



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

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### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2011

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 30, 2011	October 19, 2011
9	Friday, October 14, 2011	November 2, 2011
10	Wednesday, October 26, 2011	November 16, 2011

**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 11, 2011, at 9:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

### ADMINISTRATIVE SERVICES DEPARTMENT[11]

Information technology enterprise; human resources enterprise, amendments to chs 1, 20, 50  
to 54, 56 to 61, 63 Notice **ARC 9738B** ..... 9/7/11

### AGING, DEPARTMENT ON[17]

State allotments—funding formula, 5.6 Notice of Termination **ARC 9732B** ..... 9/7/11  
Senior internship program (SIP), ch 10 Notice **ARC 9733B** ..... 9/7/11

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Rating for ethanol blended gasoline, 85.48, 85.50 Notice **ARC 9757B** ..... 9/21/11

### CAPITAL INVESTMENT BOARD, IOWA[123]

Transfer of tax credit responsibilities to economic development authority, 1.6, 2.11 Notice **ARC 9745B** ..... 9/7/11

### ECONOMIC DEVELOPMENT AUTHORITY[261]

Endow Iowa tax credits, 47.1 to 47.5 Notice **ARC 9748B** ..... 9/7/11  
Brownfield redevelopment program, 65.1, 65.2, 65.4 to 65.8, 65.10 to 65.12  
Notice **ARC 9747B**, also Filed Emergency **ARC 9746B** ..... 9/7/11  
Approval of contract amendments for targeted industries internship program, amendments to  
chs 104, 175 Filed **ARC 9754B** ..... 9/21/11

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Fees—professional service license, 12.1, 12.2 Filed **ARC 9743B** ..... 9/7/11  
Teacher intern license—options to obtain initial license, 13.9(7) Notice **ARC 9744B** ..... 9/7/11

### ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air quality—carbon dioxide emissions, 22.100, 33.1, 33.3(1) Notice **ARC 9736B** ..... 9/7/11  
Drinking water, amendments to chs 40 to 43, 83 Notice **ARC 9737B** ..... 9/7/11

### HUMAN SERVICES DEPARTMENT[441]

Child abuse registry, 7.5(4)“d,” 175.21, 175.25(7), 175.32, 175.39, 175.40  
Filed Emergency After Notice **ARC 9698B** ..... 9/7/11  
Collection of unpaid premiums for medical assistance, 11.1, 76.2, 76.10(3), 76.12  
Notice of Termination **ARC 9734B** ..... 9/7/11  
Collection of unpaid premiums for medical assistance, 11.1, 76.2, 76.10(3), 76.12  
Filed Emergency **ARC 9701B** ..... 9/7/11  
Facility assessments, amendments to ch 36 Notice of Termination **ARC 9735B** ..... 9/7/11  
Quality assurance assessment, 36.6(2), 36.7(4), 36.10 to 36.12 Notice **ARC 9731B** ..... 9/7/11  
Recovery of Medicaid expenditures in case of malpractice, 75.4(1)  
Notice **ARC 9697B**, also Filed Emergency **ARC 9696B** ..... 9/7/11  
Elimination of Medicaid coverage for lipase inhibitors and certain cough and cold products,  
78.2(4)“b,” 78.2(5) Notice **ARC 9700B**, also Filed Emergency **ARC 9699B** ..... 9/7/11  
Orthodontia for children—Medicaid criterion for medical necessity, 78.4(8), 78.28(2)“d”  
Notice **ARC 9703B**, also Filed Emergency **ARC 9702B** ..... 9/7/11  
Reimbursement for HCBS waiver service providers, amendments to chs 78, 79  
Notice **ARC 9705B**, also Filed Emergency **ARC 9704B** ..... 9/7/11  
Increase in HCBS reimbursement rates, 79.1(1), 79.1(2), 79.1(15)  
Notice **ARC 9707B**, also Filed Emergency **ARC 9706B** ..... 9/7/11  
Increase in dispensing fee for prescribed drugs, 79.1(2), 79.1(8)“g”  
Notice **ARC 9709B**, also Filed Emergency **ARC 9708B** ..... 9/7/11  
Maximum reimbursement for care in non-state-owned psychiatric medical institutions for  
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Out-of-state hospitals—elimination of reimbursement for costs of graduate medical  
education, 79.1(5), 79.1(16) Notice **ARC 9713B**, also Filed Emergency **ARC 9712B** ..... 9/7/11  
Inpatient hospital services—nonpayment for preventable conditions, 79.1(5)“ab”  
Notice **ARC 9715B**, also Filed Emergency **ARC 9714B** ..... 9/7/11  
Payment reduction for physician services rendered in facility settings, 79.1(7)“b”  
Notice **ARC 9721B**, also Filed Emergency **ARC 9719B** ..... 9/7/11

Copayment for emergency room visits; payment reduction for nonemergency services delivered in emergency room, 79.1(13), 79.1(16) Notice <b>ARC 9723B</b> , also Filed Emergency <b>ARC 9722B</b> .....	9/7/11
Crossover claims for Medicare beneficiaries, 80.2(2)“h” Notice <b>ARC 9725B</b> , also Filed Emergency <b>ARC 9724B</b> .....	9/7/11
Nursing facilities—preadmission review, 81.1, 81.3(3), 81.7, 81.13 Notice <b>ARC 9727B</b> , also Filed Emergency <b>ARC 9726B</b> .....	9/7/11
IowaCare, 92.8(6) to 92.8(8) Notice <b>ARC 9729B</b> , also Filed Emergency <b>ARC 9728B</b> .....	9/7/11
Supervised apartment living placement services, 108.10 Filed <b>ARC 9730B</b> .....	9/7/11

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

OSHA regulations—adoption by reference, 10.20, 26.1, 28.1 Filed <b>ARC 9755B</b> .....	9/21/11
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**LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Continuing education—self-study activities, 3.2(2) Filed <b>ARC 9749B</b> .....	9/21/11
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**NATURAL RESOURCE COMMISSION[571]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Waterfowl and coot hunting—annual adjustment to season dates, 91.1, 91.3, 91.6 Filed Emergency After Notice <b>ARC 9720B</b> .....	9/7/11
Deer hunting by nonresidents, 94.7(6), 94.9 Filed <b>ARC 9718B</b> .....	9/7/11
Deer hunting by residents, 106.7(8), 106.9 Filed <b>ARC 9717B</b> .....	9/7/11

**PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Closing pharmacy, 8.35(7) Filed Emergency <b>ARC 9693B</b> .....	9/7/11
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**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Massage therapists—discipline, 134.2(11) Filed <b>ARC 9751B</b> .....	9/21/11
Social workers—renewal notices, 280.9(1) Notice <b>ARC 9750B</b> .....	9/21/11

**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Reciprocity; continuing education, 2.1, 10.2, 11.1, 11.2, 11.4 Notice <b>ARC 9716B</b> .....	9/7/11
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**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Enforcement of a protective clause, 11.2 Notice <b>ARC 9753B</b> .....	9/21/11
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**REVENUE DEPARTMENT[701]**

Biofuels, ethanol blended fuels—tax refunds, tax credits, reporting, amendments to chs 12, 40, 42, 52, 53, 67 Notice <b>ARC 9741B</b> .....	9/7/11
Active duty pay—exclusions and exemptions, 38.17(3), 40.5(2), 40.61, 40.76 Notice <b>ARC 9739B</b> .....	9/7/11
Individual, corporation and franchise tax, amendments to chs 38, 40 to 42, 44, 52, 53, 58, 59 Notice <b>ARC 9740B</b> .....	9/7/11

**TRANSPORTATION DEPARTMENT[761]**

Special truck stickers; special registration plates, 400.53(4), 401.18 Notice <b>ARC 9742B</b> .....	9/7/11
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**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Renewable energy tax credits, 15.19, 15.21 Filed <b>ARC 9752B</b> .....	9/21/11
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## 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

Senator Thomas Courtney  
2200 Summer Street  
Burlington, Iowa 52601

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

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

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P.O. Box A  
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1610 Carbonado Road  
Oskaloosa, Iowa 52577

Brenna Findley  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone (515)281-5211

**ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Information technology enterprise; human resources enterprise, amendments to chs 1, 20, 50 to 54, 56 to 61, 63 IAB 9/7/11 <b>ARC 9738B</b>	Rooms 329 & 330, Third Floor Hoover State Office Bldg. Des Moines, Iowa	September 27, 2011 1 to 3 p.m.
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**ECONOMIC DEVELOPMENT AUTHORITY[261]**

Endow Iowa tax credits, 47.1 to 47.5 IAB 9/7/11 <b>ARC 9748B</b>	Southeast Conference Room, First Floor 200 E. Grand Ave. Des Moines, Iowa	September 27, 2011 3:30 to 4:30 p.m.
Brownfield redevelopment program, 65.1, 65.2, 65.4 to 65.8, 65.10 to 65.12 IAB 9/7/11 <b>ARC 9747B</b> (See also <b>ARC 9746B</b> )	Southeast Conference Room, First Floor 200 E. Grand Ave. Des Moines, Iowa	September 27, 2011 10 to 11 a.m.

**EDUCATIONAL EXAMINERS BOARD[282]**

Teacher intern license—options to obtain initial license, 13.9(7) IAB 9/7/11 <b>ARC 9744B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 28, 2011 1 p.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Air quality—carbon dioxide emissions, 22.100, 33.1, 33.3(1) IAB 9/7/11 <b>ARC 9736B</b>	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	October 11, 2011 2 p.m.
Drinking water, amendments to chs 40 to 43, 83 IAB 9/7/11 <b>ARC 9737B</b>	Conference Rooms, Suite I Water Supply Section Office 401 SW 7th St. Des Moines, Iowa	September 28, 2011 11 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Social work—renewal notices, 280.9(1) IAB 9/21/11 <b>ARC 9750B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	October 17, 2011 9 to 10 a.m.
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Reciprocity; continuing education, 2.1, 10.2, 11.1, 11.2, 11.4 IAB 9/7/11 <b>ARC 9716B</b>	Second Floor Small Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	September 27, 2011 9 a.m.
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**REAL ESTATE COMMISSION[193E]**

Enforcement of a protective clause, 11.2 IAB 9/21/11 <b>ARC 9753B</b>	Second Floor Professional Licensing Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	October 11, 2011 9 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Special truck stickers; special registration plates, 400.53(4), 401.18 IAB 9/7/11 <b>ARC 9742B</b>	Motor Vehicle Division Offices 6310 SE Convenience Blvd. Ankeny, Iowa	September 29, 2011 10 a.m. (If requested)
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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 9757B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 214.10, 214A.2 and 215.24, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 85, “Weights and Measures,” Iowa Administrative Code.

The proposed amendments would allow gasoline which contains greater than 10 percent ethanol by volume and up to 15 percent ethanol by volume (E-15) to be sold from the same hose as other registered gasoline products. The “for flex fuel only” sticker would no longer be required on pumps using this E-10. Pumps with ethanol classified as higher than E-10 would be required to have the federal sticker identifying the fuel as up to 15 percent ethanol for use only in flex-fuel vehicles and model year 2001 and newer passenger vehicles. The octane rating of fuel could be posted once the testing form is approved for ethanol fuel classified as higher than E-10 and up to E-15. The Department does not intend to finalize action on the proposed amendments until gasoline that contains greater than 10 percent ethanol by volume and up to 15 percent ethanol by volume (E-15) becomes a registered fuel with the EPA.

Any interested persons may make written comments or suggestions on these proposed amendments on or before 4:30 p.m. on October 11, 2011. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to [Margaret.Thomson@Iowagriculture.gov](mailto:Margaret.Thomson@Iowagriculture.gov).

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

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

These amendments are intended to implement Iowa Code section 214A.2.

The following amendments are proposed.

ITEM 1. Amend subrule 85.48(11) as follows:

**85.48(11)** Ethanol blended gasoline classified as higher than ~~E-10~~ E-15 shall have a visible, legible “for flex fuel vehicle only” sticker on the pump or pump handle.

ITEM 2. Adopt the following **new** subrule 85.48(12):

**85.48(12)** Ethanol blended gasoline classified as higher than E-10 and up to E-15 shall have on the pump the federal sticker required by the Environmental Protection Agency in 40 CFR Part 80 published August 25, 2011.

ITEM 3. Amend subrule 85.48(14) as follows:

**85.48(14)** Octane rating of fuel offered for sale shall be posted on the pump in a conspicuous place. ~~However, no~~ No octane rating shall be posted on the pump for ethanol blended gasoline classified as higher than ~~E-10~~ E-15. Additionally, no octane rating shall be posted on the pump for ethanol blended gasoline classified as higher than E-10 and up to E-15 until the rating is approved pursuant to 16 CFR Part 306 published August 25, 2011.

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

ITEM 4. Amend rule 21—85.50(214,214A,215) as follows:

**21—85.50(214,214A,215) Blender pumps.** Motor fuel blender pumps or blender pumps installed or modified after November 1, 2008, which sell both ethanol blended gasoline classified as higher than ~~E-10~~ E-15 and gasoline need to have at least two hoses per pump.

This rule is intended to implement Iowa Code section 214A.2.

**ARC 9750B**

**PROFESSIONAL LICENSURE DIVISION[645]**

**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 154C.4, the Board of Social Work hereby gives Notice of Intended Action to amend Chapter 280, “Licensure of Social Workers,” Iowa Administrative Code.

The proposed amendment removes the requirement for the Board to send renewal notices by regular mail to licensees.

Any interested person may make written comments on the proposed amendment no later than October 17, 2011, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [tony.alden@idph.iowa.gov](mailto:tony.alden@idph.iowa.gov).

A public hearing will be held on October 17, 2011, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 154C and 272C.

The following amendment is proposed.

Amend subrule 280.9(1) as follows:

**280.9(1)** The biennial license renewal period for a license to practice social work shall begin on January 1 of odd-numbered years and end on December 31 of the next even-numbered year. Every licensee shall renew on a biennial basis. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

**ARC 9753B****REAL ESTATE COMMISSION[193E]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 11, “Brokerage Agreements and Listings,” Iowa Administrative Code.

The proposed amendment to rule 193E—11.2(543B) requires that a broker seeking to enforce a protective clause furnish to the listing party by personal delivery with written acknowledgment of receipt or by both regular mail and certified mail, return receipt requested, a copy of the names of those persons for whom protection is being sought.

A public hearing will be held on October 11, 2011, at 9 a.m. in the Professional Licensing Conference Room, Second Floor, 1920 S.E. Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received by 4:30 p.m. on October 11, 2011. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to [David.Batts@Iowa.gov](mailto:David.Batts@Iowa.gov).

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

This amendment is intended to implement Iowa Code chapter 543B.

The following amendment is proposed.

Amend rule 193E—11.2(543B) as follows:

**193E—11.2(543B) Enforcing a protective clause.** To enforce a protective clause beyond the expiration of an exclusive listing contract, there must be a provision for the protective clause in the listing contract which establishes a definite protection period. The In writing and prior to the expiration of the listing, the broker must furnish to the owner listing party in writing, by both regular mail and certified mail, return receipt requested, and prior to the expiration of the listing the names and addresses of persons to whom the property was presented during the active term of the listing and for whom protection is sought. Delivery shall be by personal service with written acknowledgment of receipt, or by both regular mail and certified mail, return receipt requested.

**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 5.00%.

TREASURER OF STATE(cont'd)

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 9, 2011, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days .....	Minimum .05%
32-89 days .....	Minimum .05%
90-179 days .....	Minimum .05%
180-364 days .....	Minimum .05%
One year to 397 days .....	Minimum .15%
More than 397 days .....	Minimum .45%

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 9754B

## ECONOMIC DEVELOPMENT AUTHORITY[261]

## Adopted and Filed

Pursuant to the authority of 2011 Iowa Acts, House File 590, section 7, the Economic Development Authority hereby amends Chapter 104, “Targeted Industries Internship Program,” and Chapter 175, “Application Review and Approval Procedures,” Iowa Administrative Code.

The current rules allow the Economic Development Authority Board to take final action on applications and other activities funded through the Iowa Values Fund, the High Quality Jobs Program and the Enterprise Zone Program.

The amendments adjust the Board approval process by allowing the Director to approve contract amendments for the Targeted Industries Internship Program. Additionally, the amendments delete a reference to the HOME Program, which was transferred to the Iowa Finance Authority pursuant to action by the Governor.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 13, 2011, as **ARC 9617B**. The Authority held a public hearing on August 2, 2011. The Authority received no comments. The only changes from the Notice are to reflect the change in name from “Iowa Department of Economic Development” to “Economic Development Authority” and to clarify that “Board” refers to the Economic Development Authority Board.

The Governor’s office precleared the amendments on May 13, 2011.

The Economic Development Authority Board adopted the amendments on August 18, 2011.

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

These amendments are intended to implement 2011 Iowa Acts, House File 590.

These amendments will become effective October 26, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **261—104.3(15)**, definition of “Board,” as follows:

“*Board*” means the Iowa economic development authority board established in Iowa Code section ~~15.103~~ 2011 Iowa Acts, House File 590, section 3.

ITEM 2. Rescind the definition of “Department” in rule **261—104.3(15)**.

ITEM 3. Adopt the following **new** definition of “Director” in rule **261—104.3(15)**:

“*Director*” means the director of the economic development authority.

ITEM 4. Strike “department” wherever it appears in subrule **104.4(3)**, rule **261—104.7(15)**, subrule **104.9(2)**, and rules **261—104.10(15)**, **261—104.11(15)** and **261—104.13(15)** and insert “authority” in lieu thereof.

ITEM 5. Amend subrule 104.9(1) as follows:

**104.9(1)** The ~~department~~ authority shall develop a standardized application and make the application available to eligible businesses. To apply for moneys from the program, a business shall submit an application to the ~~department~~ authority. Applications must be submitted to the ~~Iowa Department of Economic Development Authority~~, Innovation and Commercialization Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the ~~department’s~~ authority’s Web site at [www.iowalifechanging.com](http://www.iowalifechanging.com).

ITEM 6. Adopt the following **new** subrule 104.13(4):

**104.13(4)** *Contract amendments.* The board does not need to approve a contract amendment. The director may approve contract amendments consistent with 2011 Iowa Acts, House File 590, section 9.

ITEM 7. Strike “department” and “department’s” wherever they appear in rule **261—175.2(15,83GA,SF344)**, catchwords, subrules **175.2(1)**, **175.2(4)** and **175.2(6)**, and rules

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

**261—175.3(15,83GA,SF344)** to **261—175.5(15,15G,83GA,SF344)** and insert “authority” and “authority’s,” respectively, in lieu thereof.

ITEM 8. Amend subrule 175.2(5) as follows:

**175.2(5) Federal programs.** The ~~department~~ authority administers federal programs including, but not limited to, ~~the HOME program and the CDBG program.~~ EDSA is the job creation component of the CDBG program. The ~~department~~ authority will review an application to ensure that the project meets the requirements for the programs through which an applicant is applying.

ITEM 9. Amend paragraph **175.4(4)“a,”** introductory paragraph, as follows:

*a. Approval.* Application approval procedures shall comply with statutory requirements for the program or funding source and applicable program rules. The board shall take final action on all applications or activities funded through IVF(2009), HQJP, EZ and other programs as described in the following paragraphs. The director may approve contract amendments for the targeted industries internship program consistent with 2011 Iowa Acts, House File 590, section 9. The director shall take action on all other applications or activities that are not identified as requiring board action. Paragraphs 175.4(4)“b” to “e” describe the review and approval processes, by funding source and program.

[Filed 8/31/11, effective 10/26/11]

[Published 9/21/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/11.

**ARC 9755B**

## **LABOR SERVICES DIVISION[875]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 10, “General Industry Safety and Health Rules,” Chapter 26, “Construction Safety and Health Rules,” and Chapter 28, “Occupational Safety and Health Standards for Agriculture,” Iowa Administrative Code.

The amendments adopt by reference changes to federal occupational safety and health standards. The federal standard changes are the result of Phase III of the federal Occupational Safety and Health Administration’s Standards Improvement Project. The Standards Improvement Project eliminates confusing and unnecessary provisions in the federal standards. According to the preamble of the federal final rule, “OSHA estimates that these changes will result in annualized savings for employers of over \$45 million, and will reduce paperwork burden by 1.85 million hours annually.”

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

Notice of Intended Action was published in the July 27, 2011, Iowa Administrative Bulletin as **ARC 9640B**. No public comment was received on the proposed amendments. These amendments are identical to those that were published under Notice of Intended Action.

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

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

These amendments are intended to implement Iowa Code section 88.5.

These amendments shall become effective on October 26, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:

76 Fed. Reg. 33606 (June 8, 2011)

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:

76 Fed. Reg. 33606 (June 8, 2011)

LABOR SERVICES DIVISION[875](cont'd)

ITEM 3. Amend rule **875—28.1(88)** by inserting the following at the end thereof:  
76 Fed. Reg. 33606 (June 8, 2011)

[Filed 8/31/11, effective 10/26/11]

[Published 9/21/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/11.

## **ARC 9749B**

### **LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 544B.5, the Landscape Architectural Examining Board amends Chapter 3, "Continuing Education," Iowa Administrative Code.

This amendment deletes outdated text and clarifies the requirements for self-study activities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 29, 2011, as **ARC 9569B**. A public hearing was held on July 20, 2011. No one attended the hearing, and no comments were received. This amendment is identical to that published under Notice of Intended Action.

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

This amendment was adopted by the Board on August 22, 2011.

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

This amendment is intended to implement Iowa Code section 544B.13.

This amendment shall become effective on October 26, 2011.

The following amendment is adopted.

Amend subrule 3.2(2) as follows:

**3.2(2)** Within any biennial renewal period, 24 contact hours must be acquired and shall be in health, safety, and welfare subjects acquired in structural educational activities. The hours earned in self-study activities shall be limited to 6 hours, ~~effective for the renewals that are due on June 30, 2008 during any renewal period.~~ Hours acquired in any 24-month renewal period may not be carried over to a subsequent 24-month renewal period. Continuing education hours may be acquired in any location.

[Filed 8/24/11, effective 10/26/11]

[Published 9/21/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/11.

## **ARC 9751B**

### **PROFESSIONAL LICENSURE DIVISION[645]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Massage Therapy amends Chapter 134, "Discipline for Massage Therapists," Iowa Administrative Code.

This amendment clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 23, 2011, as **ARC 9432B**. A public hearing was held on April 18, 2011, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. This amendment is identical to that published under Notice.

This amendment was adopted by the Board of Massage Therapy on June 7, 2011.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 152C and 272C.

This amendment will become effective October 26, 2011.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The following amendment is adopted.

Amend subrule 134.2(11) as follows:

**134.2(11)** Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred, which includes, but is not limited to, a felonious act which is so contrary to honesty, justice or good morals and so reprehensible as to violate the public confidence and trust imposed upon the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

[Filed 8/30/11, effective 10/26/11]

[Published 9/21/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/11.

**ARC 9752B**

**UTILITIES DIVISION[199]**

**Adopted and Filed**

Pursuant to Iowa Code sections 17A.4 and 476.1, Iowa Code chapter 476C, 2011 Iowa Acts, House File 672, and 2011 Iowa Acts, House File 590, the Utilities Board (Board) gives notice that on August 30, 2011, the Board issued an order in Docket No. RMU-2011-0003, In re: Renewable Energy Tax Credits, "Order Adopting Rules." The Board is adopting amendments to 199 IAC 15.19 and 15.21.

Several changes have been made to 199 IAC 15.19 and 15.21. These changes to the rules implementing Iowa Code chapter 476C include the allowance of tax credits for renewable energy produced for on-site consumption (with a minimum facility capacity size), the extension of the program's overall facility in-service deadline by three years, and allowing applicants to apply for successive 12 month in-service time limit extensions.

2011 Iowa Acts, House File 672, also made changes to both Iowa Code chapters 476B and 476C that do not require rule changes, including reducing the total eligible capacity for Iowa Code chapter 476B wind facilities from 150 MW to 50 MW and increasing the total eligible capacity for Iowa Code chapter 476C wind facilities from 330 MW to 363 MW; there is also an increase in total eligible capacity for Iowa Code chapter 476C nonwind facilities from 20 MW to 53 MW, with 10 MW reserved for "renewable energy facilities incorporated within or associated with an ethanol cogeneration plant engaged in the sale of ethanol." In addition, there is a maximum facility capacity size for new Iowa Code chapter 476C nonwind facilities. None of the changes to Iowa Code chapter 476B contained in 2011 Iowa Acts, House File 672, require amendments to the Board's rules.

The Notice of Intended Action in Docket No. RMU-2011-0003 was published in IAB Vol. XXXIV, No. 1 (7/13/2011), p. 23, as **ARC 9609B**. Written comments were received from the Consumer Advocate Division of the Department of Justice (Consumer Advocate). An oral presentation was held on August 23, 2011. Consumer Advocate was the only commenter at the presentation.

Consumer Advocate generally supported the amendments but proposed a slight modification in 15.21(1)"a"(5) by adding the phrase "claimed amount of electricity" to reflect the exact wording used in Iowa Code section 476C.4(1). The Board has adopted this change. The Board has also adopted nonsubstantive changes suggested during the Notice process including changing "other than" to "not" so that the phrase reads "not a wind energy conversion facility" in 15.19(1)"f"(2); modifying the parallel structure and changing "this" to "the signed" so that the phrase reads "For purposes of the signed statement" in 15.19(1)"g"; designating the Board as the receiver of the notification in 15.19(4)"d"; and removing the commas from an essential clause in 15.21(1)"a"(5). Finally, the Board has amended the last sentence of 15.19(1)"f"(2) by deleting the word "five" and inserting the number "60" to reflect the change in 2011 Iowa Acts, House File 590, which increased the maximum nameplate capacity rating from 5 to 60 megawatts if the facility is not a wind energy conversion facility.

## UTILITIES DIVISION[199](cont'd)

The Board does not find it necessary to adopt a separate waiver provision in this rule making. The Board's general waiver provision in 199 IAC 1.3 is applicable to these amendments.

The only substantive change to the noticed amendments reflects the new maximum capacity adopted by the General Assembly in 2011 Iowa Acts, House File 590. Therefore, no additional notice is necessary prior to adoption of these amendments.

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

These amendments are intended to implement Iowa Code section 476.1 and chapter 476C, 2011 Iowa Acts, House File 590, and 2011 Iowa Acts, House File 672.

These amendments will become effective on October 26, 2011.

The following amendments are adopted.

ITEM 1. Amend paragraphs **15.19(1)“f”** to **“h”** as follows:

*f.* A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility, or refuse conversion facility, as defined in Iowa Code ~~Supplement~~ section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code ~~Supplement~~ section 476C.1. For applications filed on or after July 1, 2011, the facility's combined nameplate capacity or energy production capacity equivalent must be no less than three-fourths of a megawatt if all or part of the facility's renewable energy production is used for the owners' on-site consumption, and no more than 60 megawatts if the facility is not a wind energy conversion facility;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service; that is, placed in service on or after July 1, 2005, but before January 1, ~~2012~~ 2015, for eligibility under Iowa Code ~~Supplement~~ chapter 476C; and

(5) For eligibility under Iowa Code ~~Supplement~~ chapter 476C, demonstration that the facility's combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent (as defined in Iowa Code ~~Supplement~~ section 476C.1(7)), divided by the number of separate owners meeting the requirements of Iowa Code ~~Supplement~~ chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

*g.* A signed statement from the owners attesting that the owners intend to either sell all the renewable energy produced by the facility, consume all the renewable energy on site, or use all the renewable energy through a combination of sale and consumption. For purposes of the signed statement, renewable energy consumed on site means any renewable energy produced by the facility and not sold.

~~*g.*~~ *h.* A If the owners intend to sell renewable energy produced by the facility, a copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, which shall designate either the producer or the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the board will accept a binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

~~*h.*~~ *i.* A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code ~~Supplement~~ chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

ITEM 2. Amend subrule 15.19(4) as follows:

**15.19(4) *Loss of eligibility status.***

*a.* Within 30 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 30 months of board approval, the facility will lose eligibility status.

## UTILITIES DIVISION[199](cont'd)

b. ~~However, if~~ If the facility is a wind energy conversion facility and is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the 30-month limit, attesting to the unavailability of necessary equipment. After granting the 12-month extension, if the board determines that the facility was not operational within 42 months of board approval, the facility will lose eligibility status.

c. Prior to expiration of the time periods specified in paragraphs 15.19(4)“a” and “b,” the applicant may apply for a further 12-month extension if the facility is still expected to become operational. Extensions may be renewed for succeeding 12-month periods if the applicant applies for the extension prior to expiration of the current extension period. If the applicant does not apply for further extension, the facility will lose eligibility status.

d. If the owners of a facility discontinue efforts to achieve operational status, the owners shall notify the board. Upon the board’s receipt of such notification, the facility will lose eligibility status.

e. If the facility loses eligibility status, the facility applicant may reapply to the board for new eligibility.

ITEM 3. Amend rule 199—15.21(476C), introductory paragraph, as follows:

**199—15.21(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C.** The renewable energy tax credits equal 1.5 cents per kilowatt-hour of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose, generated by ~~and purchased from~~ eligible renewable energy facilities under 199—15.19(476C), which is sold or used for on-site consumption by the owners, for tax years beginning on or after July 1, 2006. ~~Either~~ For renewable energy that is sold, either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy tax credits; for up to ten tax years following the date the facility is placed in service. For renewable energy used for on-site consumption, the owners of an eligible facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. Renewable energy tax credits will not be issued for renewable energy ~~purchased~~ sold or used for on-site consumption after December 31, ~~2021~~ 2024. For purposes of this rule, renewable energy used for on-site consumption means any renewable energy produced by the facility and not sold.

ITEM 4. Amend paragraph **15.21(1)“a”** as follows:

a. Either the facility owners or the purchaser of renewable energy shall be eligible to apply for the tax credits related to renewable energy that is sold, as designated under ~~199—~~paragraph 15.19(1) “g h.” Only facility owners shall be eligible to apply for tax credits related to renewable energy used for on-site consumption. If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199—15.21(476C)), and the following 12 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199—15.19(476C), plus any subsequent amendments to the application.

(2) A copy of the board’s determination approving the facility as eligible for tax credits under 199—15.19(476C).

(3) A statement attesting that the owners have not received wind energy tax credits for the facility under 199—15.20(476B).

(4) ~~A~~ For any renewable energy sold, a copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or purchaser of renewable energy will be eligible to apply for the tax credits and shall be consistent with the designation originally filed under ~~199—~~paragraph 15.19(1) “g h.”

(5) ~~A~~ For any renewable energy sold, the owners must provide a statement attesting that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax

## UTILITIES DIVISION[199](cont'd)

credits are sought, has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the renewable energy tax credits, persons are related to each other if either person owns an 80 percent or more equity interest in the other person. For any renewable energy used for on-site consumption, the owners must provide a signed statement attesting under penalty of perjury that the claimed amount of electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose for which tax credits are sought has been generated by the eligible facility and not sold.

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, ~~2012~~ 2015).

(7) The total number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year.

(8) ~~Invoices~~ For any renewable energy sold, invoices or other information that documents the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility and sold to an unrelated purchaser during the tax year. For any renewable energy used for on-site consumption, the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year and not sold.

(9) to (12) No change.

ITEM 5. Amend subparagraph **15.21(1)“b”(3)** as follows:

(3) Whether the reported kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by ~~and purchased from~~ the facility and sold or used by the owners for on-site consumption during the tax year seem accurate and eligible for renewable energy tax credits.

[Filed 8/30/11, effective 10/26/11]

[Published 9/21/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/21/11.

**FEMA-DR-1998-IA**

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by the flooding from May 25, 2011, and continuing. This Notice applies to the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206.

Under an amendment to the major disaster declaration (FEMA-DR-1998-IA) signed by the President on June 27, 2011, the following counties have been designated adversely affected by the disaster and eligible for both Public Assistance (Categories A-G) and Mitigation: Fremont, Harrison, Mills, Monona, Pottawattamie and Woodbury. Additional counties and assistance may be designated at a later date. All counties in the State of Iowa are eligible for HMGP.

This public notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-year floodplain, and critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Presidential Executive Orders 11988 and 11990 require that all federal actions in or affecting the floodplain or wetlands be reviewed for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts.

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain/wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous Presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except that certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published if necessary, as more specific information becomes available.

In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will fund eligible restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and flood control facilities), or the project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of Iowa and local officials will confirm to FEMA that proposed actions comply with all applicable State and local floodplain management and wetland protection requirements.

FEMA also intends to provide HMGP funding to the State of Iowa to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

As noted, this may be the only public notice regarding the above-described actions under the PA and HMGP programs. Interested persons may obtain information about these actions or a specific project by writing to the Federal Emergency Management Agency, Disaster Field Office, 1240 Office Plaza Dr., West Des Moines, IA 50266, or by calling 571-208-8654. Comments should be sent in writing to Michael R. Scott, Federal Coordinating Officer, at the above address within 15 days of the date of this Notice.

**FEMA-DR-4016-IA**

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by the flooding from July 9-14, 2011. This Notice applies to the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206.

Under a major disaster declaration (FEMA DR-4016-IA) signed by the President on August 24, 2011, the following counties have been designated adversely affected by the disaster and eligible for both Public Assistance and Mitigation: Benton, Clay, Dickinson, Marshall, Story, and Tama. Additional counties and assistance may be designated at a later date. All counties in the State of Iowa are eligible for HMGP.

This public notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-year floodplain, and critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Presidential Executive Orders 11988 and 11990 require that all federal actions in or affecting the floodplain or wetlands be reviewed for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts.

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain/wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous Presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except that certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published if necessary, as more specific information becomes available.

In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will fund eligible restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and flood control facilities), or the project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of Iowa and local officials will confirm to FEMA that proposed actions comply with all applicable State and local floodplain management and wetland protection requirements.

FEMA also intends to provide HMGP funding to the State of Iowa to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

As noted, this may be the only public notice regarding the above-described actions under the PA and HMGP programs. Interested persons may obtain information about these actions or a specific project by writing to the Federal Emergency Management Agency, Disaster Field Office, 1240 Office Plaza Dr., West Des Moines, IA 50266, or by calling 571-208-8654. Comments should be sent in writing to Michael R. Scott, Federal Coordinating Officer, at the above address within 15 days of the date of this Notice.

**FEMA-DR-4018-IA**

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by the flooding from July 27-29, 2011. This Notice applies to the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206.

Under a major disaster declaration (FEMA DR-4018-IA) signed by the President on August 30, 2011, the following counties have been designated adversely affected by the disaster and eligible for both Public Assistance and Mitigation: Dubuque and Jackson. Additional counties and assistance may be designated at a later date. All counties in the State of Iowa are eligible for HMGP.

This public notice concerns activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-year floodplain, and critical actions within the 500-year floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Presidential Executive Orders 11988 and 11990 require that all federal actions in or affecting the floodplain or wetlands be reviewed for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts.

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain/wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous Presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). FEMA intends to provide assistance for the restoration of these facilities to their pre-disaster condition, except that certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published if necessary, as more specific information becomes available.

In many cases, an applicant may have started facility restoration before federal involvement. Even if the facility must undergo detailed review and analysis of alternate locations, FEMA will fund eligible restoration at the original location if the facility is functionally dependent on its floodplain location (e.g., bridges and flood control facilities), or the project facilitates an open space use, or the facility is an integral part of a larger network that is impractical or uneconomical to relocate, such as a road. In such cases, FEMA must also examine the possible effects of not restoring the facility, minimize floodplain/wetland impacts, and determine both that an overriding public need for the facility clearly outweighs the Executive Order requirements to avoid the floodplain/wetland, and that the site is the only practicable alternative. State of Iowa and local officials will confirm to FEMA that proposed actions comply with all applicable State and local floodplain management and wetland protection requirements.

FEMA also intends to provide HMGP funding to the State of Iowa to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

As noted, this may be the only public notice regarding the above-described actions under the PA and HMGP programs. Interested persons may obtain information about these actions or a specific project by writing to the Federal Emergency Management Agency, Disaster Field Office, 1240 Office Plaza Dr., West Des Moines, IA 50266, or by calling 571-208-8654. Comments should be sent in writing to Michael R. Scott, Federal Coordinating Officer, at the above address within 15 days of the date of this Notice.