



IOWA ADMINISTRATIVE BULLETIN

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Pages 473 to 516

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 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 2012

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 28, 2012	October 17, 2012
9	Friday, October 12, 2012	October 31, 2012
10	Wednesday, October 24, 2012	November 14, 2012

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, October 9, 2012, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

NOTE: See also Supplemental Agenda to be published in the October 3, 2012, Iowa Administrative Bulletin.

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Definition of “confidential employee,” 50.1 Notice **ARC 0327C**..... 9/5/12

ATTORNEY GENERAL[61]

Required disclosures for philanthropic contributions made by certain student loan lenders to certain educational institutions, ch 37 Filed **ARC 0328C**..... 9/5/12

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Science teaching endorsement—content requirements, 13.28(17) Notice **ARC 0312C**..... 9/5/12

Renewal of administrator licenses, 19.7 Notice **ARC 0311C**..... 9/5/12

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air quality, 20.2, 22.3(3), 22.100, 22.108(3), 25.1(9) Filed **ARC 0330C**..... 9/19/12

Emission standards, 23.1(2), 23.1(4) Filed **ARC 0329C**..... 9/19/12

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

PUBLIC DEFENSE DEPARTMENT[601]“umbrella”

Local emergency management commission—membership, budget approval, 7.3(1) Filed **ARC 0336C**..... 9/19/12

HUMAN SERVICES DEPARTMENT[441]

Child abuse registry—removal of names, appeals, amendments to chs 7, 175 Notice **ARC 0325C**..... 9/5/12

Appeals; default decisions; good cause, 7.1, 7.5(2)“g,” 7.13 Filed **ARC 0304C**..... 9/5/12

Coverage, age limit, reimbursement, and prior authorization for lenses and frames; removal

of obsolete reference, 78.1(1)“a,” 78.2(1), 78.6, 78.28(3) Filed **ARC 0305C**..... 9/5/12

Medicaid waiver services, amendments to ch 83 Filed **ARC 0306C**..... 9/5/12

HAWK-I—application filing date, client error, 86.3(4), 86.19(1) Notice **ARC 0332C**..... 9/19/12

Record check evaluations, amendments to ch 119 Notice **ARC 0324C**..... 9/5/12

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Elevator safety board—temporary removal of elevator from service, fee, 71.7(1), 71.16, 71.20 Filed **ARC 0318C**..... 9/5/12

Boilers and pressure vessels—rules review, inspections, amendments to chs 81, 83, 85, 90 to 92, 95, 96 Filed **ARC 0319C**..... 9/5/12

Boilers and pressure vessels—low-pressure boilers, code-stamp protocols, 90.1, 91.1(2) Notice **ARC 0322C**..... 9/5/12

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Shooting sports program grants, ch 56 Filed **ARC 0308C**..... 9/5/12

Waterfowl and coot hunting—zones, bag limits and season dates, amendments to ch 91 Filed **Emergency After Notice** **ARC 0307C**..... 9/5/12

PAROLE BOARD[205]

CORRECTIONS DEPARTMENT[201]“umbrella”

Parole and work release decisions, 8.15 Notice **ARC 0320C**..... 9/5/12

PUBLIC HEALTH DEPARTMENT[641]

Plumbing and mechanical systems board—petitions for rule making, ch 36 Notice **ARC 0314C**..... 9/5/12

Plumbing and mechanical systems board—declaratory orders, ch 57 Notice **ARC 0315C**..... 9/5/12

Plumbing and mechanical systems board—agency procedure for rule making, ch 58 Notice **ARC 0316C**..... 9/5/12

Plumbing and mechanical systems board—fair information practices and public records, ch 59 Notice **ARC 0317C**..... 9/5/12

Plumbing and mechanical systems board—noncompliance regarding child support, nonpayment of state debt, and noncompliance regarding student loan repayment, ch 60 Notice **ARC 0313C**..... 9/5/12

REVENUE DEPARTMENT[701]

Sales and use tax refund for eligible businesses, 12.19 Notice **ARC 0323C** 9/5/12
 Individual income, corporation income, and franchise tax, amendments to chs 40, 42, 43, 46,
 49, 52, 53, 55 to 57, 59 to 61 Filed **ARC 0337C**..... 9/19/12
 Sourcing of taxable services, ch 223 Filed **ARC 0310C**..... 9/5/12
 Effective dates of taxation rate increases or decreases when certain services are furnished,
 240.7 Notice **ARC 0326C** 9/5/12

SECRETARY OF STATE[721]

Mechanics' notice and lien registry, ch 45 Notice **ARC 0339C** 9/19/12

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Incentive provisions for soil erosion control—construction conservation practices in calendar
 year 2012, 10.60, 10.82(1)"d" Filed Emergency **ARC 0331C** 9/19/12

TRANSPORTATION DEPARTMENT[761]

Construction of curb ramps on existing sidewalks, 150.4(3)"c" Notice **ARC 0333C** 9/19/12
 License suspension for a serious violation—passing a stopped school bus, 615.17
Filed Emergency After Notice **ARC 0309C** 9/5/12

TREASURER OF STATE[781]

Deposit and security of public funds in savings and loans, rescind ch 3 Notice **ARC 0335C** 9/19/12

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Merlin Bartz
 2081 410th Street
 Grafton, Iowa 50440

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

Senator Thomas Courtney
 2609 Clearview
 Burlington, Iowa 52601

Representative Jo Oldson
 4004 Grand Avenue, #302
 Des Moines, Iowa 50312

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

Representative Rick Olson
 3012 East 31st Court
 Des Moines, Iowa 50317

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

Representative Dawn Pettengill
 P.O. Box A
 Mt. Auburn, Iowa 52313

Senator James Seymour
 901 White Street
 Woodbine, Iowa 51579

Representative Guy Vander Linden
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 Governor's Ex Officio Representative
 Capitol, Room 18
 Des Moines, Iowa 50319
 Telephone (515)281-5211

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Definition of “confidential employee,” 50.1 IAB 9/5/12 ARC 0327C	Room 7, A Level Hoover State Office Bldg. Des Moines, Iowa	September 25, 2012 9 to 10 a.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Science teaching endorsement—content requirements, 13.28(17) IAB 9/5/12 ARC 0312C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 26, 2012 1 p.m.
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Renewal of administrator licenses, 19.7 IAB 9/5/12 ARC 0311C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 26, 2012 1 p.m.
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LABOR SERVICES DIVISION[875]

Boilers and pressure vessels—low-pressure boilers, code-stamp protocols, 90.1, 91.1(2) IAB 9/5/12 ARC 0322C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	September 26, 2012 9 a.m. (If requested)
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PAROLE BOARD[205]

Parole and work release decisions, 8.15 IAB 9/5/12 ARC 0320C	Board Offices, Suite 3 Jessie Parker Bldg. 510 E. 12th St. Des Moines, Iowa	September 25, 2012 10 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Plumbing and mechanical systems board—petitions for rule making, ch 36 IAB 9/5/12 ARC 0314C (ICN Network)	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa	September 25, 2012 11 a.m. to 12 noon
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Schindler 130A University of Northern Iowa Corner of Hudson Rd. and 23rd St. Cedar Falls, Iowa	September 25, 2012 11 a.m. to 12 noon
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State Room AEA 267 Regional Office 9184B 265th Street Clear Lake, Iowa	September 25, 2012 11 a.m. to 12 noon
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Department of Human Services 417 East Kanesville Blvd. Council Bluffs, Iowa	September 25, 2012 11 a.m. to 12 noon
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Second Floor, Department of Education Grimes State Office Bldg. Des Moines, Iowa	September 25, 2012 11 a.m. to 12 noon
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Room 206, Liberal Arts Building Iowa Central Community College 1 Triton Circle Fort Dodge, Iowa	September 25, 2012 11 a.m. to 12 noon
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PUBLIC HEALTH DEPARTMENT[641] (cont'd)

(ICN Network)	Room 103 N., University of Iowa At the end of North Madison St. Iowa City, Iowa	September 25, 2012 11 a.m. to 12 noon
	Room D201, Building A Western Iowa Tech Community College 4647 Stone Ave. Sioux City, Iowa	September 25, 2012 11 a.m. to 12 noon
Plumbing and mechanical systems board—declaratory orders, ch 57 IAB 9/5/12 ARC 0315C (ICN Network)	See ARC 0314C above for public hearing locations	September 25, 2012 11 a.m. to 12 noon
Plumbing and mechanical systems board—agency procedure for rule making, ch 58 IAB 9/5/12 ARC 0316C (ICN Network)	See ARC 0314C above for public hearing locations	September 25, 2012 11 a.m. to 12 noon
Plumbing and mechanical systems board—fair information practices and public records, ch 59 IAB 9/5/12 ARC 0317C (ICN Network)	See ARC 0314C above for public hearing locations	September 25, 2012 11 a.m. to 12 noon
Plumbing and mechanical systems board—noncompliance regarding child support and student loan repayment, nonpayment of state debt, ch 60 IAB 9/5/12 ARC 0313C (ICN Network)	See ARC 0314C above for public hearing locations	September 25, 2012 11 a.m. to 12 noon

SECRETARY OF STATE[721]

Mechanics' notice and lien registry, ch 45 IAB 9/19/12 ARC 0339C (ICN Network)	Second Floor, Grimes State Office Bldg. E. 14th and Grand Ave. Des Moines, Iowa (Origination site)	October 9, 2012 2 to 4 p.m.
	Room 106, Activity Center North Iowa Area Community College - 1 500 College Dr. Mason City, Iowa	October 9, 2012 2 to 4 p.m.
	Fiber Optic Room 118, Attendance Center Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	October 9, 2012 2 to 4 p.m.
	Room 117, Kirkwood Community College 1816 Lower Muscatine Rd. Iowa City, Iowa	October 9, 2012 2 to 4 p.m.
	Room 024, Looft Hall Iowa Western Community College - 1 2700 College Rd. Council Bluffs, Iowa	October 9, 2012 2 to 4 p.m.
	Department of Workforce Development 1000 E. Grand Ave. Des Moines, Iowa (Location directed by receptionist)	October 9, 2012 2 to 4 p.m.

SECRETARY OF STATE[721] (cont'd)**(ICN Network)**

Room 204, Liberal Arts Bldg. Iowa Central Community College - 4 1 Triton Circle Fort Dodge, Iowa	October 9, 2012 2 to 4 p.m.
National Guard Armory 2858 N. Court Rd. Ottumwa, Iowa	October 9, 2012 2 to 4 p.m.
Human Services Dept., Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	October 9, 2012 2 to 4 p.m.
Room 300, Kahl Educational Center Eastern Iowa Community College District - 1 326 W. 3rd St. Davenport, Iowa	October 9, 2012 2 to 4 p.m.
Room 123, Jones Hall Kirkwood Community College - 4 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	October 9, 2012 2 to 4 p.m.
Matilda J. Gibson Memorial Library 200 W. Howard St. Creston, Iowa	October 9, 2012 2 to 4 p.m.
Le Mars Campus, Buena Vista University 940 Lincoln St. SW Le Mars, Iowa	October 9, 2012 2 to 4 p.m.

TRANSPORTATION DEPARTMENT[761]

Construction of curb ramps on existing sidewalks, 150.4(3)"c" IAB 9/19/12 ARC 0333C	South Conf. Room, Administration Bldg. 800 Lincoln Way Ames, Iowa	October 11, 2012 1 p.m. (If requested)
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UTILITIES DIVISION[199]

Recovering certain energy-related costs through an automatic adjustment clause, 20.1(3), 20.9(2), 20.13(1), 20.17 IAB 8/8/12 ARC 0237C	Hearing Room 1375 East Court Ave. Des Moines, Iowa	September 25, 2012 10 a.m.
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The following list will be updated as changes occur.

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

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

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

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ARC 0332C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services proposes to amend Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

These amendments align HAWK-I application filing date provisions with Medicaid and provide clarification in the definition of “client error.”

Any interested person may make written comments on the proposed amendments on or before October 9, 2012. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

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

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

These amendments are intended to implement Iowa Code chapter 514I.

The following amendments are proposed.

ITEM 1. Amend subrule 86.3(4) as follows:

86.3(4) ~~Date and method of filing~~ *Application filing date.* ~~The application is considered filed on the date an identifiable application is received by the third-party administrator or the department. An identifiable application is an application containing a legible name, address, and signature.~~

~~*a. Medicaid applications referred to the HAWK-I program.* When the family has applied for Medicaid first and the department makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.~~

a. Date of filing. The application is considered filed on the date an identifiable application is received by the third-party administrator or the department. An identifiable application is an application containing a legible name, address, and signature.

~~*b. Electronic applications.* When an application is submitted electronically to the third-party administrator, the application is considered filed on the date the third-party administrator receives Form 470-4016, HAWK-I Electronic Application Summary and Signature, containing a legible signature.~~

b. Applications received after business hours. When an application is received after business hours, it will be considered received on the next business day.

c. Medicaid applications referred to the HAWK-I program. When the family has applied for Medicaid first and the department makes a referral to the third-party administrator, the date the Medicaid application was originally filed with the department shall be the filing date.

ITEM 2. Amend subrule 86.19(1) as follows:

86.19(1) *Definitions.*

“Administrative error” means an action ~~attributed to~~ of the department or to the HAWK-I third-party administrator that results in incorrect payment of benefits, including premiums paid to a health or dental plan, due to one or more of the following circumstances:

1. Misfiled or lost form or document.
2. Error in typing or copying.
3. Computer input error.
4. Mathematical error.

HUMAN SERVICES DEPARTMENT[441](cont'd)

5. Failure to determine eligibility correctly when all essential information was available to the HAWK-I third-party administrator.
6. Failure to request essential verification necessary to make an accurate eligibility determination.
7. Failure to make timely revision in eligibility following a change in policy requiring application of the policy change as of a specific date.
8. Failure to issue timely notice to cancel benefits that results in benefits continuing in error.
9. Failure of the department to provide correct information to the HAWK-I third-party administrator regarding a child's Medicaid eligibility.

"Client error" means any action or inaction ~~attributed to~~ of the enrollee or the enrollee's representative that results in incorrect payment of benefits, including premiums paid to a health or dental plan, ~~because the enrollee or the enrollee's representative~~ because at least one of the following occurred:

1. ~~Failed~~ The enrollee or the enrollee's representative failed to disclose information or gave a false or misleading statement, oral or written, regarding income or another eligibility factor; or
2. ~~Failed~~ The enrollee or the enrollee's representative failed to timely report a change as defined in rule 441—86.10(514I).

PUBLIC HEALTH DEPARTMENT

Notice of Stakeholder Group

Plumbing and Mechanical Systems Board—Licensure Fees

Pursuant to Executive Order 80, the Director of the Iowa Department of Public Health hereby gives Notice as to the formation of a Stakeholder Group to review Chapter 28, "Plumbing and Mechanical Systems Board—Licensure Fees," and Chapter 29, "Plumbing and Mechanical Systems Board—Application, Licensure, and Examination," Iowa Administrative Code.

The purpose of the stakeholder group is to formulate a proposal on how to streamline the application renewal process and ways to make the process more user-friendly to small businesses and sole proprietors. Recently, the Board adopted a rule to relieve the burden of sitting for examination from a grandfathered licensee whose license(s) has lapsed for more than 60 days. The stakeholder group will meet to formulate ideas to continue to help small businesses and sole proprietors.

All interested stakeholders who represent the varying interests impacted by the rule mentioned above should contact Department of Public Health Director, Dr. Mariannette Miller-Meeks, c/o Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. The Director will determine which stakeholders should make up the group in order to represent the varied interests. Information may be sent by sent by fax to (515)281-6114 or by e-mail to cindy.houlson@idph.iowa.gov no later than October 3, 2012. All stakeholders are asked to provide the following information:

1. Name;
2. Telephone number;
3. E-mail address;
4. City;
5. Profession;
6. General availability to meet;
7. Explanation of stakeholder interest and how the rule impacts the stakeholder; and
8. Description of how the stakeholder can add to the resolution of the burdensome regulation.

ARC 0339C**SECRETARY OF STATE[721]****Notice of Intended Action**

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

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

Pursuant to the authority of 2012 Iowa Acts, House File 675, section 25, as amended by 2012 Iowa Acts, House File 2465, section 41 (Iowa Code section 572.13A), the Secretary of State hereby gives Notice of Intended Action to adopt Chapter 45, “Mechanics’ Notice and Lien Registry,” Iowa Administrative Code.

The rules in Chapter 45 apply to the creation and administration of a mechanics’ notice and lien registry.

Any interested person may make written suggestions and comments on these proposed rules no later than October 9, 2012. Such written materials should be directed to Carla Pope at the Title Guaranty Division, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312; fax (515)725-4901; e-mail carla.pope@iowa.gov.

There will be a public hearing on October 9, 2012, from 2 to 4 p.m., at which time persons may present their views either orally or in writing. The hearing will originate from the Iowa Communications Network (ICN) and will be accessible over the ICN at the following locations. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules.

Department of Education (Origination Site)
Grimes State Office Building, Second Floor
E. 14th and Grand Avenue
Des Moines, Iowa

North Iowa Area Community College - 1
Activity Center, Room 106
500 College Drive
Mason City, Iowa

Iowa Lakes Community College
Spencer Attendance Center, Fiber Optic Room 118
1900 North Grand Avenue
Spencer, Iowa

Kirkwood Community College
Room 117
1816 Lower Muscatine Road
Iowa City, Iowa

Iowa Western Community College - 1
Looft Hall, Room 024
2700 College Road
Council Bluffs, Iowa

Department of Workforce Development
Room Location: will be directed by receptionist after sign in
1000 East Grand Avenue
Des Moines, Iowa

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Iowa Central Community College - 4
 Liberal Arts Building, Room 204
 One Triton Circle
 Fort Dodge, Iowa

National Guard Armory
 2858 North Court Road
 Ottumwa, Iowa

Department of Human Services
 Pinecrest Office Building
 1407 Independence Avenue
 Waterloo, Iowa

Eastern Iowa Community College District - 1
 Kahl Educational Center, Room 300
 326 West 3rd Street
 Davenport, Iowa

Kirkwood Community College - 4
 123 Jones Hall
 6301 Kirkwood Boulevard, SW
 Cedar Rapids, Iowa

Matilda J. Gibson Memorial Library
 200 West Howard Street
 Creston, Iowa

Buena Vista University, Le Mars Campus
 940 Lincoln Street SW
 Le Mars, Iowa

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Secretary of State's office at (515)281-5866 and advise of specific needs.

After analysis and review of this rule making, a positive impact on jobs exists. This rule making streamlines the process for small businesses to file liens on construction projects and enhances the ability of homeowners to know which small businesses are providing labor and materials for the homeowners' construction projects. The statute is intended to improve the ability of small businesses to receive payment for the labor and materials furnished on residential construction projects.

The Secretary of State will continue to collaborate with stakeholders to maximize this rule making's positive impact on jobs.

These rules are intended to implement Iowa Code chapter 572 as amended by 2012 Iowa Acts, House File 675, as amended by 2012 Iowa Acts, House File 2465.

The following amendment is proposed.

Adopt the following new 721—Chapter 45:

CHAPTER 45 MECHANICS' NOTICE AND LIEN REGISTRY

721—45.1(572) General provisions.

45.1(1) Scope. This chapter applies to the creation and administration of a mechanics' notice and lien registry under Iowa Code chapter 572. The effective date of this chapter is January 1, 2013. All mechanics' liens filed on or after January 1, 2013, must be filed in the office of the administrator in accordance with these rules, and the notice provisions of these rules relating to residential construction apply only to labor performed on and materials supplied to a residential construction project on or after January 1, 2013.

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Mechanics' liens filed prior to January 1, 2013, shall remain with the clerk of the district court of the county in which the building, land, or improvement charged with the lien is situated.

Rules 721—45.4(572) and 721—45.5(572) apply only to residential construction. All other rules in this chapter apply to both residential and commercial construction.

45.1(2) Definitions. The following terms shall have the respective meanings provided in this rule.

“Administrator” means the secretary of state.

“Building” shall be construed as if followed by the words “erection, or other improvement upon land.”

“Claimant” means a person entitled to a lien under Iowa Code chapter 572.

“Filing office” means the office of the secretary of state. The address of the office is Lucas State Office Building, First Floor, 321 East 12th Street, Des Moines, Iowa 50319.

“General contractor” means every person who does work or furnishes materials by contract, express or implied, with an owner. “General contractor” does not include a person who does work or furnishes materials on contract with an owner-builder.

“Index” means the categories by which a posted notice, lien or record may be searched and retrieved.

“Labor” means labor completed by the claimant.

“Material,” in addition to its ordinary meaning, includes machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tiles and the use of forms, accessories, and equipment furnished by the claimant.

“Mechanics’ notice and lien registry” means a centralized computer database maintained on the Internet by the administrator that provides a central repository for the submission and management of preliminary notices, notices of commencement of work on residential construction properties, and mechanics’ liens on all construction properties.

“Mechanics’ notice and lien registry number” means a number provided by the administrator for all construction properties posted to the mechanics’ notice and lien registry.

“MNL” means the mechanics’ notice and lien registry.

“MNL number” means the mechanics’ notice and lien registry number.

“Owner” means the legal or equitable titleholder of record.

“Owner-builder” means the legal or equitable titleholder of record who furnishes material for or performs labor upon a building, erection, or other improvement, or who contracts with a subcontractor to furnish material for or perform labor upon a building, erection, or other improvement and who offers or intends to offer to sell the owner-builder’s property without occupying or using the structures, properties, developments, or improvements for a period more than one year from the date the structure, property, development, or improvement is substantially completed or abandoned.

“Owner notice” means notification to the owner as set forth in Iowa Code sections 572.13(1) and 572.13A.

“Post” or *“posting”* means to enter notices, liens and records on the mechanics’ notice and lien registry.

“Residential construction” means construction on single-family or two-family dwellings occupied or used, or intended to be occupied or used, primarily for residential purposes, and includes real property pursuant to Iowa Code chapter 499B.

“Subcontractor” means every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts directly with the owner. “Subcontractor” shall include those persons having contracts directly with an owner-builder.

“Submit” or *“submission”* means to mail, fax, or deliver by hand or personal courier a paper document.

721—45.2(572) Creation of mechanics’ notice and lien registry. The administrator shall create and administer a mechanics’ notice and lien registry, hereafter known as the MNL.

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45.2(1) *Access to MNLN by the general public.* The MNLN is accessible to the general public through the administrator's Web site at <http://sos.iowa.gov/>. A notice, lien or record posted is immediately accessible to the general public.

45.2(2) *MNLN searchable by index category.* The MNLN shall be searchable by the following indexes:

- a. Owner name.
- b. General contractor name.
- c. MNLN number.
- d. Property address.
- e. Legal description.
- f. Tax parcel identification number.
- g. County.

45.2(3) *Acknowledgment of receipt provided.* The administrator shall provide a receipt acknowledging submission of a notice if the submission of information is by U.S. mail or facsimile transmission, or acknowledging submission of a lien if the submission of information is by U.S. mail. The acknowledgment shall be sent to the e-mail address provided by the person submitting the required information to post a notice or lien.

45.2(4) *MNLN user registration.* To post information on the MNLN Internet Web site, the person must register as a user on the MNLN.

721—45.3(572) Administrator identification. In addition to the promulgation of these rules, the administrator will disseminate the administrator's location, mailing address, telephone and facsimile numbers and the administrator's Internet and other electronic "addresses" through usual and customary means.

721—45.4(572) Posting of notice of commencement of work.

45.4(1) *Posting by general contractor or owner-builder.* A general contractor or owner-builder who has contracted or will contract with a subcontractor to provide labor or furnish material for residential construction shall post a notice of commencement of work to the MNLN within ten days of commencement of work on the property.

45.4(2) *Information in notice of commencement of work.* The information provided shall, at a minimum, include:

- a. The name and address of the owner.
- b. The name, address and telephone number of the general contractor or owner-builder.
- c. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- d. The legal description of the property.
- e. The date work commenced.
- f. The tax parcel identification number.
- g. The county in which the building, land, or improvement to be charged with the lien is situated.
- h. The e-mail address of the person posting or submitting the notice of commencement of work or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of this person.

45.4(3) *Owner notice.* At the time a notice of commencement of work is posted on the MNLN, the administrator shall mail a written owner notice to the owner's address. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner. The owner notice shall contain the following language:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The mechanics' notice and lien registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or

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lien to the mechanics' notice and lien registry, you may be required to pay the person or company even if you have paid the general contractor the full amount due. Therefore, check the mechanics' notice and lien registry internet website for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the mechanics' notice and lien registry is posted on the internet website of the mechanics' notice and lien registry."

45.4(4) *Failure to post notice of commencement of work on the MNLR.* A general contractor for residential construction who fails to post a notice of commencement of work on the MNLR within ten days following commencement of work is not entitled to a lien or remedies provided in Iowa Code chapter 572.

721—45.5(572) Posting of preliminary notice.

45.5(1) *Posting by subcontractor.*

a. A subcontractor who has provided or will provide labor or furnish material for residential construction shall post a preliminary notice to the MNLR.

b. Prior to the posting of a preliminary notice, a notice of commencement of work must be posted on the MNLR. If the general contractor or owner-builder has not posted a notice of commencement of work on the MNLR within ten days of commencement of work on the property, then the subcontractor may post a notice of commencement of work on the MNLR prior to posting the preliminary notice. In order to post a notice of commencement of work on the MNLR, the subcontractor must comply with subrule 45.4(2).

45.5(2) *Contents of preliminary notice.* The information provided by the subcontractor shall, at a minimum, include:

- a.* The name of the owner.
- b.* The MNLR number.
- c.* The name, address and telephone number of the subcontractor furnishing the labor, service, equipment, or material.
- d.* The name and address of the person who contracted with the claimant for the furnishing of the labor, service, equipment, or material.
- e.* The name of the general contractor or owner-builder under which the claimant is performing or will perform the work.
- f.* The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- g.* The legal description of the property.
- h.* The date the material or materials were first furnished or the labor was first performed.
- i.* The tax parcel identification number.
- j.* The county in which the building, land, or improvement to be charged with the lien is situated.
- k.* The e-mail address of the subcontractor or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of the subcontractor.

45.5(3) *Owner notice.* At the time that a preliminary notice is posted on the MNLR, the administrator shall mail a written owner notice to the owner's address. The owner notice may not be sent to owner-builders.

45.5(4) *Affidavit of mailing of owner notice.* The administrator shall post an affidavit of mailing of the owner notice on the MNLR. The subcontractor may obtain a copy by downloading the affidavit from the record of postings by MNLR number.

45.5(5) *Failure to post preliminary notice on the MNLR.* A subcontractor for residential construction who fails to post a preliminary notice on the MNLR is not entitled to a lien or remedies provided in Iowa Code chapter 572.

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721—45.6(572) Posting of mechanic's lien.

45.6(1) *Posting of mechanic's lien.* A person must post on the MNLR a verified statement of account of the demand due the person, after allowing all credits.

45.6(2) *Contents of the statement of account.* The verified statement of account provided by the person shall include:

- a. The date when such material was first furnished or labor first performed, and the date on which the last of the material was furnished or the last of the labor was performed.
- b. The legal description of the property to be charged with the lien.
- c. The name and last known mailing address of the owner of the property.
- d. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- e. The tax parcel identification number.

45.6(3) *Owner notice.* At the time that a lien is posted on the MNLR, the administrator shall mail a written notice to the owner's address.

45.6(4) *Limits to lien.* A lien posted to the MNLR under this rule shall be limited to the county in which the building, land, or improvement to be charged with the lien is situated. The county identified on the MNLR Web site at the time of posting the required notices in rules 721—45.4(572) and 721—45.5(572) shall be the only county in which the building, land, or improvement may be charged with a mechanic's lien.

45.6(5) *Lien information contained in posting.* The liens posted in the MNLR shall contain the following items:

- a. The name of the person by whom posted.
- b. The date and hour of posting.
- c. The amount thereof.
- d. The name of the person against whom the lien is posted.
- e. The legal description of the property to be charged.
- f. The tax parcel identification number of the property to be charged.
- g. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

45.6(6) *Additional information for posting of a mechanic's lien for commercial property.* The person posting the mechanic's lien for a commercial property must register as a user with the MNLR and must provide the following additional information:

- a. The name and mailing address of the owner.
- b. The name, address and telephone number of the general contractor or owner-builder.
- c. The county in which the building, land, or improvement to be charged with the lien is situated.
- d. The e-mail address of the person posting or submitting the mechanic's lien or the e-mail address of another individual or entity designated to receive electronic correspondence on behalf of the person posting the lien.

721—45.7(572) Discharge of mechanic's lien by submission of a bond.

45.7(1) *Submission or posting of a bond.* Any person may submit or post a bond to the administrator to discharge a mechanic's lien. The submitter of the bond shall provide the MNLR number so that the administrator can determine to which lien to apply the bond.

45.7(2) *Acceptance of a bond.* The administrator may accept a bond in twice the amount of the sum for which the claim for the lien is filed, with surety or sureties authorized to issue surety bonds in this state.

721—45.8(572) Forfeiture and cancellation of mechanics' liens.

45.8(1) *Posting of demand for acknowledgment of satisfaction of claim.* A claimant shall post an acknowledgment of satisfaction of claim within 30 days of receipt of a written demand served pursuant to Iowa Code section 572.23. A mechanic's lien is forfeited and canceled upon the posting of a copy

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of the demand for acknowledgment of satisfaction of claim, posting of endorsed proofs of service, and expiration of 30 days.

45.8(2) *Posting of demand to commence action to enforce the lien.* A claimant shall commence action to enforce the lien within 30 days of receipt of a written demand served pursuant to Iowa Code section 572.28. A mechanic's lien is forfeited and canceled upon the posting of a copy of the demand to commence action to enforce the lien, posting of endorsed proofs of service, and expiration of 30 days.

45.8(3) *Notice to both parties.* At the time that a demand is posted on the MNL, the administrator shall mail a date- and time-stamped copy of the demand to both parties.

721—45.9(572) Action against general contractor or owner-builder to recover amount due.

45.9(1) *Giving of a bond.* The general contractor or owner-builder may post or submit a surety bond to the administrator for purposes of preventing exemplary damages. The bond shall be in an amount not less than the amount necessary to satisfy the nonpayment for which the notice has been given, and in a form approved by a judge of the district court.

45.9(2) *Acceptance of a bond.* The administrator shall accept a bond in an amount and form approved by a judge of the district court.

721—45.10(572) Delay by administrator. Delay by the administrator beyond a time limit prescribed in these rules is excused if:

1. The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the administrator.
2. The administrator exercises reasonable diligence under these circumstances.

721—45.11(572) Nondisclosure of e-mail address. An e-mail address provided in compliance with this chapter shall not be viewed as a public record under Iowa Code chapter 22 and shall not be disclosed by the administrator.

721—45.12(572) Obligation to update information. The administrator may use e-mail for official correspondence with a registered user, except when law requires delivery by U.S. mail. If the registered user wants to receive timely notice by the administrator, it is the obligation of the registered user to update the user's contact information on the MNL.

721—45.13(572) Fees and services.

45.13(1) *Fee for posting and mailing.* The following fees shall be charged for posting on the MNL and for the mailing of notices:

a. The fee for posting a notice of commencement of work using the Internet Web site is \$7. The fee for posting a notice of commencement of work by submitting the notice to the administrator by U.S. mail, facsimile, or personal or courier delivery is \$10.

b. The fee for posting a preliminary notice on the MNL using the Internet Web site is \$7. The fee for posting a preliminary notice by submitting the notice to the administrator by U.S. mail, facsimile, or personal or courier delivery is \$10.

c. The fee for posting a mechanic's lien using the Internet Web site is \$30. The fee for posting a mechanic's lien by submitting the lien to the administrator by U.S. mail is \$40.

d. The fee for mailing a copy of the demand for acknowledgment is \$5.

e. The fee for mailing a copy of the demand to commence action is \$5.

45.13(2) *MNL search fee; fee for paper copies.* The following fees shall be charged for searches of the MNL performed by the administrator or for paper copies supplied by the administrator:

a. The fee for an MNL search request, per MNL number, communicated verbally, on paper, in a paper-based format, or electronically by means other than the MNL is \$5 per MNL number.

b. The fee for a paper copy of a document posted on the MNL is \$1 per page.

45.13(3) *Public records services.* Public records services are provided on a nondiscriminatory basis to any member of the public on the terms described in these rules. The following fees shall be charged

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for obtaining copies of MNLN documents and copies of data from the MNLN information management system by the following methods:

- a. A search of the MNLN by index list is available at no cost via the administrator's Web site.
- b. Paper copies of individual documents.
 - (1) U.S. mail delivery — \$1 per page.
 - (2) Facsimile delivery — \$2 per page.

Documents will not be delivered via e-mail.

- c. Bulk copies of MNLN records.
 - (1) Subscription basis — 4 cents per page of the PDF image, plus \$25 per week (delivered by Internet download).
 - (2) Document image master file — 4 cents per document.
- d. Data from the information management system — county extract via download — \$50.
- e. Data from the information management system — full extract via download — \$200.

45.13(4) *Methods of payment.* Fees for posting, mailing, and searching rendered by the administrator may be paid to the administrator by the following methods:

- a. Check. Checks made payable to Administrator, including checks in an amount to be filled in by the administrator but not to exceed a particular amount, will be accepted for payment if they are cashier's checks or certified checks drawn on a bank acceptable to the administrator or if the drawer is acceptable to the administrator.

- b. Electronic funds transfer. The administrator may accept payment via electronic funds transfer under National Automated Clearing Housing Association (NACHA) rules from remitters who have entered into appropriate NACHA-approved arrangements for such transfers and who authorize the relevant transfer pursuant to such arrangements and rules.

- c. Accounts receivable. Payment for services shall be in accordance with rule 721—2.3(17A).

- d. Credit card. The administrator may accept payments made by credit card issued by an approved credit card issuer.

45.13(5) *Receipt of required fees verified.*

- a. In order for a posting to appear and remain on the MNLN, receipt of the required fee must be verified by the administrator. The administrator may reject a record or post a withdrawal statement on the MNLN if the administrator is notified of insufficient funds, a disputed credit card charge, or other failure.

- b. In order for the administrator to provide a requested copy of an MNLN search or public record, receipt of the required fee must be verified by the administrator.

45.13(6) *Overpayment and underpayment policies.*

- a. The administrator shall refund the amount of an overpayment exceeding \$15, less the administrative cost of processing a refund.

- b. Upon receipt of a submission with an insufficient fee, the administrator shall return the document as provided in rule 721—45.14(572). A refund of partial payment may be included with the document or delivered under separate cover.

721—45.14(572) *Grounds for refusal of MNLN document.* An MNLN document may be refused by the administrator on the following grounds:

1. A posting or submission does not provide complete information as required under subrule 45.4(2) for a notice of commencement of work, subrule 45.5(2) for a preliminary notice, subrule 45.6(5) for a mechanic's lien, or subrules 45.6(5) and 45.6(6) for a mechanic's lien for a commercial property;
2. A submission does not include an MNLN number, except for a submission to which subrule 45.17(2) applies;
3. The required fee is not paid for a submission or posting or the fee paid for the submission or posting is insufficient;
4. A submission is not on a form provided by the administrator for the purpose of performing the requested posting; or
5. A submission is not legible, as determined by the administrator.

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Additional grounds for the administrator's refusal to accept an MNLR document for posting may be established by policy. The policy shall be noticed to the public by the posting of the policy on the MNLR Web site.

721—45.15(572) Posting of a filing office statement, correction statement, or withdrawal statement.

45.15(1) Filing office statement. The administrator may post a filing office statement to correct information that was incorrectly transcribed from a paper submission.

45.15(2) Correction statement. A correction statement can only be posted by a registered MNLR user.

45.15(3) Withdrawal statement.

a. A withdrawal statement of an original posting of a notice or lien shall be made by the general contractor, owner-builder, or subcontractor, or party authorized on behalf of the original party, who originally posted the record on the MNLR. The MNLR number is required at the time the withdrawal statement is posted to identify the posting to be withdrawn.

b. A withdrawal statement of an original posting of a notice or lien may be made by the administrator as provided in subrule 45.13(5).

45.15(4) Notice of filing office statement, correction statement, or withdrawal statement to registered users. At the time of the posting of a filing office statement, a correction statement, or a withdrawal statement, a notice will be sent by e-mail to all registered users, except the administrator, who have posted to the MNLR number.

721—45.16(572) Removal of record. Documents posted on the MNLR information management system shall remain active records for not less than five years after the date of the last posting to the MNLR number.

721—45.17(572) Assignment of date and time stamp and MNLR number.

45.17(1) Method and time of posting.

a. For a notice of commencement of work, preliminary notice, demand for acknowledgement of satisfaction of claim, or demand to commence action to enforce the lien, the posting will be date- and time-stamped as follows:

(1) If posted electronically on the MNLR, the time of posting will be upon submission of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail to the filing office, the administrator will post to the MNLR within three business days of receipt.

(3) If the required information and fee are submitted by facsimile transmission to the filing office, the administrator will post to the MNLR within three business days of receipt.

(4) If the required information and fee are submitted by personal delivery or courier delivery to the filing office's street address, the administrator will post to the MNLR within three business days of receipt.

b. For a mechanic's lien, the posting will be date- and time-stamped as follows:

(1) If posted electronically on the MNLR, the time of posting will be upon submission of all required information and payment of the required fees.

(2) If the required information and fee are submitted by U.S. mail to the filing office, the administrator will post to the MNLR within three business days of receipt.

c. For a filing office statement, a correction statement, or a withdrawal statement, the posting will be date- and time-stamped at the time the statement is posted electronically on the MNLR by the registered MNLR user.

45.17(2) Assignment of an MNLR number. The administrator shall assign an MNLR number at the time that a notice of commencement of work or a mechanic's lien on a commercial property is posted on the MNLR.

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721—45.18(572) Penalties. Submission of fictitious, forged, or false information to the MNLR by a general contractor, owner-builder or subcontractor is a civil offense punishable by a civil penalty of not more than \$750 for each violation or, if the infraction is a repeat offense, a civil penalty not to exceed \$1,000 for each repeat offense.

721—45.19(572) Preservation of records and access by the public. This rule relates to the maintenance of archives and the ability of those archives to be searched.

45.19(1) Paper documents. Paper documents are scanned into the MNLR. The paper documents are not retained.

45.19(2) MNLR information management system. The MNLR information management system is backed up to magnetic tape every business day.

45.19(3) Archives—data retention. Data in the MNLR information management system is retained for ten years from the date of commencement of work.

45.19(4) Archival search. Archival searches may be available through arrangements with the administrator in the administrator's sole discretion.

These rules are intended to implement Iowa Code chapter 572 as amended by 2012 Iowa Acts, House File 675, as amended by 2012 Iowa Acts, House File 2465.

ARC 0333C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 150, "Improvements and Maintenance on Primary Road Extensions," Iowa Administrative Code.

This proposed amendment provides for additional Departmental participation in the cost of constructing curb ramps on existing sidewalks within the right-of-way of primary road extensions to meet the requirements of the Americans with Disabilities Act (ADA). This change allows the Department to move forward with the ADA transition plan without being dependent on funding sources under the control of other jurisdictions and removes the Department's participation cap of \$1.5 million per year and 55 percent of the construction cost.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet e-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than October 9, 2012.

TRANSPORTATION DEPARTMENT[761](cont'd)

A meeting to hear requested oral presentations is scheduled for Thursday, October 11, 2012, at 1 p.m. at the Administration Building, South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

The proposed amendment may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by October 22, 2012.

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

This amendment is intended to implement Iowa Code section 306.4.

Proposed rule-making action:

Amend paragraph **150.4(3)“c”** as follows:

c. The department may participate in the cost of constructing curb ramps on existing sidewalks within the right-of-way of primary road extensions to meet the requirements of the Americans With Disabilities Act. ~~If the department participates, the department’s share of the construction cost shall be 55 percent; the city shall prepare plans, award the contract, supervise construction, and be responsible for the remaining construction cost. However, departmental participation shall not exceed \$250,000 per year for any one city and \$1.5 million per year in total.~~

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 David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for September is 3.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be 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 12, 2012, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

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 .20%

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

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

ARC 0335C

TREASURER OF STATE[781]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 12C.16, the Treasurer of State hereby proposes to rescind Chapter 3, “Deposit and Security of Public Funds in Savings and Loans,” Iowa Administrative Code.

Iowa Code chapter 12C, 1999 Code of Iowa, directed the Treasurer of State to adopt rules and procedures to secure deposits of public funds in banks, savings and loans and credit unions. Because 1999 Iowa Acts, chapter 117, eliminated savings and loans from Iowa Code chapter 12C, the Treasurer proposes to rescind 781—Chapter 3.

Any interested person may make written suggestions or comments on this amendment on or before October 9, 2012. Such written comments or suggestions should be directed to Jake Friedrichsen, Iowa Treasurer of State, 1007 E. Grand Ave., Des Moines, Iowa 50319. E-mail may be sent to Jake.Friedrichsen@iowa.gov.

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

This amendment is intended to implement 1999 Iowa Acts, chapter 117.

The following amendment is proposed.

Rescind and reserve **781—Chapter 3**.

ARC 0331C

SOIL CONSERVATION DIVISION[27]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation of the Department of Agriculture and Land Stewardship hereby amends Chapter 10, "Iowa Financial Incentive Program for Soil Erosion Control," Iowa Administrative Code.

The existing summer construction incentive provisions for soil erosion control provide an increased cost-share rate for constructing conservation practices from June 15 to October 15. Drought has had an adverse impact on the construction of certain practices. These amendments allow that, for the current year, the completion requirement is considered to have been met if the practice is completely finished by December 31, 2012. Haying and grazing can occur during calendar year 2012 without loss of the summer construction incentive. Additionally, a one-time payment of \$25 per acre is authorized for establishing a cover crop.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin as **ARC 0303C** on August 22, 2012. Technical corrections have been made to the summary paragraph of the preamble. These amendments are identical to those published in the Notice of Intended Action.

Pursuant to Iowa Code section 17A.4(3), the Division finds that notice and public participation has begun and will be continued. However, delaying implementation until completion of the notice and public participation process would be contrary to the public interest.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Division further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments made effective August 24, 2012. Adoption of these amendments on an emergency basis confers a benefit to the public by encouraging certain conservation practices, allowing the timing of conservation measures to be appropriate, and permitting certain needed activities.

These amendments are subject to the Division's general waiver provisions.

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

These amendments are intended to implement Iowa Code section 161A.2.

These amendments became effective August 24, 2012.

The following amendments are adopted.

ITEM 1. Amend paragraph **10.60(1)"c"** as follows:

c. For currently funded fiscal years, the division will make one-time payments of up to \$10 per acre for no-tillage, ridge-till and strip-till; \$6 per acre for contour farming; \$25 per acre for establishing a cover crop; and 50 percent of the cost up to \$25 per acre for strip-cropping, field borders and filter strips. Not more than 30 percent of the district's original allocation and supplemental allocation may be used for the establishment of management practices to control soil erosion on land that is now row-cropped.

ITEM 2. Amend paragraph **10.60(2)"c"** as follows:

c. The construction of the permanent conservation practice shall take place between June 15 and October 15. Work must be started and completed between these dates and verified by the technician prior to payment of the incentive. For calendar year 2012, work which has been started by June 15 and is completely finished by December 31 will be considered to be constructively completed by October 15.

ITEM 3. Adopt the following new paragraph **10.60(2)"f"**:

f. Haying and grazing may occur during calendar year 2012 without loss of the summer construction incentive.

SOIL CONSERVATION DIVISION[27](cont'd)

ITEM 4. Adopt the following new paragraph **10.82(1)“d”**:
d. Cover crops.

[Filed Emergency 8/23/12, effective 8/24/12]

[Published 9/19/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/19/12.

ARC 0330C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22, “Controlling Pollution,” and Chapter 25, “Measurement of Emissions,” Iowa Administrative Code.

The purposes of the amendments are to: (1) reduce the regulatory burden by eliminating state-only emissions testing procedures (the Compliance Sampling Manual) and adopting federal methods for emissions testing; (2) provide additional flexibility for regulated portable plants by reducing the notification time and allowing electronic submittals; (3) offer uniform regulations by updating the definition of “particulate matter” and other air quality definitions to be consistent with federal regulations; and (4) increase transparency and consistency in conducting emissions testing by placing into rule the specific procedures for conducting emissions testing. The amendments related to eliminating state-only emissions testing procedures and adopting current federal test methods apply retroactively, as appropriate.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 18, 2012, as **ARC 0087C**. A public hearing was held on May 18, 2012. At the public hearing, the Department received one written comment from the Iowa Association of Business and Industry (ABI). ABI also provided a request to extend the public comment period by 45 days. In response, the Department extended the comment period to July 3, 2012. An Amended Notice of Intended Action to extend the comment period was published in the Iowa Administrative Bulletin on June 13, 2012, as **ARC 0162C**. The Department also received a written comment letter from the U.S. Environmental Protection Agency (EPA) Region VII.

The Commission made changes to the amendments in response to comments received. The changes to the amendments are summarized below in the description for Item 6. The public participation responsiveness summary prepared by the Department is available on the Department’s Web site on the Environmental Protection Commission page. (Go to <http://www.iowadnr.gov/InsideDNR/BoardsCommissions/EnvironmentalProtectionEPC.aspx> and click on the link for the meeting information for July 17, 2012.) The summary and the public comments are also available from the Department, upon request.

Item 1 amends rule 567—20.2(455B) to revise the definitions of “EPA reference method,” “particulate matter,” “standard conditions,” and “total suspended particulate” to match federal regulations.

The definition of “EPA reference method” is amended to adopt by reference EPA’s revisions to stack test methods to establish procedures for measuring fine particulate matter (PM_{2.5}) and to adopt the most current EPA reference methods for measuring other pollutant emissions (e.g., stack testing and continuous monitoring).

The definition of “particulate matter” is amended to be consistent with EPA’s recently clarified definition of particulate matter (see 40 Code of Federal Regulations (CFR) Part 51, Appendix M). However, for purposes of New Source Performance Standards, the definition of particulate matter remains as defined in 40 CFR Part 60. The amendment also makes clear that particulate matter is measured by EPA-approved reference methods.

The definition of “standard conditions” is amended to match the current federal definition (see 40 CFR 60.3). Currently, the Department uses a different temperature for standard conditions, which was based on past engineering standard practices.

The definition of “total suspended particulate” is amended to clarify that it has the same meaning as “particulate matter.”

Item 2 adopts a definition of “PM_{2.5}” in rule 567—20.2(455B). The definition is based on the current definition of “PM₁₀” in Chapter 20 and is consistent with federal regulations (see 40 CFR Part 51, Subparts A and Z and Appendix M, and 40 CFR Part 58, Subpart A).

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Item 3 amends paragraph 22.3(3)“f,” which contains the provisions for portable plant relocations. This amendment is in response to the Department’s recent discussions with industry representatives. The amendment includes several changes that will provide additional flexibility and reduce the regulatory burden for owners and operators that need to relocate portable plant equipment quickly.

First, the amendment reduces the notification requirement for portable plant relocation from 14 days before relocation to 7 days before relocation if the plant or equipment is being relocated to an area of the state that is classified as “attainment” with ambient air quality standards. (Currently, the vast majority of portable plant relocations are to attainment areas.) This reduced notification lead time will better allow owners and operators of portable plants to quickly respond to their customers’ requests.

Second, the Commission is also reducing the notification lead time required for portable plants relocating to areas that are classified as “nonattainment” or areas that are classified as “maintenance areas” for the ambient air quality standards. Owners and operators of portable plants relocating to these areas will need to submit their notifications to the Department 14 days before relocating (instead of the currently required 30 days’ advance notice). This reduced lead time will provide the Department with sufficient time to assess the possible impact to air quality from facilities relocating to these areas, while at the same time allowing for increased flexibility for owners and operators of portable plants in making relocation decisions based on the changing needs of their customers.

Third, the amendment adds the option to submit the written relocation notice to the Department by e-mail or by other electronic format specified by the Department. In many cases, e-mail is the quickest and most efficient method for owners and operators to submit these notifications. The Department has accepted e-mailed notifications for a number of years and has found it to be a practical and effective means of communication for both the Department and plant owners/operators. The amendment merely confirms and administratively codifies this option.

The Department does not currently offer an electronic format other than e-mail (such as a Web-based form or database) for submitting relocation notifications but hopes to offer such a system in the future, as resources allow. The option of electronic submittal to state agencies is already allowed under Iowa Code chapter 554D. This amendment simply codifies in the administrative rules the option to use an electronic format for portable plant relocation notifications.

The amendment also makes clear that owners and operators may still submit their written relocation notifications to the Department in a hard-copy format (such as by facsimile, hand delivery, or mail delivery, including U.S. mail).

Item 4 amends rule 567—22.100(455B) to revise the definition of “EPA reference method” for the Title V Operating Permit Program. The changes to this definition are identical to the revisions for the definition of “EPA reference method” in Item 1.

Item 5 amends subrule 22.108(3) to adopt by reference a revised version of the Title V “Periodic Monitoring Guidance.” The Department is revising the Guidance’s appendix to update the emissions measurement methods so that these methods match the changes in this rule making. The updated appendix and methods are the only changes the Department is making to the Guidance.

The amendments that were included in Item 6 of the Notice are not adopted in this rule making. This change is in response to public comments received and is described herein in the paragraph that describes the changes from the Notice.

Item 7, renumbered as Item 6 herein, amends subrule 25.1(9) to amend the methods and procedures to evaluate compliance with emission limitations or permit conditions.

First, the amendment rescinds the adoption by reference of the Department’s “Compliance Sampling Manual” (CSM). The Department developed the CSM many years ago and periodically revised the CSM to prescribe the test methods and procedures for particulate matter emissions and for sulfur dioxide emissions. However, because of recent changes to federal test methods, the CSM is no longer necessary. The Department is now eliminating the CSM. Only EPA-approved test methods shall be allowed, unless the equipment owner or the owner’s authorized representative requests an alternative methodology and the alternative methodology is approved by the Department in writing.

Second, the amendment revises the reference methods for performance tests and for continuous monitoring systems so that the provisions are identical to the revisions to the definition of “EPA

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

reference method” (see Items 1 and 4). This change ensures that the administrative rules for emissions measurement include up-to-date and EPA-approved test methods.

Third, the amendment adds a provision that all compliance demonstrations and performance tests specified in construction and operating permits shall be conducted using only the methods allowed in this rule (567—25.1(455B)). This change makes certain that emissions tests and demonstrations no longer rely upon the CSM and that these tests and demonstrations are conducted according to EPA-approved methods.

The amendment will apply retroactively to all permits and compliance demonstrations. Specifically, if a compliance demonstration or performance test was required in a permit issued prior to the effective date for the final (adopted) amendment, and the demonstration or test was not required to be completed prior to the effective date, then the methodology referenced in this rule (567—25.1(455B)) shall apply retroactively. The Department will consider alternative test methods if requested by the owner or owner’s representative before the required test is conducted.

In response to public comments, the Commission removed the amendment in proposed Item 6 specifying the capacity at which equipment must be operated in order to allow time for additional Department consideration of the issues raised by the commenter. Item 7 in the Notice of Intended Action has been renumbered as Item 6 herein. Item 6 herein also includes the specifications for number of test runs and calculating compliance from the test run results, which had appeared in proposed Item 6 of the Notice. The Department did not receive any comments on these proposed requirements, and therefore the Commission is adopting these requirements.

The complete Jobs Impact Statement prepared by the Department is available from the Department upon request. The following is a summary of the Jobs Impact Statement.

The Department has determined after analysis and review that no adverse impact on jobs exists. The amendments will reduce the regulatory burden on and will provide additional flexibility to many facilities. This rule making could have a positive impact on jobs in Iowa because it increases collaboration with job creators to reduce the regulatory burden, provides additional flexibility, offers uniform regulations, and increases transparency for the regulated community while still ensuring that Iowa’s air quality is protected and maintained.

These amendments are intended to implement Iowa Code section 455B.133 and chapter 554D.

These amendments will become effective on October 24, 2012.

The following amendments are adopted.

ITEM 1. Amend rule **567—20.2(455B)**, definitions of “EPA reference method,” “Particulate matter,” “Standard conditions” and “Total suspended particulate,” as follows:

“EPA reference method” means ~~any method of sampling and analyzing for an air pollutant as described in 40 CFR 51, Appendix M (as amended through June 16, 1997); 40 CFR 52, Appendices D and E (as amended through February 6, 1975); 40 CFR 60, Appendices A (as amended through September 28, 2007), B (as amended through September 28, 2007), C (as amended through December 16, 1975), and F (as amended through January 12, 2004); 40 CFR 61, Appendix B (as amended through October 17, 2000); 40 CFR 63, Appendix A (as amended through October 17, 2000); and 40 CFR 75, Appendices A (as amended through January 24, 2008), B (as amended through January 24, 2008), F (as amended through January 24, 2008, and corrected on February 13, 2008) and K (as amended through January 24, 2008).~~ the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended through December 21, 2010); 40 CFR 60, Appendix A (as amended through September 9, 2010); 40 CFR 61, Appendix B (as amended through October 17, 2000); and 40 CFR 63, Appendix A (as amended through August 20, 2010).

2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through September 9, 2010); 40 CFR 60, Appendix F (as amended through September 9, 2010); 40 CFR 75, Appendix A (as amended through March 28, 2011); 40 CFR 75,

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Appendix B (as amended through March 28, 2011); and 40 CFR 75, Appendix F (as amended through March 28, 2011).

“Particulate matter” (except for the purposes of new source performance standards as defined in 40 CFR 60) means any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions and includes gaseous emissions that condense to liquid or solid form as measured by EPA-approved reference methods.

“Standard conditions” means a gas temperature of 70 68°F and a gas pressure of 29.92 inches of mercury absolute.

“Total suspended particulate” means particulate matter as measured by an EPA-approved reference method as defined in this rule.

ITEM 2. Adopt the following **new** definition of “PM_{2.5}” in rule **567—20.2(455B)**:

“PM_{2.5}” means particulate matter as defined in this rule with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA-approved reference method.

ITEM 3. Amend paragraph **22.3(3)“f”** as follows:

f. A permit is not transferable from one location to another or from one piece of equipment to another unless the equipment is portable. When portable equipment for which a permit has been issued is to be transferred from one location to another, the department shall be notified in writing at least ~~14~~ 7 days prior to the transfer of the portable equipment to the new location. Written notification shall be submitted to the department through one of the following methods: electronic mail (e-mail), mail delivery service (including U.S. Mail), hand delivery, facsimile (fax), or by electronic format specified by the department (at such time as an Internet-based submittal system or other, similar electronic submittal system becomes available). However, if the owner or operator is relocating the portable equipment to an area currently classified as nonattainment for ambient air quality standards or to an area under a maintenance plan for ambient air quality standards, the owner or operator shall notify the department at least ~~30~~ 14 days prior to transferring the portable equipment to the new location. A list of nonattainment and maintenance areas may be obtained from the department, upon request, or on the department’s Internet Web site. The owner or operator will be notified by the department at least 10 days prior to the scheduled relocation if said relocation will prevent the attainment or maintenance of ambient air quality standards and thus require a more stringent emission standard and the installation of additional control equipment. In such a case, the owner or operator shall obtain a supplemental permit ~~shall be obtained~~ prior to the initiation of construction, installation, or alteration of such additional control equipment.

ITEM 4. Amend rule **567—22.100(455B)**, definition of “EPA reference method,” as follows:

“EPA reference method” means any method of sampling and analyzing for an air pollutant as described in 40 CFR 51, Appendix M (as amended through June 16, 1997); 40 CFR 52, Appendices D (as amended through February 6, 1975) and E (as amended through February 6, 1975); 40 CFR 60, Appendices A (as amended through September 28, 2007), B (as amended through September 28, 2007), C (as amended through December 16, 1975), and F (as amended through January 12, 2004); 40 CFR 61, Appendix B (as amended through October 17, 2000); 40 CFR 63, Appendix A (as amended through October 17, 2000); and 40 CFR 75, Appendices A (as amended through January 24, 2008), B (as amended through January 24, 2008), F (as amended through January 24, 2008, and corrected on February 13, 2008) and K (as amended through January 24, 2008). the following methods used for performance tests and continuous monitoring systems:

1. Performance test (stack test). A stack test shall be conducted according to EPA reference methods specified in 40 CFR 51, Appendix M (as amended through December 21, 2010); 40 CFR 60, Appendix A (as amended through September 9, 2010); 40 CFR 61, Appendix B (as amended through October 17, 2000); and 40 CFR 63, Appendix A (as amended through August 20, 2010).

2. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through September 9, 2010); 40 CFR 60, Appendix F (as amended through September 9, 2010); 40 CFR 75, Appendix A (as amended through March 28, 2011); 40 CFR 75,

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Appendix B (as amended through March 28, 2011); and 40 CFR 75, Appendix F (as amended through March 28, 2011).

ITEM 5. Amend subrule 22.108(3) as follows:

22.108(3) Monitoring. Each permit shall contain the following requirements with respect to monitoring:

a. All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to Section 114(a)(3) or 504(b) of the Act;

b. Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to subrule 22.108(5). Such monitoring shall be determined by application of the "Periodic Monitoring Guidance" (~~June 18, 2001~~ as amended through October 24, 2012) available from the department;

c. As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods; and

d. As required, Compliance Assurance Monitoring (CAM) consistent with 40 CFR Part 64 (as amended through October 22, 1997).

ITEM 6. Amend subrule 25.1(9) as follows:

25.1(9) *Methods and procedures.* Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are those specified in the "Compliance Sampling Manual"¹ adopted by the commission on May 19, 1977, as revised through January 30, 2003. Sampling methods, analytical determinations, minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are those found in Appendices A (as amended through September 28, 2007), B (as amended through September 28, 2007) and F (as amended through January 12, 2004) of 40 CFR Part 60, and Appendices A (as amended through January 24, 2008), B (as amended through January 24, 2008), F (as amended through February 13, 2008) and K (as amended through January 24, 2008) of 40 CFR Part 75: as follows:

a. Performance test (stack test). A stack test shall be conducted according to EPA reference methods as specified in 40 CFR 51, Appendix M (as amended through December 21, 2010); 40 CFR 60, Appendix A (as amended through September 9, 2010); 40 CFR 61, Appendix B (as amended through October 17, 2000); and 40 CFR 63, Appendix A (as amended through August 20, 2010). The owner of the equipment or the owner's authorized agent may use an alternative methodology if approved by the department in writing before testing. Each test shall consist of at least three separate test runs. Unless otherwise specified by the department, compliance shall be assessed on the basis of the arithmetic mean of the emissions measured in the three test runs.

b. Continuous monitoring systems. Minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are as specified in 40 CFR 60, Appendix B (as amended through September 9, 2010); 40 CFR 60, Appendix F (as amended through September 9, 2010); 40 CFR 75, Appendix A (as amended through March 28, 2011); 40 CFR 75, Appendix B (as amended through March 28, 2011); and 40 CFR 75, Appendix F (as amended through March 28, 2011). The owner of the equipment or the owner's authorized agent may use an alternative methodology for continuous monitoring systems if approved by the department in writing prior to conducting the minimum performance specification and quality assurance procedures.

c. Permit and compliance demonstration requirements. After October 24, 2012, all stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or required in a permit issued by the department pursuant to 567—Chapter 22 or 33 shall be conducted using the methodology referenced in this rule. If stack sampling was required for a compliance demonstration pursuant to 567—Chapter 23 or for a performance test required in a permit issued by the department pursuant to 567—Chapter 22 or 33 before October 24, 2012, and the

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demonstration or test was not required to be completed before October 24, 2012, then the methodology referenced in this subrule applies retroactively.

[Filed 8/23/12, effective 10/24/12]

[Published 9/19/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/19/12.

ARC 0329C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

The purpose of these amendments is to:

1. Adopt recent federal amendments to three existing air toxics standards and two existing New Source Performance Standards (NSPS);
2. Adopt two new federal air toxics standards; and
3. Make clear that the Commission is not adopting specific federal standards and amendments that the Environmental Protection Agency (EPA) is reconsidering.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 13, 2012, as **ARC 0165C**. A public hearing was held on July 16, 2012. The Department did not receive any comments at the hearing. The Department did not receive any comments by the close of the public comment period on July 16, 2012. No changes have been made to the amendments published under Notice of Intended Action.

Item 1 amends the introductory paragraph of subrule 23.1(2) to adopt recent federal amendments to existing NSPS and to add language indicating that an earlier date for adoption by reference may be included with the NSPS subpart designation. Item 2 amends paragraph 23.1(2)"c" to include an earlier adoption date.

The federal NSPS regulations implement Section 111(b) of the federal Clean Air Act. EPA issues NSPS for categories of sources that cause, or contribute significantly to, air pollution (not including air toxics) which may reasonably be anticipated to endanger public health or welfare. The standards apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for those sources is proposed.

On June 28, 2011, EPA published amendments to the NSPS for Stationary Compression Ignition and Spark Ignition Internal Combustion Engines (40 CFR 60, Subparts IIII and JJJJ, respectively). The Commission is adopting these amendments. For owners and operators of affected engines in Iowa, these amendments increase flexibility and make the NSPS more clear, which reduces the regulatory burden. The amendments should result in reduced costs or no additional costs to affected facilities.

In Item 2, the Commission is excluding from adoption the amendments to the NSPS for Portland Cement Manufacturing (40 CFR 60, Subpart F) that EPA finalized in September 2010. EPA has since started a reconsideration of these amendments and has stayed a portion of the amendments while EPA completes its reconsideration. To exclude these amendments, the Commission added an explanation to the introductory paragraph of subrule 23.1(2) stating that an earlier date of adoption may be specified in the paragraph adopting the federal subpart. Additionally, the Commission added an earlier adoption date to paragraph 23.1(2)"c" adopting the federal regulations for Portland cement manufacturing. When EPA completes its reconsideration, the Department of Natural Resources (Department) may initiate a rule making to adopt the federal amendments by reference.

Items 3 to 8 amend subrule 23.1(4), the emission standards for hazardous air pollutants for source categories, also known as National Emission Standards for Hazardous Air Pollutants, or NESHAP.

The NESHAP program implements Section 112 of the federal Clean Air Act and requires facilities in a particular industry sector that construct and operate specific equipment to meet uniform standards

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for hazardous air pollutants (HAP), also called “air toxics.” NESHAP requirements for source sectors vary depending on the processes, activities or equipment being regulated. The NESHAP affect both new and existing major sources and area sources. Area sources are usually smaller commercial or industrial operations. Specifically, area sources have potential emissions less than 10 tons per year (tpy) of any single HAP and 25 tpy of any combination of HAP. Area sources are classified as minor sources for HAP. Facilities that have potential HAP emissions greater than or equal to the 10/25 tpy levels are classified as major sources for HAP.

Unlike NESHAP for major sources, which require affected facilities to implement Maximum Available Control Technology, the NESHAP standards for area sources typically require only Generally Available Control Technology. EPA determines whether emissions reduction techniques, such as control equipment or best management practices, are “generally available” and affordable to the particular industry sector.

The Commission is adopting amendments to subrule 23.1(4) to make several changes to the NESHAP program.

In Item 3, the Commission is adopting federal amendments that EPA promulgated on January 24, 2011, to revise the area source NESHAP for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities and Gasoline Dispensing Facilities (40 CFR 63, Subparts BBBB and CCCCC, respectively). EPA finalized the original NESHAP in January 2008, and the Commission adopted these standards by reference in 2009.

EPA states that these amendments provide clarifications to certain definitions and applicability provisions for both standards in response to some of the issues raised in the petitions for reconsideration. In addition, EPA indicates that several other compliance-related questions are addressed in these amendments.

The Commission is also adopting amendments to the area source NESHAP for Plating and Polishing Operations (40 CFR 63, Subpart WWWW). On September 19, 2011, EPA finalized amendments to standards that EPA originally issued in 2008. The Commission adopted the original NESHAP by reference in 2009. EPA’s amendments clarify that the emission control requirements of the NESHAP do not apply to any bench-scale activities. In the amendments, EPA also made several technical corrections and clarifications. The additional flexibility afforded by these amendments will result in reduced costs or no additional costs to affected facilities.

In Items 4, 5, 6, and 8, the Commission is making it clear that it is not adopting specific federal standards and amendments that EPA is currently reconsidering. The federal standards being excluded from adoption are:

- Amendment to air toxics standards for Portland cement manufacturing;
- Amendment to air toxics standards for stationary reciprocating internal combustion engines (RICE NESHAP) (per Executive Order 72);
- New air toxics standards for chemical manufacturing; and
- New air toxics standards for prepared feeds manufacturing.

The amendment in Item 4 revises paragraph 23.1(4)“b1” to show an earlier adoption date. This revision makes clear that the Commission is not adopting the amendments to the NESHAP for Portland Cement Manufacturing (40 CFR 63, Subpart LLL) that EPA finalized on September 9, 2010. EPA has since started a reconsideration of these amendments and has stayed a portion of the amendments while EPA completes its reconsideration. When EPA completes its reconsideration, the Department may initiate a rule making to adopt the federal amendments by reference.

Item 5 clarifies that the Commission is not adopting EPA’s recent amendments to the RICE NESHAP. On April 4, 2011, Governor Branstad issued Executive Order 72. The intent of the Order was to rescind adoption of specific amendments to the NESHAP for reciprocating internal combustion engines (also known as RICE). However, because of the administrative mechanism for rescinding adopted rules, the Order also rescinded adoption of three other NESHAP standards. Subrule 23.1(4) still includes the subparagraphs describing the three other NESHAP standards that the Order rescinded (paragraphs “ev,” “fc,” and “fd”). Because Executive Order 72 changed the NESHAP adoption date back to December 22,

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2008, and these federal standards were not in effect at that time, these federal standards are no longer adopted by reference.

Executive Order 72 rescinded the RICE NESHAP amendments, as follows:

“NOW, THEREFORE, I, Terry E. Branstad, Governor of the State of Iowa, declare that the regulatory burden imposed by the RICE NESHAP rule hurts the interests of people of the State of Iowa. I hereby order and direct that ARC 9154, Item 4, the state administrative rules implementing the RICE NESHAP standard for emergency engines, be immediately rescinded pursuant the authority granted to me by Iowa Code Chapter 17A.4(8).”

Further, EPA is currently reconsidering several aspects of the RICE NESHAP. For these reasons, the Commission is not readopting the federal RICE NESHAP amendments that EPA issued in 2010.

The RICE NESHAP amendments rescinded through Executive Order 72 will not be readopted because the introductory paragraph of subrule 23.1(4) states that an earlier adoption date for specific NESHAP may be included with the subpart designation. Accordingly, the amendment adopted in Item 5 revises paragraph 23.1(4)“cz” to include an earlier adoption date for the RICE NESHAP (Subpart ZZZZ), which will confirm that the amendments EPA issued in 2010 have not been adopted.

Additionally, in Item 6, the Commission is affirming the rescission of the area source NESHAP for Chemical Manufacturing (40 CFR 63, Subpart VVVVVV) that was rescinded under Executive Order 72 by amending subrule 23.1(4) to rescind paragraph “ev.” EPA is currently reconsidering several aspects of this NESHAP. When EPA completes its reconsideration, the Department may initiate a rule making to adopt the federal NESHAP by reference.

The Commission is readopting one area source NESHAP that was previously adopted in 2010 but was rescinded in Executive Order 72. The NESHAP for Paint and Allied Products Manufacturing (40 CFR 63, Subpart CCCCCC), described in paragraph 23.1(4)“fc,” affects area sources that manufacture paint, ink or adhesive and that process, use, or generate materials containing chromium, lead, nickel, cadmium, benzene or methyl chloride. Readoption of this NESHAP will occur through the amendment adopted in Item 3. By revising the NESHAP adoption date, the area source NESHAP for Paint and Allied Products Manufacturing described in paragraph 23.1(4)“fc” will be readopted. Affected facilities are required to operate particulate control equipment to control metal air toxics and must use management practices to control volatile air toxics emissions. Existing facilities have until December 3, 2012, to comply with the NESHAP requirements. At this time, the Department is aware of only two facilities that are subject to this NESHAP.

Item 7 adds a new paragraph “ez” to subrule 23.1(4) to adopt by reference the area source NESHAP for Aluminum, Copper, and Other Nonferrous Foundries (40 CFR 63, Subpart ZZZZZZ). This NESHAP affects foundries that are area sources that melt 600 tons of metal or more per year. Foundries that melt less than 600 tons of metal per year are exempt from this NESHAP.

Affected facilities are required to implement Generally Available Control Technology to control air toxics and particulate emissions (a surrogate for heavy metal air toxics). Additionally, foundries that melt 6,000 tons or more of metal per year have emission limits and control requirements for particulate emissions. Existing facilities were required to have complied with this NESHAP by June 27, 2011.

The Department is aware of only two facilities that are subject to the NESHAP adopted in Item 7. Based on information submitted to the Department, these facilities are in compliance with the NESHAP requirements.

In Item 8, the Commission is affirming the rescission of the area source NESHAP for Prepared Feeds Manufacturing (40 CFR 63, Subpart DDDDDDD) that was rescinded under Executive Order 72 by amending subrule 23.1(4) to rescind paragraph “fd.” EPA recently proposed amendments to the federal regulation that substantially revise the requirements for some feed manufacturing facilities. When EPA completes its reconsideration, the Department may initiate a rule making to adopt the federal amendments by reference.

After analysis and review of this rule making, the Department has determined that jobs could be impacted. However, these amendments are implementing federally mandated regulations, and the

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State of Iowa is only implementing the federal regulations. This rule making does not impose any unnecessary regulations on Iowa businesses not required by federal law. The complete Jobs Impact Statement prepared by the Department is available upon request.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective on October 24, 2012.

The following amendments are adopted.

ITEM 1. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) *New source performance standards.* The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~October 8, 2009~~, June 28, 2011, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 2. Amend paragraph **23.1(2)“c”** as follows:

c. Portland cement plants. Any of the following in a Portland cement plant: kiln; clinker cooler; raw mill system; finish mill system; raw mill dryer; raw material storage; clinker storage; finished product storage; conveyor transfer points; bagging and bulk loading and unloading systems. (Subpart F as amended through October 17, 2000)

ITEM 3. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) *Emission standards for hazardous air pollutants for source categories.* The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through ~~December 22, 2008~~, September 19, 2011, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4) “a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 4. Amend paragraph **23.1(4)“bl”** as follows:

bl. Emission standards for hazardous air pollutants for Portland cement manufacturing operations. These standards apply to all new and existing major and area sources of Portland cement manufacturing unless exempted. Cement kiln dust (CKD) storage facilities, including CKD piles and landfills, are excluded from this standard. Affected processes include, but are not limited to, all cement kilns and in-line kiln/raw mills, unless they burn hazardous waste. (Subpart LLL as amended through December 20, 2006)

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ITEM 5. Amend paragraph **23.1(4)“cz”** as follows:

cz. Emission standards for stationary reciprocating internal combustion engines. These standards apply to new and existing major sources with stationary reciprocating internal combustion engines (RICE). These standards also apply to new and reconstructed RICE located at area sources. For purposes of these standards, stationary RICE means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. (Part 63, Subpart ZZZZ, as amended through April 20, 2006)

ITEM 6. Rescind and reserve paragraph **23.1(4)“ev.”**

ITEM 7. Adopt the following **new** paragraph **23.1(4)“ez”**:

ez. Emission standards for hazardous air pollutants for area sources: aluminum, copper, and other nonferrous foundries. This standard applies to aluminum, copper, and other nonferrous foundries at new and existing facilities that are area sources for hazardous air pollutant emissions. (Part 63, Subpart ZZZZZZ)

ITEM 8. Rescind and reserve paragraph **23.1(4)“fd.”**

[Filed 8/23/12, effective 10/24/12]

[Published 9/19/12]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/19/12.

ARC 0336C

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3, the Homeland Security and Emergency Management Division hereby amends Chapter 7, “Local Emergency Management,” Iowa Administrative Code.

The Homeland Security and Emergency Management Division amends Chapter 7 to reflect changes made to 2011 Iowa Code Supplement section 29C.9 in 2012 Iowa Acts, Senate File 413, section 1. This amendment clarifies local emergency management commission membership and voting requirements of the members.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 25, 2012, as **ARC 0233C**. The Division received no comments on the amendment. This amendment is identical to that published under Notice of Intended Action.

The Administrator adopted this amendment on August 29, 2012.

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

This amendment is intended to implement 2011 Iowa Code Supplement chapter 29C.

This amendment will become effective on October 24, 2012.

The following amendment is adopted.

Amend subrule 7.3(1) as follows:

7.3(1) The county board of supervisors, city councils, and sheriff in each county shall cooperate with the homeland security and emergency management division to establish a local emergency management commission to carry out the provisions of 2011 Iowa Code Supplement chapter 29C.

a. The local commission shall be named the (county name) county emergency management commission.

b. The commission shall be comprised of the following members:

(1) A member of the county board of supervisors ~~or its appointed representative.~~

(2) The county sheriff ~~or the sheriff’s appointed representative.~~

(3) The mayor ~~or the mayor’s appointed representative~~ from each city within the county.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

c. The commission is a municipality as defined in Iowa Code section 670.1.

d. A commission member may designate an alternate to represent the designated entity. For any activity relating to 2011 Iowa Code Supplement section 29C.17, subsection 2, or Iowa Code chapter 24, participation shall only be by a commission member or a designated alternate that is an elected official for the same designated entity.

[Filed 8/29/12, effective 10/24/12]

[Published 9/19/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/19/12.

ARC 0337C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 40, "Determination of Net Income," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 43, "Assessments and Refunds," Chapter 46, "Withholding," Chapter 49, "Estimated Income Tax for Individuals," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Chapter 53, "Determination of Net Income," Chapter 55, "Assessments, Refunds, Appeals," Chapter 56, "Estimated Tax for Corporations," Chapter 57, "Administration," Chapter 59, "Determination of Net Income," Chapter 60, "Assessments, Refunds, Appeals," and Chapter 61, "Estimated Tax for Financial Institutions," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXV; No. 2, p. 148, on July 25, 2012, as **ARC 0232C**.

Item 1 amends rule 701—40.9(422) to reference the updated name of the federal alcohol and cellulosic biofuel fuels credit for which a deduction is allowed for Iowa individual income tax.

Items 2 and 3 amend subrule 40.21(3) and the implementation sentence for rule 701—40.21(422) to replace the phrase "mental retardation" with "intellectual disability" related to the deduction available for Iowa individual income tax for businesses that hire certain individuals.

Item 4 amends rule 701—40.58(422) to reflect statutory wording changes related to the exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States for Iowa individual income tax.

Item 5 amends rule 701—40.72(422) to provide that the exclusion of Vietnam Conflict veterans bonuses from Iowa individual income tax does not apply for tax periods beginning on or after January 1, 2013, due to the repeal by the legislature of this provision.

Items 6 and 7 amend subrule 42.11(3) and the implementation sentence for rule 701—42.11(15,422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa individual income tax.

Item 8 amends subrule 42.15(1) to provide additional clarification on how the Iowa child and dependent care credit for Iowa individual income tax is computed.

Item 9 rescinds and reserves subrule 43.3(14) and Item 10 amends the implementation sentence for rule 701—43.3(422) to reflect the repeal of an obsolete refund provision for Iowa individual income tax that affected the 1997 tax year only.

Item 11 updates the implementation sentence for rule 701—43.4(68A,422,456A) which provides that there is no change in the four tax checkoffs that are available for Iowa individual income tax for the 2012 and 2013 tax years.

Item 12 amends rule 701—46.8(260E) to provide that employees for whom the new jobs credit from withholding can be claimed shall not include residents of Illinois who are not subject to Iowa withholding tax due to the Iowa-Illinois reciprocal tax agreement.

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Item 13 amends subrule 49.1(2) to change the method of allocating joint estimated payments made by married taxpayers if these taxpayers later elect to file separate returns or to file separately on a combined form for Iowa individual income tax.

Items 14 and 15 amend subrule 52.3(2) and the implementation sentence for rule 701—52.3(422) to provide that domestic corporations incorporated in Iowa must attach a copy of their federal corporation income tax return with the filing of their Iowa corporation income tax return. This change conforms to current Department practice.

Items 16 and 17 amend subrule 52.7(3) and the implementation sentence for rule 701—52.7(422) to update the date for which Iowa is coupled with federal changes to the credit for increasing research activities which is the basis for the Iowa credit for increasing research activities for Iowa corporation income tax. This change is similar to the change in Items 6 and 7.

Item 18 amends rule 701—53.10(422) to reference the updated name of the federal alcohol and cellulosic biofuel fuels credit for which a deduction is allowed for Iowa corporation income tax. This change is similar to the change in Item 1.

Items 19 and 20 amend subrule 53.11(3) and the implementation sentence for rule 701—53.11(422) to replace the phrase “mental retardation” with “intellectual disability” related to the deduction available for Iowa corporation income tax for businesses that hire certain individuals. This change is similar to the change in Items 2 and 3.

Item 21 rescinds and reserves subrule 55.3(6) and Item 22 amends the implementation sentence for rule 701—55.3(422) to reflect the repeal of an obsolete refund provision for Iowa corporation income tax that affected the 1997 tax year only. This change is similar to the change in Items 9 and 10.

Items 23 and 24 amend subrule 56.5(2) and the implementation sentence for rule 701—56.5(422) to provide for a change in the annualized income exception to the underpayment of estimated tax penalty for Iowa corporation income tax.

Items 25 and 26 amend subrule 57.1(2) and the implementation sentence for rule 701—57.1(422) to amend the definition of a financial institution for Iowa franchise tax.

Items 27 and 28 amend subrule 59.8(3) and the implementation sentence for rule 701—59.8(422) to replace the phrase “mental retardation” with “intellectual disability” related to the deduction available for Iowa franchise tax for financial institutions that hire certain individuals. This change is similar to the change in Items 2 and 3.

Item 29 rescinds and reserves subrule 60.3(6) and Item 30 amends the implementation sentence for rule 701—60.3(422) to reflect the repeal of an obsolete refund provision for Iowa franchise tax that affected the 1997 tax year only. This change is similar to the change in Items 9 and 10.

Items 31 and 32 amend subrule 61.5(2) and the implementation sentence for rule 701—61.5(422) to provide for a change in the annualized income exception to the underpayment of estimated tax penalty for Iowa franchise tax. This change is similar to the change in Items 23 and 24.

There have been no substantive changes to the amendments published under Notice of Intended Action. However, corrections were made to subrule 40.72(2) and to the catchwords of rule 701—53.10(422) to make the terminology uniform.

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

These amendments are intended to implement 2011 Iowa Code Supplement sections 422.10 and 422.33 as amended by 2012 Iowa Acts, House File 2150; 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate Files 2038, 2097, 2247 and 2328; Iowa Code section 422.61 as amended by 2012 Iowa Acts, Senate File 2202; Iowa Code section 260E.2 as amended by 2012 Iowa Acts, Senate File 2212; Iowa Code Supplement section 422.35 as amended by 2012 Iowa Acts, Senate Files 2247 and 2328; Iowa Code sections 422.36 and 422.73; 2011 Iowa Code Supplement section 422.89 as amended by 2012 Iowa Acts, Senate File 2328; and 2012 Iowa Acts, Senate File 2325.

These amendments will become effective October 24, 2012, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

REVENUE DEPARTMENT[701](cont'd)

ITEM 1. Amend rule 701—40.9(422) as follows:

701—40.9(422) Work opportunity tax credit and alcohol fuel and cellulosic biofuel fuels credit. Where an individual claims the work opportunity tax credit under Section 51 of the Internal Revenue Code or the alcohol fuel and cellulosic biofuel fuels credit under Section 40 of the Internal Revenue Code, the amount of credit allowable must be used to increase federal taxable income. The amount of credit allowable used to increase federal adjusted gross income is deductible in determining Iowa net income. The work opportunity tax credit applies to eligible individuals who begin work after ~~September 30, 1996, and before September 1, 2011~~ January 1, 2012. The adjustment for the alcohol fuel and cellulosic biofuel fuels credit is applicable for tax years beginning on or after January 1, 1980.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2012 Iowa Acts, Senate File 2328.

ITEM 2. Amend paragraph **40.21(3)“b”** as follows:

b. The term “*physical or mental impairment*” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

ITEM 3. Amend rule **701—40.21(422)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2004 2012 Iowa Acts, House Files 287 and 759 Senate File 2247.

ITEM 4. Amend rule 701—40.58(422) as follows:

701—40.58(422) Exclusion of distributions from retirement plans by national guard members and members of military reserve forces of the United States. For tax years beginning on or after January 1, 2002, members of the Iowa national guard or members of military reserve forces of the United States who are ordered to ~~state military service~~ national guard duty or federal ~~service or~~ active duty are not subject to Iowa income tax on the amount of distributions received during the tax year from qualified retirement plans of the members to the extent the distributions were taxable for federal income tax purposes. In addition, the members are not subject to state penalties on the distributions even though the members may have been subject to federal penalties on the distributions for early withdrawal of benefits. Because the distributions described above are not taxable for Iowa income tax purposes, a national guard member or armed forces reserve member who receives a distribution from a qualified retirement plan may request that the payer of the distribution not withhold Iowa income tax from the distribution.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by 2004 2012 Iowa Acts, House Senate File 2208 2097.

ITEM 5. Amend rule 701—40.72(422) as follows:

701—40.72(422) Exclusion of Vietnam Conflict veterans bonus.

40.72(1) For tax years beginning on or after January 1, 2007, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs, and bonuses of up to \$500 are awarded to residents of Iowa who served on active duty in the armed forces of the United States between July 1, 1973, and May 31, 1975.

40.72(2) For tax years beginning on or after January 1, 2008, but before January 1, 2013, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs. Bonuses of up to \$500 are awarded to veterans who were inducted into active duty service from the state of Iowa, who served on

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active duty in the United States armed forces ~~from between~~ July 1, 1958, ~~through and~~ May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

This rule is intended to implement 2011 Iowa Code Supplement section 422.7 as amended by ~~2008~~ 2012 Iowa Acts, ~~House~~ Senate File ~~2283~~ 2038.

ITEM 6. Amend paragraph **42.11(3)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 42.11(3)“*b*” and the alternative simplified credit described in paragraph 42.11(3)“*c*,” such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

ITEM 7. Amend rule **701—42.11(15,422)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code Supplement sections 15.335 and 422.10 as amended by ~~2011~~ 2012 Iowa Acts, ~~Senate~~ House File ~~512~~ 2150.

ITEM 8. Amend subrule 42.15(1), introductory paragraph, as follows:

42.15(1) Computation of the Iowa child and dependent care credit. The Iowa child and dependent care credit is computed as a percentage of the child and dependent care credit which is allowed for federal income tax purposes under Section 21 of the Internal Revenue Code. For taxpayers whose federal child and dependent care credit is limited to their federal tax liability, the Iowa credit shall be computed based on the lesser amount. The credit is computed so that taxpayers with lower adjusted gross incomes (net incomes in tax years beginning on or after January 1, 1991) are allowed higher percentages of their federal child care credit than taxpayers with higher adjusted gross incomes (net incomes). The following is a schedule showing the percentages of federal child and dependent care credits allowed on the taxpayers’ Iowa returns on the basis of the federal adjusted gross incomes (or net incomes) of the taxpayers for tax years beginning on or after January 1, 1993.

ITEM 9. Rescind and reserve subrule **43.3(14)**.

ITEM 10. Amend rule **701—43.3(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 421.17, ~~as amended by 2003 Iowa Acts, House File 534, and sections 422.2; and 422.16; and section 422.73 as amended by 2012 Iowa Acts, Senate File 2328.~~

ITEM 11. Amend rule **701—43.4(68A,422,456A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.12D, 422.12E, and 422.12H and ~~2010 Iowa Acts, House File 2531, division XII~~ 2012 Iowa Acts, Senate File 2325.

ITEM 12. Amend rule 701—46.8(260E) as follows:

701—46.8(260E) New job tax credit from withholding. The Iowa industrial new jobs training program is a program administered by the ~~Iowa department of~~ economic development authority for projects established by a community college for the creation of jobs by providing education and training of workers for new jobs for new or expanding industries. For employers that have entered into an agreement with a community college under Iowa Code chapter 260E, a credit equal to 1.5 percent of the wages paid by the employer to each employee covered by the agreement can be taken on the Iowa withholding tax return. If the amount of withholding by the employer is less than 1.5 percent of the wages paid to the employees covered by the agreement, the employer can take the remaining credit against Iowa tax withheld for other employees. An employee does not include a resident of Illinois who earns wages in Iowa since these employees are not subject to Iowa withholding tax in accordance with the Iowa-Illinois reciprocal tax agreement discussed in 701—subrule 38.13(1). The administrative rules for the Iowa

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industrial new jobs training program administered by the ~~Iowa department of economic development authority~~ may be found in 261—Chapter 5.

This rule is intended to implement Iowa Code section 260E.2 as amended by 2012 Iowa Acts, Senate File 2212, and section 260E.5.

ITEM 13. Amend subrule 49.1(2) as follows:

49.1(2) *Joint estimate payments by married taxpayers.* A husband and wife may make a joint estimate tax payment on one form as if they were one taxpayer. If a joint estimate payment is made, but the husband and wife elect to file separate returns or separately on the combined return form, the estimate tax paid for the tax year by the husband and wife ~~may~~ shall be allocated between the spouses on their returns ~~as the taxpayers choose~~ in the proportion that each spouse's net income not subject to withholding tax relates to the combined net income of both spouses not subject to withholding tax.

ITEM 14. Amend subrule 52.3(2), introductory paragraph, as follows:

52.3(2) *Form for filing—domestic corporations.* A domestic corporation, as defined by Iowa Code subsection 422.32(5), is required to file a complete Iowa return for each year of its existence regardless of whether the corporation has income, loss, or inactivity. For tax periods beginning on or after January 1, 1999, domestic corporations are required to file a complete Iowa return only if they are doing business in Iowa, or deriving income from sources within Iowa. ~~However, the corporation may substitute a copy of the true and accurate federal income tax return as filed with the Internal Revenue Service in lieu of certain Iowa return schedules. This substitution is optional, but in all instances a detailed computation of the federal tax liability actually due the federal government shall be required as a part of the Iowa return. The Iowa schedules subject to the substitution provision are: income statement, balance sheet, reconciliation of income per books with income per return and analysis of unappropriated retained earnings per books. For tax periods beginning on or after July 1, 2012, domestic corporations must also include a true and accurate copy of their federal corporation income tax return as filed with the Internal Revenue Service with the filing of their Iowa return. At a minimum this return includes the following federal schedules: income statement, balance sheet, reconciliation of income per books with income per return, analysis of unappropriated retained earnings per books, dividend income and special deductions, cost of goods sold, capital gains, tax computation and tax deposits, alternative minimum tax computation, and statements detailing other income and other deductions.~~

ITEM 15. Amend rule ~~701—52.3(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.21 and section 422.36 as amended by 2012 Iowa Acts, Senate File 2328.

ITEM 16. Amend paragraph **52.7(3)“d”** as follows:

d. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph 52.7(3)“*b*” and the alternative simplified credit described in paragraph 52.7(3)“*c*,” such amounts are limited to research activities conducted within this state. For purposes of this ~~rule~~ subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

ITEM 17. Amend rule ~~701—52.7(422)~~, implementation sentence, as follows:

This rule is intended to implement ~~2011~~ Iowa Code Supplement section 422.33 as amended by ~~2011~~ 2012 Iowa Acts, ~~Senate House~~ Senate House File ~~512~~ 2150.

ITEM 18. Amend rule 701—53.10(422) as follows:

701—53.10(422) *Work opportunity tax credit and alcohol fuel and cellulosic biofuel fuels credit.* Where provided for in the Internal Revenue Code, as detailed below, a deduction shall be allowed for the amount of credit to the extent that the credit increased federal ~~adjusted gross taxable~~ gross taxable income.

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53.10(1) For tax years beginning on or after January 1, 1977, the amount of credit allowable for federal work opportunity tax credit as provided for in Section 51 of the Internal Revenue Code shall be a deduction from Iowa taxable income to the extent the credit increased income.

53.10(2) For tax periods beginning on or after January 1, 1980, the amount of credit allowable for the federal alcohol and cellulosic biofuel fuels credit as provided for in Section 40 of the Internal Revenue Code shall be a deduction from Iowa taxable income to the extent the credit increased income.

This rule is intended to implement 2011 Iowa Code Supplement section 422.35 as amended by 1997 2012 Iowa Acts, Senate File 429 2328.

ITEM 19. Amend paragraph **53.11(3)“b”** as follows:

b. The term “*physical or mental impairment*” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

ITEM 20. Amend rule **701—53.11(422)**, implementation sentence, as follows:

This rule is intended to implement 2011 Iowa Code sections 46.1 and Supplement section 422.35 as amended by 2004 2012 Iowa Acts, House Files 287 and 759 Senate File 2247.

ITEM 21. Rescind and reserve subrule **55.3(6)**.

ITEM 22. Amend rule **701—55.3(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.73 as amended by ~~1998~~ 2012 Iowa Acts, Senate File 2357 2328.

ITEM 23. Amend subparagraph **56.5(2)“a”(3)** as follows:

(3) ~~An~~ For tax years beginning prior to January 1, 2012, an amount equal to 90 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. For tax years beginning on or after January 1, 2012, an amount equal to 100 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. The net income so determined shall be placed on an annual basis by multiplying it by 12, and dividing the resulting amount by the number of months in the taxable year for which the net income was so determined.

ITEM 24. Amend rule **701—56.5(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.88 as amended by 1995 Iowa Acts, chapter 83, and 2011 Iowa Code Supplement section 422.89 and 422.90 as amended by 2012 Iowa Acts, Senate File 2328.

ITEM 25. Amend subrule 57.1(2) as follows:

57.1(2) ~~The term “financial institution” as used in division V of Iowa Code chapter 422 and in 701—Chapters 57 to 61 includes an Iowa chartered bank, a nationally chartered bank having its principal office in Iowa, a trust company, a federally chartered savings and loan association, a financial institution chartered by the federal home loan bank board, an association incorporated or authorized to do business under Iowa Code chapter 534 or a production credit association.~~

Effective June 1, 1989, the term “financial institutions institution” as used in division V of Iowa Code chapter 422 and in 701—Chapters 57 to 61 includes an Iowa chartered bank, a state bank chartered under the laws of any other state, a nationally chartered bank, a trust company, a federally chartered savings and loan association, a non-Iowa chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association, an association incorporated or authorized to do business under Iowa Code chapter 534 or a production credit association.

Effective July 1, 2012, the term “financial institution” as used in division V of Iowa Code chapter 422 and in 701—Chapters 57 to 61 includes an Iowa chartered bank, a state bank chartered under the laws of any other state, a nationally chartered bank, a trust company, a federally chartered savings and

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loan association, a non-Iowa chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association or a production credit association.

Unincorporated privately held financial institutions are exempt from the franchise tax filing requirements.

ITEM 26. Amend rule **701—57.1(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.61 as amended by 2012 Iowa Acts, Senate File 2202.

ITEM 27. Amend paragraph **59.8(3)“b”** as follows:

b. The term “*physical or mental impairment*” means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

ITEM 28. Amend rule **701—59.8(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections 16.1(36), 422.35 and 422.61~~ section 16.1 and 2011 Iowa Code Supplement section 422.35 as amended by 2012 Iowa Acts, Senate File 2247.

ITEM 29. Rescind and reserve subrule **60.3(6)**.

ITEM 30. Amend rule **701—60.3(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.66 and section 422.73 as amended by 1998 2012 Iowa Acts, Senate File 2357 2328.

ITEM 31. Amend subparagraph **61.5(2)“a”(3)** as follows:

(3) ~~An~~ For tax years beginning prior to January 1, 2012, an amount equal to 90 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. For tax years beginning on or after January 1, 2012, an amount equal to 100 percent of the tax determined by placing on an annual basis the net income for the first 3, 5, 6, 8, 9, or 11 months of the taxable year, whichever is applicable. The net income so determined shall be placed on an annual basis by multiplying it by 12, and dividing the resulting amount by the number of months in the taxable year for which the net income was so determined.

ITEM 32. Amend rule **701—61.5(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.88, and 2011 Iowa Code Supplement section 422.89 and 422.90 as amended by 2012 Iowa Acts, Senate File 2328.

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