limit was available to be used throughout the entire Canada goose season, population and harvest data suggest that Iowa's Canada goose population may not be able to maintain itself at its current level if a three-bird daily bag limit is used for the entire season.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on August 16, 2010, as the amendments confer a benefit.

These amendments became effective August 16, 2010.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48. The following amendments are adopted.

ITEM 1. Amend subrules 91.1(2), 91.1(3) and 91.1(4) as follows:

**91.1(2) Season dates - north zone.** For all ducks: September ~~19~~ 18 through September ~~23~~ 22 and October ~~10~~ 16 through December ~~3~~ 9.

**91.1(3) Season dates - south zone.** For all ducks: September ~~19~~ 18 through September ~~23~~ 22 and October ~~17~~ 23 through December ~~10~~ 16.

**91.1(4) Bag limit.** The daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 2 of which may be females), 1 black duck, 3 wood ducks, ~~1 pintail~~ 2 pintails, 1 mottled duck, 1 canvasback, 2 redheads, and 2 scaup. The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers.

ITEM 2. Amend subrules 91.3(2), 91.3(3) and 91.3(4) as follows:

**91.3(2) Season dates - north zone.** Canada geese and brant: September ~~26~~ 25 through October ~~4~~ 10 and October ~~10~~ 16 through ~~December 13 and December 19~~ through January ~~3, 2010~~ 5, 2011. White-fronted geese: September ~~26~~ 25 through December ~~6~~ 5. Light geese (white and blue-phase snow geese and Ross' geese): September ~~26~~ 25 through January ~~10, 2010~~ 9, 2011.

NATURAL RESOURCE COMMISSION[571](cont'd)

**91.3(3) Season dates - south zone.** Canada geese and brant: ~~September 26~~ October 2 through October 4-17 and October 17-23 through ~~December 13 and December 19~~ through January 10, 2010-12, 2011. White-fronted geese: ~~September 26~~ October 2 through December 6-12. Light geese (white and blue-phase snow geese and Ross' geese): ~~September 26~~ October 2 through January 10, 2010-14, 2011.

**91.3(4) Bag limit.** ~~Daily bag limit is 2 Canada geese, 2 white-fronted geese, 1 brant, and 20 snow geese.~~ The daily bag limit for Canada geese is 2 from September 25 through October 31 and 3 from November 1 through the end of the season. The daily bag limits for white-fronted geese, brant, and light geese are 2 white-fronted geese, 1 brant, and 20 light geese (white and blue-phase snow geese and Ross' geese).

ITEM 3. Amend subrules 91.3(7), 91.3(9), 91.3(10) and 91.3(11) as follows:

**91.3(7) Light goose conservation order season.** Only light geese (white and blue-phase snow geese and Ross' geese) may be taken under a conservation order from the U.S. Fish and Wildlife Service from ~~January 11, 2010-15, 2011,~~ through April 15, 2010-2011.

a. to e. No change.

**91.3(9) Cedar Rapids/Iowa City goose hunting zone.**

a. *Season dates.* ~~September 1-4~~ through September 15-12.

b. to d. No change.

**91.3(10) Des Moines goose hunting zone.**

a. *Season dates.* ~~September 1-4~~ through September 15-12.

b. to d. No change.

**91.3(11) Cedar Falls/Waterloo goose hunting zone.**

a. *Season dates.* ~~September 1-4~~ through September 15-12.

b. to d. No change.

ITEM 4. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held on ~~October 3 and 4, 2009~~ 2 and 3, 2010, in the north duck hunting zone and ~~October 3 and 4, 2009~~ 9 and 10, 2010, in the south duck hunting zone. Youth hunters must be residents of Iowa as defined in Iowa Code section 483A.1A and less than 16 years old. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks and coots. The adult may hunt for any other game birds for which the season is open. The daily bag and possession limits are the same as for the regular waterfowl season, as defined in rule 571—91.1(481A). All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

[Filed Emergency After Notice 8/16/10, effective 8/16/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9049B**

## **SECRETARY OF STATE[721]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments are necessary to provide additional ballot space for county commissioners laying out the ballots for primary and general elections.

SECRETARY OF STATE[721](cont'd)

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because this change to the administrative rules removes an unnecessary requirement that wastes valuable ballot space.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective upon filing. The normal effective date should be waived because the change is necessary before county commissioners finalize general election ballot layouts beginning Wednesday, August 25, 2010. These amendments confer a benefit on the voting public by reducing the likelihood that county commissioners will need to use more than one ballot or longer ballots than usual.

These amendments are also published herein under Notice of Intended Action as **ARC 9050B** to allow for public comment.

These amendments are intended to implement 2009 Iowa Code Supplement sections 43.31 and 49.57A.

These amendments became effective August 16, 2010.

The following amendments are adopted.

ITEM 1. Rescind and reserve subrule **21.202(2)**.

ITEM 2. Rescind and reserve subrule **21.203(2)**.

[Filed Emergency 8/16/10, effective 8/16/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

## ARC 9040B

## ACCOUNTANCY EXAMINING BOARD[193A]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board hereby amends Chapter 12, "Fees," Iowa Administrative Code.

The Board adopts an amendment to increase the firm initial and renewal fee to \$100 annually. The fee increase will bring the firm permit fees in line with the costs of regulating the accounting profession.

Notice of Intended Action for this amendment was published June 30, 2010, in the Iowa Administrative Bulletin as **ARC 8868B**. No comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapters 17A, 272C, 542, and 546.

This amendment shall become effective October 13, 2010.

The following amendment is adopted.

Amend rule 193A—12.1(542) as follows:

**193A—12.1(542) Required fees.** The following is a schedule of the fees for examinations, certificates, licenses, permits and renewals adopted by the board:

Initial CPA examination application:	
Paid directly to CPA examination services	not to exceed \$1500
Reexamination:	
Paid directly to CPA examination services	not to exceed \$1500
Original issuance of CPA certificate or LPA license by examination (fee includes wall certificate)	\$100
Original issuance of CPA certificate by reciprocity or substantial equivalency	\$100
CPA wall certificate or LPA license issued by reciprocity or substantial equivalency	\$50
Replacement of lost or destroyed wall CPA certificate or LPA license	\$50
Original issuance of attest qualification	\$100
Biennial renewal of CPA certificate or LPA license—active status	\$100
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—active status	\$25
Biennial renewal of CPA certificate or LPA license—inactive status	\$50
Late renewal of CPA certificate or LPA license within 30-day grace period (July 1 to July 30)—inactive status	\$10
Penalty for failure to comply with continuing education requirements	\$50 to \$250
Original issuance of firm permit to practice	<del>\$50</del> <u>\$100</u>
Annual renewal of firm permit to practice	<del>\$50</del> <u>\$100</u>
Reinstatement of lapsed CPA certificate or LPA license	\$100 + renewal fee + \$25 per month of expired registration
Reinstatement of lapsed firm permit to practice	\$100 + renewal fee + \$25 per month of expired registration
Interstate Transfer Form	\$25

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

The board has not yet established a fee schedule for annual renewals commencing with certificates and licenses that expire on and after June 30, 2010, and will amend the rules when the revised fee schedule is available.

[Filed 8/10/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9064B****ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 72, "Iowa Export Trade Assistance Program," Iowa Administrative Code.

The amendments adjust the definition of "trade mission" to include a Department or a designated representative and to delete "U.S. Department of Commerce, or the U.S. Department of Agriculture." Further, the amendments adjust the eligibility requirements to allow an eligible applicant to submit an executed payment agreement for a trade show or payment of the trade mission participation fee and to require an eligible applicant to be in compliance with past ETAP contractual agreements.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8833B**.

The Department held a public hearing on Tuesday, June 22, 2010, to receive comments on the amendments. No comments were received. To reflect the addition of new paragraph "5" in rule 261—72.3(78GA,ch197), the last sentence of the introductory paragraph was changed and now reads as follows: "To be eligible to receive trade assistance, applicants must meet all five of the following criteria."

These amendments are intended to implement 1999 Iowa Acts, chapter 197, section 1, subsection 4. These amendments will become effective October 13, 2010.

The following amendments are adopted.

ITEM 1. Amend rule **261—72.2(78GA,ch197)**, definition of "Trade mission," as follows:

"*Trade mission*" means a mission event led by the Iowa department of economic development, ~~U.S. Department of Commerce, or the U.S. Department of Agriculture~~ or designated representative. Qualified trade missions must include each of the following:

- Advanced operational and logistical planning.
- Advanced scheduling of individualized appointments with prequalified prospects interested in participants' product or service being offered.
- Background information on individual prospects prior to appointments.

Trade missions may also include:

- In-depth briefings on market requirements and business practices for targeted country.
- Interpreter services.
- Development of a trade mission directory prior to the event containing individual company data regarding the Iowa company and the products being offered.
- Technical seminars delivered by the mission participants.

ITEM 2. Amend rule 261—72.3(78GA,ch197) as follows:

**261—72.3(78GA,ch197) Eligible applicants.** The export trade assistance program is available to Iowa firms either producing or adding value to products, or both, or providing services in the state of Iowa. To be eligible to receive trade assistance, applicants must meet all ~~four~~ five of the following criteria:

1. and 2. No change.

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

3. Have at least one full-time employee or sales representative attend the trade show or participate in the trade mission, ~~and~~
4. Provide proof of deposit ~~or payment of the trade show~~ or executed payment agreement for a trade show, or payment of the trade mission participation fee, and
5. Be considered by IDEED as compliant with past ETAP contractual agreements.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9063B**

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 104, "Targeted Industries Internship Program," Iowa Administrative Code.

Rule 261—104.3(15) defined an Iowa "student" as a student of one of the Iowa community colleges, private colleges, or institutions of higher learning under the control of the state Board of Regents. The amendments incorporate changes made to 2009 Iowa Code Supplement section 15.411 as amended by 2010 Iowa Acts, Senate File 2076, which expand the definition of "student" to allow Iowa high school graduates attending college outside the state to participate in the Targeted Industries Internship Program.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on June 16, 2010, as **ARC 8849B**. These amendments were also Adopted and Filed Emergency and published on the same date as **ARC 8848B**.

The Department held a public hearing on Tuesday, July 6, 2010, to receive comments on the amendments. No comments were received. These amendments are identical to those published under Notice.

The Iowa Economic Development Board adopted these amendments on August 19, 2010.

These amendments will become effective October 13, 2010, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement 2009 Iowa Code Supplement section 15.411 as amended by 2010 Iowa Acts, Senate File 2076.

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 [104.1 to 104.13] is being omitted. These amendments are identical to those published under Notice as **ARC 8849B** and Adopted and Filed Emergency as **ARC 8848B**, IAB 6/16/10.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

[For replacement pages for IAC, see IAC Supplement 9/8/10.]

**ARC 9061B**

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts new Chapter 114, "Iowa Innovation Council," Iowa Administrative Code.

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

These rules implement a new Iowa Innovation Council authorized by 2010 Iowa Acts, House File 2076. The rules describe the purpose of the Council, voting member selection and approval procedures, Council operations, Council deliverables, and Department administration provisions.

Notice of Intended Action for these rules was published in the June 16, 2010, Iowa Administrative Bulletin as **ARC 8851B** to allow for public comment. The rules were also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 8850B** on the same date.

The Department held a public hearing on July 6, 2010; no persons attended. The Department received written comments from the Iowa Biotech Association, the Iowa Wind Energy Association, a private citizen, and an Administrative Rules Review Committee member. Comments included an appreciation of the Iowa Innovation Council, requests for assurance that the smaller executive committee was not able to act on behalf of the larger Council, and clarification whether alternative and renewable energy and health care would be considered among the targeted industries identified in the rules.

The Department made the following changes to the rules published under Notice as **ARC 8851B** and Adopted and Filed Emergency as **ARC 8850B**:

- Clarified the role of the chief technology officer in rule 261—114.3(83GA, HF2076);
- Added a definition of “council” in rule 261—114.3(83GA, HF2076);
- Described alternative and renewable energy as components of the definition of “targeted industry” in rule 261—114.3(83GA, HF2076);
- Reordered the chapter by moving rule 261—114.5(83GA, HF2076) to rule 261—114.7(83GA, HF2076) and rule 261—114.11(83GA, HF2076) to rule 261—114.6(83GA, HF2076) and renumbering the subsequent rules accordingly;
- Made minor modifications to the membership requirements for the Council in rule 261—114.5(83GA, HF2076);
- Made minor citation corrections in rule 261—114.6(83GA, HF2076);
- Modified subrule 114.7(1) to account for the fact that the Council is appointed, and not selected, by the Board and to task the executive committee with providing recommendations about the make-up of the Council;
- Clarified in subrule 114.7(2) that the executive committee does not have the authority to act on behalf of the Council;
- Clarified that the Council will recommend to the Board who to appoint to the Council; and
- Changed many uses of the word “will” to “shall” throughout the chapter.

The Iowa Economic Development Board adopted these rules on August 19, 2010.

These rules are intended to implement 2010 Iowa Acts, House File 2076.

These rules will become effective on October 13, 2010, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendment is adopted.

Adopt the following **new** 261—Chapter 114:

CHAPTER 114  
IOWA INNOVATION COUNCIL

**261—114.1(83GA, HF2076) Authority.** The authority for establishing rules governing the Iowa innovation council under this chapter is provided in 2010 Iowa Acts, House File 2076, section 4.

**261—114.2(83GA, HF2076) Purpose.** The purpose of the Iowa innovation council is to advise the department on the development and implementation of public policies that enhance innovation and entrepreneurship in the targeted industries.

**261—114.3(83GA, HF2076) Definitions.**

“Board” means the Iowa economic development board established in Iowa Code section 15.103.

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

“*Chief technology officer*” means the person appointed pursuant to Iowa Code section 15.117 as amended by 2010 Iowa Acts, House File 2076. The chief technology officer serves as chairperson of the council pursuant to 2010 Iowa Acts, House File 2076, section 4.

“*Committee*” means the technology commercialization committee created by the board pursuant to Iowa Code section 15.116.

“*Council*” means the Iowa innovation council established by 2010 Iowa Acts, House File 2076, section 4.

“*Department*” means the Iowa department of economic development.

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

“*Targeted industry*” means the industries of advanced manufacturing, bioscience, and information technology. Alternative and renewable energy is considered a sector within the advanced manufacturing and bioscience industries.

“*Vice chairperson*” means the voting member elected to serve as the council vice chairperson for a one-year term.

**261—114.4(83GA, HF2076) Iowa innovation council funding.** The department shall provide assistance to the council with staff and administrative support. The department may expend moneys allocated to the innovation and commercialization fund in order to provide such support. The council shall not have the authority to expend moneys or resources or to execute contracts. The department may accept grant funds on behalf of the council, but the council shall not provide any form of financial assistance awards. Authority for and approval of all financial expenditures and contracts for the council shall be granted solely by the director on behalf of the department.

**261—114.5(83GA, HF2076) Council membership.**

**114.5(1)** The council shall consist of the following members:

*a.* Twenty voting members selected by the board to serve staggered, two-year terms beginning and ending as provided in Iowa Code section 69.19. Members to be selected shall include the following representatives:

- (1) Seven shall be representatives from businesses in the targeted industries; and
- (2) Thirteen shall be individuals who serve on the technology commercialization committee, or other committees of the board, and who have expertise with the targeted industries.
- (3) Ten of the 20 members selected pursuant to subparagraphs (1) and (2) of paragraph “*a*” shall be executives actively engaged in the management of a business in a targeted industry.

*b.* Nine voting members as set forth below:

- (1) One member, selected by the governor, who also serves on the Iowa capital investment board created in Iowa Code section 15E.63.
- (2) The director of the department, or the director’s designee.
- (3) The chief technology officer appointed pursuant to Iowa Code section 15.117 as amended by 2010 Iowa Acts, House File 2076, who shall serve as chairperson of the council.
- (4) The person designated as the chief information officer pursuant to Iowa Code section 8A.104, subsection 12, or, if no person has been so designated, the director of the department of administrative services, or the director’s designee.
- (5) The president of the state university of Iowa, or the president’s designee.
- (6) The president of Iowa state university of science and technology, or the president’s designee.
- (7) The president of the university of northern Iowa, or the president’s designee.
- (8) Two community college presidents from geographically diverse areas of the state, selected by the Iowa association of community college trustees.

*c.* Four members of the general assembly serving two-year terms in a nonvoting, ex officio capacity, with two from the senate and two from the house of representatives and not more than one member from each chamber being from the same political party. The two senators shall be designated one member each by the president of the senate after consultation with the majority leader of the senate, and by the minority leader of the senate. The two representatives shall be designated one member each

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

by the speaker of the house of representatives after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives.

**114.5(2)** To be eligible to serve as a designee, a person must have sufficient authority to make decisions on behalf of the organization being represented. A designee shall not permit a substitute to attend council meetings on the designee's behalf.

**261—114.6(83GA, HF2076) Responsibilities and deliverables.**

**114.6(1)** The purpose of the council is to advise the department on the development and implementation of public policies that enhance innovation and entrepreneurship in the targeted industries. Such advice may include evaluating Iowa's competitive position in the global economy; reviewing the technology typically utilized in the state's manufacturing sector; assessing the state's overall scientific research capacity; keeping abreast of the latest scientific research and technological breakthroughs and offering guidance as to their impact on public policy; recommending strategies that foster innovation, increase new business formation, and otherwise promote economic growth in the targeted industries; and offering guidance about future developments in the targeted industries.

**114.6(2)** The council shall do the following:

*a.* Prepare a report of the expenditures of moneys appropriated and allocated to the department for certain programs authorized pursuant to 2009 Iowa Code Supplement sections 15.411 as amended by 2010 Iowa Acts, House File 2076, and 15.412 relating to the development and commercialization of businesses in the targeted industries.

*b.* Prepare a summary of the activities of the technology commercialization committee and the Iowa innovation council.

*c.* Create a comprehensive strategic plan for implementing specific strategies that foster innovation, increase new business formation, and promote economic growth.

*d.* Review existing programs that relate to the targeted industries and suggest changes to improve efficiency and effectiveness.

*e.* Conduct industry research and prepare reports for the general assembly, the governor, the department, and other policy-making bodies within state government.

*f.* Act as a forum where issues affecting the research community, the targeted industries, and policy makers can be discussed and addressed.

**261—114.7(83GA, HF2076) Executive committee.** In order to effectively carry out the responsibilities of the council, an executive committee within the council shall be formed.

**114.7(1) Membership.** The executive committee shall include the chief technology officer, vice chairperson of the council, the director of the department, and four board-appointed members of the council who also serve on the technology commercialization committee in order to:

*a.* Solicit individuals to become council members;

*b.* Review vacancies and resignations;

*c.* Review all nominees and application materials and recommend nominees to the council to recommend to the board for appointment;

*d.* Nominate one of the voting members to serve as vice chairperson;

*e.* Approve the formation of work groups, appoint work group members and leaders, review activities of the work groups, and report to the council to ensure the coordination of activity of work groups;

*f.* Record the official proceedings for the council;

*g.* Act on behalf of the council between council meetings, as directed by the council;

*h.* Issue reports on behalf of the council, as directed by the council;

*i.* Meet with the chief technology officer to discuss the overall management of the business of the council; and

*j.* Review potential conflicts of interest on the part of any member of the council.

**114.7(2) Quorum; authority.** A majority of the members of the executive committee constitutes a quorum. A majority vote of the quorum is required to approve actions of the executive committee. The

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

executive committee shall not have the authority to bind the council to its decisions or recommendations but merely the authority to recommend action to the council or to take action as directed by the council.

**261—114.8(83GA, HF2076) Application and review process for board-appointed council members.** The council shall review application materials for board-appointed nominees identified by the executive committee and shall recommend to the board for appointment those nominees who the council believes will add value to and further the purposes of the council.

**261—114.9(83GA, HF2076) Voting.** A majority of the members of the council constitutes a quorum. A majority vote of the quorum is required to approve actions of the council, including recommendations.

**261—114.10(83GA, HF2076) Meetings and commitment of time.** The chief technology officer shall be responsible for convening meetings of the council and is expected to convene at least four regular meetings of the council, within any period of 12 consecutive calendar months, beginning on July 1 or January 1, including at least one annual meeting. The annual meeting of the council shall be convened in January at a convenient location in Des Moines. The chief technology officer shall not convene a meeting of the council unless the director of the department, or the director's designee, is present at the meeting.

**261—114.11(83GA, HF2076) Nonattendance.**

**114.11(1)** Any member serving on the council shall be deemed to have submitted a resignation to the council if either of the following events occurs.

*a.* The member does not attend two or more consecutive regular meetings of the council.

*b.* The member attends less than one-half of the regular council meetings within any period of 12 calendar months beginning on July 1 or January 1.

**114.11(2)** The requirements of this rule shall supersede the attendance requirements described in Iowa Code section 69.15 only to the extent that statutory construction pursuant to Iowa Code chapter 4 allows.

**261—114.12(83GA, HF2076) Council work groups.**

**114.12(1)** The council shall establish work groups, both standing and temporary, to assist in the execution of responsibilities of the council and to expand the intellectual capacity of the council. Work groups shall be directed by a work group leader. Work groups shall encourage diversity of talent, the size and geographic location of businesses in the targeted industries, and invite a wider assembly of corporate and university executives, scientists, financial executives, venture investors, and experienced entrepreneurs from across the state.

**114.12(2)** To be eligible to serve as a work group leader, a nominee must be one of the eligible voting members of the council. The executive committee shall review and approve the formation of proposed work groups and approve proposed work group members and leaders. The chief technology officer and vice chairperson shall serve as ex officio members of all work groups established by the council.

**261—114.13(83GA, HF2076) Reporting.** The executive committee shall review, comment, and formally submit any and all reports on behalf of the council. The chief technology officer is designated by the board as the signing officer for certain documents. The chief technology officer is authorized to sign correspondence, applications, reports, or other non-financial documents produced by the council. The chief technology officer shall serve as a key spokesperson for the council and be responsible for coordinating the communication of information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2010 Iowa Acts, House File 2076,

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

section 2, and any other reports deemed necessary by the department, the board, the general assembly or the governor's office.

These rules are intended to implement 2010 Iowa Acts, House File 2076.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9072B**

## **EDUCATIONAL EXAMINERS BOARD[282]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

There are two parts to this amendment. The first changes the language for out-of-state licensure. Currently the rule states that an applicant must obtain a license from the state in which the applicant prepared. However, if an applicant has been teaching in a state other than the one where the applicant prepared, a barrier to licensure occurs because the applicant must renew a dormant license or obtain a license for the first time in the state where the applicant prepared. The second part amends the out-of-state licensure requirements so that 75 percent of the endorsement requirements must be completed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8822B**. A public hearing on the amendment was held on Wednesday, June 23, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 13, 2010.

The following amendment is adopted.

Amend subrule 13.17(1) as follows:

**13.17(1) One-year teacher exchange license.**

*a.* For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to the applicant under the following conditions:

(1) and (2) No change.

(3) The applicant holds and submits a copy of a valid regular certificate or license in the state in which the preparation was completed or in which the applicant is currently teaching, exclusive of a temporary, emergency or substitute license or certificate; and

(4) No change.

(5) Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed or of the application and the credential evaluation report. The applicant must have completed at least ~~50~~ 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the exchange license; and

(6) and (7) No change.

*b.* No change.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9070B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

When the counseling rules were moved to the professional service license, all of the counseling rules were inadvertently rescinded. This amendment reestablishes the elementary counselor endorsement requirements so that an elementary teacher who completes a counseling program will be able to have the endorsement placed on the teacher's license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8824B**. A public hearing on the amendment was held on Wednesday, June 23, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 13, 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 [13.28(26)] is being omitted. This amendment is identical to that published under Notice as **ARC 8824B**, IAB 6/2/10.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

[For replacement pages for IAC, see IAC Supplement 9/8/10.]

**ARC 9071B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

When the counseling rules were moved to the professional service license, all of the counseling rules were inadvertently rescinded. This amendment reestablishes the secondary counselor endorsement requirements so that a secondary teacher who completes a counseling program will be able to have the endorsement placed on the teacher's license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8825B**. A public hearing on the amendment was held on Wednesday, June 23, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 13, 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 [13.28(27)] is being omitted. This amendment is identical to that published under Notice as **ARC 8825B**, IAB 6/2/10.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

[For replacement pages for IAC, see IAC Supplement 9/8/10.]

**ARC 9073B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 15, "Special Education Support Personnel Authorizations," Iowa Administrative Code.

This amendment adds course work in school law/special education law to bring the requirements for supervisor of special education closer to the requirements for the PK-12 principal. This addition ensures similar preparation for individuals moving from support services to supervisor of special education and, eventually, to director of special education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8828B**. A public hearing on the amendment was held on Wednesday, June 23, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 13, 2010.

The following amendment is adopted.

Amend subrule 15.5(2) as follows:

**15.5(2) Program requirements.**

*a.* and *b.* No change.

*c.* Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:

(1) No change.

(2) Current issues in special education administration including school law/special education law.

(3) to (8) No change.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9075B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

These amendments update language in the requirements for the director of special education and delete the word "teaching" from the support option in order to allow professional service experience.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8830B**. A public hearing on the amendments was held on Wednesday, June 23, 2010. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective October 13, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 18.11(2) as follows:

**18.11(2) Program requirements.**

*a.* No change.

*b.* *Endorsement.* An applicant must hold or meet the requirements for one of the following:

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- (1) PK-12 principal and PK-12 supervisor of special education (see rule 282—18.9(272));
- (2) Supervisor of special education—instructional (see rule 282—15.5(272));
- (3) ~~Supervisor of special education—support~~ Professional service administrator (see ~~rule 282—15.8(272)~~ 282—subrule 27.3(5)); or
- (4) A letter of authorization for special education supervisor issued prior to October 1, 1988.  
c. to e. No change.

ITEM 2. Amend subrule 18.11(3) as follows:

**18.11(3) Other.**

- a. No change.
- b. *Option 2: Support.* An applicant must meet the practitioner licensure requirements for one of the following endorsements and have three years of ~~teaching~~ experience as a:
  - (1) School audiologist;
  - (2) School psychologist;
  - (3) School social worker; or
  - (4) Speech-language pathologist.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9074B**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

This amendment adds course work in school law/special education law to bring the requirements for supervisor of special education closer to the requirements for the PK-12 principal. This addition ensures similar preparation for individuals moving from support services to supervisor of special education and, eventually, to director of special education. In addition, the title of supervisor of special education (support) is changed to professional service administrator.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8829B**. A public hearing on the amendment was held on Wednesday, June 23, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 13, 2010.

The following amendment is adopted.

Amend subrule 27.3(5) as follows:

**27.3(5) ~~Supervisor of special education (support)~~ Professional service administrator.**

a. *Authorization.* The holder of this endorsement is authorized to serve as a supervisor of special education support programs. However, an individual holding a statement of professional recognition is not eligible for the ~~supervisor of special education (support)~~ professional service administrator endorsement.

b. *Program requirements.*

- (1) No change.
- (2) Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:
  1. No change.
  2. Current issues in special education administration including school law/special education law.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- 3. to 8. No change.
- c. No change.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9076B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

This amendment updates language in the requirements for the director of special education (AEA) and deletes the word "teaching" from the support option in order to allow professional service experience.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8831B**. A public hearing on the amendment was held on Wednesday, June 23, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective October 13, 2010.

The following amendment is adopted.

Amend subrule 27.3(6) as follows:

**27.3(6)** *Director of special education of an area education agency.*

- a. No change.
- b. *Program requirements.*
  - (1) No change.
  - (2) Endorsement. An applicant must hold or meet the requirements for one of the following:
    - 1. PK-12 principal and PK-12 supervisor of special education (see rule 282—18.9(272));
    - 2. Supervisor of special education—instructional (see rule 282—15.5(272));
    - 3. ~~Supervisor of special education—support~~ Professional service administrator (see ~~rule 282—15.8(272)~~ subrule 27.3(5)); or
    - 4. A letter of authorization for special education supervisor issued prior to October 1, 1988.
  - (3) to (5) No change.
- c. *Other.*
  - (1) No change.
  - (2) Option 2: Support. An applicant must meet the practitioner licensure requirements for one of the following endorsements and have three years of ~~teaching~~ experience as a:
    - 1. School audiologist;
    - 2. School psychologist;
    - 3. School social worker; or
    - 4. Speech-language pathologist.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9043B****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 239B.4(6) and 249A.4, the Department of Human Services amends Chapter 41, "Granting Assistance," and Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

These amendments remove requirements for the Department to return to clients original documents submitted as verification of income for Medicaid or Family Investment Program eligibility determination. Originally, clients in these two programs were required to submit all original documents verifying income and deductions to the Department every month. This included pay stubs and proof of expenses such as payments for child care and supplies used for self-employment. Now these items are verified at a semiannual review, and clients may submit photocopies of the original documents.

This change is being made in conjunction with the implementation of electronic case files and multiple scanning units around the state. Continuing to return all original documents would be a cost to the Department and a poor use of limited staff resources. Households will be able to request copies of any scanned documents the Department has, such as pay stubs and utility bills. This change does not affect documents such as social security cards, birth certificates, drivers' licenses, passports, and alien documentation. The Department keeps copies of those documents and returns the originals.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 16, 2010, as **ARC 8853B**. The Department received one comment on the Notice of Intended Action, requesting that the commitment to return documents not related to income be made explicit in the rules. The Department has historically returned all documents, including those related to income, as a courtesy to clients. Therefore, the addition of the suggested wording to these rules is not necessary. These amendments are identical to those published in the Notice of Intended Action.

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).

The Council on Human Services adopted these amendments on August 11, 2010.

These amendments are intended to implement Iowa Code sections 239B.7 and 249A.4.

These amendments shall become effective on November 1, 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 [41.27, 75.57] is being omitted. These amendments are identical to those published under Notice as **ARC 8853B**, IAB 6/16/10.

[Filed 8/11/10, effective 11/1/10]

[Published 9/8/10]

[For replacement pages for IAC, see IAC Supplement 9/8/10.]

**ARC 9044B****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

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

These amendments provide a clearer explanation of the difference between:

- A Medicaid disability review, which may be required periodically depending on the nature of a member's disabling condition, and
- A Medicaid disability redetermination, which is required when a member reaches the age of 18 to apply adult disability criteria.

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

In most cases, disability is determined by the Social Security Administration. These policies apply when the Department is responsible for independent disability determinations for applicants and members.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 16, 2010, as **ARC 8864B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations because all members should be subject to the same policy regarding disability reviews and redeterminations. The Department has an exception to policy process in rule 441—1.8(17A,217) that may be pursued should a member feel that exceptional circumstances justify a waiver of policy.

The Council on Human Services adopted these amendments on August 11, 2010.

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

These amendments shall become effective on November 1, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 75.20(4) as follows:

**75.20(4)** ~~Redeterminations~~ *Reviews of disability*. In connection with any independent determination of disability, the department will determine whether reexamination of the member's ~~medical condition~~ disability will be ~~necessary~~ required for periodic ~~redeterminations~~ of eligibility reviews. When ~~reexamination~~ a disability review is required, the member or the member's authorized representative shall complete and submit the same forms as required in paragraph 75.20(2) "b."

ITEM 2. Adopt the following **new** subrule 75.20(6):

**75.20(6)** *Disability redeterminations for members who attain age 18*. If a member is eligible based on an independent determination of disability made under the standards applicable to persons under 18 years of age, the department shall redetermine the member's disability after the member attains the age of 18 years. The member's disability shall be redetermined:

- a. Using the standards applicable to persons who are 18 years of age or older, and
- b. Regardless of whether a review of the member's disability would otherwise be due.

[Filed 8/11/10, effective 11/1/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9045B**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.7, the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

These amendments revise Medicaid home- and community-based services (HCBS) waiver rules regarding the consumer choices option (CCO). Under this option, the cost of certain services that a member needs is rolled into an individual budget that the member manages with the help of an independent support broker. The member may hire providers that are not enrolled with Iowa Medicaid. Bills are paid through a participating financial institution rather than through the Iowa Medicaid Enterprise. CCO is offered under the AIDS/HIV, brain injury, elderly, intellectual disabilities (formerly mental retardation), ill and handicapped, and physical disability waivers.

The amendments change waiver rules to conform to federal guidance on the allowable uses of waiver funds. The amendments:

- Clarify that services, supports, and items purchased with a CCO individual budget must be directly related to a personal goal or assessed need of the member as identified in the member's service plan.

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

- Specify that respite services, specialized medical equipment, assistive devices, and supported employment services to obtain a job are not subject to a utilization factor in determining the amount of an individual budget.
- Establish criteria for the purchase of individual-directed goods and services and add a list of items that cannot be purchased using the individual budget.
- Provide that amounts budgeted for home and vehicle modifications, specialized medical equipment, or assistive devices shall not be used for anything other than the specific item or service and shall not include the costs of the financial management services or the independent support broker.
- Identify criteria for the development and use of a savings plan within the individual budget. The amendments provide that, except for respite services, savings from monthly amounts allocated to other waiver services that are not used may not be added to the savings plan, but shall revert to the Department at the end of each month. Likewise, unexpended funds remaining in the savings plan at the end of the calendar year shall revert to the Department.
- Clarify that the individual budget must be approved before purchases are made.
- Require criminal record checks on all CCO providers.
- Clarify the reimbursement rates that can be negotiated between a member and the member's employees.
- Change the word "consumer" to "member" where applicable.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on June 2, 2010, as **ARC 8832B**. The Department also held a public hearing for the purpose of receiving comments on the proposed amendments, which was attended by two persons.

The Department received three written comments on the Notice of Intended Action. The comments concerned restrictions on hiring employees, allocation of funds for major purchases, clarification of the process for saving for individual-directed purchases, avenues for dispute of Department decisions, and the need for a procedures manual for independent support brokers.

In response to these comments, the Department has made the following changes in the amendments published under Notice of Intended Action:

- In paragraphs 78.34(13)"c," 78.37(16)"c," 78.38(9)"c," 78.41(15)"c," 78.43(15)"c," and 78.46(6)"c," the cross-reference has been changed from "441—subrule 77.30(14)" to "441—Chapter 119."
- The phrase "pursuant to 441—Chapter 119" has been added to subparagraphs 78.34(13)"1"(5), 78.37(16)"1"(5), 78.38(9)"1"(5), 78.41(15)"1"(5), 78.43(15)"1"(5), and 78.46(6)"1"(5).

Chapter 119 explains the process for record check evaluations for health care programs, including Department evaluations of persons with criminal or abuse records to determine whether the person's record would prohibit the person's employment for the particular position sought.

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).

The Council on Human Services adopted these amendments on August 11, 2010.

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

These amendments shall become effective on November 1, 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 [78.34(13), 78.37(16), 78.38(9), 78.41(15), 78.43(15), 78.46(6)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 8832B**, IAB 6/2/10.

[Filed 8/11/10, effective 11/1/10]

[Published 9/8/10]

[For replacement pages for IAC, see IAC Supplement 9/8/10.]

**ARC 9068B**

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 4, "Employers," Chapter 6, "Covered Wages," Chapter 9, "Refunds," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 16, "Domestic Relations Orders and Other Assignments," Iowa Administrative Code.

The amendments implement certain provisions of 2010 Iowa Acts, House File 2518, which require immediate amendment or adoption of rules, and include: adding provisions for covered wage restorations for employees who bump into lower-paying jobs to avoid layoff, extending the sunset provision for bona fide retirement for licensed health care professionals, adding a provision to clarify presumption for disease contracted by a special service member while on duty, and clarifying that noncovered employment for National Guard members called to active state duty is not covered employment. Additional amendments implementing provisions of 2010 Iowa Acts, House File 2518, which will have deferred effective dates, will be proposed at a later date.

The amendments also accomplish the following:

- Eliminate a provision found at 495—subrule 6.5(8) that is already covered under the IPERS covered wage statute, Iowa Code section 97B.1A(26)(a)(1)(b), and other cafeteria plan rules that govern IPERS coverage for certain cafeteria plan payments referred to in the subrule as bounties (cash paid to employees in lieu of any coverage or family coverage under an employer's health care plan);
- Eliminate provisions regarding refunds to retired reemployed members' contributions that have been superseded by more beneficial statutory changes;
- Streamline the process for distribution of death benefits to multiple beneficiaries;
- Clarify calculations of death benefits under the required minimum distribution requirements; and
- Clarify that certain service purchases may or may not increase the numerator and denominator of the marital portion as used to determine the service factor under a domestic relations order.

These amendments were prepared after consultation with IPERS administration, the Benefits Advisory Committee, and the Investment, Legal, Operations, and Benefits Divisions.

These amendments were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 14, 2010, as **ARC 8929B**. Notice of Intended Action on these amendments was published as **ARC 8928B** on the same date. A public hearing was held on August 3, 2010. No one attended the public hearing, and no written comments were received.

These amendments are identical to those published under Notice.

None of these amendments are subject to requests for waivers; however, the amendments are subject to IPERS' normal appeal process.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15 and 2010 Iowa Acts, House File 2518, sections 33, 36 and 41.

These amendments will become effective on October 13, 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 [4.8, 6.5(3), 9.3, 11.5, 13.2(9), 14.5, 14.16, 16.2] is being omitted. These amendments are identical to those published under Notice as **ARC 8928B** and Adopted and Filed Emergency as **ARC 8929B**, IAB 7/14/10.

[Filed 8/20/10, effective 10/13/10]

[Published 9/8/10]

[For replacement pages for IAC, see IAC Supplement 9/8/10.]

**ARC 9051B****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6) and 455A.13, the Natural Resource Commission hereby amends Chapter 71, "Nursery Stock Sale to the Public," Iowa Administrative Code.

The rescission of paragraph 71.2(2)"c" allows for the sale of state forest nursery stock outside Iowa, which was authorized pursuant to Iowa Code section 455A.13(1) as amended by 2010 Iowa Acts, House File 2531.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8876B**. No public hearings were held on this rule making.

A total of 16 comments were received. Thirteen comments were in support of the amendment and three comments were opposed. Those opposed to the amendment felt allowing the state nursery to sell out of state would create an unfair market advantage against the private sector. The Department has not made any changes to the amendment based on these comments, as the Legislature considered this concern when approving the amendment to Iowa Code section 455A.13 and found the private sector would be able to successfully compete. Therefore, the Department is moving forward with adopting this amendment to make the rule conform to the Iowa Code.

This amendment is intended to implement Iowa Code section 455A.13(3) as amended by 2010 Iowa Acts, House File 2531.

This amendment shall be effective October 13, 2010.

The following amendment is adopted.

Rescind paragraph **71.2(2)"c."**

[Filed 8/16/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9052B****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby adopts amendments to Chapter 81, "Fishing Regulations," Iowa Administrative Code.

These changes remove the closed December 1 through March 15 fishing season regulation below Lock and Dam 11, 12 and 13; limit anglers to a maximum 5/0 treble hook size when snagging nongame species listed in subrule 81.2(11); and add a no snagging restriction from directly below the Oakland Mills dam to the downstream end of the 253rd Street boat ramp.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8881B**. Eight comments were received during the public comment period. One person opposed removing the closed fishing season below Lock and Dam 11, 12 and 13. Four individuals opposed the Oakland Mills snagging restriction and three people confirmed the illegal take of game fish by snagging and the conflicts that occur at the Oakland Mills dam area.

Eleven people attended the July 20, 2010, public hearing. One person was in favor of removing the closed fishing season below Lock and Dam 11, 12 and 13. One person opposed the maximum 5/0 treble hook size when snagging nongame species, and another was in favor of the hook size restriction. Two people opposed the snagging restriction below the Oakland Mills dam and submitted a petition containing 139 signatures of those who oppose the snagging restriction. No revisions to the Notice of Intended Action were made in response to public comment.

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

These amendments differ from the Notice of Intended Action in that the sentence “Hooks larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging” was changed to “No hook larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging.” The sentence in the Notice of Intended Action was in error and did not reflect the intent of the proposed rule change. The NRC brief in the preamble of the Notice, the news release for the public hearing, and the explanation of the rule at the public meeting made clear that the rule change would not permit snagging with a hook larger than a 5/0 treble hook size.

These amendments are intended to implement Iowa Code section 456A.25.

These amendments shall become effective October 13, 2010.

The following amendments are adopted.

ITEM 1. Amend subrule 81.2(1) as follows:

**81.2(1)** Exception closed season. In Lakes West Okoboji and East Okoboji and Spirit Lake, there shall be a closed season on walleye beginning February 15 each year. The annual opening for walleye in these three lakes shall be the first Saturday in May. In these three lakes there shall be a closed season on muskellunge and tiger muskie beginning December 1 each year. The annual opening for muskellunge and tiger muskie in these three lakes shall be May 21 the following year.

~~Fishing in any manner is prohibited from December 1 of each year through March 15 the following year in the following areas of the Mississippi River.~~

- ~~a. From Lock and Dam Number 11 downstream to the railroad bridge near river mile 579.9.~~
- ~~b. From Lock and Dam Number 12 downstream to the mouth of Mill Creek near river mile 556.~~
- ~~c. From Lock and Dam Number 13 downstream to the downstream end of Stamp Island near river mile 521.5.~~

ITEM 2. Amend subrule 81.2(11) as follows:

**81.2(11)** Method of take. Artificial light may be used in the taking of any fish. The following species of fish may be taken by hand fishing, snagging, spearing, and bow and arrow: common carp, bighead carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback carpsucker, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, sheepshead, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. A fish is foul hooked when caught by a hook in an area other than in the fish’s mouth. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of foul hooking fish. No hook larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. Exceptions to snagging as a method of take are as follows:

No snagging is permitted in the following areas:

1. to 11. No change.
12. Skunk River from directly below Oakland Mills dam to the downstream end of the 253rd Street boat ramp.

[Filed 8/16/10, effective 10/13/10]

[Published 9/8/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9053B****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 88, "Fishing Tournaments," Iowa Administrative Code.

The adopted amendment redefines the definition of "fishing tournament" as any organized fishing event, except for fishing events held for educational purposes and sponsored by the Department of Natural Resources, involving any of the following:

1. Six or more boats or 12 or more participants, except for waters of the Mississippi River, where the number of boats shall be 20 or more or the number of participants shall be 40 or more;
2. An entry fee is charged; or
3. Prizes or other inducements are awarded.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8882B**. There were no public comments and no one attended the July 20, 2010, public hearing. There have been no changes to the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 456A.16 and 481A.38.

This amendment shall become effective October 13, 2010.

The following amendment is adopted.

Amend rule 571—88.1(462A,481A) as follows:

**571—88.1(462A,481A) Definition.**

*"Fishing tournament"* means any organized fishing event ~~with~~, except for fishing events held for educational purposes and sponsored by the department of natural resources, involving any of the following:

1. ~~6 Six~~ Six or more boats or 12 or more participants ~~where an entry fee is charged or prizes or other inducements are awarded~~, except for waters of the Mississippi River, where the number of boats shall be 20 or more and the number of participants shall be 40 or more.
2. An entry fee is charged.
3. Prizes or other inducements are awarded.

[Filed 8/16/10, effective 10/13/10]

[Published 9/8/10]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9054B****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6) and 481A.151, the Natural Resource Commission hereby amends Chapter 113, "Restitution for Pollution Causing Injury to Wild Animals," Iowa Administrative Code.

These amendments define "priority watershed" and direct compensation collected for natural resource damages from the vicinity of the loss to priority watersheds selected by the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 30, 2010, as **ARC 8883B**. There were no public comments and no one attended the July 20, 2010, public hearing. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 456A.23, 481A.2, and 481A.151.

These amendments will become effective on October 13, 2010.

The following amendments are adopted.

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

ITEM 1. Adopt the following **new** definition of “Priority watershed” in rule **571—113.2(481A)**:  
 “*Priority watershed*” means a watershed for which:

1. The department of natural resources, in partnership with other state or federal agencies, the agriculture community or nonprofit organizations, creates and implements plans, programs or projects to sustain and enhance watershed and stream functions; and
2. The principal objective is to manage wild animals and their habitats.

ITEM 2. Amend subrules 113.5(1) and 113.5(2) as follows:

**113.5(1) *Direct monetary payment.*** Compensation shall normally be by direct monetary payment to the department for projects in priority watersheds selected by the department. To the extent reasonable and practical, the money received will be used to replace, restore or rehabilitate the lost or injured animals. Resource enhancement projects, support of educational programs relating to resource protection or enhancement, or resource acquisition of equal or greater value also may be funded. If practical, such alternatives should provide similar services to the public ~~and should be in the vicinity of the loss~~.

**113.5(2) *Indirect monetary payment.*** In ~~appropriate~~ cases where the destruction of or injury to wild animals is in a selected priority watershed, an equal or greater amount of compensation may be made by monetary payment to another government agency or private nonprofit group in the natural resource field for the same purposes as provided in subrule 113.5(1).

ITEM 3. Amend **571—Chapter 113**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 456A.23<sub>2</sub> and 481A.2 and ~~2002 Iowa Acts, Senate File 2293, section 58~~ 481A.151.

[Filed 8/16/10, effective 10/13/10]

[Published 9/8/10]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/8/10.

**ARC 9057B**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby adopts Chapter 33, “Plumbing and Mechanical Systems Board—Contested Cases,” Iowa Administrative Code.

The rules in Chapter 33 describe the requirements that a licensee must follow to file a contested case and the proceedings that the Iowa Plumbing and Mechanical Systems Board will conduct as the proceedings apply to the contested case. The rules also provide details concerning decisions, appeals and recovery of hearing fees and expenses.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 16, 2010, as **ARC 8861B**. A public hearing was held on July 6, 2010.

Two written comments were received during the public comment period. One comment suggested two changes. The first suggestion was to change the terminology in the first sentence of rule 641—33.7(17A) from “proceedings” to “evidentiary hearing.” The Board concluded that this was a prudent change and altered the wording in the rule. The second suggestion was to add in rule 641—33.8(105) the sentence: “Licensee may have representation at their own cost.” After review, the Board altered the rule by adding the following sentence to reflect the intent of the suggestion: “All other parties to a proceeding before the board shall be entitled to have counsel at their own expense.”

The second comment addressed rule 641—33.31(17A,272C). The commenter suggested that the client notification provision was too harsh. Given that the purpose of licensing is to protect the public, the Board concluded that requiring client notification when a licensee cannot perform licensed work advances the protection purpose. No change was made to rule 641—33.31(17A,272C).

The Plumbing and Mechanical Systems Board adopted these rules on August 17, 2010.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

These rules are intended to implement Iowa Code chapters 17A, 105 and 272C.  
These rules will become effective October 13, 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 rules [Ch 33] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 8861B**, IAB 6/16/10.

[Filed 8/18/10, effective 10/13/10]

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[For replacement pages for IAC, see IAC Supplement 9/8/10.]

**ARC 9048B****TRANSPORTATION DEPARTMENT[761]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation adopts amendments to Chapter 400, "Vehicle Registration and Certificate of Title," Chapter 401, "Special Registration Plates," Chapter 405, "Salvage," Chapter 415, "Driver's Privacy Protection—Certificates of Title and Vehicle Registration," Chapter 425, "Motor Vehicle and Travel Trailer Dealers, Manufacturers, Distributors and Wholesalers," Chapter 431, "Vehicle Recyclers," Chapter 450, "Motor Vehicle Equipment," and Chapter 480, "Abandoned Vehicles," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the June 30, 2010, Iowa Administrative Bulletin as **ARC 8869B**.

The purpose of this rule making is to amend the rules to conform to recent legislation and the Iowa Code, to clarify and streamline procedures, to clean up and clarify rules, and to rescind rules no longer valid. The following paragraphs summarize the amendments by rule chapter:

The amendments to Chapter 400 add a definition of "social security number"; allow for a certification of trust to be accepted as proof of application for a certificate of title or registration; amend the titling procedure on a restitution or forfeiture lien; clarify that the bonded title application shall be accompanied by evidence of ownership; remove the requirement that a motor vehicle investigator examine the vehicle to verify that the certificate of title application is correct; make necessary amendments relating to certificates of title and registration plates for specialty vehicles to comply with 2008 Iowa Acts, chapter 1044; make changes to the Department's authority to register unconventional vehicles; clarify that the dealer must pay delinquent fees if the vehicle is not currently registered when the dealer acquires the vehicle; remove the requirement that a dealer must assign the title to the dealer; make necessary revisions relating to the registration of vehicles equipped for persons with disabilities to comply with 2008 Iowa Acts, chapter 1042; discontinue the ability to register a truck tractor as a motor home with a minor conversion to avoid commercial driver's license requirements, fuel tax and registration fees; clarify when a fee is not required for a vehicle that is put in or taken out of storage; amend the procedure concerning stored vehicles; and add new rules to clarify appeal time frames.

The amendments to Chapter 401 allow the Department to grant an extension if 500 paid applications for processed emblem plates are not submitted within one year after the date the Department approved the plate and clarify that, although a person that qualifies for the legion of merit plate may apply for more than one set of plates, the person is only allowed the reduced registration fee for one vehicle.

The amendment to Chapter 405 removes the requirement that the previous fees due and the year the vehicle became salvage be entered on an Iowa salvage title.

The amendments to Chapter 415 clarify and update the process, requirements and restrictions for obtaining a vehicle and title information protected by the Driver's Privacy Protection Act. These changes comply with 2009 Iowa Acts, chapter 126.

The amendments to Chapter 425 change "designated location" to "principal place of business"; allow the Department to rescind revocation of a dealer's license that was revoked for failure to file a surety

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

bond if the applicant timely obtained a reinstated or new surety bond meeting the requirements but due to mistake or inadvertence failed to file the original bond; stipulate that a temporary license will no longer be granted; clarify the proper documentation needed by motor vehicle franchisers; and amend the process used to notify persons of pending revocations and appeal requests to comply with Iowa Code chapter 322A.

The amendments to Chapter 431 change “designated location” to “principal place of business.”

The amendments to Chapter 450 define motorized vehicle classifications and vehicle component working order and conditions for titling and registration of specially constructed or reconstructed vehicles to comply with 2008 Iowa Acts, chapter 1044.

The amendment to Chapter 480 adds a definition of “abandoned vehicle” for consistency and clarification of Iowa Code section 321.18.

These rules do not provide for waivers. Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

One change was made from the Notice of Intended Action. In Item 28, “may” was changed to “shall” in the introductory paragraph of subrule 415.4(1) as follows:

“**415.4(1)** The department or a county treasurer shall require a requestor to:”

These amendments are intended to implement Iowa Code chapters 17A, 321, 321H, 321L, 322 and 322C.

These amendments will become effective October 13, 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 [amendments to Chs 400, 401, 405, 415, 425, 431, 450, 480] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8869B**, IAB 6/30/10.

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