



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2015

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 25, 2015	October 14, 2015
9	Friday, October 9, 2015	October 28, 2015
10	Wednesday, October 21, 2015	November 11, 2015

PLEASE NOTE:

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Travel, employment examinations and applicant lists, education financial assistance, procurements—clarifications and updates, amendments to chs 41, 42, 54, 56, 64, 117, 119 IAB 9/16/15 ARC 2145C	Room 8, A Level Hoover State Office Bldg. Des Moines, Iowa	October 6, 2015 3 to 4 p.m.
Contract compliance, ch 121 IAB 9/16/15 ARC 2144C	Room 8, A Level Hoover State Office Bldg. Des Moines, Iowa	October 6, 2015 9 to 10 a.m.

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Licensure fees—\$4 increase, amendments to ch 12 IAB 9/2/15 ARC 2131C	Room B50, Basement Grimes State Office Bldg. Des Moines, Iowa	September 23, 2015 1 p.m.
Background checks for applicants, amendments to chs 13, 15, 16, 18, 22 to 24, 27 IAB 9/2/15 ARC 2130C	Room B50, Basement Grimes State Office Bldg. Des Moines, Iowa	September 23, 2015 1 p.m.

EDUCATION DEPARTMENT[281]

Online learning offered by a school district—open enrollment, 15.8 IAB 9/2/15 ARC 2118C	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 22, 2015 9 to 10 a.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Landfill alternatives financial assistance programs, ch 209 IAB 9/16/15 ARC 2140C	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 6, 2015 1 p.m.
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HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Flood mitigation program, 14.2, 14.3(2) IAB 9/2/15 ARC 2119C	Cyclone Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	September 22, 2015 11 a.m.
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IOWA FINANCE AUTHORITY[265]

Title guaranty division—reorganization and clarification of rules, 9.1 to 9.22 IAB 9/2/15 ARC 2128C	Presentation Room 2015 Grand Ave. Des Moines, Iowa	September 22, 2015 1 to 2 p.m.
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NATURAL RESOURCES DEPARTMENT[561]

Special deer and turkey hunting licenses for nonresident disabled veterans and disabled members of the armed forces, 12.2 to 12.18 IAB 9/2/15 ARC 2132C	Conference Room 4E Wallace State Office Bldg. Des Moines, Iowa	September 22, 2015 1 p.m.
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TRANSPORTATION DEPARTMENT[761]

Update of uniform rules—rule making, waivers, declaratory orders, 10.1 to 10.3, 11.5(3), 11.8(2), 12.2 IAB 9/2/15 ARC 2117C	South Conference Room, First Floor DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	September 24, 2015 10 a.m. (If requested)
Road fund formulas; distribution committee, 102.1, 102.2, 102.5, 102.6, 102.7(6) IAB 9/2/15 ARC 2126C	South Conference Room, First Floor DOT Administration Bldg. 800 Lincoln Way Ames, Iowa	September 24, 2015 1 p.m. (If requested)

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 2145C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 8A.104(5), the Department of Administrative Services (DAS) proposes to amend Chapter 41, “Auditing Claims,” Chapter 42, “Accounting Procedures of Public Impact,” Chapter 54, “Recruitment, Application and Examination,” Chapter 56, “Filling Vacancies,” Chapter 64, “Benefits,” Chapter 117, “Procurement of Goods and Services of General Use,” and Chapter 119, “Uniform Terms and Conditions for Service Contracts,” Iowa Administrative Code.

The Department is continuing the effort to review its administrative rules in accordance with Iowa Code section 17A.7 by amending certain departmental rules to eliminate outdated provisions and conflicts with statute and by making other changes that reflect and clarify departmental practice.

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

Interested persons may make written comments on the proposed amendments until 4:30 p.m. on October 6, 2015. Comments should be directed to Caleb Hunter, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to Caleb.Hunter@iowa.gov.

A public hearing will be held on October 6, 2015, from 3 to 4 p.m. in Room 8, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of specific needs by calling (515)281-3351.

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

These amendments are intended to implement Iowa Code chapter 8A.

The following amendments are proposed.

ITEM 1. Amend rule 11—41.4(8A) as follows:

11—41.4(8A) Authorization for travel.

41.4(1) *Approval by administrative head of the agency.* All official travel shall be authorized by the administrative head of the agency or the designated representative, prior to the travel whenever possible. ~~This applies to in-state travel which is not subject to executive council approval.~~

41.4(2) *Out of state.* Official travel out of the state for any executive branch employee must receive prior approval in writing from the executive council of the state except those employees exempt from executive council approval pursuant to Iowa Code Supplement section 8A.512 or other specific statutory exemptions electronic authorization on the Travel Department Authorization form from the administrative head of the agency.

41.4(3) *Requests for out-of-state travel.* All requests for out-of-state travel shall be on a form approved by the ~~executive council~~, administrative head of the agency and shall include information as ~~the council deems necessary~~ required by Iowa Code section 8A.512A.

41.4(4) No change.

ITEM 2. Amend paragraph **41.5(4)“b”** as follows:

b. Out of state. If the traveler desires to use a personally owned vehicle instead of common carrier and it is authorized by the ~~executive council~~ administrative head of the agency, the cost of mileage (not to exceed airfare) to the destination’s nearest air terminal, plus expenses incurred to final destination and

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

subsistence allowance en route will be allowed. Out-of-state subsistence allowance will be allowed only for the number of meals and nights lodging which would have been necessary had the traveler used the available public transportation to destination instead of a private vehicle. Taxi or mileage expenses will be allowed at the destination if the expenses are incurred while the traveler is on official business.

If two or more travelers on official business travel in one privately owned vehicle instead of common carrier, the use of one vehicle may be authorized on a mileage basis not to exceed the statutory limit per mile.

ITEM 3. Amend rule 11—42.1(8A), introductory paragraph, as follows:

11—42.1(8A) Scope and application. The department of administrative services, state accounting enterprise, is responsible for the payment of money due based on contracts with vendors for goods and services entered into by all state agencies and governmental subdivisions. Consequently, the department has implemented rules and policies to ease the administration of the payment of all obligations owed to third parties. The policies and procedures governing the payment of these obligations are set forth in the Department of Administrative Services, State Accounting Enterprise, Accounting Policies and Procedures Manual. This manual may be accessed ~~on the state of Iowa Web site located at http://das.sae.iowa.gov/internal_services/policy_manual.html~~ das.iowa.gov, or copies of the appropriate provisions may be requested and obtained by mail from State Accounting Enterprise, Department of Administrative Services, Hoover State Office Building, Third Floor, Des Moines, Iowa 50319. Provisions of the manual that affect persons outside state government are as follows:

ITEM 4. Adopt the following **new** paragraphs **54.5(2)“e”** and **“f”**:

e. Veterans' preference points outlined in Iowa Code section 8A.413(22) shall be applied as a percentage of the grade or score attained in qualifying examinations.

f. The percentage points shall be given only upon a veteran's passing the examination and shall not be the determining factor in passing. Veterans' preference percentage points shall be applied once to the final scores used to rank applicants for selection for an interview.

ITEM 5. Amend rule 11—56.5(8A) as follows:

11—56.5(8A) Expiration of a list. The expiration of a list shall be ~~90~~ 120 calendar days following the date of issue unless otherwise approved by the director. All appointments or promotions must be reported to the director before the expiration date of the list. Effective dates of appointments or promotions must be no later than 60 days after the expiration date of the list unless otherwise authorized by the director, except that appointments or promotions “pending graduation” or “pending license” shall be allowed to be effective up to nine months following the expiration date of the list.

ITEM 6. Amend paragraph **64.10(2)“a”** as follows:

a. Assistance ~~may be approved~~ for meeting continuing education requirements may be approved when necessary to maintain the assistance is applied toward maintaining a professional registration, certification, or license and the workshop, seminar, or conference is related to the duties and responsibilities of the employee's position.

ITEM 7. Amend paragraph **117.11(1)“b”** as follows:

b. With the exception of requests for proposals (RFPs) which are approved by the technology governance board, procurement of all information technology devices and services, projects and outsourcing of \$50,000 or more or a total involvement of 750 participating agency staff hours or more must receive prior approval from the ~~department of administrative services, information technology enterprise (DAS/ITE),~~ office of the chief information officer (OCIO) before a participating agency issues a competitive selection document or any other procurement document or otherwise seeks to procure information technology devices or services or both through the department or on its own purchasing authority. The participating agency's approval request shall be in a form prescribed by the department.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 8. Rescind paragraph **117.11(2)“k.”**

ITEM 9. Amend subrule 117.15(1) as follows:

117.15(1) *Agency direct purchasing—basic level.* An agency may procure non-master agreement goods costing up to \$1,500 without competition. An agency shall procure non-master agreement goods ~~or services~~ costing between \$1,501 and \$5,000 in a competitive manner, using either informal or formal competition. If an informal process is chosen, the agency shall follow the process described in the definition of “informal competition” in rule 11—117.2(8A). The agency shall document the quotes, or circumstances resulting in fewer than three quotes, in an electronic file attached to the order or in another format.

ITEM 10. Amend subrule 117.17(1), introductory paragraph, as follows:

117.17(1) *Vendor on-line registration.* Vendors are encouraged to register electronically using the vendor on-line system ~~when it becomes available~~. Vendors that are registered on the vendor on-line system are eligible for all services at the site, including receiving electronic notices of solicitations and submitting an electronic response to a solicitation.

ITEM 11. Amend subrule 119.4(1), introductory paragraph, as follows:

119.4(1) *Payment clause.* The contract shall include a clause or clauses describing the amount or basis for paying consideration to the party based on the party’s performance under the service contract. The payment clause(s) should be designed to work in harmony with any monitoring clauses and any postcontract review procedures. All payment clauses shall be consistent with ~~2003~~ Iowa Code Supplement section 8A.514. The payment clause(s) should also be designed to work in harmony with the outputs, outcomes or any combination thereof desired by a department or establishment. The payment clause should be appropriate to the nature of the contract as determined by the department or establishment. Acceptable kinds of payment clauses include the following. However, these descriptions are not intended to be an exhaustive or prescriptive list; they are provided as examples.

ARC 2144C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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 19B.7(1)“b,” the Department of Administrative Services (DAS) proposes to adopt new Chapter 121, “Contract Compliance,” Iowa Administrative Code.

The Department in accordance with Iowa Code section 19B.7 proposes to adopt new Chapter 121 to administer and promote equal opportunity in all state contracts and services and to prohibit discrimination in the provision of state contracts.

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

Interested persons may make written comments on the proposed amendment until 4:30 p.m. on October 6, 2015. Comments should be directed to Caleb Hunter, Department of Administrative Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-6140 or by e-mail to Caleb.Hunter@iowa.gov.

A public hearing will be held on October 6, 2015, from 9 to 10 a.m. in Room 8, A Level, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of specific needs by calling (515)281-3351.

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

This amendment is intended to implement Iowa Code section 19B.7.

The following amendment is proposed.

Adopt the following new 11—Chapter 121:

CHAPTER 121
CONTRACT COMPLIANCE

11—121.1(19B) Policy. It is the policy of the state of Iowa to promote equal opportunity in all state contracts and services and to provide leadership in affirmative action to ensure fair and equitable participation within all programs receiving or benefiting from state financial assistance in whole or in part. Therefore, no individual, except as specifically authorized by law, shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program receiving or benefiting from state financial assistance because of race, creed, color, religion, sex, national origin, age, or physical or mental disability as authorized by rule.

121.1(1) *Nondiscrimination in employment by contractors and subcontractors.*

a. Every official who is authorized to enter into contracts or subcontracts for public works or for goods or services shall cause to be inserted into every contract or subcontract a clause prohibiting the contractor or subcontractor from engaging in discriminatory employment practices forbidden by federal and state law, executive orders and rules of the department of administrative services, which pertain to equal employment opportunity and affirmative action.

b. Every state official who is responsible to the governor and who is authorized to enter into contracts or subcontracts for public works or for goods or services shall cause to be inserted into every contract a clause which states that the contractor or subcontractor may be required to have on file a copy of the affirmative action program, containing goals and time specifications. These contractual provisions shall be fully enforced. Any breach of the provisions shall be regarded as a material breach of contract.

c. Each state contract shall provide that compliance with the provisions of Iowa Code section 19B.7 and all applicable rules of the department of administrative services prior to the execution of the contract shall be a condition of the contract or agreement binding upon the contractor or service provider, its successors, and assignees. The contract shall further provide that failure to fulfill the nondiscrimination requirements of this contract or any of the rules and orders may cause the contract to be canceled, terminated, or suspended in whole or in part, and the contractor or service provider may be declared ineligible for future state contracts in accordance with authorized procedure or the contractor may be subject to other sanctions as provided by law or rule.

121.1(2) *Monitoring.* Central procurement shall monitor procurement by state agencies to ensure compliance with this chapter.

This rule is intended to implement Iowa Code section 19B.7.

ARC 2143C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby gives Notice of Intended Action to amend Chapter 21, “Approval of Postsecondary Schools,” Iowa Administrative Code.

The proposed amendment to Chapter 21 provides changes necessary to implement policies that schools must follow in order to participate in an interstate reciprocity agreement under which the Commission is an approved participant under Iowa Code chapter 261G. In addition, the amendment updates policies for schools that must register under Iowa Code chapter 261B.

Interested persons may submit comments orally or in writing by 4:30 p.m. on October 6, 2015, to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920; fax (515)725-3401.

The Commission does not intend to grant waivers under the provisions of these rules.

After analysis and review of this rule making, the Commission finds that there is no impact on jobs.

This amendment is intended to implement Iowa Code chapters 261, 261B, and 261G.

The following amendment is proposed.

Amend **283—Chapter 21** as follows:

CHAPTER 21

APPROVAL OF POSTSECONDARY SCHOOLS

283—21.1(261B,261G) Postsecondary registration. The college student aid commission examines college and university applications for operation in Iowa and monitors schools approved by the commission to operate in the state. The commission also examines Iowa college and university applications for participation in an interstate reciprocity agreement under which the commission is an approved participant.

283—21.2(261B,261G) Definitions. As used in this chapter:

“Interstate reciprocity agreement administrator” means the entity with which the commission has an agreement to participate in interstate reciprocity.

“School” means a postsecondary educational institution that applies to register or is currently registered to offer all or a portion of a program in Iowa, that is seeking to participate in the commission’s approved interstate reciprocity agreement, or that is a “participating resident institution” as defined in Iowa Code section 261G.2. A postsecondary educational institution that maintains a physical location outside of the state of Iowa and that must register under Iowa Code chapter 261B to operate at a physical location in this state is not a school that is eligible to participate in the commission’s approved interstate reciprocity agreement.

283—21.2 283—21.3(261B,261G) Approval criteria. The college student aid commission approves or its designee will approve an applicant school that completes an application provided by the commission and meets all of the following criteria:

21.2(1) 21.3(1) The applicant school is accredited by an agency recognized by the United States Department of Education or its successor agency. The applicant school shall certify to the commission

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the school's status with the accrediting agency at the time of the application and provide information about any pending or final action that may affect the school's status with its accrediting agency.

The applicant school provides to the commission the name of any programmatic accrediting agency recognized by the United States Department of Education that accredits the specific programs the applicant school proposes to offer under its registration.

21.2(2) 21.3(2) The applicant school certifies to the commission that the applicant school's approval to operate in a state has not been revoked by the state, the school has not been sanctioned by a state within a year prior to the date of its application, and the school is not under investigation or bound by the terms of a judgment issued by a state's attorney general or other enforcement authority.

21.2(3) 21.3(3) The applicant school certifies that it is not subject to a limitation, suspension or termination order issued by the United States Department of Education or its successor agency. The applicant school shall provide the commission with a copy of the school's current program participation agreement with the United States Department of Education.

21.2(4) 21.3(4) The applicant school complies with Iowa Code section 261B.7, which prohibits a school from advertising that the school is approved or accredited by the commission or the state of Iowa. However, an applicant school must demonstrate the method by which it will disclose that the school is registered with the commission and provide the commission's contact information for students who wish to inquire about the school or file a complaint.

21.2(5) 21.3(5) The applicant school provides the commission with institutional policies adopted by the school that comply with the requirements of Iowa Code section 261.9(1) "e" to "h."

a. For a program in which a student's academic progress is measured only in clock hours, the school shall provide a full refund of tuition and mandatory fees to a student who withdraws and who requests that benefit under Iowa Code section 261.9(1) "g" for the payment period in which the student withdrew. The payment period is determined under rules promulgated by the United States Department of Education for the disbursement of federal Stafford loan funds.

b. The employee policy for reporting suspected incidents of child physical or sexual abuse required by Iowa Code section 261.9(1) "h" shall apply to individuals the school compensates to conduct activities on the school's behalf at an Iowa location.

21.2(6) 21.3(6) If required by the commission, the applicant school files annual reports that the commission also requires from all Iowa colleges and universities.

21.2(7) 21.3(7) The applicant school demonstrates financial viability by providing a copy of the institution's most recent audit that was prepared by a certified public accounting firm no more than 12 months prior to the date of application and that provides an unqualified opinion. An applicant school must provide the auditor's report as an attachment to the registration application, which is posted on the commission's Internet site. However, the school may provide financial statements associated with the audit in a separate electronic file that is marked "confidential." Financial statements that a school identifies as "confidential" will not be treated as public records under Iowa Code chapter 22.

21.2(8) 21.3(8) The applicant school provides a description of the learning resources it offers to students, including appropriate library and other support services ~~requisite for the school's programs~~ the school provides to its students.

21.2(9) 21.3(9) The applicant school provides evidence that faculty within an appropriate discipline are involved in developing and evaluating curriculum for the program(s) being registered in Iowa.

21.2(10) 21.3(10) The applicant school provides résumés, other documentation, or information posted on its Internet site that describes the educational and experiential qualifications of all faculty or instructors who teach ~~the courses offered to Iowans~~ in the programs the school proposes to offer under its registration and the general subject matter in which faculty members or instructors teach. The applicant school shall also provide the number of full-time and part-time faculty and instructors who will teach ~~the courses offered to Iowans~~ in the programs the school proposes to offer under its registration.

21.2(11) 21.3(11) The applicant school provides documentation demonstrating that a program which prepares a student for an occupation that requires professional licensure in Iowa and which the school proposes to offer under its registration:

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a. Has been approved by the appropriate state of Iowa licensing agency and accrediting agency, if such approval is required, or

b. Meets curriculum standards of the appropriate state of Iowa licensing agency such that the state of Iowa licensing agency does not require the student to complete additional coursework or practicum hours that the school did not offer in its professional licensure preparation program.

~~21.2(12)~~ 21.3(12) The school submits a request for amendment of its registration subject to the approval of the commission approval or its designee in the event the school makes a substantive change in location, program offering, or accreditation during its registration term. Except for a school that voluntarily registers to participate in the commission-approved interstate reciprocity agreement, a substantive change in location occurs when a school proposes to operate at a different fixed location in Iowa or to add an additional fixed location in Iowa. A substantive change in program offering occurs when a school proposes to initiate ~~or modify~~ a program that requires the approval of the state board of education or any ~~Iowa state agency authorized to approve the school or its other program that prepares a student for an occupation that requires professional licensure in this state.~~ For a school that is registered to participate in the commission-approved interstate reciprocity agreement, a substantive change in program offering occurs when the school proposes to initiate a solely distance education program that prepares a student for an occupation that requires professional licensure in the student's state of residence.

~~21.2(13)~~ 21.3(13) During its registration term, the school notifies the commission within 90 days after adding a program that ~~does not require the approval of another Iowa state agency~~ does not meet the conditions described in subrule 21.3(12).

~~21.2(14)~~ 21.3(14) The applicant school certifies that it will immediately notify the commission of any pending or final sanction issued by the school's accrediting agency, another state agency that registers or licenses the school during its registration term, or a state attorney general's office or other enforcement authority. ~~The commission may take action that includes, but is not limited to, reducing the school's registration term or limiting its enrollment of Iowans as the result of a final sanction issued by the school's accrediting agency, another state agency, or a state attorney general's office or other enforcement authority.~~

~~21.2(15)~~ 21.3(15) The applicant school provides a statement, signed by its chief executive officer, demonstrating the applicant school's commitment to the delivery of programs ~~offered in Iowa~~ the applicant school offers under its registration and agreeing to provide alternatives for students to complete their programs at the same or other schools if the applicant school discontinues a program, the applicant school closes, or the applicant school closes an Iowa site before students have completed their courses of study. Notwithstanding any limitations on student eligibility for a teach-out plan approved by a school's accrediting agency, the alternatives that the school provides under this agreement with the commission shall ensure that all academically eligible students attending the school's program(s) are provided with a viable option(s) to finish the program(s).

21.3(16) If the applicant school is for-profit, the applicant school provides evidence that its most recently calculated percentage of revenue derived from funds received under Title IV of the Higher Education Act of 1965, as amended, does not exceed 90 percent.

21.3(17) If the applicant school is nonpublic, the applicant school provides evidence of its official financial responsibility composite score, as calculated using the method prescribed by the United States Department of Education.

a. A school demonstrates that its financial responsibility composite score is official by providing written confirmation of its composite score from the United States Department of Education.

b. A school that does not participate in the postsecondary student financial aid programs authorized by the United States Department of Education demonstrates that its financial responsibility composite score is official by providing written confirmation of its composite score from its accrediting agency. If the school's accrediting agency does not independently verify the school's composite score, the school must submit written confirmation from its independent auditor.

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21.3(18) A nonpublic school that does not have a legal governing body, such as a board of directors or board of trustees, shall provide the names, titles, and educational and experiential qualifications of the persons holding key academic and operational leadership positions at the school.

21.3(19) A nonpublic school that is a subsidiary of another organization provides all of the following:

a. The name of the parent organization.

b. The names and titles of the members of the parent organization's legal governing body, such as a board of directors or board of trustees. In the absence of a legal governing body, the school provides the information described in subrule 21.3(18).

c. The name(s) of any other school(s) that is a subsidiary of the same parent organization.

21.3(20) The school provides any additional information the commission or its designee requires to evaluate the school.

283—21.4(261B,261G) Additional approval criteria for an applicant school that applies for registration to participate in a commission-approved interstate reciprocity agreement. In addition to meeting the approval criteria in rule 283—21.3(261B,261G), an applicant school that applies to participate in a commission-approved interstate reciprocity agreement shall meet the following criteria:

21.4(1) The applicant school shall submit an application to participate as required by the commission-approved interstate reciprocity agreement.

21.4(2) The applicant school must provide certification that it will provide data prescribed by the commission or, as applicable, the interstate reciprocity agreement.

21.4(3) The applicant school must certify that it will deposit all student transcript records at the office of the registrar of the university of Iowa in the event that the school ceases to function as an educational institution in compliance with Iowa Code chapter 264.

21.4(4) The applicant school provides documentation demonstrating that any solely distance education program the applicant school offers which prepares a student for an occupation that requires professional licensure:

a. Has been approved by the appropriate state licensing board in all states in which the school offers the program, if such approval is required; or

b. Meets any applicable programmatic accreditation standards set by the appropriate state licensing board in all states in which the school offers the program; or

c. Meets curriculum standards of the appropriate state licensing board in all states in which the school offers the program such that the licensing board in the student's state of residence does not require the school's graduates to complete additional courses or practicum hours.

21.4(5) A nonpublic applicant school must demonstrate and maintain compliance with Iowa Code sections 714.17 and 714.18.

21.4(6) A nonpublic applicant school must have an official financial responsibility composite score, as calculated using the method prescribed by the United States Department of Education, of at least 1.5 for its most recent institutional fiscal year. A nonpublic applicant school with an official financial responsibility composite score of between 1.0 and 1.49 for its most recent institutional fiscal year must submit to the commission a plan by which the school will raise its official composite score to 1.5 by the time it applies, under subrule 21.4(1), for participation in the commission-approved interstate reciprocity agreement for the third consecutive time.

21.4(7) A for-profit applicant school must provide a tuition refund policy for students who withdraw that complies with Iowa Code section 714.23. The school shall apply this policy to students who attend its campus(es) in Iowa, as well as Iowa resident and nonresident students who attend distance education programs the school offers under the interstate reciprocity agreement.

21.4(8) A for-profit applicant school that does not participate in the student financial assistance programs administered by the United States Department of Education must demonstrate and maintain compliance with Iowa Code section 714.25.

283—21.3 283—21.5(261B,261G) Additional approval criteria for an applicant school that applies for registration to maintain a fixed location in Iowa. In addition to meeting the approval criteria in rule

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283—~~21.2(261B)~~ 21.3(261B,261G), a school that applies for registration to operate a campus, branch campus, student services center, or administrative office at a fixed location in Iowa shall meet all of the following additional criteria:

1. The applicant school employs at least one full-time Iowa faculty member or one program or student services coordinator devoted to Iowa students.
2. The applicant school provides to the commission the name and business contact information for a contact person in Iowa.
3. The applicant school demonstrates that it has adequate physical facilities located in Iowa appropriate for the programs and services offered.

~~283—21.4~~ 283—21.6(261B,261G) Additional criteria for an out-of-state applicant school that applies for registration to offer programs via in-person instruction but in a nontraditional format.

~~21.4(1)~~ **21.6(1)** In addition to meeting the approval criteria in rule ~~283—21.2(261B) 21.3(261B,261G)~~, an out-of-state school that applies for registration to offer programs via in-person instruction but in a nontraditional format shall notify the commission in writing within 90 days of the date that the school establishes a new Iowa location at which Iowa students will receive instruction in the school's nontraditional program. Notification to the commission via electronic mail is acceptable. If the school's accrediting agency requires preapproval of the new Iowa location, the school's notice to the commission must include a copy of that accrediting agency's approval. If the school's accrediting agency does not require preapproval of the new Iowa location, the school must certify that preapproval accrediting agency approval is not required. Such a school is not required to submit a registration amendment request under subrule 21.3(12).

~~21.4(2)~~ **21.6(2)** For the purposes of this rule, "nontraditional format" includes, but is not limited to, the following:

- a. A program offered partially via distance education and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the applicant school.
- b. A program offered partially at the applicant school's out-of-state campus and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the applicant school.
- c. A program offered at a location in Iowa through compressed courses scheduled on Saturday or Sunday.
- d. A program offered only during the summer months.
- e. A program offered at temporary locations in Iowa where the school identifies cohorts of students who have expressed interest in the program.

~~283—21.5~~ 283—21.7(261B,261G) Additional approval criteria and exception for an out-of-state applicant school that applies for registration to offer distance education programs.

~~21.5(1)~~ **21.7(1)** An out-of-state school offering distance education programs is not required to register in Iowa if its home state approves the school to participate in a commission-approved interstate reciprocity agreement. ~~If an out-of-state school providing distance education programs in Iowa is not approved by the school's home state to participate in a commission-approved interstate reciprocity agreement, in addition to meeting the approval criteria in rule 283—21.2(261B) 21.3(261B,261G), an~~ the out-of-state applicant school that applies for registration to offer distance education programs shall meet all of the following additional criteria:

- a. The applicant school discloses the name and business contact information of any person compensated by the school (including by honorarium) to remotely provide instruction or academic supervision in the school's distance education courses from any Iowa location.
- b. The applicant school discloses the name, business contact information, and duties of any person the applicant school compensates to remotely perform operational activities from any Iowa location.

~~21.5(2)~~ **21.7(2)** Exception. If a school applies for registration solely to offer distance education programs that include a structured field experience in which the student will participate at an Iowa location and the applicant school maintains no other presence in Iowa as defined in Iowa Code section

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261B.2, the school is not required to implement a policy that complies with Iowa Code section 261.9(1) "h."

~~21.5(3)~~ A registered school must notify the commission within 90 days of the date that the school establishes an Iowa location at which a student will participate in any structured activity (e.g., field experience) related to the school's distance education course of instruction. Notification to the commission via electronic mail is acceptable.

~~283—21.6~~ **283—21.8(261B,261G) Recruiting for an out-of-state applicant school's residential programs from an Iowa location.**

~~21.6(1)~~ **21.8(1)** An out-of-state applicant school that compensates a party to recruit Iowans for its campus-based, residential programs shall apply for registration if the recruiter maintains an Iowa address. In addition to meeting all of the criteria in rule ~~283—21.2(261B)~~ **21.3(261B,261G)**, the applicant school shall disclose the name and business contact information for its Iowa-based recruiter.

~~21.6(2)~~ **21.8(2)** An out-of-state applicant school that compensates a person to recruit students for its campus-based, residential programs is not required to apply for registration if the school's recruitment activities at a location in Iowa are occasional and short-term; for example, at a college fair or conference.

~~283—21.7~~ **283—21.9(261B,261G) Provisional registration.**

~~21.7(1)~~ **21.9(1)** The commission or its designee may grant provisional registration ~~only~~ under the following conditions:

a. An out-of-state applicant school is accredited by an entity or organization recognized by the United States Department of Education or its successor agency at the time the school submits its registration application; and

b. The applicant school must obtain the commission's approval before the school's accrediting agency will consider approving the applicant school to operate at a physical location in Iowa.

~~21.7(2)~~ **21.9(2)** The commission or its designee may prohibit the school from initiating instruction at a location in Iowa until the school obtains its accrediting agency's approval to operate at an Iowa location.

283—21.10(261B,261G) Duration of registration and participation in the commission-approved interstate reciprocity agreement; application for renewal.

21.10(1) Upon approval by the commission or its designee, an applicant school is registered for a period of two calendar years, contingent upon the school's compliance with commission requirements as provided in this chapter.

21.10(2) Upon approval by the interstate reciprocity agreement administrator, a school that is registered to participate in the commission-approved interstate reciprocity agreement may participate in that agreement for one calendar year, contingent upon the school's compliance with commission requirements as provided in this chapter and the requirements of the interstate reciprocity agreement.

21.10(3) For a school that is registered to participate in the commission-approved interstate reciprocity agreement, the commission shall align its initial registration and renewal dates with the initial and renewal dates of its participation in the interstate reciprocity agreement established by the interstate reciprocity agreement administrator.

21.10(4) A registered school shall submit a complete registration renewal application to the commission at least six months before the ending date of the school's current registration term. A school is solely responsible for submitting a timely renewal application.

21.10(5) A school that is registered to participate in the commission-approved interstate reciprocity agreement shall submit to the commission a request to renew the school's participation in the interstate reciprocity agreement in a format and on a schedule prescribed by the interstate reciprocity agreement administrator.

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283—21.11(261B,261G) Limitation, denial, or revocation of registration or participation in the commission-approved interstate reciprocity agreement.

21.11(1) At the time of initial registration or registration renewal and during a registration term, including one in which the school participates in the commission-approved interstate reciprocity agreement, the commission may take action that includes, but is not limited to, limiting a school's program offerings or enrollment or denying or revoking the school's registration or participation in the commission-approved interstate reciprocity agreement as a result of any of the following:

- a. An adverse notice, warning, or other sanction issued by the school's accrediting agency.
- b. An adverse action or sanction issued by the United States Department of Education.
- c. A lawsuit filed by a school's students, a state agency, a state attorney general's office, or another enforcement authority.
- d. A judgment issued by a state attorney general's office or other enforcement authority.
- e. A for-profit school's most recently calculated percentage of revenue derived from funds received under Title IV of the Higher Education Act of 1965, as amended, that exceeds 90 percent.
- f. Repeated complaints about a school received from the school's students by the commission, by another state that participates in the commission-approved interstate reciprocity agreement, or by a state attorney general's office.
- g. Notice that the school has experienced a change of ownership or governance. The school shall notify the commission no later than 30 calendar days after the change in ownership or governance.
- h. Failure to pay fees due to the commission in accordance with rule 283—21.13(261B,261G).
- i. Other actions deemed by the commission as significant evidence that the school should not be allowed to operate under this chapter.

21.11(2) The commission or its designee shall deny an initial or renewal application to participate in the commission-approved interstate reciprocity agreement if the school's official financial responsibility composite score is below 1.0.

21.11(3) The commission or its designee shall deny a renewal application to participate in the commission-approved interstate reciprocity agreement if the school's official financial composite score remains between 1.0 and 1.49 at the time of its third consecutive application under subrule 21.10(5).

21.11(4) Upon learning that a professional licensure program offered by a school under its registration solely via distance education does not meet the conditions of subrule 21.4(4), the commission or its designee may take action that includes, but is not limited to, any of the following:

- a. Limiting the school's program offerings or enrollment in the professional licensure program.
- b. Requiring the school to offer a student, at no cost, the additional coursework or practicum hours that the student needs to obtain professional licensure in the state in which the student resided throughout the student's attendance in the program.

283—21.8 283—21.12(261B,261G) School, Iowa site, or program closure.

21.8(1) 21.12(1) ~~Before~~ No later than 90 days before a registered school takes action to discontinue a program ~~in which an Iowa is enrolled that is offered by the school under its registration,~~ close an Iowa site, or close the school, the school must notify the commission in writing.

21.8(2) 21.12(2) The school's notice to the commission shall include all of the following:

- a. ~~the~~ The full name, contact information residential address, telephone number, e-mail address, program name, and anticipated graduation date of affected Iowans, Iowa resident students or, as applicable, affected students at the school's Iowa campus(es). The school shall organize this list in alphabetical order by student last name.

- b. ~~documentation~~ Documentation of the school's proposed notice to students;
- c. ~~the~~ The school's specific plan to provide alternatives for Iowa affected students to complete the program, in accordance with the agreement described in subrule 21.3(15). The school shall obtain the prior approval of the commission or its designee for any agreement the school proposes to establish with another institution that provides program completion alternatives for the school's students.

- d. The school's plan for permanent storage and retrieval of student transcript information.

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e. and specific Specific information about how the school will provide transitional support to affected students.

f. Contact information for the specific entity and individual who will accept responsibility for all of the following:

(1) Ensuring that unearned federal student aid is returned to the United States Department of Education on a timely basis.

(2) Finalizing student account records and providing copies of the students' final account statements to the students and, upon request, to the commission and, as applicable, other states.

(3) Collecting outstanding bills a student owes to the school for tuition and other educational expenses.

(4) Collecting on private education loans or other institutional loans made to students by the school and, if applicable, the school's private preferred lender(s).

~~21.8(3)~~ **21.12(3)** The commission may require a registered school that has a continuous corporate surety bond in effect pursuant to Iowa Code section 714.18 to maintain the bond, at minimum, for one year after the school ceases operation in Iowa, closes an Iowa site, or ceases new enrollment in programs previously offered to Iowans Iowa resident students.

~~21.8(4)~~ **21.12(4)** If the commission takes action to discontinue a school's program, close a school's Iowa site, or terminate a school's operation in Iowa, the school shall provide to the commission the information in subrule 21.8(2) 21.12(2) and shall be subject to the requirements of subrule 21.8(3) 21.12(3).

21.12(5) In addition to meeting the notice and data reporting requirements described in subrules 21.12(1) and 21.12(2), a school that participates in the commission-approved interstate reciprocity agreement shall provide the notice described in subrule 21.12(1) to every other state whose residents were enrolled in the school's distance education programs and the data described in subrule 21.12(2) for the residents of that state who are currently enrolled in the school's distance education programs.

~~283—21.9~~ **283—21.13(261B,261G)** Registration Initial registration application fees and subsequent annual fees.

~~21.9(1)~~ **21.13(1)** A school that applies for initial registration in Iowa as required under Iowa Code chapter 261B on or after January 1, 2016, shall remit to the commission a \$1,000 an initial registration application fee payable to the state of Iowa commission in the amount of \$5,000. This fee is nonrefundable regardless of the commission's decision with respect to the school's eligibility for registration in Iowa. The commission assesses this fee at the time the school initially applies for registration and at the time of each subsequent registration renewal application. A school that fails to pay the initial registration application fee shall be denied registration consideration. A school that voluntarily applies for registration to participate in the commission-approved interstate reciprocity agreement is exempt from the initial registration fee.

~~21.9(2)~~ **21.13(2)** A school that is approved for registration in Iowa shall remit to the commission a \$1,000 registration an annual fee payable to the state of Iowa commission in the amount of \$5,000 due on July 15 of each year. The commission assesses the \$1,000 registration fee at the time the commission initially approves the school's registration and at the time the commission approves each subsequent registration renewal. If a school's registration terminates during a year, the school shall pay the annual fee to the commission if the school's registration is valid as of July 15 of that year. The annual fee is nonrefundable.

~~21.9(3)~~ **21.13(3)** A school that makes substantive changes in location, program offerings, or accreditation during its registration term must request that the commission approve a registration amendment. The school shall submit its amendment request in a format acceptable to the commission. The school's amendment request shall be accompanied by a \$1,000 amendment fee payable to the state of Iowa. This fee is nonrefundable regardless of the commission's decision with respect to the school's registration amendment request.

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21.13(3) A school that applies for, and is approved to participate in, the commission-approved interstate reciprocity agreement shall remit to the interstate reciprocity agreement administrator any registration fees required by that administrator.

283—21.10 283—21.14(261B,261G) Authorization to operate in Iowa for certain private, nonprofit colleges and universities exempt from registration.

21.10(1) 21.14(1) The state of Iowa considers a private, nonprofit institution located in Iowa, which is exempt from registration under Iowa Code section 261B.11(1) “j” and “l,” to be authorized to lawfully operate in Iowa as a postsecondary educational institution that grants a degree, diploma, or certificate for the purpose of state authorization regulations established by the United States Department of Education, provided the institution meets the following conditions:

a. The institution is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code on or after July 1, 2013; and

b. The institution originated in this state and has undergone no change in ownership or control since July 1, 2011.

21.10(2) 21.14(2) The following Iowa colleges and universities are authorized under subrule ~~21.10(1)~~ 21.14(1):

- a.* AIB College of Business;
- b.* Allen College;
- c.* Briar Cliff University;
- d.* Buena Vista University;
- e.* Central College;
- f.* Clarke University;
- g.* Coe College;
- h.* Cornell College;
- i.* Des Moines University;
- j.* Divine Word College;
- k.* Dordt College;
- l.* Drake University;
- m.* Emmaus Bible College;
- n.* Faith Baptist Bible College and Theological Seminary;
- o.* Graceland University;
- p.* Grand View University;
- q.* Grinnell College;
- r.* Iowa Wesleyan College;
- s.* Loras College;
- t.* Luther College;
- u.* Maharishi University of Management;
- v.* Mercy College of Health Sciences;
- w.* Mercy St. Luke’s School of Radiologic Technology;
- x.* Morningside College;
- y.* Mount Mercy College;
- z.* Northwestern College;
- aa.* Palmer College of Chiropractic;
- ab.* Simpson College;
- ac.* St. Ambrose University;
- ad.* St. Luke’s College;
- ae.* University of Dubuque;
- af.* Upper Iowa University;
- ag.* Wartburg College;
- ah.* Wartburg Theological Seminary; and
- ai.* William Penn University.

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

21.14(3) A college or university exempt under this rule must submit an application and information as provided in this chapter to be eligible to participate in the commission-approved interstate reciprocity agreement.

These rules are intended to implement Iowa Code chapters 261, ~~and~~ 261B, and 261G.

ARC 2140C

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 section 455E.9(1), the Environmental Protection Commission hereby gives Notice of Intended Action to rescind Chapter 209, “Solid Waste Alternatives Program,” and to adopt new Chapter 209, “Landfill Alternatives Financial Assistance Programs,” Iowa Administrative Code.

This rule making is intended to reorder the content of existing Chapter 209 and to formalize rules pertaining to the awarding of grants to Iowa communities through the Derelict Building Grant Program.

Any person may submit written suggestions or comments on the proposed new chapter through October 6, 2015. Such written material should be submitted to Tom Anderson, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; by fax to (515)725-8202; or by e-mail to tom.anderson@dnr.iowa.gov. Persons who have questions may contact Tom Anderson by e-mail or by telephone at (515)725-8323.

A public hearing will be held on October 6, 2015, at 1 p.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa. Persons attending the public hearing may present their views orally or in writing. At the hearing, persons will be asked to provide their names and addresses for the record and to confine their remarks to the subject of the proposed rule making.

Any person who intends to attend the public hearing and has special requirements, such as those related to mobility or hearing impairments, should contact the Department to advise of any specific needs.

After analysis and review of this rule making, it was determined that the rule making has a positive impact on jobs. Jobs are positively impacted by the financial incentives contained within the Derelict Building Grant Program and the Solid Waste Alternatives Program. This positive impact includes opportunities that result from the awarding of financial assistance to Iowa communities and private sector interests for the deconstruction and renovation of abandoned buildings, the recycling of the resulting building materials, and recycling and reuse projects in general. While funding for these programs is set out in statute and both programs are currently being implemented, the proposed chapter will facilitate the awarding of funds under the Derelict Building Grant Program.

These rules are intended to implement Iowa Code sections 455B.301A and 455E.11.

The following amendment is proposed.

Rescind 567—Chapter 209 and adopt the following **new** chapter in lieu thereof:

CHAPTER 209

LANDFILL ALTERNATIVES FINANCIAL ASSISTANCE PROGRAMS

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—209.1(455B,455E) Goal. The goal of landfill alternatives financial assistance programs is to reduce through implementation of solid waste management projects the amount of solid waste being generated and the amount of solid waste being landfilled.

567—209.2(455B,455E) Purpose. The purpose of these programs is to provide financial assistance to applicants implementing projects and programs leading to the diversion of solid waste from sanitary landfills.

567—209.3(455B,455E) Definitions.

“Abandoned” means that the building has been unoccupied for a minimum of six continuous months.

“Asbestos-containing material” or *“ACM”* means any material that contains more than 1 percent of asbestos.

“Building renovation” means repairs that stabilize or improve the structural integrity of the building, including but not limited to roof repair or replacement, building stabilization, and the tuck-pointing of exterior walls.

“Cost share” means the applicant’s share of the eligible costs of the proposed project.

“Deconstruction” means the selective dismantlement of a building for the purpose of maximizing reuse and recycling opportunities through source separation while minimizing disposal costs.

“Demonstration project” means a project that is innovative or new to the state of Iowa.

“Department” means the Iowa department of natural resources.

“Derelict building grant eligibility” means any county or municipal government with a population of 5,000 or fewer is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

“Eligible costs” means costs directly related to the project and for which financial assistance moneys may be used.

“Financial assistance” means monetary assistance in the form of grants, loans, or forgivable loans that is awarded under these rules to an applicant.

“Forgivable loan” means financial assistance that does not require repayment to the department.

“Indirect costs” means costs not directly arising from a specific product, function, or activity.

“Landfill diversion rate” means the weight of materials diverted from a sanitary landfill, divided by the total weight of the building and its contents, expressed as a percentage. Materials diverted from a sanitary landfill do not include material combusted without energy recovery or material dumped or discarded in violation of Iowa Code sections 455B.307 and 455B.307A.

“Loan” means an award of financial assistance with the requirement that the award be repaid including interest as applicable.

“Overhead costs” means expenses not chargeable to a particular part of the work or product, including but not limited to utilities, insurance, and rent.

“Phase I environmental assessment” means review of known environmental records and land use information about the site and vicinity.

“Phase II environmental assessment” means actual soil, groundwater and structural material sampling and testing to confirm or deny the presence of contamination.

“Recipient” means any applicant selected to receive financial assistance under these rules.

“Sanitary landfill” means a permitted disposal site where solid waste is buried between layers of earth.

“Solid waste alternatives program eligibility” means any unit of local government, public or private group, individual or business that has an interest in or has responsibility for solid waste management in Iowa and is currently in compliance with all applicable state statutes and regulations is eligible to apply for the solid waste alternatives program (SWAP).

“Waste reduction” means practices which reduce, avoid, or eliminate the generation of solid waste at the source. Waste reduction is not merely the shifting of a waste stream from one medium to another medium.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—209.4(455B,455E) Role of the department. The department is responsible for the administration of funds for projects receiving financial assistance under these rules. The department will ensure that funds disbursed meet guidelines established by Iowa Code sections 455E.11(2)“a”(1)(e) and 455E.11(2)“a”(1)(f).

567—209.5(455B,455E) Funding sources. The department will use moneys that are appropriated by the legislature and that may be obtained from other sources for the purpose of achieving the goals outlined in these rules. The department will ensure that moneys appropriated meet both federal and state guidelines pertaining to their use.

567—209.6(455B,455E) Reduced award. The department reserves the right to offer financial assistance in an amount less than that requested by the applicant. In the event that financial assistance offered is less than the amount requested by an applicant, the applicant may be asked to document the impact on the proposed project. Reduced awards shall be offered when the department determines that:

1. Program resources are insufficient to provide the level of financial assistance requested to all applicants to which the department intends to offer financial assistance.
2. The applicant could implement the project at a reduced level of financial assistance and achieve the project objectives and the goals of the program.

567—209.7(455B,455E) Fund disbursement limitations. No funds shall be disbursed until the department has:

1. Determined the total estimated cost of the project;
2. Determined that financing for the cost-share amount is ensured by the recipient;
3. Received final design plans from the recipient, if applicable;
4. Received confirmation that all permits or permit amendments have been obtained by the recipient;
5. Received commitments from the recipient to implement the project;
6. Executed a written agreement with the recipient; and
7. Determined that the recipient is currently in compliance with all applicable state statutes and regulations.

567—209.8(455B,455E) Minimum cost share. An applicant shall provide a minimum cash match for the purchase of each good and service for which department-awarded financial assistance will be used. The applicant’s minimum cost share shall be in accordance with subrule 209.16(3) for the derelict building grant program.

567—209.9(455B,455E) Denial of financial assistance. An applicant may be denied financial assistance for any of the following reasons:

1. Funds are insufficient to award financial assistance to all qualified applicants.
2. An applicant does not meet eligibility requirements pursuant to provisions of subrule 209.15(1) for the solid waste alternatives program or subrule 209.16(1) for the derelict building grant program.
3. An applicant does not provide sufficient requested information on forms provided by the department pursuant to rule 567—209.12(455B,455E).
4. An applicant has previously received financial assistance under these rules and is determined by the department to be delinquent in repaying the loan or delinquent in submitting required documentation.
5. The goals or scope of the project is not consistent with rules 567—209.1(455B,455E) and 567—209.2(455B,455E).
6. The project does not meet the criteria of an eligible project in subrule 209.15(2) for the solid waste alternatives program or subrule 209.16(2) for the derelict building grant program.

567—209.10(455B,455E) Eligible costs. Applicants may request, for the implementation and operation of a project, financial assistance which includes, but is not limited to, funds for the purpose of:

1. Purchase and installation of waste reduction equipment;

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

2. Purchase and installation of collection, processing, or hauling equipment;
3. Development, printing and distribution of educational materials;
4. Planning and implementation of educational forums, including but not limited to workshops;
5. Materials and labor for construction, deconstruction, or renovation of buildings;
6. Salaries directly related to implementation and operation of the project;
7. Laboratory analysis costs; and
8. Engineering or consulting fees.

567—209.11(455B,455E) Ineligible costs. Financial assistance shall not be provided or used for costs including, but not limited to, the following:

1. Taxes;
2. Vehicle registration;
3. Overhead expenses;
4. Indirect costs;
5. Legal costs;
6. Contingency funds;
7. Proposal preparation;
8. Contractual project administration;
9. Land acquisition;
10. Office furniture, office computers, fax machines and other office furnishings and equipment;
11. Costs for which payment has been or will be received under another federal, state or private financial assistance program;
12. Costs incurred before a written agreement has been executed between the applicant and the department; and
13. Insurance premiums or other costs associated with insuring items purchased using program funds.

567—209.12(455B,455E) Applications. Applicants shall submit applications on forms provided by the department. Applications are considered part of the public record. Unless otherwise designated in the solid waste alternatives program application forms or the derelict building grant program application guideline forms, applications will be accepted by the department during normal business hours throughout the year.

567—209.13(455B,455E) Selection.

209.13(1) To receive consideration under these rules, applications for financial assistance submitted to the department must be provided to the agency responsible for submitting an approved solid waste comprehensive plan or a subsequent solid waste comprehensive plan or by solid waste agencies participating in the environmental management system for agency review and comment. Applications shall be provided to the agency in the area in which the proposed project is located or the area or areas in which the proposed project will be implemented.

209.13(2) The department shall coordinate evaluation of applications, and applicants will be awarded financial assistance based on review committee recommendations.

567—209.14(455B,455E) Written agreement. Recipients shall enter into a contract with the department for the purposes of implementing the project for which financial assistance has been awarded. The agreement shall be signed by the appropriate department signatory and the recipient's authorized signatory. Conditions to successfully implement and manage agreements shall be expressed in the signed agreement. The department may terminate agreements and seek the return of funds released under the agreement for failure by the recipient to perform under the terms and conditions of the agreement. Amendments to agreements may be adopted by mutual written consent of the department and the recipient.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—209.15(455B,455E) Solid waste alternatives program. Financial assistance awarded under the solid waste alternatives program shall be used to implement activities that support the practical and beneficial use of solid waste materials and for activities leading to a reduction in the reliance on sanitary landfills for disposal of solid waste.

209.15(1) Eligible applicants. Any unit of local government, public or private group, individual or business that has an interest in or has responsibility for solid waste management in Iowa and is currently in compliance with all applicable state statutes and regulations is eligible to apply for the solid waste alternatives program.

209.15(2) Eligible projects. The department may provide financial assistance to applicants for the following types of projects that are consistent with the goal and purpose of this program:

a. Best practices — practices and programs that will move Iowa toward long-term pollution prevention, waste reduction and recycling sustainability;

b. Education — practices and programs that are consistent with a coordinated statewide message on pollution prevention, waste reduction, and recycling to ensure ongoing support of these integrated solid waste management activities; and

c. Market development — practices and programs that develop a demand for value-added recyclables sufficient to provide increased and stable commodity markets.

209.15(3) Type of financial assistance. The type of financial assistance (forgivable loan, zero interest loan, low-interest loan) offered to an applicant is dependent upon factors such as, but not limited to, the amount of program funds awarded, level of new landfill diversion, profit generation and project uniqueness. The department reserves the right to offer any combination of types of financial assistance to any selected project.

209.15(4) Loans. The term of all loans executed under these rules shall be determined on a case-by-case basis and shall be based on the specific capital costs financed, as well as the terms of other financing provided for the project. The written agreement between the department and the recipient will establish other conditions or terms needed to manage or implement the project.

567—209.16(455B,455E) Derelict building grant program. Financial assistance awarded under the derelict building grant program is available to communities of 5,000 or fewer to help improve the attractiveness and appearance of their jurisdictions by providing financial assistance for eligible projects. Each project must have a landfill diversion component.

209.16(1) Eligible applicants. Any county or municipal government with a population of 5,000 or fewer is eligible to apply for a derelict building grant. An applicant may partner with a local nonprofit organization on a project.

209.16(2) Eligible projects. A community's building is eligible for the program if the building meets the following criteria:

a. The building is an abandoned commercial or public building of which a local government has ownership or an intent to own.

b. The building is not on the National Register of Historic Places.

209.16(3) Eligible activities and amount of financial assistance. The eligible activities and amount of financial assistance for each are:

a. Asbestos-containing material inspections: 100 percent reimbursement for inspection costs conducted by a state of Iowa-licensed asbestos contractor.

b. Abatement of asbestos-containing material: 100 percent reimbursement, not to exceed \$10,000, for abatement of ACM performed by a state of Iowa-licensed asbestos contractor. A 50 percent cost share is required for those costs exceeding \$10,000.

c. Structural engineering analysis: 100 percent reimbursement not to exceed \$1,500 for a structural engineering analysis conducted by a licensed structural engineer or architectural historian to determine the ability to renovate the building. The recipient is responsible for all costs exceeding \$1,500.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

d. Phase I environmental assessment: 100 percent reimbursement not to exceed \$3,000 for conducting a Phase I environmental assessment. The recipient is responsible for all costs exceeding \$3,000.

e. Phase II environmental assessment: 50 percent reimbursement not to exceed \$2,500 for conducting a Phase II environmental assessment. The recipient is responsible for all costs exceeding \$5,000. The need for this assessment is determined by the results of the Phase I environmental assessment and involves the sampling of structure components, soil, and groundwater to confirm or deny the presence of contamination.

f. Building renovation: 50 percent reimbursement not to exceed \$50,000 for renovation costs, including but not limited to:

- (1) Restoration or removal of materials for reuse, either at the site or off site, or for recycling.
- (2) Roof repair or replacement.
- (3) Building stabilization.
- (4) Tuck-pointing of exterior walls.

g. Deconstruction: 50 percent reimbursement not to exceed \$50,000 for costs related to deconstruction. All deconstruction projects must achieve a minimum landfill diversion rate of 30 percent of the structure by weight to receive reimbursement for deconstruction costs.

209.16(4) Deconstruction cost-share incentive. For every additional 10 percent above 30 percent of landfill diversion by weight that is documented upon completion of the project, the applicant's cost share is reduced by 5 percent and the grant award amount will increase by 5 percent. The maximum grant award for deconstruction projects shall not exceed \$75,000.

These rules are intended to implement Iowa Code sections 455B.301A and 455E.11.

ARC 2147C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 217.6, 239B.4(6), and 249A.4, the Department of Human Services proposes to amend Chapter 41, “Granting Assistance,” and Chapter 46, “Overpayment Recovery,” Iowa Administrative Code.

These proposed amendments implement policies that allow a family that includes an adult who is a nonqualified alien to apply for and receive Family Investment Program (FIP) assistance for more than 60 months for the family's children who are U.S. citizens or qualified aliens if the family meets hardship criteria and all other FIP eligibility criteria.

Polk County District Court found that the Department violated the Iowa constitutional rights of U.S. citizens who are children whose parent(s) is a nonqualified alien by denying, because the parent(s) is a nonqualified alien, a hardship application for the household to receive FIP for more than 60 months for those U.S. citizen children.

Any interested person may make written comments on the proposed amendments on or before October 6, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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

These amendments are intended to implement Iowa Code sections 217.6, 239B.4(6), and 249A.4.

The following amendments are proposed.

ITEM 1. Amend paragraph **41.24(4)“b”** as follows:

b. Hardship applicants. While the eligibility decision is pending, unless the applicants are exempt from referral as defined in subrule 41.24(2), the department shall refer applicants who must qualify for a hardship exemption before approval of FIP to PROMISE JOBS to sign a family investment agreement as described in paragraph 41.24(4)“a” and shall treat applicants in accordance with subrule 41.30(3).

ITEM 2. Amend subrule 41.30(1) as follows:

41.30(1) Sixty-month limit. Assistance shall not be provided to a FIP applicant or recipient family that includes an adult who has received assistance for 60 calendar months under FIP ~~or any state program in Iowa~~ or under any program in another state that is funded by the federal Temporary Assistance for Needy Families (TANF) block grant unless the applicant or recipient family is eligible for a hardship as defined in subrule 41.30(3). The 60-month period need not be consecutive. In two-parent households or households that include a parent and a stepparent, the 60-month limit is determined when either a parent or stepparent has received assistance for 60 months.

a. An “adult” is any person who is a parent of the FIP child in the home, the parent’s spouse, or included as an optional member under ~~subparagraphs subparagraph 41.28(1)“b”(1); or (2) and (3).~~ In two-parent households or households that include a parent and a stepparent, the 60-month limit is determined when either a parent or stepparent has received assistance for 60 months.

b. “Assistance,” for the purpose of this rule, shall include any month for which the adult receives a FIP grant or a payment in another state using federal Temporary Assistance for Needy Families (TANF) funds that the other state deems countable toward the 60-month federal limit. Assistance received for a partial month shall count as a full month.

ITEM 3. Rescind and reserve paragraph **41.30(3)“a.”**

ITEM 4. Amend paragraph **41.30(3)“d”** as follows:

d. Eligibility for a hardship exemption.

(1) No change.

(2) Families with FIA-responsible persons who are not exempt from referral as defined in subrule 41.24(2) determined eligible for more than 60 months of FIP shall make incremental steps toward overcoming the hardship and participate to their maximum potential in activities reasonably expected to result in self-sufficiency.

(3) Barriers to economic self-sufficiency that an FIA-responsible person who is not exempt as defined in subrule 41.24(2) has that were known and existing before the family reached the 60-month limit shall not be considered as meeting eligibility criteria for hardship unless the individual complied with PROMISE JOBS activities offered to overcome that specific barrier.

ITEM 5. Amend paragraph **41.30(3)“e”** as follows:

e. Requesting a hardship exemption.

(1) Families ~~with adults as defined in subrule 41.30(1) who~~ that have or are close to having received 60 months of FIP assistance as defined in subrule 41.30(1) may request a hardship exemption. Requests for the hardship exemption shall be made on Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months. In addition, families that have received ~~FIP~~ assistance for 60 months shall complete Form 470-0462 or Form 470-0462(S), Financial Support Application, as described at rule 441—40.22(239B) as a condition for regaining FIP eligibility. Failure to provide the required application within ten days from the date of the department’s request shall result in denial of the hardship request.

(2) No change.

(3) Requests for a hardship exemption shall not be accepted prior to the first day of the family’s fifty-ninth month of ~~FIP~~ assistance. The date of the request shall be the date an identifiable Form

HUMAN SERVICES DEPARTMENT[441](cont'd)

470-3826 or Form 470-3826(S) is received in any department of human services or PROMISE JOBS office. An identifiable form is one that contains a legible name and address and that has been signed.

(4) No change.

(5) When an adult as defined in subrule 41.30(1) who has received FIP assistance for 60 months joins a recipient family that has not received 60 months of FIP assistance, eligibility shall continue only if the recipient family submits Form 470-3826 or Form 470-3826(S) and is approved for a hardship exemption as described in subrule 41.30(3) and meets all other FIP eligibility requirements.

(6) and (7) No change.

ITEM 6. Amend paragraph **41.30(3)“f”** as follows:

f. Determination of hardship exemption.

(1) A determination on the request shall be made as soon as possible, but no later than 30 days following the date an identifiable Form 470-3826 or Form 470-3826(S) is received in any department of human services or PROMISE JOBS office. A written notice of decision shall be issued to the family the next working day following a determination of eligibility or ineligibility for a hardship exemption. The 30-day time standard shall apply except in unusual circumstances, such as when the department and the family have made every reasonable effort to secure necessary information which has not been supplied by the date the time limit expired; or because of emergency situations, such as fire, flood or other conditions beyond the administrative control of the department.

(2) to (8) No change.

(9) Recipients whose FIP assistance is canceled at the end of the sixtieth month shall be eligible for reinstatement as described at 441—subrule 40.22(5) when Form 470-3826 or Form 470-3826(S) is received before the effective date of cancellation even if eligibility for a hardship exemption is not determined until on or after the effective date of cancellation.

(10) When Form 470-3826 or Form 470-3826(S) is not received before the effective date of the FIP cancellation and a Financial Support Application is required for the family to regain FIP eligibility, the effective date of assistance shall be no earlier than seven days from the date of application as described at rule 441—40.26(239B).

(11) Eligibility for a hardship exemption shall last for six consecutive calendar months. EXCEPTION: The six-month hardship exemption ends when FIP for the family is canceled for any reason and a Financial Support Application is required for the family to regain FIP eligibility. In addition, when FIP eligibility depends on receiving a hardship exemption, the family shall submit a new Form 470-3826 or Form 470-3826(S). A new hardship exemption determination shall be required prior to FIP approval.

(12) and (13) No change.

ITEM 7. Amend subparagraph **41.30(3)“g”(6)** as follows:

(6) Any family that is not exempt from referral as defined in subrule 41.24(2), that has been granted a hardship exemption, and that does not follow the terms of the family's six-month FIA will have chosen a limited benefit plan in accordance with 441—Chapters 41 and 93.

ITEM 8. Amend rule **441—46.21(239B)**, definition of “Procedural error,” as follows:

“*Procedural error*” means a technical error that does not in and of itself result in an overpayment.

Procedural errors include:

1. No change.

2. Failure to secure a properly signed Form 470-3826 or Form 470-3826(S), Request for FIP Beyond 60 Months, as described at 441—subrule 41.30(3).

3. to 5. No change.

ARC 2148C

PUBLIC HEALTH DEPARTMENT[641]

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 2015 Iowa Acts, Senate File 510, and Iowa Code section 135I.4(5), the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 15, “Swimming Pools and Spas,” Iowa Administrative Code.

These proposed amendments clarify the definition of residential swimming pool used for commercial purposes and correct the existing underwater lighting requirement.

Any interested person may make written comments or suggestions on the proposed amendments on or before October 6, 2015. Such written comments should be directed to Carmily Stone, Bureau Chief of Environmental Health Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to carmily.stone@idph.iowa.gov.

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

These amendments are intended to implement 2015 Iowa Acts, Senate File 510, and Iowa Code sections 135I.4(3) and 135I.4(5).

The following amendments are proposed.

ITEM 1. Amend subrule **15.3(1)**, definition of “Residential swimming pool,” as follows:

“*Residential swimming pool*” means any swimming pool that is used, or intended to be used, in connection with a single-family residence and that is available only to the family of the householder and the householder’s private guests. A residential swimming pool used for any commercial purpose, including, but not limited to, swimming lessons or exercise classes, shall comply with the requirements of 15.4(6)“n.” A residential swimming pool used for private swimming lessons for over 207 hours in a calendar month, or the number of hours prescribed by local ordinance applicable to such use of a residential swimming pool, whichever is greater, shall be considered a public swimming pool and shall be subject to all the requirements of this chapter. A residential swimming pool used for any other commercial purposes for more than 60 hours in a calendar month shall be considered a public swimming pool and shall be subject to all the requirements of this chapter.

ITEM 2. Amend subparagraph **15.5(13)“k”(1)** as follows:

(1) Underwater lighting of at least ~~60~~ 8 lamp lumens/ft² or 0.5 watts/ft² of water surface area, located to provide illumination of the entire swimming pool bottom, and area lighting of at least 10 lumens/ft² or 0.6 watts/ft² of deck area.

ARC 2150C**PUBLIC HEALTH DEPARTMENT[641]****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 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 131, “Emergency Medical Services—Provider Education/Training/Certification,” Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical providers and establish a standard of conduct for training programs, students, and providers. This proposed amendment updates the reference to the Iowa Emergency Medical Care Provider Scope of Practice document to the most recent edition, April 2015.

Any interested person may make written comments or suggestions on the proposed amendment on or before October 6, 2015. Such written comments should be directed to Rebecca Curtiss, Bureau of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to rebecca.curtiss@idph.iowa.gov.

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

This amendment is intended to implement Iowa Code section 147A.4.

The following amendment is proposed.

Amend paragraph **131.3(3)“b”** as follows:

b. Scope of Practice for Iowa EMS Providers (April ~~2013~~ 2015) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

ARC 2149C**PUBLIC HEALTH DEPARTMENT[641]****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 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 132, “Emergency Medical Services—Service Program Authorization,” Iowa Administrative Code.

The rules in Chapter 132 describe the standards for the authorization of EMS services. This proposed amendment updates the reference to the Iowa Emergency Medical Care Provider Scope of Practice document to the most recent edition, April 2015.

Any interested person may make written comments or suggestions on the proposed amendment on or before October 6, 2015. Such written comments should be directed to Rebecca Curtiss, Bureau of Emergency and Trauma Services, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to rebecca.curtiss@idph.iowa.gov.

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

This amendment is intended to implement Iowa Code section 147A.4. The following amendment is proposed.

Amend paragraph 132.2(4)“b” as follows:

b. Scope of Practice for Iowa EMS Providers (April 2013 2015) is hereby incorporated and adopted by reference for emergency medical care providers. For any differences that may occur between the Scope of Practice adopted by reference and these administrative rules, the administrative rules shall prevail.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for September is 4.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective September 9, 2015, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .05%
More than 397 days	Minimum .30%

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

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

ARC 2141C

DENTAL BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.2, the Dental Board hereby amends Chapter 10, "General Requirements," Iowa Administrative Code.

The purposes of the amendments are as follows: to clarify that the removal of adhesives and the preliminary charting of existing dental restorations and teeth are permissible services a dental hygienist may perform under the supervision of a licensed dentist; to permit dental hygienists to perform expanded function procedures which may be delegated by a licensed dentist; to set the education and training requirements for those procedures; and to update the name of the Oral Health Bureau to the Bureau of Oral and Health Delivery Systems.

Current rules permit a dental hygienist to remove adhesives and to perform the preliminary charting of existing dental restorations and teeth. These amendments list these specific procedures.

Current rules do not allow a dentist to delegate expanded function procedures to a dental hygienist. These amendments allow a dentist to delegate expanded function procedures to a dental hygienist. The amendments list each expanded functions procedure, define the supervision requirements when each procedure is performed, and set the education and training requirements for the procedure.

These amendments update the change in name of the Oral Health Bureau to the Bureau of Oral and Health Delivery Systems.

Notice of Intended Action for these amendments was published in the June 24, 2015, Iowa Administrative Bulletin as **ARC 2043C**. A public hearing was held on July 21, 2015, at 2 p.m. at the offices of the Iowa Dental Board. There was one attendee, Tom Cope, representing the Iowa Dental Hygienists Association, who read previously submitted comments. There were two written comments received. All written comments supported the amendments.

The Board reviewed and discussed the public comments during their July 23, 2015, open session Board meeting and allowed additional comments from the public. One change has been made to the amendments since they were published under Notice of Intended Action. In Item 3, subparagraph 10.3(8)"c"(2), the word "procedure" was removed from the phrase "expanded function procedure training" to match usage throughout this rule making.

These amendments were adopted by the Board on August 13, 2015.

After analysis and review of this rule making, a positive impact on jobs has been found for dental hygienists, who will now be able to perform additional procedures.

These amendments are intended to implement Iowa Code section 153.15.

These amendments will become effective on October 21, 2015.

The following amendments are adopted.

ITEM 1. Amend paragraph **10.3(1)"b"** as follows:

b. Therapeutic. Identifying and evaluating factors which indicate the need for and performing (1) oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or any other devices; (2) periodontal scaling and root planing; (3) removing and polishing hardened excess restorative material; (4) administering local anesthesia with the proper permit; (5) administering nitrous oxide inhalation analgesia in accordance with 650—subrules 29.6(4) and 29.6(5); (6) applying or administering medicaments prescribed by a dentist, including chemotherapeutic agents and medicaments or therapies for the treatment of periodontal disease and caries; (7) removal of adhesives.

ITEM 2. Amend paragraph **10.3(1)"d"** as follows:

d. Diagnostic. Reviewing medical and dental health histories; performing oral inspection; indexing dental and periodontal disease; preliminary charting of existing dental restorations and teeth; making occlusal registrations for mounting study casts; testing pulp vitality; analyzing dietary surveys.

DENTAL BOARD[650](cont'd)

ITEM 3. Adopt the following **new** subrule 10.3(8):

10.3(8) Expanded function requirements.

a. Supervision requirements. A dental hygienist may only perform expanded function procedures which are delegated by and performed under the supervision of a dentist licensed pursuant to Iowa Code chapter 153. The taking of occlusal registrations for purposes other than mounting study casts may be performed under general supervision; all other expanded function procedures shall be performed under direct supervision.

b. Expanded function training required. A dental hygienist shall not perform any expanded function procedures listed in this chapter unless the dental hygienist has successfully met the education and training requirements and is in compliance with the requirements of this chapter.

c. Education and training requirements. All expanded function training must be prior-approved by the board. The supervising dentist and the dental hygienist shall be responsible for maintaining in each office of practice documentation of successful completion of the board-approved training.

(1) Expanded function training for Level 1 procedures shall be eligible for board approval if the training is offered through a program accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or another program, which may include on-the-job training offered by a dentist licensed in Iowa. Training must consist of the following:

1. An initial assessment to determine the base entry level of all participants in the program;
2. A didactic component;
3. A laboratory component, if necessary;
4. A clinical component, which may be obtained under the personal supervision of the participant's supervising dentist while the participant is concurrently enrolled in the training program; and
5. A postcourse competency assessment at the conclusion of the training program.

(2) Expanded function training for Level 2 procedures shall be eligible for board approval if the training is offered through the University of Iowa College of Dentistry or a program accredited by the Commission on Dental Accreditation of the American Dental Association.

ITEM 4. Adopt the following **new** subrule 10.3(9):

10.3(9) Expanded function providers.

a. Basic expanded function provider. Dental hygienists who do not wish to become certified as a Level 1 or Level 2 provider may perform select Level 1 expanded function procedures provided they have met the education and training requirements for those procedures and are in compliance with the requirements of this chapter. A dentist may delegate to a dental hygienist only those Level 1 procedures for which the dental hygienist has received the required expanded function training.

b. Certified Level 1 provider. A dental hygienist must successfully complete training for all Level 1 expanded function procedures before becoming a certified Level 1 provider.

(1) A dentist may delegate any of the Level 1 expanded function procedures to a dental hygienist who is a certified Level 1 provider.

(2) Level 1 procedures include:

1. Taking occlusal registrations for purposes other than mounting study casts;
2. Placement and removal of gingival retraction;
3. Fabrication and removal of provisional restorations;
4. Applying cavity liners and bases and bonding systems for restorative purposes; and
5. Taking final impressions.

c. Certified Level 2 provider. A dental hygienist must become a certified Level 1 provider and successfully pass a board-approved entrance examination with a score of at least 75 percent before beginning training to become a certified Level 2 provider. A dental hygienist must successfully complete training for all Level 2 expanded function procedures before becoming a certified Level 2 provider.

(1) A dentist may delegate any of the Level 1 or Level 2 expanded function procedures to a dental hygienist who is a certified Level 2 provider.

(2) Level 2 procedures include:

1. Placement and shaping of amalgam following preparation of a tooth by a dentist;

DENTAL BOARD[650](cont'd)

2. Placement and shaping of composite following preparation of a tooth by a dentist;
3. Forming and placement of stainless steel crowns;
4. Taking records for the fabrication of dentures and partial dentures; and
5. Tissue conditioning (soft reline only).

These procedures refer to both primary and permanent teeth.

ITEM 5. Amend paragraph **10.5(3)“d”** as follows:

d. A copy of the written agreement for public health supervision shall be filed with the ~~Oral Health~~ Bureau of Oral and Health Delivery Systems, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

ITEM 6. Amend subrule 10.5(4) as follows:

10.5(4) Reporting requirements. Each dental hygienist who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the ~~oral health~~ bureau of oral and health delivery systems of the Iowa department of public health on forms provided by the department and shall include information related to the number of patients seen and services provided ~~to enable so that the department to~~ may assess the impact of the program. The department will provide summary reports to the board on an annual basis.

[Filed 8/26/15, effective 10/21/15]

[Published 9/16/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.

ARC 2142C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 231B.2, 231C.3, and 231D.2, the Department of Inspections and Appeals hereby amends Chapter 67, “General Provisions for Elder Group Homes, Assisted Living Programs, and Adult Day Services,” Iowa Administrative Code.

The amendments implement changes to Iowa Code chapter 231B, “Elder Group Homes,” chapter 231C, “Assisted Living Programs,” and chapter 231D, “Adult Day Services,” resulting from legislation in 2015 Iowa Acts, House File 579. The legislation permits programs to request a contested case hearing pursuant to Iowa Code chapter 17A without first pursuing the informal conference process.

The Department does not believe that the amendments impose any financial hardship on any regulated entity, body, or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 22, 2015, as **ARC 2067C**. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code sections 231B.2, 231C.3, and 231D.2 and 2015 Iowa Acts, House File 579.

These amendments shall become effective October 21, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 67.14(2) as follows:

67.14(2) Informal conference If contesting the final report. If the program desires to contest the final report and civil penalty, if assessed, ~~and request an informal conference~~, the program shall notify the department of inspections and appeals in writing that it desires to contest the final report and civil penalty and ~~request in writing an informal conference with an independent reviewer.~~ shall do one of the following:

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~a.—Request for informal conference. The request for an informal conference must be in writing and include the following:~~

- ~~(1) Identification of the regulatory insufficiency(ies) being disputed;~~
- ~~(2) The type of informal conference requested: face-to-face or telephone conference; and~~
- ~~(3) A request for monitor's notes for the regulatory insufficiencies being disputed, if desired.~~

~~b.—Submission of documentation. The program shall submit the following within 10 working days from the date of the program's written request for an informal conference:~~

- ~~(1) The names of those who will be attending the informal conference, including legal counsel; and~~
- ~~(2) Documentation supporting the program's position. The program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies). Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. "Good cause" means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.~~

~~c.—Face-to-face or telephone conference. A face-to-face or telephone conference, if requested, will be scheduled to occur within 10 working days of the receipt of the written request, all supporting documentation and the plan of correction required by subrule 67.13(3).~~

- ~~(1) Failure to submit supporting documentation will not delay scheduling.~~
- ~~(2) The conference will be scheduled for one hour. The program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the program's presentation. Due to the confidential nature of the conference, attendance may be limited.~~
- ~~(3) If additional information is requested by the independent reviewer during the informal conference, the program will have 2 working days to deliver the additional materials to the independent reviewer.~~

~~(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the program may be given one opportunity to reschedule the face-to-face conference.~~

~~d.—Results. The results of the informal conference will generally be sent within 10 working days after the date of the informal conference, or within 10 working days after the receipt of additional information, if requested.~~

~~(1) The independent reviewer may affirm or may modify or dismiss the regulatory insufficiency and civil penalty. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the regulatory insufficiency.~~

~~(2) The department will issue an amended (changes in factual content) or corrected (changes in typographical/data errors) final report if changes result from the informal conference.~~

~~(3) The program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.~~

~~(4) If the informal conference results in dismissal of a regulatory insufficiency for which a civil penalty was assessed, the corresponding civil penalty will be rescinded.~~

~~a. Request an informal conference with an independent reviewer pursuant to subrule 67.14(3); or~~

~~b. Request a contested case hearing in the manner provided by Iowa Code chapter 17A for contested cases.~~

ITEM 2. Renumber subrules **67.14(3)** and **67.14(4)** as **67.14(4)** and **67.14(5)**.

ITEM 3. Adopt the following **new** subrule 67.14(3):

67.14(3) Informal conference.

a. Request for informal conference. The request for an informal conference must be in writing and include the following:

- (1) Identification of the regulatory insufficiency(ies) being disputed;

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

- (2) The type of informal conference requested: face-to-face or telephone conference; and
- (3) A request for monitor's notes for the regulatory insufficiencies being disputed, if desired.

b. Submission of documentation. The program shall submit the following within 10 working days from the date of the program's written request for an informal conference:

- (1) The names of those who will be attending the informal conference, including legal counsel; and
- (2) Documentation supporting the program's position. The program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies).

Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. "Good cause" means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.

c. Face-to-face or telephone conference. A face-to-face or telephone conference, if requested, will be scheduled to occur within 10 working days of the receipt of the written request, all supporting documentation and the plan of correction required by subrule 67.13(3).

- (1) Failure to submit supporting documentation will not delay scheduling.

(2) The conference will be scheduled for one hour. The program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the program's presentation. Due to the confidential nature of the conference, attendance may be limited.

(3) If additional information is requested by the independent reviewer during the informal conference, the program will have 2 working days to deliver the additional materials to the independent reviewer.

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the program may be given one opportunity to reschedule the face-to-face conference.

d. Results. The results of the informal conference will generally be sent within 10 working days after the date of the informal conference, or within 10 working days after the receipt of additional information, if requested.

(1) The independent reviewer may affirm or may modify or dismiss the regulatory insufficiency and civil penalty. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the regulatory insufficiency.

(2) The department will issue an amended (changes in factual content) or corrected (changes in typographical/data errors) final report if changes result from the informal conference.

(3) The program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.

(4) If the informal conference results in dismissal of a regulatory insufficiency for which a civil penalty was assessed, the corresponding civil penalty will be rescinded.

ITEM 4. Amend renumbered subrule 67.14(5) as follows:

67.14(5) Appeals Contested case hearings. ~~Formal~~ Contested case hearings shall be conducted by the department's administrative hearings division pursuant to Iowa Code chapter 17A and 481—Chapter 10.

[Filed 8/26/15, effective 10/21/15]

[Published 9/16/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.

ARC 2139C

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 2, "Complaint Investigation and Resolution Procedures," Iowa Administrative Code.

Items 1, 3 and 4 update references in Chapter 2. Item 2 clarifies that members of the Board serve in a quasi-judicial capacity during the complaint process and do not play a role in helping to resolve complaints. The amendment also clarifies that statements made during the informal resolution process may be disclosed to the Board, except that offers to settle a complaint may not be presented or used as evidence that a violation occurred.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on June 24, 2015, as **ARC 2040C**. The Board received no public comment on the proposed amendments. In Item 2 as part of the new language of subrule 2.2(1), the word "information" was changed to "informal" to correct a previous typographical error. The sentence now reads: "Offers to settle a complaint during the informal resolution process or as part of a settlement negotiation under rule 497—2.4(23) shall not be presented either to the board or admitted in a subsequent contested case proceeding as evidence that a violation of Iowa Code chapters 21 or 22 or rules of the board has occurred."

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

These amendments are intended to implement Iowa Code section 23.6.

These amendments shall become effective on October 21, 2015.

The following amendments are adopted.

ITEM 1. Amend rules **497—2.2(84GA,ch1115)** and **497—2.4(84GA,ch1115)**, parenthetical implementation statute, as follows:

(84GA,ch1115 23)

ITEM 2. Amend subrule 2.2(1) as follows:

2.2(1) Referral to staff. Upon acceptance of a complaint, the ~~board shall work with the executive director~~ board's staff shall work with the complainant and the subject of the complaint toward an informal, expeditious resolution. If the complaint is not resolved, the staff shall initiate an investigation to determine whether there is probable cause to believe a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

~~*a. Statements inadmissible and confidential.*—Statements made in the course of discussions undertaken to attempt to reach an informal, expeditious resolution cannot be admitted in subsequent contested case proceedings and shall not be related by any participating board member or staff to nonparticipating board members who may later be assigned to hear and decide the contested case~~ Offers to settle a complaint during the informal resolution process or as part of a settlement negotiation under rule 497—2.4(23) shall not be presented either to the board or admitted in a subsequent contested case proceeding as evidence that a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

~~*b. Board member participation.* A board member who participates in discussions undertaken to attempt to reach an informal, expeditious resolution shall not participate in subsequent contested case proceedings or any appeal from a proposed decision to the full board.~~

ITEM 3. Amend rule 497—2.3(84GA,ch1115) as follows:

497—2.3(84GA,ch1115 23) Civil penalties and other appropriate remedies. If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the remedies set out in ~~2012 Iowa Acts, chapter 1115, section 9(8) or section 13(3b).~~ Iowa Code section 23.6(8) or 23.10(3) "*b.*"

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

ITEM 4. Amend **497—Chapter 2**, implementation sentence, as follows:
These rules are intended to implement ~~2012 Iowa Acts, chapter 1115~~ Iowa Code chapter 23.

[Filed 8/21/15, effective 10/21/15]

[Published 9/16/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.

ARC 2138C

IOWA PUBLIC INFORMATION BOARD[497]

Adopted and Filed

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby adopts new Chapter 9, “Waivers or Variances from Administrative Rules,” Iowa Administrative Code.

This amendment is adopted pursuant to Iowa Code section 17A.9A that requires an agency to establish a process for waivers or variances from administrative rules. The amendment is based on existing rules adopted by other agencies.

Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on June 24, 2015, as **ARC 2039C**. The Board received no public comment on the proposed amendment. No changes were made to the amendment as published under Notice of Intended Action.

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

This amendment is intended to implement Iowa Code chapter 17A.

This amendment shall become effective on October 21, 2015.

The following amendment is adopted.

Adopt the following new 497—Chapter 9:

CHAPTER 9

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

497—9.1(17A) Definition. For purposes of this chapter, a “waiver” or “variance” means action by the board that suspends, in whole or in part, the requirements or provisions of a rule as applied to any identified person on the basis of the particular circumstances of that person. The term “waiver” shall include both a waiver and a variance, and the term “person” shall include any individual or entity subject to the board’s jurisdiction.

497—9.2(17A) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations when no other more specifically applicable law or rule provides for waivers. To the extent another more specific provision of law or rule governs the issuance of a waiver, the more specific provision shall supersede this chapter with respect to any waiver process.

497—9.3(17A) Applicability. The board may grant a waiver from a rule only if the board has sole jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions or other provisions of law. The board may not waive requirements created or duties imposed by statute or court order.

497—9.4(17A) Criteria for waiver. In response to a petition completed pursuant to rule 497—9.6(17A), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any other person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or court order; and
4. Substantially equal protection of the public interest will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

497—9.5(17A) Filing of petition. A petition for a waiver shall be submitted in writing to the Iowa Public Information Board, Wallace State Office Building, Third Floor, 502 East 9th Street, Des Moines, Iowa 50319. If the request relates to a pending contested case, a copy of the request shall also be filed in the contested case proceeding addressed to the board's executive director at the above address.

497—9.6(17A) Content of petition. A petition for waiver shall include the following information where applicable and known to the petitioner:

1. The name, address and telephone number of the person for whom a waiver is being requested and the case number of any related contested cases, if applicable.
2. A description and citation of the specific rule from which waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts the petitioner believes would justify a waiver under each of the four criteria described in rule 497—9.4(17A). This shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons the petitioner believes will justify a waiver.
5. A history of any contacts between the board and the petitioner within the past three years relating to the activity affected by the proposed waiver. This shall include any notices of violation whether resolved through administration resolution or a contested case proceeding within the past three years.
6. Any information known to the petitioner regarding the board's treatment of similar cases.
7. The name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the waiver.
8. The name, address and telephone number of any person or entity that would be adversely affected by the granting of the waiver.
9. The name, address and telephone number of any person with knowledge of facts relevant to the proposed waiver.
10. Signed releases authorizing the persons with knowledge regarding the request to furnish the board with information relevant to the proposed waiver.

497—9.7(17A) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board.

497—9.8(17A) Notice. The board shall acknowledge a petition upon receipt. The board shall ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

497—9.9(17A) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case proceedings shall apply to any petition for a waiver filed in a contested case. Those provisions shall otherwise apply to board proceedings for a waiver only when the board so provides by rule or order or is required to do so by statute.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

497—9.10(17A) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains. The order shall include a statement of the relevant facts and reasons upon which the action is based and a description of the precise scope and duration of the waiver if one is issued.

9.10(1) Board discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board upon consideration of all relevant factors. The board shall evaluate each petition for a waiver based on the unique, individual circumstances set out in the petition.

9.10(2) Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

9.10(3) Narrowly tailored exception. A waiver, if granted, shall provide the narrowest exception possible to the provisions of the rule.

9.10(4) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

9.10(5) Conditions. The board may place any condition on a waiver that the board finds desirable to protect the public interest.

9.10(6) Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for the waiver continue to exist.

9.10(7) Time for ruling. The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

9.10(8) When deemed denied. Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

9.10(9) Service of order. Within ten business days of its issuance, any order issued under these rules shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

497—9.11(17A) Public availability. All orders granting or denying a waiver petition shall be indexed, filed and made available for public inspection as provided in Iowa Code section 17A.3.

497—9.12(17A) Summary reports. The board shall semiannually prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule and a citation to the statutory provisions implemented by the rules. The report shall include a general summary of the reasons justifying the board's actions on waiver requests and, if practicable, shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

497—9.13(17A) Cancellation of waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. That the petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. That the alternative means of ensuring adequate protection of the public interest after issuance of the waiver order have been demonstrated to be insufficient; or

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

3. That the subject of the waiver order has failed to comply with all conditions contained in the order.

497—9.14(17A) Defense. After the board issues an order granting a waiver, the order is a defense for the person to whom the order pertains, within the terms and the specified facts indicated therein, in any proceeding in which the rule in question is sought to be invoked.

497—9.15(17A) Appeals. Judicial review of a board decision to grant or deny a waiver petition shall be in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapter 17A.

[Filed 8/21/15, effective 10/21/15]

[Published 9/16/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.

ARC 2136C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The U.S. Department of Labor, Occupational Safety and Health Administration, promulgated a new standard concerning confined spaces in the construction industry. The Iowa Labor Commissioner must adopt the federal standards by reference.

Confined spaces present a wide range of atmospheric and physical hazards to workers. A comprehensive standard for confined spaces in general industry has existed since 1993, while workers in the construction industry have been protected only by a training requirement. The new standard for the construction industry is similar to the general industry standard but also recognizes hazards specific to construction and new technologies.

The principal reasons for adoption of this amendment are to implement legislative intent, protect the safety and health of Iowa workers, and make Iowa's regulations current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1) and 29 CFR 1953.5, Iowa must adopt changes to the federal occupational safety and health standards.

Notice of Intended Action was published in the June 10, 2015, Iowa Administrative Bulletin as **ARC 2023C**. No public comment was received on the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

After analysis and review of this rule making, jobs could be impacted. However, this amendment is implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

This amendment is intended to implement Iowa Code section 88.5 and 29 CFR 1953.5.

This amendment shall become effective on October 21, 2015.

The following amendment is adopted.

LABOR SERVICES DIVISION[875](cont'd)

Amend rule **875—26.1(88)** by inserting the following at the end thereof:
80 Fed. Reg. 25518 (May 4, 2015)

[Filed 8/18/15, effective 10/21/15]

[Published 9/16/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.

ARC 2151C

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Hearing Aid Specialists hereby amends Chapter 4, "Board Administrative Processes," Chapter 5, "Fees," Chapter 121, "Licensure of Hearing Aid Dispensers," Chapter 122, "Continuing Education for Hearing Aid Dispensers," Chapter 123, "Practice of Hearing Aid Dispensing," and Chapter 124, "Discipline for Hearing Aid Dispensers," Iowa Administrative Code.

These amendments revise language relating to the professional title for Hearing Aid Dispensers, which was changed to Hearing Aid Specialists effective July 1, 2015, following the passage of 2015 Iowa Acts, Senate File 274, division I, which amends the title for these professionals in Iowa Code chapter 154A.

Notice of Intended Action for these amendments was published in the June 24, 2015, Iowa Administrative Bulletin as **ARC 2044C**. No comments were received on the noticed amendments, and no changes were made.

The Board of Hearing Aid Specialists adopted these amendments at the Board's meeting held on August 3, 2015.

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

These amendments are intended to implement Iowa Code chapters 147 and 154A as amended by 2015 Iowa Acts, Senate File 274, division I.

These amendments will become effective on October 21, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **645—4.1(17A)**, definition of "Board," as follows:

"Board" means the professional licensing board of any of the following: athletic training, barbering, behavioral science, chiropractic, cosmetology arts and sciences, dietetics, hearing aid ~~dispensers specialists~~, massage therapy, mortuary science, nursing home administrators, optometry, physical and occupational therapy, physician assistants, podiatry, psychology, respiratory care, sign language interpreters and transliterators, social work, and speech pathology and audiology.

ITEM 2. Amend rule 645—5.7(147,154A), catchwords, as follows:

645—5.7(147,154A) Hearing aid ~~dispensers specialists~~ license fees.

ITEM 3. Amend **645—Chapter 121**, title, as follows:

LICENSURE OF HEARING AID ~~DISPENSERS SPECIALISTS~~

ITEM 4. Amend the following definitions in rule **645—121.1(154A)**:

"Board" means the board of hearing aid ~~dispensers specialists~~.

"Dispense" or "sell" means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or ~~dispenser specialist~~, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

"Hearing aid ~~dispenser specialist~~" means any person engaged in the fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board.

"License" means a license issued by the state to hearing aid ~~dispensers specialists~~.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

“*Licensee*” means any person licensed to practice as a hearing aid ~~dispenser~~ specialist in the state of Iowa.

“*Licensure by endorsement*” means the issuance of an Iowa license to practice as a hearing aid ~~dispenser~~ specialist to an applicant who is or has been licensed in another state.

“*Reciprocal license*” means the issuance of an Iowa license to practice as a hearing aid ~~dispenser~~ specialist to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of hearing aid ~~dispensers~~ specialists to license persons who have the same or similar qualifications to those required in Iowa.

“*Temporary permit*” means a permit issued while the applicant is in training to become a licensed hearing aid ~~dispenser~~ specialist.

ITEM 5. Amend subrule 121.2(4), introductory paragraph, as follows:

121.2(4) The licensed hearing aid ~~dispenser~~ specialist employing the holder of a temporary permit shall be responsible for the following:

ITEM 6. Amend paragraph **121.3(1)“a”** as follows:

a. Have a current hearing aid ~~dispenser~~ specialist license that has been valid for the immediately preceding 24 months;

ITEM 7. Amend subrules 121.4(1) and 121.4(3) as follows:

121.4(1) The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Hearing Aid ~~Dispensers~~ Specialists, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

121.4(3) Each application shall be accompanied by the application fee payable to the Board of Hearing Aid ~~Dispensers~~ Specialists. The board shall also receive the examination fee payable to the International Hearing Society, for any examination held prior to the implementation of the on-line examination.

ITEM 8. Amend rule 645—121.6(154A), introductory paragraph, as follows:

645—121.6(154A) Licensure by endorsement. An applicant who has been a licensed hearing aid ~~dispenser~~ specialist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

ITEM 9. Amend rule 645—121.8(154A) as follows:

645—121.8(154A) Display of license. Persons licensed as hearing aid ~~dispensers~~ specialists shall display their original licenses in a conspicuous public place at the primary site of practice.

ITEM 10. Amend subrules 121.9(1) and 121.9(6) as follows:

121.9(1) The biennial license renewal period for a hearing aid specialist license ~~to dispense hearing aids~~ shall begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. All licensees shall renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration.

121.9(6) Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a hearing aid ~~dispenser~~ specialist in Iowa until the license is reactivated. A licensee who practices as a hearing aid ~~dispenser~~ specialist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

ITEM 11. Amend subrule 121.14(3), introductory paragraph, as follows:

121.14(3) Provide verification of current competence to practice as a hearing aid ~~dispenser~~ specialist by satisfying one of the following criteria:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 12. Amend rule 645—121.15(17A,147,272C) as follows:

645—121.15(17A,147,272C) License reinstatement. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—121.14(17A,147,272C) prior to practicing as a hearing aid ~~dispenser~~ specialist in this state.

ITEM 13. Amend **645—Chapter 122**, title, as follows:

CONTINUING EDUCATION FOR HEARING AID ~~DISPENSERS~~ SPECIALISTS

ITEM 14. Amend rule **645—122.1(154A)**, definitions of “Board” and “Licensee,” as follows:

“*Board*” means the board of hearing aid ~~dispensers~~ specialists.

“*Licensee*” means any person licensed to practice as a hearing aid ~~dispenser~~ specialist in the state of Iowa.

ITEM 15. Amend subrule 122.2(1) as follows:

122.2(1) The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid ~~dispenser~~ specialist in this state shall be required to complete a minimum of 32 hours of continuing education approved by the board. For the 2011-2012 compliance period for license renewal on January 1, 2013, and every renewal biennium thereafter, a minimum of 2 hours shall be in the content areas of Iowa hearing aid ~~dispenser~~ specialist law and rules, or ethics.

ITEM 16. Amend rule **645—123.1(154A)**, definition of “Sales receipt,” as follows:

“*Sales receipt*” means a written record that is provided to a person who purchases a hearing aid. The sales receipt must be in compliance with these rules and be signed by the purchaser and the licensed hearing aid ~~dispenser~~ specialist. The requirements for the sales receipt may be found in rule 645—123.3(154A).

ITEM 17. Amend paragraph **123.2(1)“a”** as follows:

a. Provides a health history to a licensed hearing aid ~~dispenser~~ specialist who is responsible for reducing the history to written form;

ITEM 18. Amend subrule 123.2(2) as follows:

123.2(2) Any medical evaluation completed by a licensed physician in accordance with these rules requires all of the following prior to the sale of a hearing aid to an individual: receipt of the physician statement and clearance for amplification; and completion by the licensed hearing aid ~~dispenser~~ specialist of a current written health history and hearing examination that includes all of the procedures required in these rules, unless the physician order specifies otherwise. In the event an audiogram is provided by the physician, this testing requirement is waived. All records provided to the licensed hearing aid ~~dispenser~~ specialist shall be maintained in the individual’s records in accordance with the record-keeping requirements in these rules.

ITEM 19. Amend subrule 123.2(3), introductory paragraph, as follows:

123.2(3) Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid ~~dispenser~~ specialist or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid ~~dispenser~~ specialist or person holding a temporary permit shall, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual’s best interests would be served if the individual would consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 20. Amend rule 645—123.3(154A) as follows:

645—123.3(154A) Requirements for sales receipt. Upon sale of a hearing aid device, the licensee shall provide to the person a sales receipt, which shall include the following:

1. to 7. No change.

8. The following statement in type no smaller than the largest used in the body copy portion of the receipt: “The purchaser has been advised that any examination or representation made by a licensed hearing aid ~~dispenser~~ specialist in connection with the fitting or selection and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice.”

ITEM 21. Amend **645—Chapter 124**, title, as follows:

DISCIPLINE FOR HEARING AID ~~DISPENSERS~~ SPECIALISTS

ITEM 22. Amend rule 645—124.1(154A,272C) as follows:

645—124.1(154A,272C) Definitions.

“*Board*” means the board of hearing aid ~~dispensers~~ specialists.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a hearing aid ~~dispenser~~ specialist in Iowa.

ITEM 23. Amend paragraphs **124.2(3)“b”** to “**d**” as follows:

b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other hearing aid ~~dispensers~~ specialists in the state of Iowa acting in the same or similar circumstances;

c. A failure to exercise the degree of care which is ordinarily exercised by the average hearing aid ~~dispenser~~ specialist acting in the same or similar circumstances;

d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed hearing aid ~~dispensers~~ specialists in this state.

ITEM 24. Amend paragraphs **124.2(6)“a”** to “**c**” as follows:

a. Hearing aid ~~dispenser’s~~ specialist’s name.

b. Hearing aid ~~dispenser’s~~ specialist’s address of primary site of practice.

c. Hearing aid ~~dispenser’s~~ specialist’s telephone number.

ITEM 25. Amend subrule 124.2(19) as follows:

124.2(19) Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual’s practice as a hearing aid ~~dispenser~~ specialist in another state, district, territory or country.

ITEM 26. Amend subrule 124.2(29) as follows:

124.2(29) Knowingly aiding, assisting, or advising a person to unlawfully practice as a hearing aid ~~dispenser~~ specialist.

ITEM 27. Amend subrule 124.2(31) as follows:

124.2(31) Representing oneself as a licensed hearing aid ~~dispenser~~ specialist when one’s license has been suspended or revoked, or when one’s license is on inactive status.

[Filed 8/26/15, effective 10/21/15]

[Published 9/16/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.

ARC 2146C**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.17, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

The amendment to Chapter 71 updates the Iowa Administrative Code to reflect changes to the definition of dual classification properties which were enacted by 2015 Iowa Acts, House File 616, section 3. The Act changed the definition to include properties that have a primary use for human habitation containing three or more dwelling units but also have a commercial or industrial use. The subject matter of subrule 71.1(5) establishes which properties shall be assigned a dual classification for property tax purposes.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2060C** on July 22, 2015.

The Department received public comments from local governments regarding the exclusion in the Noticed amendment of parcels with a primary use of commercial or industrial that also have a secondary use for human habitation consisting of fewer than three separate dwelling units. The Department received a comment from the public regarding the wording of subrule 71.1(5) in regard to the permissible dual classifications. The commenter indicated that the use of the forward slash ("/") seemed to indicate that the classification stated first was the primary use of the property and the classification stated second was the secondary use of the property. The commenter requested that two more permissible dual classifications be added: "multiresidential/commercial" and "multiresidential/industrial."

In the proposed amendment reflecting the legislative changes enacted during the 2015 legislative session, the Department inadvertently struck language in the introductory paragraph of subrule 71.1(5) that allowed dual classification for parcels with a primary use of commercial or industrial that also have a portion or portions of the parcel used or intended for human habitation consisting of fewer than three separate dwelling units. The rule language had provided for dual classification for parcels that had these traits. Therefore, the Department has amended the language of paragraph 71.1(5)"b" since publication of the Notice of Intended Action to provide for dual classification of these parcels once again. The Department has also edited the wording and punctuation of paragraph 71.1(5)"b" to make it clearer that the permissible dual classifications do not indicate a preference for the first classification listed.

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

The Department of Revenue adopted this amendment on August 26, 2015.

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

This amendment is intended to implement 2015 Iowa Acts, House File 616, section 3.

This amendment will become effective October 21, 2015.

The following amendment is adopted.

Amend subrule 71.1(5) as follows:

71.1(5) *Multiresidential real estate.* ~~Multiresidential real estate shall include all lands and buildings~~ parcels or portions of a parcel which are primarily used or intended for human habitation containing three or more separate dwelling units as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling units. For purposes of this rule, "used in conjunction with" means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling units and when marketed for sale would be sold as a unit. ~~Multiresidential real estate shall include that portion of a building that is used for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property.~~ Multiresidential real estate shall include mobile home parks, manufactured home

REVENUE DEPARTMENT[701](cont'd)

communities, land-leased communities, and assisted living facilities. Multiresidential real estate shall exclude properties referred to in Iowa Code section 427A.1(8) or properties subject to valuation under Iowa Code section 441.21(2).

a. No change.

b. *Dual classification.* Assessors shall use dual classification on ~~properties~~ parcels where the primary use of the ~~property~~ parcel is commercial or industrial and a portion or portions of the ~~property~~ meet the requirements of the multiresidential classification ~~parcel~~ are used or intended for human habitation, regardless of the number of dwelling units. ~~Properties~~ For the assessment year beginning January 1, 2015, a parcel where the primary use is multiresidential shall not receive a dual classification but instead shall be classified multiresidential for the entire parcel.

For assessment years beginning January 1, 2016, and after, assessors shall use dual classification on properties where the primary use of the parcel meets the requirements of the multiresidential classification and a portion or portions of the parcel meet the requirements of the commercial classification under subrule 71.1(6) or the industrial classification under subrule 71.1(7). If the primary use of a parcel is for human habitation and the parcel contains fewer than three separate dwelling units, it shall be classified as residential real estate under subrule 71.1(4).

~~There are~~ The only two permissible combinations of dual classifications:—commercial/multiresidential and industrial/multiresidential ~~are commercial and multiresidential or industrial and multiresidential.~~ The assessor shall assign to that portion of the parcel that satisfies the requirements the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

c. and d. No change.

[Filed 8/26/15, effective 10/21/15]

[Published 9/16/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/16/15.

AGENCY	RULE	SUSPENSION
Human Services Department[441]	79.1(2), 83.66 [IAB 8/5/15, ARC 2097C]	Further action on Notice suspended for 70 days by the Administrative Rules Review Committee at its meeting held September 8, 2015. [Pursuant to §17A.4(9)]