



IOWA ADMINISTRATIVE BULLETIN

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Filed, Board of psychology, rescind chs 239, 243; amend chs 240 to 242 ARC 7203B	823
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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”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

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CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 7.17, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

Schedule for Rule Making 2008

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. 26 '07	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sep. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sep. 22
Mar. 21	Apr. 9	Apr. 29	May 14	***May 14***	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	***June 25***	July 16	Aug. 20	Nov. 17
May 14	June 4	June 24	July 9	July 11	July 30	Sep. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sep. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
June 25	July 16	Aug. 5	Aug. 20	***Aug. 20***	Sep. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sep. 3	Sep. 5	Sep. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sep. 2	Sep. 17	Sep. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sep. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
Aug. 20	Sep. 10	Sep. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sep. 5	Sep. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sep. 19	Oct. 8	Oct. 28	Nov. 12	***Nov. 12***	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	***Nov. 26***	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	***Dec. 10***	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	***Dec. 24***	Jan. 14 '09	Feb. 18 '09	May 18 '09
Nov. 12	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
Nov. 26	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
Dec. 10	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
Dec. 24	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
9	Friday, October 3, 2008	October 22, 2008
10	Friday, October 17, 2008	November 5, 2008
11	Friday, October 31, 2008	November 19, 2008

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 14, 2008, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Update of guidelines for animal euthanasia, 67.9 Filed Emergency **ARC 7117B** 9/10/08

BANKING DIVISION[187]

COMMERCE DEPARTMENT[181]"umbrella"

Mortgage bankers and mortgage brokers, 18.1 to 18.5, 18.6(4), 18.8, 18.10(1), 18.23
Notice **ARC 7175B** 9/24/08

CORRECTIONS DEPARTMENT[201]

Institutions and administration, amendments to ch 20 Notice **ARC 7184B** 9/24/08

ELDER AFFAIRS DEPARTMENT[321]

Family caregiver program, 7.1, 7.25 Filed **ARC 7139B** 9/10/08
Family caregiver program, ch 14 Notice of Termination **ARC 7128B** 9/10/08
Senior living coordinating unit, 16.2(7), 16.4 Notice **ARC 7129B** 9/10/08
Office of substitute decision maker, ch 22 Notice **ARC 7133B** 9/10/08
Senior living program, 28.3, 28.6, 28.8, 28.9, 28.11 Filed **ARC 7134B** 9/10/08

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Commission—quorum and voting requirements, 1.6 Filed **ARC 7140B** 9/10/08
Air quality, amendments to chs 20 to 23, 25, 33 Filed **ARC 7143B** 9/10/08
Water use and allocation permits—application fee, 50.4(2) Filed Emergency **ARC 7142B** 9/10/08
Wastewater disposal systems, amendments to chs 60, 62 to 64 Notice **ARC 7152B** 9/10/08

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Appointment of officers to campaign committees, 4.4(1) Notice **ARC 7181B** 9/24/08
Amendments to statement of organization, 4.6(2) Notice **ARC 7188B** 9/24/08
Campaign disclosure report requirements, 4.10 Filed Without Notice **ARC 7182B** 9/24/08
Voluntary registration—Form DR-SFA, 4.11 Filed **ARC 7160B** 9/24/08
Financial threshold for reporting an independent expenditure statement, 4.27
Filed Without Notice **ARC 7183B** 9/24/08
Electronic filing of verified statement of registration, 4.32 Notice **ARC 7185B** 9/24/08
Filing of reports by 527 Committees, 4.34 Notice **ARC 7189B** 9/24/08
Electronic filing of Form DR-OTC, 4.35(1)"f," 4.35(2), 4.35(3) Notice **ARC 7186B** 9/24/08
Electronic filing of Form PFD, 7.1(2), 7.1(4), 7.3(5) Notice **ARC 7187B** 9/24/08
Executive branch lobbying expenditures, 8.6 Filed **ARC 7161B** 9/24/08

HUMAN SERVICES DEPARTMENT[441]

FIP—exemption of income earned through temporary employment with Bureau of the
Census, 41.27(7)"ak" Filed Emergency After Notice **ARC 7118B** 9/10/08
Food assistance program administration, amendments to ch 65
Notice **ARC 7120B**, also Filed Emergency **ARC 7119B** 9/10/08
Medicaid for children with disabilities, 75.1(43) Notice **ARC 7208B** 9/24/08
Case management services—compliance with federal regulations, amendments to chs 77 and
78 Notice **ARC 7206B** 9/24/08
Medicaid coverage of periodontal and endodontic dental services, 78.4(14) Notice **ARC 7137B** 9/10/08
Home health agency care for maternity patients and children, 78.9(9)
Filed Emergency After Notice **ARC 7121B** 9/10/08
Medicaid reimbursement rate for nonemergency medical transportation by car, 78.13(5)
Notice **ARC 7123B**, also Filed Emergency **ARC 7122B** 9/10/08
PROMISE JOBS mileage reimbursement rate increase, 93.110(6)"b"
Notice **ARC 7126B**, also Filed Emergency **ARC 7125B** 9/10/08
Donation of funds to department; elimination of provider advisory committee, 150.2(4),
150.7, 150.8 Notice **ARC 7173B** 9/24/08
Purchase of service rate limits for supervised apartment living and shelter care, 150.3(5)"p"
Filed **ARC 7127B** 9/10/08
Basic reimbursement rate increase for foster family care, 156.6(1) Filed **ARC 7130B** 9/10/08
KinderTrack; child care assistance policy, 170.1, 170.2(1), 170.3, 170.4(7) Filed **ARC 7131B** 9/10/08
Rate increase for group foster care service; elimination of statewide fixed rates,
185.112(1)"k," 185.112(14) Filed **ARC 7132B** 9/10/08

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"

Insurance producers, 10.2 to 10.8, 10.10, 10.12, 10.14(5), 10.15, 10.16, 10.18 to 10.26	
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Continuing education for insurance producers, 11.1(3), 11.2 to 11.4, 11.10(8)	
<u>Notice</u> ARC 7202B	9/24/08
Prohibited designation, 15.8(3)"e"	
<u>Notice</u> ARC 7205B	9/24/08
Independent review of benefit trigger determinations, 39.1, 39.41 to 39.55	
<u>Notice</u> ARC 7207B	9/24/08
Premium rate increase—protection to consumers, 39.29(14)	
<u>Notice</u> ARC 7200B	9/24/08
Viatical and life settlements, amendments to ch 48	
<u>Notice</u> ARC 7154B , also <u>Filed Emergency</u> ARC 7153B	9/10/08
Use of senior-specific certifications and professional designations, 50.16(2)"j," 50.38(1)"y,"	
50.54 <u>Notice</u> ARC 7190B	9/24/08
Workers' compensation insurance rate filing procedures, ch 60	
<u>Filed</u> ARC 7141B	9/10/08
Annual financial reporting requirements, ch 98	
<u>Notice</u> ARC 7124B	9/10/08

IOWA FINANCE AUTHORITY[265]

First amended 2009 qualified allocation plan, 12.1

<u>Notice</u> ARC 7136B , also <u>Filed Emergency</u> ARC 7135B	9/10/08
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Benefits; service credit and purchases; dividends, amendments to chs 4, 6 to 8, 13 to 15

<u>Filed</u> ARC 7138B	9/10/08
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LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Wind tower lifts, amendments to chs 71, 72, 75, 76	
<u>Filed</u> ARC 7166B	9/24/08
Elevator safety board—construction personnel hoists, 71.4, 75.1, 75.2, 75.3(2), 76.2(11),	
76.3 <u>Filed</u> ARC 7167B	9/24/08

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NATURAL RESOURCES DEPARTMENT[561]"umbrella"

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<u>Notice</u> ARC 7147B	9/10/08

NATURAL RESOURCES DEPARTMENT[561]

Special nonresident deer and turkey licenses, ch 12	
<u>Notice</u> ARC 7144B	9/10/08

PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Certification of pharmacy technicians, 3.1, 3.5, 3.10	
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Generic prescription blanks and forms, 8.11(5)	
<u>Filed</u> ARC 7193B	9/24/08
Sterile compounding practices, amendments to ch 13	
<u>Filed</u> ARC 7192B	9/24/08
In-process checking of compounding functions, 13.3(2)	
<u>Notice</u> ARC 7191B	9/24/08
Centralized prescription filling and processing, 18.2, 18.3	
<u>Notice of Termination</u> ARC 7194B	9/24/08

PROFESSIONAL LICENSING AND REGULATION BUREAU[193]

COMMERCE DEPARTMENT[181]"umbrella"

License renewal, 13.12(2), 13.17(3)	
<u>Filed</u> ARC 7159B	9/24/08

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Electron of officers; competency examination or alcohol or drug screening, 4.3(2), 4.15	
<u>Notice</u> ARC 7165B	9/24/08
Board of hearing aid dispensers, rescind chs 120, 125; amend chs 121, 122, 124	
<u>Notice</u> ARC 7156B	9/24/08
Board of physical and occupational therapy, rescind chs 199, 204, 205, 210; amend chs 200,	
202, 203, 206, 207, 209	
<u>Notice</u> ARC 7158B	9/24/08
Board of psychology, rescind chs 239, 243; amend chs 240 to 242	
<u>Filed</u> ARC 7203B	9/24/08
Sign language interpreters and transliterators, rescind chs 360, 364; amend chs 361 to 363	
<u>Filed</u> ARC 7157B	9/24/08

PUBLIC HEALTH DEPARTMENT[641]

Water treatment systems, ch 14 <u>Notice</u> ARC 7171B	9/24/08
Plumbing and mechanical systems examining board—administrative and regulatory authority, ch 27 <u>Notice</u> ARC 7155B	9/10/08
EMS providers—inactive status, discipline, 131.4, 131.7(2) <u>Notice</u> ARC 7169B	9/24/08
EMS—air medical services, driver training, employee termination, 132.1, 132.8 <u>Notice</u> ARC 7170B	9/24/08
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PUBLIC SAFETY DEPARTMENT[661]

Reduced ignition propensity cigarettes, ch 61 <u>Notice</u> ARC 7180B	9/24/08
Electrical installations—update of National Electrical Code reference, 201.3 <u>Notice</u> ARC 7178B	9/24/08
Electrical requirements—update of National Electrical Code reference, 301.5 <u>Notice</u> ARC 7179B	9/24/08
Installation requirements—update of National Electrical Code reference, 504.1 <u>Notice</u> ARC 7177B	9/24/08
Electrical inspection program, chs 550 to 553, 559 <u>Notice</u> ARC 7176B	9/24/08

REVENUE DEPARTMENT[701]

Tax return extension in disaster areas, 6.8 <u>Notice</u> ARC 7197B	9/24/08
Update of revenue rules pertaining to motor fuel, amend chs 18, 67, 68, 231; rescind chs 63 to 65 <u>Notice</u> ARC 7204B	9/24/08
Individual and corporation income tax; charitable conservation contribution tax credits, 38.19, 41.5(15), 42.23, 42.38, 52.12, 52.37 <u>Notice</u> ARC 7198B	9/24/08
Individual and corporation tax, amendments to chs 40 to 42, 52, 53 <u>Notice</u> ARC 7199B	9/24/08
Individual, corporation, and franchise tax, amendments to chs 42, 43, 52, 58 <u>Notice</u> ARC 7196B	9/24/08

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Revisions to rules governing certificates of franchise authority for cable and video service, 44.2, 44.3(1), 44.3(5) to 44.3(7) <u>Notice</u> ARC 7168B	9/24/08
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VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Veterans trust fund, amendments to ch 14 <u>Filed</u> ARC 7162B	9/24/08
Veterans commemorative property, 15.2, 15.3(1), 15.4(6) <u>Filed</u> ARC 7163B	9/24/08
Limited residency Vietnam Conflict veterans bonus, ch 16 <u>Filed</u> ARC 7164B	9/24/08

VETERINARY MEDICINE BOARD[811]

Discipline; civil penalties; licensure and fees; board reorganization; definitions, amendments to chs 1 to 7, 9 to 14 <u>Filed</u> ARC 7172B	9/24/08
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WORKFORCE DEVELOPMENT DEPARTMENT[871]

Participation in fact-finding interviews, 24.10 <u>Filed</u> ARC 7174B	9/24/08
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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.

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

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Des Moines, Iowa 50319
Telephone (515)281-0208

AGENCY	HEARING LOCATION	DATE AND TIME
CORRECTIONS DEPARTMENT[201]		
Institutions and administration, amendments to ch 20 IAB 9/24/08 ARC 7184B	Iowa Department of Corrections 510 E. 12th St. Des Moines, Iowa	October 14, 2008 11 a.m. to 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Wastewater disposal systems, amendments to chs 60, 62 to 64 IAB 9/10/08 ARC 7152B	Meeting Room, Public Library 424 Central Ave. Fort Dodge, Iowa	October 7, 2008 6 p.m.
	Room A, Public Library 123 S. Linn St. Iowa City, Iowa	October 8, 2008 7 p.m.
	Conference Rooms 5E and 5W Wallace State Office Bldg. Des Moines, Iowa	October 9, 2008 1:30 p.m.
INSURANCE DIVISION[191]		
Insurance producers, amendments to ch 10 IAB 9/24/08 ARC 7201B	330 Maple St. Des Moines, Iowa	October 14, 2008 10 a.m.
Continuing education for insurance producers, 11.1(3), 11.2 to 11.4, 11.10(8) IAB 9/24/08 ARC 7202B	330 Maple St. Des Moines, Iowa	October 14, 2008 10 a.m.
Prohibited designation, 15.8(3)“e” IAB 9/24/08 ARC 7205B	330 Maple St. Des Moines, Iowa	October 14, 2008 10 a.m.
Premium rate increase—protection to consumers, 39.29(14) IAB 9/24/08 ARC 7200B	330 Maple St. Des Moines, Iowa	October 14, 2008 10:30 a.m.
Independent review of benefit trigger determinations, 39.41 to 39.55 IAB 9/24/08 ARC 7207B	330 Maple St. Des Moines, Iowa	October 14, 2008 11 a.m.
Viatical and life settlements, amendments to ch 48 IAB 9/10/08 ARC 7154B (See also ARC 7153B)	330 Maple St. Des Moines, Iowa	September 30, 2008 10 a.m.
Annual financial reporting rule, ch 98 IAB 9/10/08 ARC 7124B	330 Maple St. Des Moines, Iowa	September 30, 2008 10 a.m.
NATURAL RESOURCE COMMISSION[571]		
Daily bag and possession limit—bluegill and crappie, 81.1, 81.2(12) IAB 9/10/08 ARC 7146B	Senior Citizen Center 411 Walnut St. Atlantic, Iowa	September 30, 2008 7 p.m.

AGENCY	HEARING LOCATION	DATE AND TIME
NATURAL RESOURCE COMMISSION[571](Cont'd)		
	Hartman Reserve Nature Center 657 Reserve Dr. Cedar Falls, Iowa	October 1, 2008 7 p.m.
	Dickinson County Community Bldg. 1602 15th St. Spirit Lake, Iowa	October 2, 2008 7 p.m.
	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 3, 2008 3 p.m.
	Pioneer Ridge Nature Center 1339 US Hwy 63 Bloomfield, Iowa	October 9, 2008 7 p.m.
Nonresident deer hunting—special licenses, 94.6(3) IAB 9/10/08 ARC 7148B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 21, 2008 10 a.m.
Wild turkey spring hunting—special licenses, 98.11(3) IAB 9/10/08 ARC 7150B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 21, 2008 10 a.m.
Wild turkey fall hunting—special licenses, 99.2(4) IAB 9/10/08 ARC 7151B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 21, 2008 10 a.m.
Depredation permit fees, 106.11(4)“e” IAB 9/10/08 ARC 7147B	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 21, 2008 10 a.m.
PROFESSIONAL LICENSURE DIVISION[645]		
Election of officers; competency examination or alcohol or drug screening, 4.3(2), 4.15 IAB 9/24/08 ARC 7165B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	October 14, 2008 9 to 9:30 a.m.
Board of hearing aid dispensers, rescind chs 120, 125; amend chs 121, 122, 124 IAB 9/24/08 ARC 7156B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	October 14, 2008 10 to 11 a.m.
Board of physical and occupational therapy, rescind chs 199, 204, 205, 210; amend chs 200, 202, 203, 206, 207, 209 IAB 9/24/08 ARC 7158B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	October 14, 2008 9:30 to 10 a.m.
PUBLIC HEALTH DEPARTMENT[641]		
Water treatment systems, ch 14 IAB 9/24/08 ARC 7171B	Fifth Floor Conference Room 518, Side 1 Lucas State Office Bldg. Des Moines, Iowa	October 14, 2008 1 p.m.
PUBLIC SAFETY DEPARTMENT[661]		
Reduced ignition propensity cigarettes, ch 61 IAB 9/24/08 ARC 7180B	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	October 14, 2008 8:30 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
PUBLIC SAFETY DEPARTMENT [661](Cont'd)		
Electrical installations—update of National Electrical Code reference, 201.3 IAB 9/24/08 ARC 7178B	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	October 14, 2008 10 a.m.
Electrical requirements—update of National Electrical Code reference, 301.5 IAB 9/24/08 ARC 7179B	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	October 14, 2008 10 a.m.
Installation requirements—update of National Electrical Code reference, 504.1 IAB 9/24/08 ARC 7177B	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	October 16, 2008 10:15 a.m.
Electrical inspection program, chs 550 to 553, 559 IAB 9/24/08 ARC 7176B	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	October 16, 2008 10:15 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“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 which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ELDER AFFAIRS DEPARTMENT[321]
EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]

Community Action Agencies Division[427]
Criminal and Juvenile Justice Planning Division[428]
Deaf Services Division[429]
Persons With Disabilities Division[431]
Latino Affairs Division[433]
Status of African-Americans, Division on the[434]
Status of Women Division[435]
Status of Iowans of Asian and Pacific Islander Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS DEPARTMENT[481]
Employment Appeal Board[486]
Foster Care Review Board[489]
Racing and Gaming Commission[491]
State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
Appeal Board, State[543]
City Finance Committee[545]
County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
Energy and Geological Resources Division[565]
Environmental Protection Commission[567]
Natural Resource Commission[571]
Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
Homeland Security and Emergency Management Division[605]
Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
Professional Licensure Division[645]
Dental Board[650]
Medicine Board[653]
Nursing Board[655]
Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
Labor Services Division[875]
Workers' Compensation Division[876]
Workforce Development Board and Workforce Development Center Administration Division[877]

ARC 7175B

BANKING DIVISION[187]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 535B.14, the Banking Division of the Commerce Department hereby gives Notice of Intended Action to amend Chapter 18, "Mortgage Bankers and Mortgage Brokers," Iowa Administrative Code.

The proposed amendments update existing rules to conform to recent legislative changes and in response to a review for necessary corrections.

Interested persons may make written comments on the proposed amendments on or before October 14, 2008. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

These amendments are intended to implement Iowa Code sections 17A.3 and 524.213 and 2008 Iowa Acts, House File 2556 and Senate File 2428.

The following amendments are proposed.

ITEM 1. Amend rule 187—18.1(17A,535B) as follows:

187—18.1(17A,535B) Definitions. For the purposes of this chapter, the definitions in Iowa Code chapter 535B, ~~2005 Iowa Acts, chapter 83, and 2006 Iowa Acts, Senate File 2353,~~ shall apply. In addition, unless the context otherwise requires:

"*Criminal background check*" means a state criminal background check and a national criminal history check through the Federal Bureau of Investigation.

"*Individual registrant*" means a natural person who is registered with the administrator in accordance with the provisions of ~~2005 Iowa Acts, chapter 83, section 6~~ Iowa Code section 535B.4A.

"*Individual registration*" means ~~a written or an~~ an electronic registration submitted by a natural person to the administrator to act as a mortgage banker or mortgage broker in this state in accordance with the provisions of ~~2005 Iowa Acts, chapter 83, section 6~~ Iowa Code section 535B.4A. To be considered active, an individual registrant must be an employee of or an exclusive agent of a licensee.

"*License application*" means ~~a written or an~~ an electronic application submitted to the administrator for a license to operate as a mortgage banker or mortgage broker in accordance with the provisions of Iowa Code section 535B.4.

"*Licensee*" means a person who has a license to operate as a mortgage banker or mortgage broker in accordance with the provisions of Iowa Code section 535B.4.

"*Makes at least four mortgage loans,*" as used in Iowa Code section 535B.1(4)"a," means the person is listed on loan documents as the lender for at least four mortgage loans.

"*Mortgage application*" means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. A completed application has all the information that the creditor regularly obtains and considers in evaluating an application for the amount and type of credit requested.

"*Nationwide mortgage licensing system and registry*" or "*NMLS&R*" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan originators, mortgage providers, mortgage lenders, mortgage brokers, and mortgage servicers.

BANKING DIVISION[187](cont'd)

“*Services a loan*” or “*servicing a loan*” means undertaking the direct collection of payments on a loan from the borrower or the right to undertake direct collection of payments on a loan from the borrower.

ITEM 2. Amend subrules 18.2(2), 18.2(4) and 18.2(5) as follows:

18.2(2) The license application shall be accompanied by a fee of \$500 plus \$40 per additional branch location. The \$500 fee is not subject to refund.

18.2(4) The administrator shall approve or deny a license application in accordance with the provisions of Iowa Code section 535B.5. A person shall not be eligible for licensing unless all individual registrants who are employed by, under contract with, or exclusive agents of the person have successfully completed the registration and background checks required by ~~2005 Iowa Acts, chapter 83, section 6~~ Iowa Code section 535B.4A.

18.2(5) Licenses expire on the next ~~June 30~~ December 31 after issuance. However, licenses granted on or after ~~April 1~~ November 1 but before ~~July 1~~ January 1 will not expire until ~~June 30~~ December 31 of the following year. For example, a license granted on ~~April 17, 2007~~ November 17, 2008, would not expire until ~~June 30, 2008~~ December 31, 2009.

ITEM 3. Amend rule 187—18.3(17A,535B) as follows:

187—18.3(17A,535B) Renewal of license.

18.3(1) No change.

18.3(2) Application to renew a license shall be submitted to the administrator before ~~June 1~~ December 1 of the year of expiration ~~on forms provided by the administrator through the NMLS&R~~. All requested information shall be provided to the administrator ~~on or with the application form as directed by the NMLS&R~~. Applications for renewal of a license to transact business solely as a mortgage broker must be accompanied by a fee of \$200. Applications for renewal of a license to transact business as a mortgage banker must be accompanied by a fee of \$400. In addition, the licensee shall pay a branch office renewal fee of \$40 per branch. The administrator may assess late fees of up to \$10 per day for applications submitted after ~~June 1~~ December 1.

~~**18.3(3)** Application forms for renewal of a license may be obtained from the administrator’s office or will be available on the administrator’s Web site. Licensees may renew electronically or by submitting a written application. While the administrator generally mails renewal application forms or reminders to licensees before May 1 preceding license expiration, the failure of the administrator to mail an application form or the failure of a licensee to receive an application form shall not excuse the licensee from the requirement to timely renew.~~

18.3(4) 18.3(3) The administrator shall grant an application to renew a license if:

a. The administrator receives the application by ~~June 1~~ December 1, accompanied by the appropriate renewal fee, or the administrator receives the application after ~~June 1~~ December 1 but before ~~July 1~~ January 1 and it is accompanied by the appropriate renewal fee and the appropriate late fee;

b. The application is fully completed with all necessary information; and

c. The application does not reveal grounds to deny a license.

~~**18.3(5) 18.3(4)** A renewal application received by the administrator after ~~June 30~~ December 31 may, at the discretion of the administrator, be rejected for processing or may be treated as a new application for a license. A licensee who fails to renew a license before the expiration date is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date.~~

ITEM 4. Amend rule 187—18.4(17A,535B) as follows:

187—18.4(17A,535B) Individual registration requirements.

18.4(1) A natural person who applies for individual registration pursuant to ~~2005 Iowa Acts, chapter 83, section 6,~~ Iowa Code section 535B.4A to act as a mortgage banker or mortgage broker in this state shall apply with the administrator on forms provided by the administrator. The administrator may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the administrator within 30 days after the administrator requests the information.

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18.4(2) Prior to applying for an individual registration, an applicant must complete at least 20 hours of education approved by the NMLS&R, which shall include at least:

- a. Three hours of federal law and regulations;
- b. Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and
- c. Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

18.4(3) Prior to applying for an individual registration, an applicant must pass, in accordance with the standards established under Public Law 110-289, Title V, the S.A.F.E. Mortgage Licensing Act, a qualified written test developed by the NMLS&R and administered by a provider approved by the NMLS&R. An applicant must achieve a test score of not less than 75 percent correct answers to questions to pass the qualified written test.

~~18.4(2)~~ 18.4(4) The fee for an initial individual registration is \$50, plus the actual cost of obtaining the criminal background check. The fee is not subject to refund.

~~18.4(3)~~ 18.4(5) An applicant must submit to a criminal background check.

~~18.4(4)~~ 18.4(6) The administrator may deny an application for individual registration for any of the following reasons:

a. ~~Another~~ This state or another state or jurisdiction has denied, suspended, revoked, or refused to renew the applicant's authorization to act as a mortgage banker or mortgage broker or has denied, suspended, revoked or refused to renew a similar license or registration under this state's or the other state's or jurisdiction's law. An agreement made between a person and this state or another state or jurisdiction not to operate as a mortgage banker or mortgage broker ~~in that state~~ shall be considered a denial of that person's authorization to act as a mortgage banker or mortgage broker in that state.

b. No change.

c. The applicant has been convicted of a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for individual registration; or at any time preceding such date of application if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. For the purposes of this paragraph, "convicted of" includes a guilty plea, deferred judgment, deferred sentence, or other similar finding of guilt by a court of competent jurisdiction.

e.d. The applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, in a court of competent jurisdiction in this state or in any other state, territory or district of the United States, or in any foreign jurisdiction. For the purposes of this paragraph, ~~"conviction"~~ "convicted of" includes a guilty plea, deferred judgment, deferred sentence, or other similar finding of guilt by a court of competent jurisdiction.

e.e. The applicant has had a professional license of any kind revoked in any state or jurisdiction. An agreement to surrender a license and not to operate in an occupation in which a professional license is required shall be considered a revocation for the purposes of this rule.

e.f. The applicant is under 18 years of age.

g. The applicant has made a false statement of material fact on an application for an individual registration or has been otherwise implicated in the submission of a false application.

h. The applicant has demonstrated a lack of moral character in a manner that the administrator reasonably believes will impair the applicant's ability to act as a mortgage banker or broker in full compliance with the public interest and state policies described in Iowa Code chapter 535B.

f.i. The applicant has failed to pay child support and is identified in a certificate of noncompliance from the child support recovery unit of the department of human services according to the procedures in Iowa Code chapter 252J.

g.j. The applicant has failed to pay student loans and is identified in a certificate of noncompliance from the college student aid commission according to the procedures set forth in Iowa Code chapter 261.

k. The applicant has failed to pay state debt and is identified in a certificate of noncompliance from the department of revenue according to the procedures set forth in 2008 Iowa Acts, Senate File 2428.

~~18.4(5)~~ 18.4(7) As required by ~~2005 Iowa Acts, chapter 83, section 6~~ Iowa Code section 535B.4A, an individual registrant must be employed by, under contract with, or an exclusive agent of a licensee under Iowa

BANKING DIVISION[187](cont'd)

Code section 535B.4. However, the administrator may consider an application for individual registration from a person not currently employed by, under contract with, or an exclusive agent of a licensee. If the administrator determines that the applicant is otherwise eligible for individual registration, the administrator shall approve the registration in “unattached” status.

~~18.4(6)~~ **18.4(8)** An individual registration expires on the next ~~June 30~~ December 31 after approval. However, individual registrations approved on or after ~~April 1~~ November 1 but before ~~July 1~~ January 1 will not expire until ~~June 30~~ December 31 of the following year. For example, an application for individual registration approved on ~~April 17, 2007~~ November 17, 2008, would not expire until ~~June 30, 2008~~ December 31, 2009.

~~18.4(7)~~ **18.4(9)** The administrator may issue a temporary individual registration for a period not to exceed 180 days to an applicant who has submitted to a national criminal history check as required by ~~2005 Iowa Acts, chapter 83, section 6, as amended by 2006 Iowa Acts, Senate File 2353~~ Iowa Code section 535B.4A, pending the results of the national criminal history check. The temporary individual registration issued pursuant to this subrule is subject to the expiration and renewal requirements of ~~subrule 18.4(6)~~ 18.4(8) and rule 187—18.5(17A,535B). If compliant with the aforementioned expiration and renewal requirements, the temporary individual registration issued pursuant to this subrule is valid until such time as the individual registration is issued, the temporary individual registration is renewed, or the temporary individual registration expires or is revoked. The administrator may revoke the temporary individual registration at any time prior to issuing an individual registration if the results of the national criminal history check reveal information that would be grounds for the administrator to deny an application for an individual registration or if an applicant fails to resubmit to the national criminal history check within 30 days of notice from the administrator to do so.

~~18.4(8)~~ A provision of 2005 Iowa Acts, chapter 83, section 6, requires an individual registrant to submit to a state criminal background check before being registered for the first time. ~~2006 Iowa Acts, Senate File 2353, section 17, amends that provision to require that an individual registrant submit to a national criminal history check through the Federal Bureau of Investigation prior to being registered. 2005 Iowa Acts, chapter 83, section 6, as amended by 2006 Iowa Acts, Senate File 2353, is effective July 1, 2006. As a result of the timing of the effective date of the Act, the forms necessary to obtain a national criminal history check through the Federal Bureau of Investigation were not available to some applicants for individual registrations at the time the applicants initially applied for individual registrations. To address these timing considerations, the administrator may issue a temporary individual registration for a period ending on June 30, 2007, to an applicant who filed an application with the administrator before the forms necessary to obtain a national criminal history check through the Federal Bureau of Investigation were available, provided that the applicant submitted to a state criminal background check. An applicant who receives a temporary individual registration pursuant to this subrule must submit to a national criminal history check as soon as the forms become available. The administrator may revoke a temporary individual registration issued under this subrule at any time prior to issuing an individual registration if the applicant fails to submit to the national criminal history check within 30 days of notice from the administrator to do so or the results of the national criminal history check reveal information that would be grounds for the administrator to deny an application for an individual registration.~~

ITEM 5. Amend rule 187—18.5(17A,535B) as follows:

187—18.5(17A,535B) Renewal of individual registration.

18.5(1) No change.

18.5(2) ~~An~~ Before December 1 of the year of expiration, an individual registration shall be renewed ~~on forms provided by the administrator, and through the NMLS&R, with all requested information shall be provided as directed by the NMLS&R, on or with the registration form. An individual registration renewal must be filed with the administrator before June 1 of the year of expiration and must be accompanied by a fee of \$50. The administrator may assess a late fee of \$5 per day, not to exceed \$100, for an individual registration renewal accepted for processing after June 1~~ December 1.

18.5(3) ~~Forms for renewal of an individual registration may be obtained from the administrator’s office or will be available on the administrator’s Web site. Individual registrants may renew electronically or~~

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by submitting a written application. While the administrator generally mails renewal application forms or reminders to individual registrants before May 1 preceding expiration of individual registration, the failure of the administrator to mail an individual registration renewal form or the failure of an individual registrant to receive an individual registration renewal form shall not excuse the individual registrant from the requirement to timely renew.

~~18.5(4)~~ **18.5(3)** The administrator may reject an individual registration renewal if the registration renewal is not complete or all required fees, including late fees, are not remitted.

~~18.5(5)~~ **18.5(4)** The administrator shall grant an application to renew an individual registration if:

a. The administrator receives the registration renewal by ~~June 1~~ December 1, accompanied by the \$50 renewal fee, or the administrator receives the registration renewal after ~~June 1~~ December 1 but before ~~July 1~~ January 1 and it is accompanied by the \$50 renewal fee and the appropriate late fee;

b. The registration renewal is fully completed with all necessary information, including proper disclosure of completion of required continuing education; and

c. The registration renewal does not reveal grounds to deny an individual registration.

~~18.5(6)~~ **18.5(5)** A registration renewal received by the administrator after ~~June 30~~ December 31 may, at the discretion of the administrator, be rejected for processing or may be treated as a new individual registration. An individual registrant who fails to renew before the expiration date is not authorized to act as a mortgage banker or mortgage broker in Iowa after the expiration date unless specific written permission is provided by the administrator.

ITEM 6. Amend subrule 18.6(4) as follows:

18.6(4) An individual registrant in unattached status shall not be authorized to act as a mortgage banker or mortgage broker in Iowa unless the individual registrant is employed by, under contract with, or an exclusive agent of persons listed as exemptions pursuant to Iowa Code section 535B.2 ~~as amended by 2005 Iowa Acts, chapter 83, section 4.~~

ITEM 7. Amend rule 187—18.8(17A,535B) as follows:

187—18.8(17A,535B) Changes in the licensee's business; fees.

18.8(1) No licensee or individual registrant shall conduct the residential mortgage lending activities authorized in Iowa Code chapter 535B ~~as amended by 2006 Iowa Acts, Senate File 2353, section 16,~~ under any name other than that stated on the license or individual registration certificate.

18.8(2) to 18.8(4) No change.

18.8(5) A licensee shall maintain on file with the administrator, through the NMLS&R, a list of all individual registrants who are employed by, under contract with, or exclusive agents of the licensee. The licensee shall pay a change in sponsorship fee of \$30 to add an individual registrant to the licensee's list in the NMLS&R.

18.8(6) When an individual registrant ceases to be employed by, under contract with, or an exclusive agent of a licensee, the licensee shall notify the administrator ~~in writing,~~ through the NMLS&R, within five business days. The notification shall include the reasons for the termination of the individual registrant's employment, contract, or agency.

18.8(7) and 18.8(8) No change.

ITEM 8. Amend subrule 18.10(1) as follows:

18.10(1) The continuing education year shall begin on the first day of ~~May~~ November each year and shall end on ~~April 30~~ October 31 the following year. Each person who is an individual registrant on ~~December 31~~ June 30 shall complete at least 12 hours of continuing education from ~~May 1~~ November 1 (preceding ~~December 31~~ June 30) to ~~April 30~~ October 31 (following ~~December 31~~ June 30). For example, a person who is an individual registrant on ~~December 31, 2006~~ June 30, 2009, shall complete at least 12 hours of continuing education from ~~May 1, 2006, to April 30, 2007~~ November 1, 2008, to October 31, 2009. Due to the change in the licensing year, a person who was an individual registrant on June 30, 2008, has from May 1, 2007, to October 31, 2008, to complete at least 12 hours of continuing education.

BANKING DIVISION[187](cont'd)

ITEM 9. Amend **187—Chapter 18**, implementation sentence, as follows:

Rules 187—18.1(17A,535B) to 187—18.20(17A,535B) are intended to implement Iowa Code chapter 535B as amended by 2005 Iowa Acts, chapter 83, and 2006 Iowa Acts, Senate File 2353.

ITEM 10. Adopt the following new rule 187—18.23(82GA,SF2428):

187—18.23(82GA,SF2428) Nonpayment of state debt. The administrator shall deny the issuance or renewal of an individual registration upon the receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in 2008 Iowa Acts, Senate File 2428. In addition to the procedures set forth in 2008 Iowa Acts, Senate File 2428, this rule shall apply.

18.23(1) The notice required by 2008 Iowa Acts, Senate File 2428, section 14, shall be served on the individual registrant or applicant by restricted certified mail, return receipt requested, or personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the individual registrant or applicant may accept service personally or through authorized counsel.

18.23(2) The effective date of the denial of issuance or renewal of a license, as specified in the notice required by 2008 Iowa Acts, Senate File 2428, section 14, shall be 60 days following service of the notice upon the individual registrant or applicant.

18.23(3) The administrator is authorized to prepare and serve the notice required by 2008 Iowa Acts, Senate File 2428, section 14, upon the individual registrant or applicant.

18.23(4) Individual registrants and applicants shall keep the administrator informed of all court actions and all centralized collection unit actions taken under or in connection with 2008 Iowa Acts, Senate File 2428, and shall provide the administrator copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 2008 Iowa Acts, Senate File 2428, section 15, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit.

18.23(5) All fees for applications, individual registration renewals or reinstatements must be paid by individual registrants or applicants, and all continuing education requirements must be met before an individual registration will be issued, renewed or reinstated after the administrator has denied the issuance or renewal of an individual registration pursuant to 2008 Iowa Acts, Senate File 2428.

This rule is intended to implement 2008 Iowa Acts, Senate File 2428.

ARC 7184B

CORRECTIONS DEPARTMENT[201]

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 904.108, the Iowa Department of Corrections hereby gives Notice of Intended Action to amend Chapter 20, "Institutions and Administration," Iowa Administrative Code.

The Department proposes these amendments to reflect changes in the Department's policy numbers as well as to add, delete, and modify definitions and language used throughout the chapter. The amendments add an additional means for sending money to an offender's account and update the name of the fund account. The amendment in Item 4 clarifies how confidential mail is to be handled. The amendments to rule 201—20.6(904) clarify the types of publications included in the term "publications," how publications will be handled, and the authorized reasons for denying a publication. Rule 201—20.10(904), which pertains to incarceration fees, is being rescinded. Incarceration fees are addressed in the Department's internal policies. The amendments also replace the word "inmate" with the word "offender" to be consistent throughout the chapter.

CORRECTIONS DEPARTMENT[201](cont'd)

Any interested person may make written comments on the proposed amendments on or before October 14, 2008. Written comments may be sent to Michael Savala, Iowa Department of Corrections, 510 E. 12th Street, Des Moines, Iowa 50319. Comments may also be submitted electronically to Michael.Savala@iowa.gov or via facsimile to (515)725-5799.

A public hearing will be held at the office of the Iowa Department of Corrections from 11 a.m. to 1 p.m. on October 14, 2008. The Department is located at 510 E. 12th Street, Des Moines, Iowa. At the hearing, individuals will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any individuals who will attend the public hearing and need special accommodations, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code section 904.108.

The following amendments are proposed.

ITEM 1. Amend rule **201—20.2(904)**, definitions of “Class I Disciplinary Report,” “Class II Disciplinary Report” and “Contraband,” as follows:

“*Class I Disciplinary Report*” means the same as a major report and is defined in department policy ~~IN-V-36 IO-RD-01.~~

“*Class II Disciplinary Report*” means the same as a minor report and is defined in department policy ~~IN-V-36 IO-RD-01.~~

“*Contraband*” means weapons; alcohol; drugs; money; obscene materials; or materials advocating disruption of or injury to offenders, employees, programs, or physical facilities. ~~It~~ “*Contraband*” shall also include anything which is illegal to possess under federal or state law; anything which is against institutional regulations; drugs or alcohol or materials which are used in the production or use of drugs or alcohol or weapons, explosives, or potential weapons and explosives; and altered authorized property. The term also includes possession or use of any prohibited communication device.

ITEM 2. Amend subrule 20.3(16) as follows:

20.3(16) Money orders, ~~and~~ cashier’s checks, and electronic funds transfers. Money orders and cashier’s checks for deposit in the offender’s account must be made payable to the Iowa Department of Corrections ~~Central Bank~~ Offender Fiduciary Account (IDOC OFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender’s name and ID number and the sender’s name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. Personal checks and cash will not be accepted. ~~Suspected~~ An offender’s suspected abuse of requests for money requests from the public ~~by an offender~~ may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 3. Strike the word “inmate” and its plural and possessive forms and insert the word “offender” and its plural and possessive forms in lieu thereof in rule **201—20.4(904)**.

ITEM 4. Amend paragraph **20.4(2)“b”** as follows:

b. Confidential mail will be delivered unopened and then, in the presence of the offender, will be opened and inspected for contraband and to ensure that the contents are from the return addressee, ~~only in the presence of the inmate.~~

Confidential mail may be read only after a finding of probable cause by a court of competent jurisdiction that a threat to the order and security of the institution or abuse of correspondence exists.

ITEM 5. Amend paragraph **20.4(3)“g”** as follows:

g. ~~Inmates/offenders~~ Offenders under correctional supervision or detention will not be allowed to correspond with other ~~inmates/offenders~~ offenders unless the individuals are immediate family and approved by the authority of the institution or both authorities in the case of correspondence between facilities.

“Immediate family” means ~~mother, father, sister, brother, half sister, half brother, spouse, son, daughter, natural grandparents, and natural grandchildren.~~ Legal guardian, foster parents, stepparents, stepchildren, stepsister, and stepbrother will be included provided a positive relationship exists or contact will confer a benefit to the inmate.

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 6. Amend paragraph **20.4(3)“v”** as follows:

v. An individual may deposit funds in an ~~inmate's offender's~~ account ~~by sending only bank drafts or money orders payable to (warden or superintendent's name) for (inmate's name). Identification of the sender and a cover letter shall accompany the bank draft or money order. These funds may be enclosed with a letter to the inmate but shall not be enclosed with a package.~~ by money order, cashier's check, or electronic funds transfer. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an offender's account by mail. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections Offender Fiduciary Account (IDOC OFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An offender's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 7. Amend rule 201—20.5(904) as follows:

201—20.5(904) Money orders, ~~and~~ cashier's checks, and electronic funds transfers for offenders. ~~Money~~ Only money orders and cashier's checks only will be accepted for deposit into an offender's account by mail. Personal checks and cash will not be accepted. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections ~~Central Bank~~ Offender Fiduciary Account (IDOC OFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's name and ID number and the sender's name and complete address. ~~Personal checks and cash will not be accepted.~~ Funds will also be accepted via electronic funds transfers from authorized vendors. ~~Suspected~~ An offender's suspected abuse of requests for money requests from the public ~~by an offender~~ may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 8. Amend rule 201—20.6(904) as follows:

201—20.6(904) Publications.

20.6(1) The institution shall allow ~~inmates~~ offenders access to publications when doing so is consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation.

~~20.6(1)~~ **20.6(2)** Publications include ~~periodicals, newspapers, books, and other printed matter~~ any periodical, newspaper, book, pamphlet, magazine, newsletter, or similar material published by any individual, organization, company, or corporation, and made available for a commercial purpose. All publications shall be unused and sent directly from ~~a reputable publishing firm~~ an approved publisher or bookstore which does mail order business. Any exceptions must be authorized by the warden or superintendent. No publication will be denied ~~approval~~ solely on the basis of its appeal to a particular ethnic, racial, religious, or political group. The quantity of printed materials, as with other personal property, will be controlled for safety and security reasons.

~~20.6(2)~~ **20.6(3)** All publications not on the approved list shall be reviewed by a publication review committee for approval, ~~or denial, or control of the publication.~~

a. The committee shall be appointed by the director or designee, department of corrections, and shall include a person with broad exposure to various publications, and two representatives of ~~correctional institutions~~ operations.

b. The committee shall fairly review all types of publications to be received by ~~inmates~~ offenders in accordance with these rules.

~~20.6(3)~~ **20.6(4)** The following procedures shall be used when ~~reviewing~~ a publication not on the approved list is reviewed:

a. The committee shall approve, ~~or deny, or control~~ publications within ~~15~~ 30 working days of receipt of the publication.

CORRECTIONS DEPARTMENT[201](cont'd)

b. When a publication is denied or controlled, the committee shall send the offender a written notice ~~to the inmate~~, stating the publication involved, the reason for denial or control, and the ~~inmate's~~ offender's available appeal process.

c. The ~~inmate~~ offender shall have five days from receipt of the notice of denial or control to notify the designated institution staff to destroy the publication, to specify where to send the material publication at the ~~inmate's~~ offender's expense, or to notify the institution that the decision is being appealed.

d. A list of approved publications shall be maintained.

~~20.6(4)~~ 20.6(5) A publication may be denied when the publication presents a danger to the security or order of an institution or is ~~detrimental to the~~ inconsistent with rehabilitation ~~of the inmate goals~~. Authorized reasons for denying a publication are that the publication:

a. Is likely to be disruptive or produce violence.

b. Contains material which portrays or simulates a minor (any person 17 years of age or younger) engaged in or simulating any ~~of the following:~~ act that is sexual in nature.

(1) ~~An act which involves sexual contact between two or more persons by penetration of penis into the vagina or anus, by contact between the mouth and the genitalia or by contact between the genitalia of one person and the genitalia or anus of another person, or by the use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.~~

(2) ~~An act of bestiality involving a minor.~~

(3) ~~Fondling or touching the pubes or genitals of the minor.~~

(4) ~~Fondling or touching the pubes or genitals of a person by a minor.~~

(5) ~~Sadomasochistic abuse of a minor for the purpose of arousing or satisfying sexual desires of the person who may view a depiction of the abuse.~~

(6) ~~Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of the person who may view a portrayal of the abuse.~~

(7) ~~Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a portrayal of the nude minor.~~

c. Contains ~~material portraying bestiality, sadomasochism, or excretory functions or lewd exhibition of the genitals~~ hard-core pornography depicting patently offensive representations of oral, anal, or vaginal intercourse, actual or simulated, involving humans, or depicting patently offensive representations of masturbation, excretory functions, or bestiality, or lewd exhibition of the genitals, which the average adult taking the material as a whole in applying statewide contemporary community standards would find appeals to the prurient interest; and which material, taken as a whole, lacks serious literary, scientific, political, or artistic value as prohibited by Iowa Code section ~~728.1(2)~~ 728.4.

d. to j. No change.

~~20.6(5)~~ 20.6(6) Portrayal or simulation of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, male erection, bestiality, sadomasochism, excretory functions, lewd exhibition of genitals, or other sexually explicit materials will be denied to ~~those inmates~~ offenders when the material is ~~detrimental to the~~ inconsistent with rehabilitation ~~of an individual inmate, based on psychological/psychiatric recommendation goals~~.

~~20.6(6)~~ 20.6(7) Publications which contain material portraying or simulating fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse or male erection and are not ~~prohibited by 20.6(4) "b," 20.6(4) "c," or 20.6(5) above~~ approved or denied by the review committee will be controlled for the security and order of the institution and to assist in enabling its control from those ~~inmates~~ offenders denied access by ~~20.6(5)~~ 20.6(6) above. Institutional procedures shall be established for the ~~inmate~~ offender to reserve time in a designated controlled area and obtain the ~~material~~ controlled publication for reading during specified times. The controlled publication will be secured until the ~~inmate~~ offender makes arrangements for further review of the ~~material~~ controlled publication. An ~~inmate~~ offender may have secured no more than ten publications at any given time, none of which are over three months old from publication date or receipt, and any that are in excess of the ten limit or over three months old must be sent out of the institution at the ~~inmate's~~ offender's expense, ~~or destroyed,~~ or taken with the ~~inmate~~ offender upon release.

~~20.6(7)~~ 20.6(8) An ~~inmate~~ offender may appeal the committee's decision or the denial of a publication ~~for treatment reasons~~ because the publication is inconsistent with rehabilitation goals within ten days of receipt

CORRECTIONS DEPARTMENT[201](cont'd)

of the decision by filing a written ~~objections~~ appeal and sending it to ~~the Director, Administrator, Division of Investigative Services, Department of Corrections, Capitol Annex Building, 523 510 East 12th Street, Des Moines, Iowa 50319.~~ The ~~director's~~ administrator's decision shall be final.

ITEM 9. Amend subrule 20.7(1) as follows:

20.7(1) When ~~inmates~~ offenders are selected to be interviewed and photographed within the institution, either ~~singly~~ individually or as part of a group, identifiable interviews or pictures shall have the written consent of the ~~inmate~~ offender involved as well as prior consent of the warden, superintendent, or designee.

ITEM 10. Amend subrule 20.8(2) as follows:

20.8(2) Persons under 18 years of age may only visit with prior approval of the warden, superintendent, or designee, and shall be accompanied by a responsible adult. An adult shall be in charge of no more than four children. Persons under 18 years of age shall not be allowed to make institutional visits to maximum security prisons.

ITEM 11. Amend subrule 20.8(4) as follows:

20.8(4) Guests shall be allowed personal contact with an ~~inmate~~ offender only when it serves the best interests of the ~~inmate~~ offender as determined by the warden, superintendent, or designee.

ITEM 12. Amend rule 201—20.9(904) as follows:

201—20.9(904) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the warden or superintendent. The warden or superintendent shall evaluate the donation in terms of the nature of the contribution to the institution program. The warden or superintendent is responsible for accepting the donation and reporting the gift to the ~~director, division of adult corrections~~ regional deputy director on a monthly basis.

ITEM 13. Rescind and reserve rule **201—20.10(904)**.

ITEM 14. Amend rule 201—20.11(904,910) as follows:

201—20.11(904,910) Restitution.

20.11(1) Every ~~inmate~~ offender required by a court order to pay restitution shall have a restitution plan and a restitution plan of payment developed, unless a court-ordered restitution plan has been completed.

20.11(2) The restitution plan of payment shall consider the present circumstances of an ~~inmate's~~ offender's physical/mental health and other legal financial obligations.

20.11(3) No change.

20.11(4) ~~The warden/superintendent or designee shall approve each restitution plan or modified plan and send a copy to the clerk of court.~~ Each offender shall be given a Predeprivation Notice: Notice of Intent to Deduct Restitution From All Account Credits and Notice of Opportunity to Respond during initial reception following admission to the Iowa medical and classification center (IMCC).

20.11(5) Initial ~~inmate~~ offender complaints regarding restitution plans of payment or modifications may be addressed via the ~~inmate~~ offender grievance procedure.

20.11(6) The staff shall explain the restitution plan ~~and plan~~ of payment to the ~~inmate~~ offender. Each ~~inmate~~ offender shall receive a copy of the restitution plan ~~and plan~~ of payment.

20.11(7) Restitution payments shall be deducted from all credits to an ~~inmate's~~ offender's account. Up to 50 percent may be deducted. The following are exempt for deductions from credits to an ~~inmate's~~ offender's account from an outside source:

a. An amount, assessed by the warden/superintendent or designee, specifically for medical costs. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed. If the medical procedures are not performed or carried out, the money shall be returned to the sender at the ~~inmate's~~ offender's expense.

b. to g. No change.

20.11(8) and **20.11(9)** No change.

CORRECTIONS DEPARTMENT[201](cont'd)

20.11(10) A percent greater than that established in the restitution plan of payment may be deducted from a credit to an ~~inmate's~~ offender's account by authorization of either the ~~inmate~~ offender, the warden/superintendent or designee, or by court order.

20.11(11) No change.

This rule is intended to implement Iowa Code chapter 904 and sections 910.2, 910.3 and 910.5.

ITEM 15. Rescind rule 201—20.12(904) and adopt the following new rule in lieu thereof:

201—20.12(904) Furloughs.

20.12(1) Furloughs are a privilege, not a right, and may be denied or canceled at any time for reasons deemed sufficient by the warden/superintendent. Reasons for denial or cancellation shall be given to the offender.

20.12(2) Emergency family furlough shall be considered in the event of a death or imminent death in the immediate family.

20.12(3) Emergency medical furlough is for those offenders whose medical condition has deteriorated to the point of incapacitation or to a comatose state.

20.12(4) Both emergency family furloughs and emergency medical furloughs shall have approval of the warden/superintendent and the respective regional deputy director.

20.12(5) Furloughs are additionally governed by the provisions of the department's furlough policy IS-RL-04.

ITEM 16. Strike the word "inmate" and its plural and possessive forms and insert the word "offender" and its plural and possessive forms in lieu thereof in rules **201—20.13(904)**, **201—20.15(910A)** and **201—20.17(904)**.

ITEM 17. Amend paragraph **20.17(4)"c"** as follows:

c. ~~Inmates~~ Offenders must be furlough-eligible in accordance with furlough eligibility standards in DOC policy ~~IN V-44 IS-RL-04~~ and administrative rule 20.12(904).

ITEM 18. Amend rule 201—20.18(904), introductory paragraph, as follows:

201—20.18(904) Violator/shock probation programs. The department of corrections provides violator/shock probation programs at three institutions: 30 beds for females at the Iowa correctional institution for women (ICIW) at Mitchellville, ~~80~~ 70 beds for males at the correctional release center (CRC) at Newton, and ~~up to 150 beds for male youthful offenders in the RIVERS program at the Fort Dodge correctional facility (FDCF)~~ 58 beds for males at Luster Heights (ASP) at Harpers Ferry. These programs provide up to a six-month intensive intervention for probation, parole, and work release offenders that have violated conditions of supervision and would otherwise have been returned to or sent to prison. Additionally, offenders sentenced to the custody of the department of corrections that have been identified as potential shock probation candidates are eligible for program participation.

ITEM 19. Rescind the definition of "Redirecting inmate values, energy, relationships and skills (RIVERS)" in subrule **20.18(2)**.

ITEM 20. Amend paragraph **20.18(8)"e"** as follows:

e. Rule 20.5(904)—Money orders, ~~cashier's checks, and electronic funds transfers~~ for offenders. Money orders, cashier's checks, and electronic funds transfers for offenders are allowed but will be subject to a restitution plan, child support orders, fines, court costs and fees.

ITEM 21. Amend paragraph **20.18(8)"k"** as follows:

k. Rule 20.12(904)—Furloughs. This rule will only apply in family emergency situations in accordance with ~~20.12(5)"a" and 20.12(6)"a,"~~ 20.12(2) although the criteria for eligibility are waived, and these furloughs will only be granted at the discretion of the warden/superintendent or designee with approval of the regional deputy director.

ARC 7181B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

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

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

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

Iowa Code Supplement section 68A.201 requires campaign committees to appoint certain officers. Some committees appoint officers that are not required under the statute. The proposed amendment clarifies that a committee is only required to disclose on the statement of organization registering the committee with the Board those officers who are required by statute to be appointed.

The proposed amendment does not contain a waiver provision as no obligation is being imposed on the regulated community.

Any interested person may make written comments on the proposed amendment on or before October 14, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code Supplement section 68A.201.

The following amendment is proposed.

Amend subrule 4.4(1) as follows:

4.4(1) Committee officers. The committee shall disclose on the statement of organization the name, mailing address, telephone number, and office of each committee officer whom the committee is required by statute to appoint. Each candidate's committee shall appoint a treasurer who shall be an Iowa resident and at least 18 years of age. ~~A candidate's committee may also appoint a committee chairperson who is not limited by residency or age.~~ Every other committee shall appoint a separate treasurer and chairperson, each of whom shall be at least 18 years of age. The committee may appoint other officers not required by statute without restriction on residency or age, and the committee is not required to disclose these officers. Except for a candidate's committee, every committee shall either have an Iowa resident as treasurer or shall maintain all of the committee's funds in bank accounts in a financial institution in Iowa.

ARC 7188B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

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

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

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

The proposed amendment clarifies that a candidate registering a committee by filing a Statement of Organization for one office who then files an amended Statement of Organization for another office must

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

continue to file campaign disclosure reports regardless of whether the candidate has exceeded \$750 in campaign activities for the new office sought.

The proposed amendment does not contain a waiver provision as the requirement to file campaign disclosure reports is mandated by statute.

Any interested person may make written comments on the proposed amendment on or before October 14, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement Iowa Code Supplement section 68A.201.

The following amendment is proposed.

Amend subrule 4.6(2) as follows:

4.6(2) *New office sought.* A candidate who filed a statement of organization for one office but eventually seeks another office may file an amended statement of organization to reflect the change in office sought in lieu of dissolving the old committee and organizing a new committee. A candidate filing an amended statement of organization for a new office shall continue to file the required campaign reports regardless of whether the \$750 financial filing threshold for the new office has been exceeded. A candidate who has filed a statement of organization for one office and who then exceeds the financial activity threshold as set forth in Iowa Code section 68A.102(5) for a new office shall, within ten days of exceeding the threshold, file either an amended statement of organization disclosing information for the new office sought or organize and register a new committee.

ARC 7185B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

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

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

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

A federal or out-of-state political committee that makes a contribution to an Iowa committee is required to file a Verified Statement of Registration (VSR) with each contribution in excess of \$50. The proposed amendments reflect that a VSR filed electronically via the Board's Web site is deemed signed when electronically filed.

The proposed amendments do not contain a waiver provision as no obligation is being imposed on the regulated community.

Any interested person may make written comments on the proposed amendments on or before October 14, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code Supplement section 68A.201(5).

The following amendments are proposed.

ITEM 1. Amend paragraph **4.32(2)"h"** as follows:

h. An attested statement that the jurisdiction with which the out-of-state committee is registered has reporting requirements substantially similar to those of Iowa Code Supplement chapter 68A. The statement shall include confirmation that the contribution is made from an account that does not accept contributions

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

prohibited by Iowa Code Supplement section 68A.503 ~~as amended by 2007 Iowa Acts, Senate File 42, section 2,~~ unless the contribution from the out-of-state committee is made to an Iowa ballot issue committee.

ITEM 2. Amend subrule 4.32(3) as follows:

4.32(3) Signature. The VSR shall be signed by the individual filing the VSR on behalf of the out-of-state committee. A VSR that is filed electronically using the board's Web site is deemed signed when filed.

ITEM 3. Amend rule **351—4.32(68A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 68A.201(5) ~~as amended by 2007 Iowa Acts, Senate File 39, section 3.~~

ARC 7189B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

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

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

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

The proposed amendment establishes the procedure by which reports filed with the Internal Revenue Service by a 527 Committee that engages in issue advocacy in Iowa are posted on the Board's Web site.

The proposed amendment does not contain a waiver provision as the requirement is mandated by statute and the obligation that would be imposed is the least possibly restrictive imposition on the regulated community.

Any interested person may make written comments on the proposed amendment on or before October 14, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

This amendment is intended to implement 2008 Iowa Acts, House File 2700, section 37.

The following amendment is proposed.

Adopt the following **new** rule 351—4.34(82GA, HF2700):

351—4.34(82GA, HF2700) Copies of reports filed by 527 Committees. 2008 Iowa Acts, House File 2700, section 37, requires the board to adopt a procedure for 527 Committees that file reports with the Internal Revenue Service and engage in issue advocacy in Iowa to file copies of those reports with the board. If a 527 Committee notifies the board that it is filing reports with the Internal Revenue Service, the 527 Committee will be deemed in compliance with 2008 Iowa Acts, House File 2700, section 37. The board will then establish on its Web site a link to the reports filed with the Internal Revenue Service, or the board will otherwise post on its Web site the reports filed with the Internal Revenue Service.

This rule is intended to implement 2008 Iowa Acts, House File 2700, section 37.

ARC 7186B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Notice of Intended Action

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

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

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

A permanent organization that makes a contribution in excess of \$750 to an Iowa committee is required to file Form DR-OTC with the Board. The proposed amendments reflect that Form DR-OTC may now be filed electronically via the Board's Web site.

The proposed amendments do not contain a waiver provision as no obligation is being imposed on the regulated community.

Any interested person may make written comments on the proposed amendments on or before October 14, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code Supplement sections 68A.102(18) and 68A.402.

The following amendments are proposed.

ITEM 1. Amend paragraph **4.35(1)"f"** as follows:

f. ~~The signature and date of the individual~~ date and signature of the person filing Form DR-OTC. A Form DR-OTC that is filed electronically using the board's Web site is deemed signed when filed.

ITEM 2. Amend subrule 4.35(2) as follows:

4.35(2) Place of filing. Form DR-OTC shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, ~~or filed by fax at (515)281-3701~~ (515)281-4073, or filed electronically using the board's Web site at www.iowa.gov/ethics.

ITEM 3. Amend subrule 4.35(3) as follows:

4.35(3) Time of filing. Form DR-OTC shall be filed with the board within ten days after the one-time contribution in excess of \$750 is made. The form must be physically received by the board or, if mailed, must bear a United States Postal Service postmark dated on or before the report due date. A faxed or electronically filed Form DR-OTC must be submitted on or before 11:59 p.m. of the tenth day after the organization of the committee is required. If the tenth day falls on a Saturday, Sunday, or holiday on which the board office is closed, the filing deadline is extended to the next working day when the board office is open.

ARC 7187B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby gives Notice of Intended Action to amend Chapter 7, "Personal Financial Disclosure," Iowa Administrative Code.

Certain officials and employees of the executive branch and candidates for statewide office are required to file Form PFD with the Board. The proposed amendments reflect that Form PFD may now be filed electronically via the Board's Web site.

The proposed amendments do not contain a waiver provision as no obligation is being imposed on the regulated community.

Any interested person may make written comments on the proposed amendments on or before October 14, 2008. Comments should be directed to Charlie Smithson, Iowa Ethics and Campaign Disclosure Board, 510 E. 12th Street, Suite 1A, Des Moines, Iowa 50319. Persons who wish to comment orally should contact Charlie Smithson at (515)281-3489.

These amendments are intended to implement Iowa Code Supplement section 68B.32A(4) and Iowa Code sections 68B.35 and 68B.35A.

The following amendments are proposed.

ITEM 1. Amend subrule 7.1(2) as follows:

7.1(2) *Place of filing.* Form PFD shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. The form may also be filed by fax at ~~(515)281-3701~~(515)281-4073 or electronically using the board's Web site at www.iowa.gov/ethics.

ITEM 2. Amend subrule 7.1(4) as follows:

7.1(4) *Physical receipt.* The board must physically receive a filed Form PFD on or before April 30 of each year. If mailed, the form must bear a United States Postal Service postmark dated on or before April 30. Faxed or electronically filed forms must be submitted on or before 11:59 p.m. on the required due date. If the due date falls on a weekend or holiday, the filing deadline shall be extended to the first working day following the deadline.

ITEM 3. Amend subrule 7.3(5) as follows:

7.3(5) *Distribution of forms.* The board shall provide each agency with blank forms for distribution to the designated persons and shall make blank forms available via the board's Web site at www.iowa.gov/ethics. The board shall provide each agency with the link on the board's Web site where forms may be filed electronically. The board shall also make blank forms available via the board's Web site.

ARC 7208B

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 249A.4, the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The proposed amendment expands Medicaid coverage to children with disabilities who have family income or resources that are too high for eligibility for SSI-related Medicaid. This expansion takes advantage of the opportunity offered by the Family Opportunity Act, Section 6062 of the Deficit Reduction Act of 2005, Public Law 106-170. The Iowa General Assembly authorized this expansion in 2007 Iowa Acts, chapter 218, section 124, and 2008 Iowa Acts, House File 2539, section 55. The Department estimates that about 200 Iowa children may qualify for this coverage.

This amendment does not provide for waiver in specified situations because the amendment confers a benefit and because federal requirements do not allow for waiver of the eligibility requirements. The Department has a general rule at 441—1.8(17A,217) on procedures for requesting an exception to policy when members feel they have special situations that need to be evaluated on an individual basis.

Any interested person may make written comments on the proposed amendment on or before October 15, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, 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.

This amendment is intended to implement Iowa Code section 249A.3 as amended by 2007 Iowa Acts, chapter 218, section 124.

The following amendment is proposed.

Adopt the following **new** subrule 75.1(43):

75.1(43) Medicaid for children with disabilities. Medical assistance shall be available to children who meet all of the following conditions on or after January 1, 2009:

- a. The child is under 19 years of age.
- b. The child is disabled as determined pursuant to rule 441—75.20(249A) based on the disability standards for children used for Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, but without regard to any income or asset eligibility requirements of the SSI program.
- c. The child is enrolled in any group health plan available through the employer of a parent living in the same household as the child if the employer contributes at least 50 percent of the total cost of annual premiums for that coverage. The parent shall enroll the child and pay any employee premium required to maintain coverage for the child.
- d. The child's household has income at or below 300 percent of the federal poverty level applicable to a family of that size.

(1) For this purpose, the child's household shall include any of the following persons who are living with the child and are not receiving Medicaid on another case:

1. The child's parents.
2. The child's siblings under the age of 19.
3. The child's spouse.
4. The child's children.
5. The children of the child's spouse.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Only those persons identified in subparagraph (1) shall be considered a member of the child's household. A child who lives alone or with persons not identified in subparagraph (1) shall be considered as having a household of one.

(3) For this purpose, income shall include all earned and unearned income as defined for purposes of the Supplemental Security Income program by 20 CFR Sections 416.1102, 416.1103, 416.1110, 16.1111, and 416.1120 to 416.1123 as amended to August 20, 2008, without regard to exclusions or deductions from income applied in determining eligibility for Supplemental Security Income.

(4) The federal poverty levels used to determine eligibility shall be revised annually on April 1.

ARC 7206B**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 249A.4, the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," and Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

The proposed amendments modify the rules for provision of case management services in screening centers, maternal health centers, local education agencies, and infant and toddler (Early ACCESS) programs to comply with federal regulations on targeted case management published at 74 Fed. Reg. 68077-01. All state Medicaid programs are required to be in compliance.

The federal regulations standardize the definition of case management, require a comprehensive assessment and plan of care, limit Medicaid coverage of case management services to one case manager per member, and establish standards for freedom of choice of providers, monitoring, and service documentation.

These amendments remove the care coordination components from the service descriptions for the Early and Periodic Screening, Diagnosis, and Treatment Program (Care for Kids) as provided by physicians, screening centers, rural health clinics, maternal health centers, and federally qualified health centers. An interagency agreement will be implemented between the Iowa Departments of Public Health and Human Services to replace these services. There will be increased costs for the administration by the Department of Public Health, but significantly less cost than if the additional case management activities required by federal regulation were provided by local maternal and child health centers funded under Title V of the Social Security Act.

The service description for infant and toddler programs, which serve infants and toddlers with disabilities from birth to 36 months of age, is modified to meet the federal requirements for targeted case management services. Services that are educational in nature and that are an integral part or an extension of direct services are excluded. Service requirements include assessment of the child's needs, development of a plan of care, contact with the child and family, referral, monitoring, and record keeping.

Because, under the federal regulations, Medicaid will cover only one case manager, a family whose child is also eligible for case management for people with mental retardation, chronic mental illness, or developmental disabilities under 441—Chapter 90 must choose which case management provider the family will use. If the family chooses case management under Chapter 90, the Infant and Toddler Program cannot be paid for providing case management services. Similarly, a child living in a medical institution cannot receive any other case management services, since the institution is responsible for case management.

Changes are also proposed to clarify the policies on prenatal risk assessments and administration of vaccines. A second risk assessment is not required if the first assessment indicated a high-risk pregnancy. Medicaid will not reimburse a provider for the cost of a vaccine that is available under the federal Vaccines

HUMAN SERVICES DEPARTMENT[441](cont'd)

for Children administered by the Department of Public Health, but administration of vaccines is a covered service.

These amendments also make numerous technical changes to the rules affected by the federal regulations as well as other related rules to update terminology and meet formatting standards.

These amendments do not provide for waivers in specified situations because the federal regulations make no provision for waivers.

Any interested person may make written comments on the proposed amendments on or before October 15, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **77.9(1)**, definition of “Assets,” as follows:

“Assets” includes any listing that identifies Medicaid ~~recipients~~ members to whom home health services were furnished by a participating or formerly participating home health agency.

ITEM 2. Amend rule 441—77.43(249A), introductory paragraph, as follows:

441—77.43(249A) Infant and toddler program providers. ~~A public~~ An agency provider in good standing under the infants and toddlers with disabilities program administered by the department of education, the department of public health, the department of human services, and the Iowa Child Health Specialty Clinics pursuant to the interagency agreement between these agencies under Subchapter III of the federal Individuals with Disabilities Education Act (IDEA) is eligible to participate in the medical assistance program as a provider of infant and toddler program services under rule 441—78.49(249A) if the ~~following additional requirements are met.~~ agency:

1. Is in good standing under the infants and toddlers with disabilities program administered by the department of education, the department of public health, the department of human services, and the Iowa Child Health Specialty Clinics pursuant to the interagency agreement between these agencies under Subchapter III of the federal Individuals with Disabilities Education Act (IDEA); and

2. Meets the following additional requirements.

ITEM 3. Amend subrule 78.1(22) as follows:

78.1(22) Risk ~~assessments~~ assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid member’s pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. Enhanced services include ~~care coordination~~, health education, social services, nutrition education, and a postpartum home visit. Additional reimbursement shall be provided for obstetrical services related to a high-risk pregnancy. (See description of enhanced services at subrule 78.25(3).)

ITEM 4. Rescind and reserve subrule **78.1(23)**.

ITEM 5. Amend subrule 78.16(1) as follows:

78.16(1) Payment to a community mental health center will be approved for reasonable and necessary services provided to ~~medical assistance recipients~~ members by a psychiatrist, psychologist, social worker or psychiatric nurse on the staff of the center under the following conditions:

a. Services must be rendered under the supervision of a board-eligible or board-certified psychiatrist. All services must be performed under the supervision of a board-eligible or board-certified psychiatrist subject to the conditions set forth in 78.16(1)“b” with the following exceptions:

(1) and (2) No change.

(3) Services provided by a staff member, listed in this subrule, performing the preliminary diagnostic evaluation of ~~medical assistance recipients~~ a member for voluntary admission to one of the state mental health institutes.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. No change.

ITEM 6. Amend rule 441—78.18(249A), introductory paragraph, as follows:

441—78.18(249A) Screening centers. Payment will be approved for health screening as defined in 441—subrule 84.1(1) for ~~individuals~~ Medicaid members under 21 years of age ~~who are eligible for medical assistance.~~

ITEM 7. Amend subrule 78.18(1) as follows:

78.18(1) Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as screening center services. Screening centers ~~which that~~ wish to administer ~~those vaccines which are available through the vaccines for children program~~ to Medicaid ~~recipients~~ members shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ Screening centers shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

ITEM 8. Rescind and reserve subrule **78.18(6)**.

ITEM 9. Rescind subrule **78.21(3)**.

ITEM 10. Amend subrules 78.21(1) and 78.21(2) as follows:

78.21(1) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, federally qualified health centers, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient~~ member lock-in program.

78.21(2) Risk ~~assessments~~ assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.21(3) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as rural health center services. Rural health clinics ~~which that~~ wish to administer ~~those~~ vaccines ~~which are available through the vaccines for children program~~ to Medicaid ~~recipients~~ members shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ However, the administration of vaccines is a covered service.

ITEM 11. Amend rules 441—78.22(249A) and 441—78.23(249A) as follows:

441—78.22(249A) Family planning clinics. Payments will be made on a fee schedule basis for services provided by family planning clinics.

78.22(1) Payment will be made for sterilization in accordance with 78.1(16).

78.22(2) Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as family planning clinic services. Family planning clinics ~~which that~~ wish to administer ~~those~~ vaccines for Medicaid ~~recipients~~ members who receive ~~family planning~~ services at the ~~family planning~~ clinic shall enroll in the ~~vaccines for children~~ Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ Family planning clinics shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

This rule is intended to implement Iowa Code section 249A.4.

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441—78.23(249A) Other clinic services. Payment will be made on a fee schedule basis to facilities not part of a hospital, funded publicly or by private contributions, which provide medically necessary treatment by or under the direct supervision of a physician or dentist to outpatients.

78.23(1) Sterilization. Payment will be made for sterilization in accordance with 78.1(16).

78.23(2) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, federally qualified health centers, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient member~~ lock-in program.

78.23(3) Risk assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.23(4) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as clinic services. Clinics that wish to administer ~~those vaccines which are available through the vaccines for children program~~ to Medicaid ~~recipients~~ members shall enroll in the vaccines for children Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ Clinics shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 12. Amend subparagraph **78.24(2)“e”(3)** as follows:

(3) The ~~recipient member~~ has a medical condition which prohibits travel.

ITEM 13. Amend rule 441—78.25(249A), introductory paragraph, as follows:

441—78.25(249A) Maternal health centers. Payment will be made for prenatal and postpartum medical care, ~~care coordination~~, health education, and transportation to receive prenatal and postpartum services. Payment will be made for enhanced perinatal services for persons determined high risk. These services include additional health education services, nutrition counseling, social services, ~~additional care coordination services~~, and one postpartum home visit. Maternal health centers shall provide trimester and postpartum reports to the referring physician. Risk ~~assessments~~ assessment using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

ITEM 14. Amend rule **441—78.25(249A)**, first unnumbered paragraph, as follows:

Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as maternal health center services. Maternal health centers ~~which that~~ wish to administer those vaccines which are available through the vaccines for children program to Medicaid ~~recipients~~ members shall enroll in the vaccines for children Vaccines for Children program. ~~In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients.~~ Maternal health centers shall receive reimbursement for the administration of vaccines to Medicaid ~~recipients~~ members.

ITEM 15. Rescind and reserve paragraph **78.25(1)“b.”**

ITEM 16. Rescind paragraph **78.25(2)“c”** and adopt the following **new** paragraph in lieu thereof:

c. Home visit.

ITEM 17. Amend paragraph **78.25(2)“e”** as follows:

e. Dental hygiene services within the scope of practice as defined by the dental board of ~~dental examiners~~ at 650—paragraph 10.5(3) “*b.*”

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 18. Rescind and reserve paragraph **78.25(3)“a.”**

ITEM 19. Amend rule 441—78.30(249A) as follows:

441—78.30(249A) Birth centers. Payment will be made for prenatal, delivery, and postnatal services. ~~Risk assessments, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed twice during a Medicaid recipient's pregnancy.~~

78.30(1) Risk assessment. Risk assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed at the initial visit during a Medicaid member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.30(2) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as birth center services. Birth centers which that wish to administer those vaccines which are available through the vaccines for children program to Medicaid eligibles members shall enroll in the vaccines for children Vaccines for Children program. In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid eligibles. Birth centers shall receive reimbursement for the administration of vaccines to Medicaid recipients members.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 20. Rescind subrule **78.39(3)**.

ITEM 21. Amend subrules 78.39(1) and 78.39(2) as follows:

78.39(1) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, federally qualified health centers, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient~~ member lock-in program.

78.39(2) Risk assessments ~~assessment.~~ Risk assessments ~~assessment,~~ using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

78.39(3) Vaccines. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered services. Federally qualified health centers which that wish to administer those vaccines which are available through the vaccines for children program to Medicaid recipients members shall enroll in the vaccines for children Vaccines for Children program. In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients. However, vaccine administration is a covered service.

ITEM 22. Amend subrules 78.40(3), 78.40(4) and 78.40(5) as follows:

78.40(3) Utilization review. Utilization review shall be conducted of Medicaid ~~recipients~~ members who access more than 24 outpatient visits in any 12-month period from physicians, advanced registered nurse practitioners, other clinics, and emergency rooms. Refer to rule 441—76.9(249A) for further information concerning the ~~recipient~~ member lock-in program.

78.40(4) Vaccine administration. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered services. Advanced registered nurse practitioners who wish to administer those vaccines which are available through the vaccines for children program to Medicaid recipients members shall enroll in the vaccines for children Vaccines for Children program. In lieu of payment, vaccines available through and obtain the vaccines for children program shall be accessed from the department of public health for Medicaid recipients. Advanced registered nurse practitioners shall receive reimbursement for the administration of vaccines to Medicaid recipients members.

HUMAN SERVICES DEPARTMENT[441](cont'd)

78.40(5) Prenatal risk assessment. Risk ~~assessments~~ assessment, using Form 470-2942, Medicaid Prenatal Risk Assessment, shall be completed ~~twice~~ at the initial visit during a Medicaid ~~recipient's~~ member's pregnancy.

a. If the risk assessment reflects a low-risk pregnancy, the assessment shall be completed again at approximately the twenty-eighth week of pregnancy.

b. If the risk assessment reflects a high-risk pregnancy, referral shall be made for enhanced services. (See description of enhanced services at subrule 78.25(3).)

ITEM 23. Amend subrule 78.49(1) as follows:

78.49(1) Covered services. Covered services include, but are not limited to, audiology, psychological evaluation and counseling, health and nursing services, nutrition services, occupational therapy services, physical therapy services, developmental services, speech-language services, vision services, case management, and medical transportation.

ITEM 24. Rescind subrule 78.49(2) and adopt the following new subrule in lieu thereof:

78.49(2) Case management services. Payment shall also be approved for infant and toddler case management services subject to the following requirements:

a. Definition. "Case management" means services that will assist eligible children in gaining access to needed medical, social, educational, and other services. Case management is intended to address the complexities of coordinated service delivery for children with medical needs. The case manager should be the focus for coordinating and overseeing the effectiveness of all providers and programs in responding to the assessed need. Case management does not include the direct delivery of an underlying medical, educational, social, or other service to which an eligible child has been referred or any activities that are an integral part or an extension of the direct services.

b. Choice of provider. Children who also are eligible to receive targeted case management services under 441—Chapter 90 must choose whether to receive case management through the infant and toddler program or through 441—Chapter 90. The chosen provider must meet the requirements of this subrule.

(1) When a child resides in a medical institution, the institution is responsible for case management. The child is not eligible for any other case management services.

(2) If the case management agency also provides direct services, the case management unit must be designed so that conflict of interest is addressed and does not result in self-referrals.

(3) If the costs of any part of case management services are reimbursable under another program, the costs must be allocated between those programs and Medicaid in accordance with OMB Circular No. A-87 or any related or successor guidance or regulations regarding allocation of costs.

(4) The case manager must complete a competency-based training program with content related to knowledge and understanding of eligible children, Early ACCESS rules, the nature and scope of services in Early ACCESS, and the system of payments for services, as well as case management responsibilities and strategies. The department of education or its designee shall determine whether a person has successfully completed the training.

c. Assessment. The case manager shall conduct a comprehensive assessment and periodic reassessment of an eligible child to identify all of the child's service needs, including the need for any medical, educational, social, or other services. Assessment activities are defined to include the following:

(1) Taking the child's history;

(2) Identifying the needs of the child;

(3) Gathering information from other sources, such as family members, medical providers, social workers, and educators, if necessary, to form a complete assessment of the child;

(4) Completing documentation of the information gathered and the assessment results; and

(5) Repeating the assessment every six months to determine whether the child's needs or preferences have changed.

d. Plan of care. The case manager shall develop a plan of care based on the information collected through the assessment or reassessment. The plan of care shall:

(1) Include the child's strengths and preferences;

(2) Consider the child's physical and social environment;

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) Specify goals of providing services to the child; and

(4) Specify actions to address the child's medical, social, educational, and other service needs. These actions may include activities such as ensuring the active participation of the child and working with the child or the child's authorized health care decision maker and others to develop goals and identify a course of action to respond to the assessed needs of the child.

e. Other service components. Case management must include the following components:

(1) Contacts with the child and family. The case manager shall have face-to-face contact with the child and family within the first 30 days of service and every three months thereafter. In months in which there is no face-to-face contact, a telephone contact between the service coordinator and the family is required.

(2) Referral and related activities to help a child obtain needed services. The case manager shall help to link the child with medical, social, or educational providers or other programs and services that are capable of providing needed services. Referral activities do not include provision of the direct services, program, or activity to which the child has been linked. Referral activities include:

1. Assisting the family in gaining access to the infant and toddler program services and other services identified in the child's plan of care.

2. Assisting the family in identifying available service providers and funding resources and documenting unmet needs and gaps in services.

3. Making referrals to providers for needed services.

4. Scheduling appointments for the child.

5. Facilitating the timely delivery of services.

6. Arranging payment for medical transportation.

(3) Monitoring and follow-up activities. Monitoring activities shall take place at least once annually for the duration of the child's eligibility, but may be conducted as frequently as necessary to ensure that the plan of care is effectively implemented and adequately addresses the needs of the child. Monitoring and follow-up activities may be with the child, family members, providers, or other entities. The purpose of these activities is to help determine:

1. Whether services are being furnished in accordance with the child's plan of care.

2. Whether the services in the plan of care are adequate to meet the needs of the child.

3. Whether there are changes in the needs or status of the child. If there are changes in the child's needs or status, follow-up activities shall include making necessary adjustments to the plan of care and to service arrangements with providers.

(4) Keeping records, including preparing reports, updating the plan of care, making notes about plan activities in the child's record, and preparing and responding to correspondence with the family and others.

f. Documentation of case management. For each child receiving case management, case records must document:

(1) The name of the child;

(2) The dates of case management services;

(3) The agency chosen by the family to provide the case management services;

(4) The nature, content, and units of case management services received;

(5) Whether the goals specified in the care plan have been achieved;

(6) Whether the family has declined services in the care plan;

(7) Time lines for providing services and reassessment; and

(8) The need for and occurrences of coordination with case managers of other programs.

ITEM 25. Amend rule 441—78.50(249A), introductory paragraph, as follows:

441—78.50(249A) Local education agency services. Subject to the following subrules, payment shall be made for medical services provided by local education agency services providers to ~~Medicaid-eligible individuals~~ Medicaid members under the age of 21.

ITEM 26. Amend subrule 78.50(1) as follows:

78.50(1) Covered services. Covered services include, but are not limited to, audiology services, behavior services, consultation services, medical transportation, nursing services, nutrition services, occupational

HUMAN SERVICES DEPARTMENT[441](cont'd)

therapy services, personal assistance, physical therapy services, psychologist services, speech-language services, social work services, vision services, and school-based clinic visit services.

a. Vaccines available through the Vaccines for Children program under Section 1928 of the Social Security Act are not covered as local education agency services. Agencies that wish to administer those vaccines to Medicaid members shall enroll in the Vaccines for Children program and obtain the vaccines from the department of public health. However, the administration of vaccines is a covered service.

b. Payment for supplies shall be approved when the supplies are incidental to the patient's care, e.g., syringes for injections, and do not exceed \$25 per month. Durable medical equipment and other supplies are not covered as local education agency services.

ITEM 27. Rescind and reserve subrule 78.50(2).

ARC 7173B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services proposes to amend Chapter 150, "Purchase of Service," Iowa Administrative Code.

The proposed amendments:

- Change Department practice to negotiate Iowa donation of funds contracts directly with the donors under the Accountable Government Act, Iowa Code chapter 8E, instead of using the current contract form and procedures. All requirements and restrictions previously outlined in rule will be conditions of the individual contracts.

- Eliminate the rule on the Provider Advisory Committee, as the committee no longer exists.

The Department rarely receives donated funds. For the past few years, funds have been donated only to Department facilities.

These amendments do not provide for waivers in specified situations because the contract provisions to be implemented are mandated by the Accountable Government Act, with no provision for exceptions.

Any interested person may make written comments on the proposed amendments on or before October 15, 2008. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.6.

The following amendments are proposed.

ITEM 1. Amend Division I, title, in **441—Chapter 150**, as follows:

DIVISION I

~~CATEGORIES OF CONTRACTS, TERMS AND CONDITIONS FOR IOWA PURCHASE OF SOCIAL SERVICES AGENCY AND INDIVIDUAL CONTRACTS, IOWA PURCHASE OF ADMINISTRATIVE SUPPORT, AND IOWA DONATIONS OF FUNDS CONTRACT AND PROVISIONS FOR PROVIDER ADVISORY COMMITTEE AND PUBLIC ACCESS TO CONTRACTS~~

ITEM 2. Amend subrule 150.2(4) as follows:

150.2(4) Iowa donation of funds contract. ~~The Iowa donation of funds contract establishes the conditions under which a donor makes funds available to the department. This is generally for the purpose of matching state or federal funds for services or administrative support. The department may accept donated funds.~~

a. Upon mutual agreement regarding the scope and use of the funds to be donated, the department may negotiate and shall execute a contract between the department and the donor in accordance with department

HUMAN SERVICES DEPARTMENT[441](cont'd)

of administrative services rules in 11—Chapters 106 and 107. The contract shall contain specifications concerning amendment, termination, transmittal of funds, accounting, and reversion of unspent funds.

b. Except for restrictions permitted by the contract, all funds shall be donated on an unrestricted basis for use as if they were appropriated funds and shall be under the administrative control of the department.

The donor may specify the geographic area to be served and the specific service to be provided. ~~The Iowa Donation of Funds Contract, Form 470-0629, shall be completed prior to the department's acceptance of the funds.~~

c. No funds donated and transmitted to the department will be returned to the donor unless specified in the contract.

ITEM 3. Rescind and reserve rules **441—150.7(234)** and **441—150.8(234)**.

ARC 7201B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 522B.18, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 10, "Licensing of Insurance Producers," Iowa Administrative Code.

The rules in Chapter 10 set out the requirements, procedures and fees relating to the qualification, licensure and appointment of insurance producers. The proposed amendments to the rules are in accordance with uniform guidelines issued by the National Association of Insurance Commissioners. The Insurance Division intends that Iowa insurance companies and producers shall comply with the rules beginning January 1, 2009.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written materials should be directed to Ann Outka, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on October 14, 2008, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, 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 amendments.

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

These amendments are intended to implement Iowa Code chapter 522B and 2008 Iowa Acts, Senate File 2428.

The following amendments are proposed.

ITEM 1. Rescind the definitions of "Amended license," "CE," "CE term," "Duplicate license," "Insurance producer," "Insurance producer license application form," "License information bulletin," "License term," "Producer database," "Renewal year" and "Uniform business entity application" in rule **191—10.2(522B)**.

ITEM 2. Amend rule **191—10.2(522B)**, definitions of "Appointment," "Birth month," "Home state," "License," "License number," "National Insurance Producer Registry," "Notification," "Producer renewal notice," "Termination," and "Termination for cause," as follows:

"*Appointment*" means a notification filed with the division that an insurer has established an agency relationship with ~~an insurance~~ a producer. A company filing such a request must verify that the producer is licensed for the appropriate line(s) of authority.

"*Birth month*" means the month in which ~~an insurance~~ a producer was born.

INSURANCE DIVISION[191](cont'd)

“*Home state*” means the District of Columbia and any state or territory of the United States in which ~~an insurance~~ a producer maintains the producer’s principal place of residence or principal place of business and is licensed to act as ~~an insurance~~ a producer.

“*License*” means the division’s authorization for a person to act as ~~an insurance~~ a producer for the authorized lines of insurance.

“*License number*” means the National Insurance Producer Registry (NIPR) national producer number (NPN) issued to all licensees whose license records exist in the ~~producer database~~ state producer licensing database (SPLD). For purposes of this definition, “state producer licensing database (SPLD)” means the national database of producers maintained by the National Association of Insurance Commissioners (NAIC), its affiliates or subsidiaries.

“*National Insurance Producer Registry*” or “*NIPR*” means the nonprofit affiliate of the National Association of Insurance Commissioners (NAIC). The NIPR’s Web site is www.licenseregistry.com www.NIPR.com.

“*Notification*” means a written or electronic communication from ~~an insurance~~ a producer to the division.

“*Producer renewal notice*” means a written or electronic communication issued by the division to inform ~~an insurance~~ a producer about license renewal.

“*Termination*” means that an insurer has ended its agency relationship with ~~an insurance~~ a producer.

“*Termination for cause*” means that an insurer has ended its agency relationship with ~~an insurance~~ a producer for one of the reasons set forth in Iowa Code section 522B.11.

ITEM 3. Adopt the following **new** definitions in rule **191—10.2(522B)**:

“*Commissioner*” means the Iowa insurance commissioner.

“*Producer*” or “*insurance producer*” means a person required to be licensed in this state to sell, solicit or negotiate insurance.

ITEM 4. Amend rule 191—10.3(522B) as follows:

191—10.3(522B) Requirement to hold a license.

10.3(1) No person may sell, solicit or negotiate insurance in Iowa until that person has been issued an Iowa ~~insurance~~ producer license.

10.3(2) A person offering to the public, for a fee or commission, to engage in the business of offering any advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages promised under any policy of insurance must be licensed as ~~insurance~~ a producer.

10.3(3) A person shall not advise an Iowa resident to cancel, not renew, or otherwise change an existing insurance policy unless that person holds an Iowa ~~insurance~~ producer license regarding the line of insurance for which the advice is given. This subrule shall not apply to a licensed attorney or certified public accountant who does not sell or solicit insurance.

10.3(4) No change.

ITEM 5. Amend rule 191—10.4(522B) as follows:

191—10.4(522B) Licensing of resident producers.

10.4(1) A person whose home state is Iowa and who desires to be licensed as ~~an insurance~~ a producer must satisfy the following requirements:

a. to d. No change.

e. Pay the appropriate ~~insurance~~ producer license fee.

10.4(2) No change.

10.4(3) ~~An application is valid for 90 days after a properly completed application is received by the division or its designee. If an applicant does not pass the necessary examinations within 90 days, the application will expire and the license fee will not be returned.~~

10.4(4) No change.

10.4(5) Amendments to ~~insurance~~ producer licenses shall be done either by an outside vendor or by the division, as directed by the division. Any licensed ~~insurance~~ producer desiring to become licensed in an additional line of authority shall:

INSURANCE DIVISION[191](cont'd)

a. and b. No change.

10.4(6) A producer who holds a personal lines authority (~~authority number 16~~) can obtain property and casualty lines of authority (~~authority numbers 21 and 22~~) upon successful completion of the commercial insurance subject examination.

10.4(7) To receive a license for an excess and surplus lines ~~line of authority~~, the applicant must have successfully completed the ~~examination for the excess and surplus lines~~ examination line of authority (~~authority number 20~~) and also have successfully completed either: (1) the examinations for property and casualty lines of authority (~~authority numbers 21 and 22~~); or (2) the examination for personal ~~line~~ lines of authority (~~authority number 16~~) and the commercial insurance subject examination.

10.4(8) To receive a license for the variable products line of authority, the applicant must:

- a. Hold an active Iowa insurance license with a life insurance line of authority;
- b. Pass the Financial Industry ~~Regulation~~ Regulatory Authority (FINRA) examinations necessary to obtain an Iowa securities license; and
- c. File an application through the NIPR Gateway or as directed by the division to amend the license to add the variable products line of authority.

10.4(9) The division may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive ~~an insurance~~ a producer license. If an applicant does not provide the additional information requested by the division within 45 days of receipt of the request, the application will expire and the license fee will not be returned.

ITEM 6. Amend rule 191—10.5(522B) as follows:

191—10.5(522B) Licensing of nonresident producers.

10.5(1) A producer for whom Iowa is not the home state who desires to sell, solicit or negotiate insurance in Iowa must satisfy the following requirements to obtain an Iowa nonresident ~~insurance~~ producer license:

a. to c. No change.

10.5(2) and **10.5(3)** No change.

10.5(4) The division may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive ~~an insurance~~ a producer license. If an applicant does not provide the additional information requested by the division within 45 days of receipt of the request, the application will expire and the license fee will not be returned.

ITEM 7. Amend rule 191—10.6(522B) as follows:

191—10.6(522B) Issuance of license.

10.6(1) A person who meets the requirements of Iowa Code sections 522B.4 and 522B.5, or section 522B.7, and of rule 10.5(522B), unless otherwise denied licensure pursuant to Iowa Code section 522B.11 or rule 10.19(522B), shall be issued a producer license. An ~~insurance~~ A producer license shall remain in effect for a ~~an initial~~ term of three years; ~~after the last day of the applicant's birth month of the year the license was issued,~~ unless revoked or suspended, ~~and~~ A license may be continually renewed pursuant to rule 10.8(522B) as long as the proper fees are paid and home state continuing education requirements are met. A renewal term is three years. If not renewed, a producer license automatically terminates on the last day of the month of the initial or renewal term.

10.6(2) An individual ~~insurance~~ producer whose license has ~~lapsed~~ expired may seek reinstatement as set forth in rule 10.9(522B).

10.6(3) The license shall contain the producer's name, address, license number, date of issuance, date of expiration, the line(s) of authority held and any other information the division deems necessary. The license number shall be the same as the producer's National Insurance Producer Registry (NIPR) national producer number (NPN). ~~Effective January 1, 2008, the division will not send a paper license to the insurance producer, but insurance producers may download and print licenses through the division's Web site: www.iid.state.ia.us.~~

INSURANCE DIVISION[191](cont'd)

10.6(4) No change.

ITEM 8. Amend rule 191—10.7(522B) as follows:

191—10.7(522B) License lines of authority. In addition to the lines of authority listed in Iowa Code subsection 522B.6(2), the following lines of authority also are available for issuance in Iowa: crop; surety; and reciprocal (any other line of insurance issued in another state and for which Iowa grants authority to sell, solicit or negotiate in this state).

Number	Authority
4	Crop
5	Surety
6	Accident and health (insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income)
7	Life (insurance coverage on human lives, including benefits of endowment, annuities, equity indexed products, may include benefits in event of death or dismemberment by accident and benefits for disability income)
9	Variable life/variable annuity products (insurance coverage provided under variable life insurance contracts and variable annuities)
16	Personal lines (fire, casualty and auto insurance sold to individuals or families)
18	Credit (offered in connection with an extension of credit to extinguish a credit obligation)
20	Excess and surplus lines (prerequisite is authority 21 and 22)
21	Property (coverage for the direct or consequential loss or damage to property of any kind)
22	Casualty (coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property)
23	Reciprocal authority (any other line of insurance issued in another state and for which Iowa grants authority to sell, solicit or negotiate in this state)

ITEM 9. Amend rule 191—10.8(522B) as follows:

191—10.8(522B) License renewal.

10.8(1) No change.

10.8(2) A producer must apply for license renewal within 60 days prior to the expiration date of the license. Failure to apply to renew a license and pay appropriate fees prior to the expiration date of the license will result in expiration of the license.

10.8(3) The division may deliver the producer renewal notice electronically. If delivered electronically, the notice will be sent to the last-known electronic mail address as provided by the insurance producer of record.

10.8(4) Resident ~~insurance~~ producer licenses may be renewed electronically through the ~~division's~~ Web site (~~www.iid.state.ia.us~~) or by mail NIPR Gateway at www.NIPR.com.

10.8(5) Nonresident ~~insurance~~ producer licenses may be renewed only through the NIPR Gateway, or as otherwise directed by the division.

ITEM 10. Amend subrule 10.10(1) as follows:

10.10(1) The term “reinstatement” as used in this rule means the reinstatement of a suspended license. The term “reissuance” as used in this rule means the issuance of a new license following either the revocation of a license or the forfeiture of a license in connection with a disciplinary matter, including but not limited to proceedings pursuant to rules 10.21(252J), 10.22(261) and 10.23(82GA,SF2428). This rule does not apply to the reinstatement of an expired license.

INSURANCE DIVISION[191](cont'd)

- ITEM 11. Rescind subrule **10.10(6)**.
 ITEM 12. Renumber subrule **10.10(7)** as **10.10(6)**.
 ITEM 13. Amend rule 191—10.12(522B) as follows:

191—10.12(522B) Change in name, address or state of residence.

10.12(1) If a producer's name is changed, the producer must file notification with the division within 30 days of the name change. The notification must include the producer's:

- a. to c.* No change.

Notification ~~may~~ shall be filed ~~via electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available at www.NIPR.com, unless the division instructs the producer otherwise.~~

10.12(2) Address change. If a resident or nonresident producer's address is changed, the producer must file notification with the division within 30 days of the address change. The notification must include the producer's:

- a. to d.* No change.

Notification ~~may~~ shall be filed ~~via electronic mail to producer.licensing@iid.state.ia.us, or through the NIPR Gateway, if available at www.NIPR.com, unless the division instructs the producer otherwise.~~

10.12(3) A nonresident ~~insurance~~ producer who moves from one state to another state or an Iowa resident producer who moves to another state and wishes to retain an Iowa ~~insurance~~ producer license must file a change of address with the division and provide a certification from the new resident state within 30 days of the change of legal residence. No fee or license application is required. If the new resident state is actively participating in the producer database, a letter of certification is not required. A nonresident licensed ~~insurance~~ producer who moves to Iowa and wishes to retain the nonresident's ~~insurance~~ producer license must file a change of address with the division within 90 days of the change of legal residence.

10.12(4) Issuance of an Iowa nonresident ~~insurance~~ producer license is contingent on proper licensure in the nonresident ~~insurance~~ producer's home state. Termination of the producer's resident license will be deemed termination of the Iowa nonresident ~~insurance~~ producer license unless the producer timely files a change of address pursuant to this rule.

- 10.12(5)** No change.

ITEM 14. Amend subrule 10.14(5) as follows:

10.14(5) A person who is not engaged in any activities in Iowa that require ~~an insurance~~ a producer license in Iowa is not required to maintain an active ~~insurance~~ producer license in order to receive override or hierarchy commissions or to receive renewal commissions earned while the producer was actively engaged in activities that required ~~an insurance~~ a producer license.

ITEM 15. Amend subrule 10.15(1) as follows:

10.15(1) Insurers are required to file appointments with the division for each ~~insurance~~ producer with which the producer has an agency relationship. The determination of whether an insurer and ~~an insurance~~ a producer have an agency relationship will be made by the division based on the totality of the circumstances surrounding the business relationship. Appointments are not issued for business entities.

ITEM 16. Amend subrule 10.15(4) as follows:

10.15(4) Appointment fees are set forth in rule ~~10.24(522B)~~ 10.26(522B). A billing statement will be submitted to insurance companies on a monthly basis and payment is due within 45 days. The division will assess a late fee of \$100 for the failure to timely pay appointment billing statements ~~of \$100 on the forty-sixth day, an additional \$100 on the sixtieth day, and an additional \$100 each day thereafter and an additional \$500 on or after the forty-sixth day.~~

ITEM 17. Adopt the following new subrule 10.15(7):

10.15(7) Insurance companies are required to file the name, address, and electronic address of a contact person for the company, to whom the billing statements will be sent. Insurance companies are required to notify the division if there is a change of the person appointed as the contact person or if a change of the address of such contact occurs. If a company fails to notify the division of such a change, the division shall charge the insurance company a \$100 fee.

INSURANCE DIVISION[191](cont'd)

ITEM 18. Amend subrule 10.16(4) as follows:

10.16(4) Failure to pay renewal appointment fees by March 15 will result in termination of a company's appointments. Appointments that are terminated due to nonpayment of renewal fees may be reinstated upon payment of the renewal fee plus a reinstatement fee ~~which is equal to the renewal fee~~ of \$500.

ITEM 19. Adopt the following **new** subrule 10.16(6):

10.16(6) Insurance companies are required to file the name, address, and electronic address of a contact person for the company, to whom the appointment renewals will be sent. Insurance companies are required to notify the division if a change of the address of such contact occurs. If a company fails to notify the division of such a change of address, the division shall charge the insurance company a \$100 fee.

ITEM 20. Amend subrule 10.18(2) as follows:

10.18(2) Requirements.

a. To qualify for such a license, the business entity must:

(1) File a completed NAIC uniform business entity application through the NIPR Gateway or as directed by the division. For purposes of this subrule, "uniform business entity application" means the National Association of Insurance Commissioners' uniform business entity application for resident and nonresident business entities, as the application appears on the NAIC Web site;

(2) Designate one officer, owner, partner, or member of the business entity, which person also is a producer licensed by the division, as the person who will have full responsibility for the conduct of all business transactions of the business entity or of ~~insurance~~ producers affiliated with the business entity;

(3) For a nonresident business entity, submit an appropriate request through the NIPR Gateway; and

(4) Pay the license fee.

b. The designated responsible producer shall maintain an active Iowa ~~insurance~~ producer license. If the license of the designated responsible producer terminates or lapses for any reason, the business entity must supply the division with a substitute designated responsible producer within ten days. If the business entity does not provide a substitute, the division shall terminate the license, and the entity shall submit a new application.

ITEM 21. Amend subrule 10.18(5) as follows:

10.18(5) Business address. Business entities licensed under this rule must maintain a current business address with the division. If a business entity's address is changed, notification from the designated responsible producer must be submitted to the division within 30 days of the address change, stating:

a. to d. No change.

The notification may be sent by electronic mail ~~to producer.licensing@iid.state.ia.us,~~ or through the NIPR Gateway, if available at www.NIPR.com, unless the division instructs the producer otherwise.

ITEM 22. Renumber rule **191—10.19(522B)** as **191—10.20(522B)**.

ITEM 23. Adopt the following **new** rule 191—10.19(522B):

191—10.19(522B) Use of senior-specific certifications and professional designations in the sale of life insurance and annuities.

10.19(1) Purpose. The purpose of this rule is to set forth standards to protect consumers from misleading and fraudulent marketing practices with respect to the use of senior-specific certifications and professional designations in the solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product.

10.19(2) Scope. This rule shall apply to any solicitation, sale or purchase of, or advice made in connection with, a life insurance or annuity product by a producer.

10.19(3) Authority.

a. This rule is promulgated under the authority of Iowa Code chapters 507B and 522B.

b. Nothing in this rule shall limit the division's authority to enforce existing provisions of law.

10.19(4) Prohibited uses of senior-specific certifications and professional designations.

a. It is an unfair and deceptive act or practice in the business of insurance within the meaning of Iowa Code chapter 507B for a producer to use a senior-specific certification or professional designation

INSURANCE DIVISION[191](cont'd)

that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the producer has special certification or training in advising or servicing seniors in connection with the solicitation, sale or purchase of a life insurance or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life insurance or annuity product, either directly or indirectly through publications or writings, or by issuing or promulgating analyses or reports related to a life insurance or annuity product.

b. The prohibited use of senior-specific certifications or professional designations includes, but is not limited to, the following:

(1) Use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation;

(2) Use of a nonexistent or self-conferred certification or professional designation;

(3) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the producer using the certification or designation does not have; and

(4) Use of a certification or professional designation that was obtained from a certifying or designating organization that:

1. Is primarily engaged in the business of instruction in sales or marketing;

2. Does not have reasonable standards or procedures for assuring the competency of its certificants or designees;

3. Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

4. Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

c. There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for purposes of subparagraph 10.19(4)“*b*”(4) when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

(1) The American National Standards Institute (ANSI);

(2) The National Commission for Certifying Agencies; or

(3) Any organization that is on the U.S. Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes.”

d. In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include:

(1) Use of one or more words such as “senior,” “retirement,” “elder,” or like words combined with one or more words such as “certified,” “registered,” “chartered,” “adviser,” “specialist,” “consultant,” “planner,” or like words, in the name of the certification or professional designation; and

(2) The manner in which those words are combined.

e. Financial services regulatory agency.

(1) For purposes of this rule, a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

1. Indicates seniority or standing within the organization; or

2. Specifies an individual’s area of specialization within the organization.

(2) For purposes of paragraph 10.19(4)“*e*,” “financial services regulatory agency” includes, but is not limited to, an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

f. Effective date. This rule shall become effective January 1, 2009.

ITEM 24. Amend renumbered rule 191—10.20(522B) as follows:

191—10.20(522B) Violations and penalties.

10.20(1) to 10.20(3) No change.

INSURANCE DIVISION[191](cont'd)

10.20(4) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty, in accordance with Iowa Code section 522B.17 or any combination of actions, for any action listed in Iowa Code section 522B.11 and any one or more of the following causes:

- a. No change.
- b. Failing to report any administrative action or criminal prosecution taken against the producer or failure to report the termination of a resident ~~insurance~~ producer license;
- c. Acting as ~~an insurance~~ a producer through persons not licensed as ~~insurance~~ producers; or
- d. No change.

10.20(5) If a producer fails to provide to the division any notification required either by Iowa Code chapter 522B or by this chapter, including but not limited to notification of a change of address, notification of change of name, or notification of administrative criminal action as required by rules 10.12(522B) and 10.13(522B), within the required time, the producer shall pay a late fee of \$100. A business entity that fails to make a notification to the division as required by rule 10.18(522B) within the required time shall pay a late fee of \$100.

~~10.20(5)~~ **10.20(6)** In the event that the division denies a request to renew ~~an insurance~~ a producer license or denies an application for ~~an insurance~~ a producer license, the commissioner shall provide written notification to the producer or applicant of the denial or failure to renew, including the reason therefor. The producer or applicant may request a hearing within 30 days of receipt of the notice to determine the reasonableness of the division's action. The hearing shall be held within 30 days of the date of the receipt of the written demand by the applicant and shall be held pursuant to 191—Chapter 3.

~~10.20(6)~~ **10.20(7)** The commissioner may suspend, revoke, or refuse to issue the license of a business entity if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the entity and the violation was neither reported to the insurance division nor was corrective action taken.

ITEM 25. Renumber rule **191—10.20(252J)** as **191—10.21(252J)**.

ITEM 26. Amend renumbered subrule 10.21(5) as follows:

10.21(5) Upon receipt of a withdrawal of the certificate of noncompliance from the CSRU, suspension proceedings shall halt and the named producer shall be notified that the proceedings have been halted. If the producer's license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with division rules. All fees required for license renewal or license reinstatement must be paid by producers and all continuing education requirements must be met before ~~an insurance~~ a producer license will be renewed or reinstated after a license suspension or revocation pursuant to this subrule.

ITEM 27. Renumber rule **191—10.21(261)** as **191—10.22(261)**.

ITEM 28. Amend renumbered rule 191—10.22(261) as follows:

191—10.22(261) Suspension for failure to pay student loan.

10.22(1) The division shall deny the issuance or renewal of ~~an insurance~~ a producer license upon receipt of a certificate of noncompliance from the college student aid commission (CSAC) according to the procedures set forth in Iowa Code sections 261.126 and 261.127. In addition to the procedures contained in those sections, this rule shall apply.

10.22(2) Upon receipt of a certificate of noncompliance from the CSAC according to the procedures set forth in Iowa Code sections 261.126 and 261.127, the commissioner shall issue a notice to the producer that the producer's pending application for licensure, pending request for renewal, or current license will be suspended ~~30~~ 60 days after the date of the notice. Notice shall be sent to the producer's last-known address by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensed producer may accept service personally or through authorized counsel.

10.22(3) The notice shall contain the following items:

- a. and b. No change.

INSURANCE DIVISION[191](cont'd)

c. A statement that the producer's application, request for renewal or current ~~insurance~~ producer license will be suspended if the certificate of noncompliance is not withdrawn or, if the current license is on suspension, a statement that the producer's current ~~insurance~~ producer license will be revoked;

d. to f. No change.

10.22(4) The effective date of revocation or suspension of ~~an insurance a~~ producer license, as specified in the notice required by Iowa Code section 261.126, shall be 60 days following service of the notice upon the applicant or registrant.

10.22(5) In the event an applicant or licensed producer timely files a district court action following service of a division notice pursuant to Iowa Code section 261.127, the division's suspension proceedings will be stayed until the division is notified by the district court of the resolution of the application. Upon receipt of a court order lifting the stay, or otherwise directing the division to proceed, the division shall continue with the intended action described in the notice. For purposes of determining the effective date of the denial of the issuance or renewal of ~~an insurance a~~ producer license, the division shall count the number of days before the action was filed and the number of days after the court disposed of the action.

10.22(6) If the division does not receive a withdrawal of the certificate of noncompliance from the CSAC or a notice from a clerk of court that an application for hearing has been filed, the division shall suspend the producer's application, request for renewal or current ~~insurance~~ producer license 60 days after the notice is issued.

10.22(7) Upon receipt of a withdrawal of the certificate of noncompliance from the CSAC, suspension proceedings shall halt and the named producer shall be notified that the proceedings have been halted. If the producer's insurance license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with division rules. All fees required for license renewal or license reinstatement must be paid by producers and all continuing education requirements must be met before ~~an insurance a~~ producer license will be renewed or reinstated after a license suspension or revocation pursuant to Iowa Code section 261.126.

10.22(8) The division shall notify the producer in writing through regular first-class mail, or such other means as the division deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of ~~an insurance a~~ producer license, and shall similarly notify the producer when the ~~insurance~~ producer license is reinstated following the division's receipt of a withdrawal of the certificate of noncompliance.

10.22(9) No change.

ITEM 29. Renumber rule **191—10.22(522B)** as **191—10.24(522B)**.

ITEM 30. Rescind rule **191—10.25(522B)**.

ITEM 31. Renumber rule **191—10.23(522B)** as **191—10.25(522B)**.

ITEM 32. Adopt the following new rule 191—10.23(82GA,SF2428):

191—10.23(82GA,SF2428) Suspension for failure to pay state debt.

10.23(1) The commissioner shall deny the issuance or renewal of a producer license upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures in 2008 Iowa Acts, Senate File 2428. In addition to the procedures set forth in 2008 Iowa Acts, Senate File 2428, this rule shall apply.

10.23(2) Upon receipt of a certificate of noncompliance from the centralized collection unit of the department of revenue according to the procedures set forth in 2008 Iowa Acts, Senate File 2428, the commissioner shall issue a notice to the producer that the producer's pending application for licensure, pending request for renewal, or current producer license will be suspended 60 days after the date of the notice. Notice shall be sent to the producer's last-known address by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensed producer may accept service personally or through authorized counsel.

10.23(3) Pursuant to 2008 Iowa Acts, Senate File 2428, section 14, the notice shall contain the following items:

INSURANCE DIVISION[191](cont'd)

- a.* A statement that the commissioner intends to suspend the producer's application, request for renewal or current producer license in 60 days;
- b.* A statement that the producer must contact the centralized collection unit of the department of revenue to schedule a conference or to otherwise obtain a withdrawal of the certificate of noncompliance;
- c.* A statement that the producer's application, request for renewal or current producer license will be suspended, or denied if the commissioner does not receive a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue within 60 days of the issuance of notice under this rule; or, if the current producer license is on suspension, a statement that the producer's current producer license will be revoked;
- d.* A statement that the producer does not have a right to a hearing before the commissioner, but that the producer may file an application for a hearing in district court pursuant to 2008 Iowa Acts, Senate File 2428, section 15;
- e.* A statement that the filing of an application with the district court will stay the proceedings of the commissioner;
- f.* A copy of the certificate of noncompliance.

10.23(4) Producers shall keep the commissioner informed of all court actions and all actions taken by the centralized collection unit of the department of revenue under or in connection with 2008 Iowa Acts, Senate File 2428; and producers shall provide to the commissioner, within seven days of filing or issuance, of all applications filed with the district court pursuant to 2008 Iowa Acts, Senate File 2428, section 15, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the centralized collection unit of the department of revenue.

10.23(5) The effective date of revocation or suspension of a producer license, as specified in the notice required by 2008 Iowa Acts, Senate File 2428, section 14, and subrule 10.23(2), shall be 60 days following service of the notice upon the applicant or producer.

10.23(6) In the event an applicant or licensed producer timely files a district court action following service of a notice by the commissioner pursuant to 2008 Iowa Acts, Senate File 2428, section 15, the commissioner's suspension proceedings will be stayed until the commissioner is notified by the district court of the resolution of the application. Upon receipt of a court order lifting the stay, or otherwise directing the commissioner to proceed, the commissioner shall continue with the intended action described in the notice. For purposes of determining the effective date of the denial of the issuance or renewal of a producer license, the commissioner shall count the number of days before the action was filed and the number of days after the court disposed of the action.

10.23(7) If the commissioner does not receive a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue or a notice from a clerk of court that an application for hearing has been filed, the commissioner shall suspend the producer's application, request for renewal or current producer license 60 days after the notice is issued.

10.23(8) Upon receipt of a withdrawal of the certificate of noncompliance from the centralized collection unit of the department of revenue, suspension proceedings shall halt, and the named producer shall be notified that the proceedings have been halted. If the producer's license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with this chapter. All fees required for license renewal or license reinstatement must be paid by the producer, and all continuing education requirements must be met before a producer license will be renewed or reinstated after a license suspension or revocation pursuant to 2008 Iowa Acts, Senate File 2428.

10.23(9) The commissioner shall notify the producer in writing through regular first-class mail, or such other means as the commissioner deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of a producer license, and shall similarly notify the producer when the producer license is reinstated following the commissioner's receipt of a withdrawal of the certificate of noncompliance.

10.23(10) Notwithstanding any statutory confidentiality provision, the commissioner may share information with the centralized collection unit of the department of revenue for the sole purpose of identifying producers subject to enforcement under 2008 Iowa Acts, Senate File 2428.

INSURANCE DIVISION[191](cont'd)

ITEM 33. Renumber rule **191—10.24(522B)** as **191—10.26(522B)**.

ITEM 34. Amend renumbered subrules 10.26(3) and 10.26(5) as follows:

10.26(3) The fee for issuance or renewal of ~~an insurance~~ a producer license is \$50 for three years.

10.26(5) The fee for reinstatement of ~~an insurance~~ a producer license is a total of the renewal fee plus \$100.

ITEM 35. Amend **191—Chapter 10**, Division I, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 252J, 261, and 522B and 2008 Iowa Acts, Senate File 2428.

ARC 7202B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 505.8 and 522B.18, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 11, "Continuing Education for Insurance Producers," Iowa Administrative Code.

The rules in Chapter 11 set out the requirements, procedures and fees relating to the type, amount, and proof of continuing education insurance producers must complete, and relating to the approval of continuing education providers and courses. The proposed amendments to the rules are in accordance with uniform guidelines issued by the National Association of Insurance Commissioners. The Insurance Division intends that Iowa insurance companies and producers shall comply with the rules beginning January 1, 2009.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written materials should be directed to Ann Outka, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on October 14, 2008, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, 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 amendments.

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

These amendments are intended to implement Iowa Code chapter 522B.

The following amendments are proposed.

ITEM 1. Amend subrule 11.1(3) as follows:

11.1(3) These rules do not apply to:

- a. No change.
- b. A resident producer who holds qualification in one of the following lines of authority: 5 (surety); 18 (or credit life, accident and health insurance); or 4 (crop insurance).
- c. and d. No change.
- e. A resident producer who holds qualification only for a crop insurance line of authority and who complies with subrule 11.3(8).

ITEM 2. Rescind the definitions of "Producer" and "Renewal year" in rule **191—11.2(505,522B)**.

ITEM 3. Amend rule **191—11.2(505,522B)**, definitions of "CE term" and "Proctored," as follows:

"CE term" means the three year one month period beginning the first day of the producer's birth month and ending on the last day of the producer's birth month in the renewal year period of time beginning when a producer's insurance license is issued or renewed and the following license expiration date.

INSURANCE DIVISION[191](cont'd)

“*Proctored*” or “*independently proctored*” means the supervision by a CE provider or ~~licensed producer~~ disinterested third party over the conduct of a producer while that producer is completing an examination that is part of a self-study CE course.

ITEM 4. Adopt the following **new** definition in rule **191—11.2(505,522B)**:

“*Producer*” or “*insurance producer*” means a person required to be licensed in this state to sell, solicit or negotiate insurance.

ITEM 5. Amend subrule 11.3(7) as follows:

11.3(7) A producer may elect to comply with the CE requirements by taking and passing the appropriate licensing examination for each qualification held by the producer.

a. A producer who holds property and casualty lines of authority (~~authority numbers 21 and 22~~) must successfully complete the commercial insurance subject examination.

b. A producer who holds an excess and surplus line of authority must successfully complete the examination for the excess and surplus line of authority (~~authority number 20~~) and the commercial insurance subject examination.

ITEM 6. Rescind subrule 11.3(8) and adopt the following **new** subrule in lieu thereof:

11.3(8) For a resident producer who holds qualification only for a crop insurance line of authority and who is requesting renewal of a producer license on or after January 1, 2010, the producer must be able to demonstrate the following each time renewal of a license is requested:

a. The producer has completed all training and continuing education requirements imposed by the federal Risk Management Association, if any; and

b. The producer has completed 18 credits of continuing education, 3 of which must be in the area of ethics, except that a producer who is requesting renewal of a producer license during 2010 must demonstrate that the producer has completed 9 credits of continuing education, 3 of which must be in the area of ethics.

ITEM 7. Amend rule 191—11.4(505,522B) as follows:

191—11.4(505,522B) Proof of completion of continuing education requirements.

11.4(1) Producer duties.

~~11.4(1) a.~~ Producers are required to demonstrate compliance with the CE requirements at the time of license renewal. Procedures for completing the license renewal process are outlined in 191—Chapter 10.

~~11.4(2) b.~~ Producers are required to maintain a record of all CE courses completed by keeping the original certificates of completion for four years after the end of the year of attendance.

~~11.4(3) Waiver or extension. Rescinded IAB 10/25/06, effective 11/29/06.~~

11.4(2) Insurer duties regarding federal flood insurance. An insurer authorized to do business in Iowa shall demonstrate to the division, upon the division’s request, that producers appointed by the insurer have complied with all continuing education guidelines as established by the National Flood Insurance Program (NFIP).

ITEM 8. Amend subrule 11.10(8) as follows:

11.10(8) CE providers must submit rosters of all course attendees to the ~~division~~ division’s outside vendor. These reports must be received at the division by the tenth day of the month following the month in which the course is completed. Rosters shall be submitted electronically in a manner prescribed by the division.

ARC 7205B**INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 507B.12, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, "Unfair Trade Practices," Iowa Administrative Code.

The rules in Chapter 15 establish certain minimum standards and guidelines of conduct by identifying unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, as prohibited by Iowa Code chapter 507B. The proposed amendment to the rules is intended to add as a prohibited designation the use of designations prohibited by proposed new rule 191—10.19(522B), Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, prohibited herein in **ARC 7201B**. This amendment is intended to be effective January 1, 2009.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written materials should be directed to Ann Outka, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on October 14, 2008, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, 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 amendment.

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

This amendment is intended to implement Iowa Code chapter 522B.

The following amendment is proposed.

Adopt the following **new** paragraph **15.8(3)"e"** as follows:

e. Producers shall comply with rule 191—10.19(522B) in using senior-specific certifications and professional designations in the sale of life insurance and annuities.

ARC 7207B**INSURANCE DIVISION[191]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 505.8 and 514D.9, Iowa Code chapter 514G, and 2008 Iowa Acts, House File 2694, section 12, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 39, "Long-Term Care Insurance," Iowa Administrative Code.

Iowa Code chapter 514G and 2008 Iowa Acts, House File 2694, among other things, establish standards for long-term care insurance, including a mechanism for the independent review of insurance companies' determinations regarding whether an insured has met the necessary conditions to have benefits paid. The Iowa Insurance Commissioner has the authority to adopt rules for administering the independent review process of insurers' benefit trigger determinations, pursuant to 2008 Iowa Acts, House File 2694, section

INSURANCE DIVISION[191](cont'd)

12. The proposed rules will provide further guidance as to how the independent review process will operate. The Division intends that the rules will become effective January 1, 2009, and that insurance producers and companies must be able to demonstrate compliance by January 1, 2009.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on October 14, 2008, at 11 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, 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 amendments.

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

These amendments are intended to implement Iowa Code chapter 514D and chapter 514G as amended by 2008 Iowa Acts, House File 2694.

The following amendments are proposed.

ITEM 1. Insert the following **new** heading before rule **191—39.1(514G)**:

DIVISION I

ITEM 2. Reserve rules **191—39.33** to **191—39.40**.

ITEM 3. Insert the following **new** heading before rule 191—39.41(514G):

DIVISION II
INDEPENDENT REVIEW OF BENEFIT TRIGGER DETERMINATIONS

ITEM 4. Adopt the following **new** rules 191—39.41(514G) to 191—39.55(514G):

191—39.41(514G) Purpose. This division is intended to implement Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694, to provide a uniform process for insureds covered under long-term care insurance to request an independent review of a denial of coverage based on a benefit trigger determination.

191—39.42(514G) Effective date. The rules contained in this division shall apply to all long-term care insurance claims made on or after January 1, 2009, which are denied based on a benefit trigger determination.

191—39.43(514G) Definitions. For purposes of this division, the definitions found in 2008 Iowa Acts, House File 2694, section 4, shall apply.

191—39.44(514G) Notice of benefit trigger determination and content. The notice required by 2008 Iowa Acts, House File 2694, section 10, shall contain the following information:

1. The reason that the insurer determined that the policy benefit trigger has not been met by the insured.
2. A description of the internal appeal mechanism provided under the long-term care policy.
3. A description of how the insured, after exhausting the insurer's internal appeal process, has the right to have the benefit trigger determination reviewed under the independent review process required by 2008 Iowa Acts, House File 2694, section 11.

191—39.45(514G) Notice of internal appeal decision and right to independent review. Upon the conclusion of the internal appeal mechanism specified in 2008 Iowa Acts, House File 2694, section 10, the notice required in 2008 Iowa Acts, House File 2694, section 10, shall contain the following information:

39.45(1) A description of additional internal appeal rights, if any, offered by the insurer.

39.45(2) A description of how the insured can request independent review of the benefit trigger determination. Such description must specify the following:

- a. The insured must submit a written request within 60 days of the insured's receiving written notice of the insurer's internal appeal decision;

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b. The request must be made to the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319;

c. A copy of the insurer's benefit trigger determination letter must accompany the written request for an independent review;

d. A \$25 filing fee is required unless the insured is requesting that the fee be waived. The check should be made payable to the Iowa Insurance Division. If a waiver is requested, the request shall include an explanation for the insured's request that the fee be waived.

191—39.46(514G) Independent review request.

39.46(1) The insured shall send a copy of the insurer's notice explaining why the benefit trigger has not been met, with the insured's request for an independent review, to the insurance commissioner within 60 days of receipt of the benefit trigger determination. The notice shall be sent to the commissioner at the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319.

39.46(2) A \$25 filing fee shall be enclosed with the independent review request. The commissioner may waive the fee for good cause.

191—39.47(514G) Certification process.

39.47(1) The commissioner shall provide written notice of the certification decision to the insurer and the insured within the two-business-day period specified in 2008 Iowa Acts, House File 2694, section 11.

39.47(2) The insurer may appeal the commissioner's certification decision within three business days after receiving notice of the decision. The commissioner shall review any such appeal and promptly notify the insured and the insurer of the commissioner's decision.

191—39.48(514G) Selection of independent review entity.

39.48(1) Within three business days of receiving the commissioner's certification decision, the insurer shall:

a. Select an independent review entity from the list certified by the commissioner;

b. Notify the insured in writing of the name, address, and telephone number of the independent review entity;

c. Notify the independent review entity of its selection and provide the independent review entity with sufficient information to allow selection of qualified licensed health care professionals to conduct the independent review;

d. Provide the commissioner with copies of the notices required by this subrule.

39.48(2) Within three business days of receiving the notice specified in subrule 39.48(1), the independent review entity shall do one of the following:

a. Accept its selection, designate a qualified licensed health care professional to perform the independent review, and notify the insured and insurer, with a copy to the commissioner, of the designation, the qualifications of the qualified licensed health care professional, and the reasons why the licensed health care professional is qualified to conduct the independent review;

b. Decline its selection and provide notice to the commissioner, the insured, and the insurer of the declination. The insurer shall have three business days after receipt of the declination notice to designate a different independent review entity pursuant to subrule 39.48(1); or

c. Request that the commissioner grant the independent review entity additional time to have a qualified licensed health care professional certified and provide notice of such request to the insured, the insurer, and the commissioner. Within three business days of such a request, the commissioner shall notify the insured, the insurer, and the independent review entity how to proceed.

39.48(3) Within ten days of receiving the notice specified in paragraph 39.48(1) "b," an insured may object to the independent review entity selected by the insurer or the licensed health care professional selected by the independent review entity. Such an objection shall state the reasons for the objection with particularity. The objection shall be sent to the commissioner, and a copy shall be sent to the insurer. The commissioner shall notify the insured, the insurer, and the independent review entity of the commissioner's decision within two business days of receipt of the objection.

INSURANCE DIVISION[191](cont'd)

191—39.49(514G) Independent review process.

39.49(1) Within five business days of receiving either the notice provided in paragraph 39.48(1) “b,” or the denial of an objection made pursuant to subrule 39.48(3), whichever is later, the insured may submit any additional information or documentation in support of the insured’s claim to both the independent review entity and the insurer.

39.49(2) Within 15 days of receiving the notice provided in paragraph 39.48(1) “b,” or within three business days of receiving notice of the denial of an objection made pursuant to subrule 39.48(3), whichever is later, an insurer shall:

a. Provide the independent review entity with any information submitted to the insurer by the insured during the insurer’s internal appeal process relating to the benefit trigger determination that is the subject of the independent review proceeding;

b. Provide the independent review entity with any other relevant documents used by the insurer in making its benefit trigger determination; and

c. Provide the commissioner and the insured with confirmation that the information required by this subrule was submitted to the independent review entity, including the date such information was submitted.

39.49(3) The independent review entity shall not commence its review of the insurer’s benefit trigger determination until 15 business days after either the independent review entity receives the notice of its selection specified in paragraph 39.48(1) “c” or the resolution of any objection made pursuant to subrule 39.48(3), whichever is later.

39.49(4) During the time period specified in subrule 39.48(3), the insurer may consider any information provided by the insured pursuant to subrule 39.49(1) and affirm or overturn the insurer’s benefit trigger determination. If the insurer overturns its benefit trigger determination:

a. The insurer shall provide notice to the independent review entity, the commissioner, and the insured of the insurer’s decision; and

b. The independent review process shall immediately cease.

191—39.50(514G) Decision notification.

39.50(1) The independent review entity shall immediately notify the insurer, the insured, and the commissioner of the independent review decision either affirming or overturning the insurer’s benefit trigger determination. The initial notification shall be delivered by telephone or fax transmission, and a written copy of the decision notification delivered by regular mail. The written copy of the decision shall include a description of the basis for the independent review entity’s decision.

39.50(2) If the independent review entity overturns the insurer’s decision, the independent review entity shall include all of the following in the decision:

a. The precise date that the benefit trigger was deemed to have been met;

b. The specific period of time under review for which the insurer declined eligibility but during which the independent review entity determined that the benefit trigger was met;

c. For qualified long-term care insurance contracts, a certification made only by a licensed health care practitioner that the insured is a chronically ill individual.

191—39.51(514G) Insurer information.

39.51(1) No later than January 1, 2009, each insurer delivering or issuing for delivery long-term care insurance policies in this state on or after July 1, 2008, shall provide the commissioner the name or title, telephone and fax numbers and E-mail address of an individual who shall be the insurer’s contact person for independent review procedures and matters. Any changes in personnel or communication numbers shall be immediately communicated to the commissioner.

39.51(2) Each insurer shall provide the commissioner a detailed description of the process that the insurer has in place to ensure compliance with the requirements of this division and of 2008 Iowa Acts, House File 2694, sections 10 and 11. The description required by this subrule shall be filed in a format as directed by the commissioner on or before March 1, 2009, and thereafter as requested by the commissioner. The description shall include:

INSURANCE DIVISION[191](cont'd)

- a. An explanation of how the insurer determines when an insured has qualified for independent review of the benefit trigger decision and should receive a notice from the insurer,
- b. A copy of the notice sent to insureds who fall within the scope of the law, and
- c. An explanation of the internal appeal process.

191—39.52(514G) Certification of independent review entity. The following minimum standards are required for certification as an independent review entity:

39.52(1) The entity shall ensure that any licensed health care professional on its staff who participates in an independent review proceeding holds a current unrestricted license or certification to practice a health care profession in the United States.

39.52(2) The entity shall ensure that any licensed health care professional on its staff who participates in an independent review proceeding and who is a physician holds a current certification by a recognized American medical specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

39.52(3) The entity shall ensure that any licensed health care professional on its staff who participates in an independent review proceeding and who is not a physician holds a current certification in the specialty in which that person is licensed by a recognized American specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

39.52(4) The entity shall ensure that any licensed health care professionals on its staff who participate in an independent review proceeding have no history of disciplinary actions or sanctions including, but not limited to, the loss of staff privileges or any participation restriction taken or pending by any hospital or state or federal government regulatory agency for wrongdoing by the health care professional.

39.52(5) The entity shall ensure that neither the entity, nor any of its employees, agents, or licensed health care professionals utilized, receive compensation of any type that is dependent on the outcome of the review.

39.52(6) The entity shall ensure that neither the entity, nor any of its employees, agents, or licensed health care professionals utilized, are in any manner related to, employed by, or affiliated with the insured or with a person who previously provided medical care to the insured.

39.52(7) The entity shall provide a description of the qualifications of the reviewers retained to conduct independent review of long-term care insurance benefit trigger decisions, including the reviewers' employment histories and practice affiliations for at least the prior ten years, and a description of past experience with decisions relating to long-term care, functional capacity, and dependency in activities of daily living, or in assessing cognitive impairment.

39.52(8) The entity shall provide a description of the procedures employed to ensure that reviewers conducting independent reviews are appropriately: licensed, registered or certified; trained in the principles, procedures and standards of the independent review entity; knowledgeable about the functional or cognitive impairments associated with the diagnosis and disease staging processes, including expected duration of such impairment; and knowledgeable and experienced in diagnosing a person as a "chronically ill individual" as defined in Section 7702B(c)(2) of the Internal Revenue Code.

39.52(9) The entity shall provide a description of the evaluation tools the entity would use to conduct a review of a long-term care insurance benefit trigger decision.

39.52(10) The entity shall provide a description of the methods of recruiting and selecting impartial reviewers and matching such reviewers to specific cases.

39.52(11) The entity shall provide the number of reviewers retained by the independent review entity and a description of the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review (e.g., assessment of cognitive impairment or inability to perform activities of daily living due to a loss of functional capacity).

39.52(12) The entity shall provide a description of the policies and procedures employed to protect confidentiality of individual personally identifiable health information in accordance with applicable state and federal laws.

39.52(13) The entity shall provide a description of the quality assurance program established by the independent review entity.

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39.52(14) The entity shall provide the names of all corporations and organizations owned or controlled by the independent review entity or which own or control the entity, and the nature and extent of any such ownership or control. The entity must ensure that neither the entity, nor any of its employees, agents, or licensed health care professionals utilized, are a subsidiary of, or owned or controlled by, an insurer or by a trade association of insurers of which the insurer is a member.

39.52(15) The entity shall provide the names and résumés of all directors, officers and executives of the entity.

39.52(16) The entity shall provide a description of the fees to be charged by the entity for independent reviews of a long-term care insurance benefit trigger decision.

39.52(17) The entity shall provide the name of the medical director or health professional director responsible for the supervision and oversight of the independent review procedure.

39.52(18) The entity must have on staff or contract with a licensed health care practitioner who is qualified to certify that an individual is chronically ill for purposes of a qualified long-term care insurance contract.

191—39.53(514G) Additional requirements. The independent review entity shall develop and maintain written policies and procedures governing all aspects of the independent review process. The written policies and procedures include, but are not limited to, the following:

39.53(1) Procedures to ensure that independent reviews are conducted within the time frames specified in this division and Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694, and that any required notices are provided in a timely manner.

39.53(2) Procedures to ensure the selection of qualified and impartial reviewers. The reviewers shall be qualified to render impartial determinations relating to the benefit trigger which is the subject of the benefit trigger decision under review (e.g., assessment of cognitive impairment or inability to perform activities of daily living due to a loss of functional capacity) and be deemed experts in the assessment of such benefit trigger.

39.53(3) Procedures to ensure that the insured is notified in writing of the insured's right to object to the independent review entity selected by the insurer or to the licensed health care professional designated by the independent review entity to conduct the review by filing a notice of objection, along with the reasons for the objection, with the commissioner at the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, within ten days of the receipt of a notice from the independent review entity.

39.53(4) Procedures to ensure the confidentiality of protected health information records and review materials, in accordance with federal and state law.

39.53(5) Procedures to ensure adherence to the requirements of this division and Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694, by any contractor, subcontractor, subvendor, agent or employee affiliated with the independent review entity.

39.53(6) Policies and procedures establishing a quality assurance program. The program shall include a written description to be provided to all individuals involved in the program, the organizational arrangements, and the ongoing procedures for the identification, evaluation, resolution and follow-up of potential and actual problems in independent reviews performed by the independent review entity and procedures to ensure the maintenance of program standards pursuant to this requirement.

191—39.54(514G) Toll-free telephone number. The independent review entity shall establish a toll-free telephone service to receive information relating to independent reviews pursuant to this division and Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694. The system shall include a procedure to ensure the capability of accepting, recording, or providing instruction to respond to incoming telephone calls during other than normal business hours. The independent review entity shall also establish a facsimile and electronic mail service.

191—39.55(514G) Insurance division application and reports. The independent review entity shall provide the commissioner such data, information, and reports as the commissioner determines necessary to evaluate the independent review process established under Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694. An application for certification as an independent review entity must be submitted in

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duplicate to the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. An application must be submitted in full to be considered. Every applicant will be notified of the certification decision. A list of certified independent review entities shall be maintained at the insurance division and shall be available through the division's Web site, www.iid.state.ia.us.

ITEM 5. Amend **191—Chapter 39**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 514D.9 and Iowa Code chapter 514G as amended by 2008 Iowa Acts, House File 2694.

ARC 7200B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 505.8 and 514D.9, Iowa Code chapter 514G, and 2008 Iowa Acts, House File 2694, section 12, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 39, "Long-Term Care Insurance," Iowa Administrative Code.

The chapter, among other things, promotes the availability of long-term care insurance and establishes standards for long-term care insurance. The Iowa Insurance Commissioner has the authority to adopt rules for full and fair disclosure of the terms and benefits of a long-term care insurance policy and for establishing standard provisions for terms and benefits required to be included in a long-term care insurance policy, pursuant to Iowa Code sections 514D.9 and 514G.7(1)(2007) and 2008 Iowa Acts, House File 2694, section 12.

In 2003, Iowa adopted updates to the National Association of Insurance Commissioners model act regarding long-term care insurance. One provision of the model requires insurers to meet more stringent standards to justify a premium rate increase for a long-term care insurance policy issued after 2003. The proposed subrule will provide a key part of those same protections to consumers when insurers seek premium rate increases for policies issued prior to 2003. Under the proposed subrule, when an insurer raises premiums, the insurer will be required to offer a reduced benefit option and, under certain circumstances, a contingent benefit upon lapse. The Division intends that the subrule will become effective January 1, 2009, and that insurance producers and companies must be able to demonstrate compliance by January 1, 2009.

Any interested person may make written suggestions or comments on this proposed amendment on or before October 14, 2008. Such written materials should be directed to Rosanne Mead, Assistant Insurance Commissioner, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on October 14, 2008, at 10:30 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, 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 amendment.

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

This amendment is intended to implement Iowa Code chapters 514D and 514G and Iowa Code Supplement section 505.8 as amended by 2008 Iowa Acts, House File 2694, section 1.

The following amendment is proposed.

Adopt the following **new** subrule 39.29(14):

39.29(14) Notwithstanding subrule 39.29(10), if an insurer requests a premium rate increase on any long-term care policy issued prior to February 1, 2003, the commissioner shall require as a condition of approval of such premium rate increase that the insurer provide notice to all affected policyholders and

INSURANCE DIVISION[191](cont'd)

certificate holders that, in lieu of the requested premium rate increase, the insured may opt for one of the following:

a. A reduced benefit. The insurer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable. The age used to determine the premium for the reduced coverage shall be based on the age used to determine the premiums for the coverage currently in force. The reduced benefit offered may include one or more of the following:

- (1) A reduced daily, weekly, or monthly benefit;
- (2) A longer waiting period;
- (3) A reduced benefit period or a reduced maximum lifetime benefit; or
- (4) Any other benefit or coverage reduction option consistent with the policy or certificate design or the carrier's administrative processes.

b. A contingent benefit upon lapse as described in subrules 39.29(7), 39.29(8), 39.29(9), and 39.29(12) if the requested premium rate increase results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth in paragraph 39.29(6) "c."

c. Any other alternative mechanism filed by the insurer and approved by the commissioner.

ARC 7190B

INSURANCE DIVISION[191]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 502.605(1), the Insurance Division hereby gives Notice of Intended Action to amend Chapter 50, "Regulation of Securities Offerings and Those Who Engage in the Securities Business," Iowa Administrative Code.

These amendments propose a new rule 191—50.54(502) and amendments to subrules 50.16(2) and 50.38(1) to include a reference to the proposed new rule which prohibits the use of a senior-specific certification or designation in connection with the offer, sale or purchase of securities or the provision of advice as to the advisability of investing in, purchasing or selling securities. Publications, issuance or promulgation of writings, analyses or reports relating to securities that indicate or imply that the user has special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person shall be a dishonest and unethical practice in the securities business. The rule provides examples of misleading designations. The rule is based on a model developed by the North American Securities Administrators Association. The rule complements a similar rule for insurance producers developed by the National Association of Insurance Commissioners.

Any interested person may make written comments on the proposed rule on or before October 14, 2008. Written comments may be sent to Craig Goettsch, Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-3059 or electronically to craig.goettsch@iid.iowa.gov.

These amendments are intended to implement Iowa Code section 502.605(1).

The following amendments are proposed.

ITEM 1. Adopt the following **new** paragraph **50.16(2)"j"**:

j. Engaging in conduct deemed dishonest or unethical in rule 191—50.54(502).

ITEM 2. Adopt the following **new** paragraph **50.38(1)"y"**:

y. Engaging in conduct deemed dishonest or unethical in rule 191—50.54(502).

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ITEM 3. Adopt the following **new** rule 191—50.54(502):

191—50.54(502) Use of senior-specific certifications and professional designations.

50.54(1) The use of a senior-specific certification or designation by any person in connection with the offer, sale, or purchase of securities or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicate or imply that the user has special certification or training in advising or servicing senior citizens or retirees in such a way as to mislead any person shall be a dishonest and unethical practice in the securities, commodities, investment, franchise, banking, finance, or insurance business within the meaning of Iowa Code section 502.412(4)“m.” The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

a. Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

b. Use of a nonexistent or self-conferred certification or professional designation;

c. Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

d. Use of a certification or professional designation that was obtained from a designating or certifying organization that:

(1) Is primarily engaged in the business of instruction in sales or marketing;

(2) Does not have reasonable standards or procedures for ensuring the competency of its designees or certificants;

(3) Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

(4) Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

50.54(2) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of 50.54(1)“d” when the organization has been accredited by:

a. The American National Standards Institute;

b. The National Commission for Certifying Agencies; or

c. An organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes” and the designation or credential issued therefrom does not primarily apply to sales or marketing.

50.54(3) In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, the administrator shall consider the following factors:

a. Use of one or more words such as “senior,” “retirement,” “elder,” or similar words combined with one or more words such as “certified,” “registered,” “chartered,” “adviser,” “specialist,” “consultant,” “planner,” or similar words in the name of the certification or professional designation; and

b. The manner in which those words are combined.

50.54(4) For purposes of this rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

a. Indicates seniority or standing within the organization; or

b. Specifies an individual’s area of specialization within the organization.

For purposes of this subrule, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940.

50.54(5) Nothing in this rule shall limit the administrator’s authority to enforce existing provisions of law. This rule is intended to implement Iowa Code section 502.605(1).

ARC 7195B**PHARMACY BOARD[657]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6868B**, proposing to amend Chapter 3, "Pharmacy Technicians," Iowa Administrative Code.

The Notice proposed to add, delete, and modify various definitions relating to national certification of pharmacy technicians, recognize certification from either of two certification entities if that certification is attained and maintained prior to July 1, 2010, and to establish requirements for accreditation of national certification entities that will be accepted beginning July 1, 2010.

The amendments proposed in the Notice were also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6867B**. The Board is terminating the rule making commenced in **ARC 6868B**. No comments were received relating to the Notice, and the rules became effective on July 9, 2008.

ARC 7191B**PHARMACY BOARD[657]****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 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 13, "Sterile Compounding Practices," Iowa Administrative Code.

This amendment was approved at the July 29, 2008, regular meeting of the Board of Pharmacy.

The proposed amendment clarifies the requirements for a supervising pharmacist to perform in-process checks of compounding functions performed by a nonpharmacist and the requirements for documentation of that verification.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on October 14, 2008. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

This amendment is intended to implement Iowa Code sections 155A.2, 155A.6A, 155A.13, and 155A.33.

The following amendment is proposed.

Amend subrule 13.3(2) as follows:

13.3(2) *In-process checking procedure.* Each pharmacy shall establish a written quality assurance procedure that includes the following in-process checks:

a. Appropriate procedures are followed for measuring, mixing, diluting, purifying, sterilizing, packaging, and labeling of the specific preparation.

b. Packaging selection is appropriate to preserve the sterility and strength of the preparation.

c. ~~All~~ If functions are performed by nonpharmacists are verified by a nonpharmacist, the pharmacist before the preparation is dispensed to the patient shall verify the accuracy of the procedure at each step during the compounding process. Documentation that identifies the individual performing each step of the compounding process and the pharmacist verifying the accuracy of each step of the process shall be

PHARMACY BOARD[657](cont'd)

maintained and be available for inspection and copying by the board or its representative for at least two years.

d. If an electronic record capable of identifying each component and measurement required in the compounding process is created and utilized, pharmacist verification shall be completed before the preparation is dispensed to the patient. Documentation that identifies the individual performing each step of the compounding process and the pharmacist verifying the accuracy of the compounding process shall be maintained and be available for inspection and copying by the board or its representative for at least two years.

ARC 7194B**PHARMACY BOARD[657]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6870B**, proposing to amend Chapter 18, "Centralized Prescription Filling and Processing," Iowa Administrative Code.

The Notice proposed to define "mail order pharmacy" and to require that a pharmacist providing central fill or central processing functions as an employee of a licensed pharmacy located in Iowa must be licensed to practice pharmacy in Iowa. The Notice also proposed to exempt from the requirement to return a centrally filled prescription to the originating pharmacy for delivery to the patient if the central fill pharmacy is a mail order pharmacy and provides that a central fill or central processing pharmacy sharing a common central processing unit with an originating pharmacy may perform drug use review, subject to specific requirements of subrule 18.3(3), paragraph "b."

The amendments proposed in the Notice were also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 2, 2008, as **ARC 6869B**. The Board is terminating the rule making commenced in **ARC 6870B**. No comments were received relating to the Notice, and the amendments became effective on July 9, 2008.

ARC 7165B**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 147.53, the Professional Licensure Division hereby gives Notice of Intended Action to amend Chapter 4, "Board Administrative Processes," Iowa Administrative Code.

The proposed amendments to Chapter 4 remove the requirement that a board elect a secretary and replace the rule that pertains to physical, mental, and clinical competency examinations and alcohol or drug screenings. These amendments are proposed in order to ensure that the rules are consistent with statute.

Any interested person may make written comments on the proposed amendments no later than October 14, 2008, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on October 14, 2008, from 9 to 9:30 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. It is requested, though not required, that oral presentations also be shared in writing.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

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 amendments.

These amendments are intended to implement Iowa Code chapter 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 4.3(2) as follows:

4.3(2) Each board shall elect a chairperson, and vice chairperson, ~~and secretary~~ from its membership at the first meeting after April 30 of each year.

ITEM 2. Rescind rule 645—4.15(272C) and adopt the following new rule in lieu thereof:

645—4.15(147,272C) Order for physical, mental, or clinical competency examination or alcohol or drug screening. A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a physical, mental, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

4.15(1) Content of order. A board order for a physical, mental, or clinical competency examination shall include the following items:

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the evaluation.

4.15(2) Alternatives. Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

4.15(3) Objection to order. A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

4.15(4) Closed hearing. Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

4.15(5) Order and reports confidential. An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under 4.15(3), in order to allow the licensee an opportunity to prepare for hearing.

4.15(6) Admissibility. In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

4.15(7) Failure to submit. Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

ARC 7156B**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 147.76, the Board of Hearing Aid Dispensers hereby gives Notice of Intended Action to rescind Chapter 120, "Administrative and Regulatory Authority for the Board of Examiners for the Licensing and Regulation of Hearing Aid Dispensers," to amend Chapter 121, "Licensure of Hearing Aid Dispensers," Chapter 122, "Continuing Education for Hearing Aid Dispensers," and Chapter 124, "Discipline for Hearing Aid Dispensers," and to rescind Chapter 125, "Fees," Iowa Administrative Code.

These proposed amendments rescind chapters and rules that duplicate existing rules in 645—Chapters 4 and 5; eliminate outdated or duplicative language in the requirements for licensure, continuing education, and discipline; and revise grounds for discipline to be consistent with changes in Iowa Code chapter 147.

Any interested person may make written comments on the proposed amendments no later than October 14, 2008, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail sdozier@idph.state.ia.us.

A public hearing will be held on October 14, 2008, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 120**.

ITEM 2. Strike the words "board of examiners for the licensing and regulation of hearing aid dispensers" wherever they appear in **645—Chapter 121**, **645—Chapter 122** and **645—Chapter 124** and insert the words "board of hearing aid dispensers" in lieu thereof:

ITEM 3. Rescind and reserve rules **645—121.7(154A)**, **645—121.12(154A,147)** and **645—121.13(272C)**.

ITEM 4. Rescind and reserve rules **645—122.4(154A,272C)** to **645—122.7(154A,272C)**.

ITEM 5. Amend subrule 124.2(3), introductory paragraph, as follows:

124.2(3) Professional ~~incompetency~~ incompetence. Professional ~~incompetency~~ incompetence includes, but is not limited to:

ITEM 6. Amend subrule 124.2(16) as follows:

124.2(16) Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee's ability to practice as a hearing aid dispenser. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ITEM 7. Rescind and reserve rule **645—124.5(154A)**.

ITEM 8. Rescind and reserve **645—Chapter 125**.

ARC 7158B**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 147.76, the Board of Physical and Occupational Therapy hereby gives Notice of Intended Action to rescind Chapter 199, "Administrative and Regulatory Authority for the Board of Physical and Occupational Therapy—Physical Therapy," to amend Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Chapter 202, "Discipline for Physical Therapists and Physical Therapist Assistants," and Chapter 203, "Continuing Education for Physical Therapists and Physical Therapist Assistants," to rescind Chapter 204, "Fees," and Chapter 205, "Administrative and Regulatory Authority for the Board of Physical and Occupational Therapy—Occupational Therapy," to amend Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," Chapter 207, "Continuing Education for Occupational Therapists and Occupational Therapy Assistants," and Chapter 209, "Discipline for Occupational Therapists and Occupational Therapy Assistants," and to rescind Chapter 210, "Fees," Iowa Administrative Code.

These proposed amendments update practice requirements for physical and occupational therapy licensure and remove language that has been added to the common chapters for the Bureau of Professional Licensure.

Any interested person may make written comments on the proposed amendments no later than October 14, 2008, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail jmanning@idph.state.ia.us.

A public hearing will be held on October 14, 2008, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 148A, 148B and 272C.

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 199**.

ITEM 2. Rescind and reserve rules **645—200.8(147)** and **645—200.12(147)** to **645—200.14(17A,147,272C)**

ITEM 3. Rescind and reserve rule **645—202.5(148A)**.

ITEM 4. Rescind and reserve rules **645—203.4(148A,272C)** to **645—203.7(148A,272C)**.

ITEM 5. Rescind and reserve **645—Chapter 204** and **645—Chapter 205**.

ITEM 6. Rescind and reserve rules **645—206.11(147)** and **645—206.15(147)** to **645—206.17(17A,147,272C)**.

ITEM 7. Rescind and reserve rules **645—207.4(148B,272C)** to **645—207.7(148B,272C)**.

ITEM 8. Rescind and reserve rule **645—209.5(148B)**.

ITEM 9. Rescind and reserve **645—Chapter 210**.

ARC 7171B

PUBLIC HEALTH DEPARTMENT[641]**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 714.16, the Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 14, "Residential Water Treatment Systems," and adopt new Chapter 14, "Water Treatment Systems," Iowa Administrative Code.

The proposed rules describe the requirements for water treatment systems that are advertised or sold in Iowa and for which a claim is made that the system reduces health-related contaminants in drinking water. The rules also include the procedures and fees for the registration of water treatment systems.

The proposed rules were distributed among interested parties, including manufacturers, dealers, laboratories, the attorney general's office, and the university hygienic laboratory in March 2008.

A summary of the major changes from the existing rules follows.

Definitions for "ANSI," "drinking water," "maximum contaminant level (MCL)," "performance indication device (PID)," and "surrogate" are added.

Definitions for "initial registration," "performance testing" and "water treatment system" are revised.

The term "health-related contaminant" has been changed to "contaminant," and the definition has been revised. The term "National Sanitation Foundation (NSF)" has been changed to "NSF," and the definition has been revised.

The definition for "temporary registration" has been deleted.

Rule 641—14.4(714) has been rewritten to reference nationally recognized testing standards for water treatment systems and to clarify the submission and evaluation of testing protocols not specifically referenced in the rule. A minimum performance standard for water treatment systems was added. A requirement for retesting and submission of test data at least every five years has been added.

Rule 641—14.5(714) has been reorganized and a fee has been added for review of third-party testing agencies. The information required for evaluation of an agency has been added with provisions for a simplified application if an agency is nationally accredited. An appeal process for disapproval, conditions under which resubmission might be required, and a revocation procedure and appeal process have been added.

Rule 641—14.6(714) (formerly rule 641—14.8(714)) deletes the provisions for temporary registration, lists the information required for an application to register a water treatment system with relaxed provisions for systems tested by a nationally recognized agency, increases the fees for initial and renewal registration and establishes penalties for late renewal applications, and establishes the expiration date for initial registrations. Proposed subrule 14.6(3) requires submission of information about changes to a water treatment system or its trade names and sets a fee for review of the changes.

Rule 641—14.7(714) (formerly rule 641—14.6(714)) allows performance data sheets to be in accordance with national standards and the policies of nationally recognized testing agencies.

Proposed rule 641—14.9(714) requires that a water treatment system be registered before being sold in Iowa and that the performance data sheet and a consumer information booklet be given to the buyer before a sale is consummated. The rule prohibits false or deceptive claims and representations that a water treatment system is approved or endorsed by the state of Iowa.

Rule 641—14.11(714) (formerly rule 641—14.9(714)) has been amended to add criminal penalties as well as civil penalties.

Any interested person may make written suggestions or comments on the proposed rules on or before October 14, 2008. Written materials should be directed to Michael Magnant, Iowa Department

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of Public Health, 321 East 12th Street, Des Moines, Iowa 50319-0075; fax (515)281-4529; E-mail mmagnant@idph.state.ia.us.

There will be a public hearing on October 14, 2008, at 1 p.m. in the Fifth Floor Conference Room, Side 1 (Room 518), Lucas State Office Building, 321 East 12th Street, Des Moines, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Public Health and advise of specific needs.

These rules are intended to implement Iowa Code chapter 714.

The following amendment is proposed.

Rescind 641—Chapter 14 and adopt the following **new** chapter in lieu thereof:

CHAPTER 14
WATER TREATMENT SYSTEMS

641—14.1(714) Purpose. The purpose of these rules is to establish the requirements and procedures for the registration and sale of water treatment systems. These rules are established pursuant to Iowa Code section 714.16, which prohibits a person selling, leasing or renting, or advertising the sale, lease or rental of a water treatment system in Iowa from making false or deceptive representations that the water treatment system will reduce the concentration of one or more contaminants in drinking water.

641—14.2(714) Applicability. The provisions of this chapter apply to the seller and manufacturer of a water treatment system offered for sale, lease, or rent in Iowa for which representations are made that the water treatment system will reduce the concentration of one or more contaminants in drinking water. Individual water treatment systems installed as central treatment for a public water system under the rules of the Iowa department of natural resources are not required to comply with these rules.

641—14.3(714) Definitions.

“Annual registration” means the renewal of registration of a water treatment system for years subsequent to the initial registration.

“ANSI” means the American National Standards Institute, 25 W. 43rd Street, New York, New York 10036. ANSI reviews and accredits testing agencies and the standards processes of agencies that generate and maintain product standards.

“Buyer” means the person to whom a water treatment system is being sold, leased, or rented.

“Consumer information pamphlet” means a publication which explains water quality, health effects, quality expectations for drinking water, and the effectiveness and functions of water treatment systems.

“Consummation of sale” means the completion of the act of selling, leasing, or renting. Where the water treatment system is ordered by telephone, mail, or Internet, “consummation of sale” means delivery.

“Contaminant” means any particulate, chemical, microbiological, or radiological substance or parameter in drinking water which has a potentially adverse health effect and for which a maximum contaminant level (MCL) has been established. “Contaminant” does not include chlorine, chloramine, or chlorine dioxide. A substance or parameter becomes a contaminant on the effective date of the United States Environmental Protection Agency (USEPA) rule establishing the MCL in the national primary drinking water regulation.

“Department” means the Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

“Drinking water” means water intended for human consumption.

“Initial registration” means the first registration of a water treatment system after performance testing.

“Label” means the written, printed, or graphic matter attached to or printed on the water treatment system so it is not likely to be separated during normal shipping and handling and that can only be removed with a purposeful effort by the owner.

“Manufacturer’s performance data sheet (PDS)” means a booklet, document, or other printed material that contains, at a minimum, the information required pursuant to Iowa Code section 714.16 and that meets the requirements of 641—14.7(714).

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“*Maximum contaminant level (MCL)*,” as used in these rules, means a maximum contaminant level, or an action level, or a treatment technique requirement established in lieu of a maximum contaminant level, as specified in the national primary drinking water regulations (40 CFR 141).

“*NSF*” means NSF International, 789 Dixboro Road, P.O. Box 130140, Ann Arbor, Michigan 48113-0140. NSF maintains performance and testing standards for water treatment systems.

“*Performance indication device (PID)*” means an automatic, effective means to warn the user when a water treatment system requires service, typically after a fixed time or volume of water.

“*Performance testing*” means:

1. The third-party laboratory testing of a water treatment system in accordance with an approved performance testing protocol; or
2. The testing of a water treatment system by the manufacturer in accordance with an approved performance testing protocol followed by an audit of the manufacturer’s performance testing facilities and data by a third-party testing agency.

“*Seller*” means the person offering a water treatment system for sale, lease, or rent.

“*State hygienic laboratory*” means the University Hygienic Laboratory, University of Iowa, Oakdale Campus, Iowa City, Iowa 52242.

“*Surrogate*” means a substance or parameter that is reduced in concentration by a water treatment system and for which the reduction has been shown to reliably represent the reduction in concentration of one or more contaminants.

“*Third-party testing agency*” means an independent laboratory that is approved by the department to conduct performance testing of water treatment systems or to conduct audits of manufacturers’ performance testing facilities and data.

“*Water treatment system*” means a device or assembly for which a claim is made that it will improve the quality of public or private drinking water by reducing the concentration of one or more contaminants through mechanical, physical, chemical, or biological processes or a combination of processes. Each model of a water treatment system shall be deemed a distinct water treatment system.

1. Products that are given different model numbers by the manufacturer will be considered to be separate models unless the manufacturer can demonstrate that the products are identical.
2. Products that are similar but have different capacities, flow rates, or daily production rates will be considered to be separate models.
3. Products that are similar but make different contaminant reduction claims will be considered separate models.
4. Replacement components that are part of a registered water treatment system will not be considered separate models.

641—14.4(714) Performance testing. A water treatment system shall be tested for performance by a third-party testing agency or by the manufacturer. If the manufacturer does the performance testing, the provisions of 14.4(3) shall apply.

14.4(1) Standards. The performance testing shall be conducted in accordance with the applicable standard(s) from Table 1 or in accordance with a protocol approved by the state hygienic laboratory. Performance testing shall include an evaluation of structural integrity and of the water contact materials of the water treatment system in accordance with the applicable standard(s) listed in Table 1 or methods approved by the state hygienic laboratory.

Table 1

Treatment Process	NSF/ANSI Standard
Mechanical filtration	53 ¹
Carbon adsorption/filtration	53 ¹
Reverse osmosis	58 ²
Cation exchange softening	44 ³

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Ion exchange except softening	53 ¹
UV disinfection, Class A	55 ⁴
Distillation	62 ⁵

¹Drinking Water Treatment Units-Health Effects, 2007

²Reverse Osmosis Drinking Water Systems, 2007

³Residential Cation Exchange Water Softeners, 2007

⁴Ultraviolet Microbiological Water Treatment Systems, 2007

⁵Drinking Water Distillation Systems, 2007

14.4(2) Alternate performance testing protocols. If a water treatment system is not tested in accordance with a standard(s) in Table 1, the manufacturer of the water treatment system shall submit an alternate performance testing protocol for the water treatment system to the department.

a. The submission shall include, but may not be limited to, the following information:

(1) The name and address of the manufacturer and the name, address, telephone number, and E-mail address of the manufacturer's representative.

(2) The brand name, model number, and trade names of each water treatment system requiring performance testing. The manufacturer shall state whether each water treatment system will be performance tested or if one water treatment system will be performance tested and the results used to represent the performance of other water treatment systems. The manufacturer shall provide justification that the performance testing of one water treatment testing will reliably represent the performance of other water treatment systems.

(3) A detailed drawing with part numbers identifying each component of the water treatment system. Where applicable, this includes, but may not be limited to, pre- and post-filters, storage tank, dispensing unit (faucet), booster pump, and the main treatment module. Replaceable components shall be specifically identified and the approximate treatment capacity or replacement frequency shall be stated.

(4) Identification of the water treatment system materials that are in contact with the water and of any chemical added to the drinking water by the water treatment system.

(5) Specification of the pressure, flow and temperature requirements and limits for the water treatment system.

(6) A list of the contaminants claimed to be reduced by the water treatment system.

(7) A statement indicating whether the water treatment system will be advertised and sold to treat water that is microbiologically unsafe as defined in NSF/ANSI standard 53.

(8) A detailed description of the performance testing protocol including, but not necessarily limited to:

1. A schematic of the test rig with specifications for the critical components and instrumentation.

2. Characterization of the general test water and the challenge water, including the level of the challenge parameter(s) in the water. A justification for the level of the challenge parameter(s) shall be provided.

3. Details of how the general test water and the challenge water are prepared.

4. Water pressure, flow rate and temperature during the test.

5. Sample schedule for influent and effluent water.

6. Analytical methods for the challenge parameter(s).

7. Performance standard for the challenge parameter(s).

b. The performance testing protocol shall include the following provisions:

(1) At least two units shall be tested.

(2) The flow rate and water pressure shall be typical of the end use for the water treatment system.

(3) Where applicable, a water treatment system with a PID shall be tested to at least 120 percent of the capacity listed on the PDS. A water treatment system without a PID shall be tested to at least 200 percent of the capacity listed on the PDS.

(4) The structural integrity of the water treatment system shall be tested in accordance with the method in the applicable standard in Table 1.

(5) The materials shall be evaluated for safety in accordance with one of the standards in Table 1 or in accordance with NSF/ANSI standard 61-2007a, "Drinking Water System Components - Health Effects."

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c. The state hygienic laboratory shall review the performance testing protocol and shall report the approval, conditional approval or disapproval of the protocol in writing to the department. The conditions of approval or the reasons for disapproval shall be in the report.

d. The manufacturer shall pay a fee not to exceed \$200 to the state hygienic laboratory for each performance testing protocol review done in accordance with these rules.

14.4(3) *Manufacturer testing and audit.* A manufacturer may do performance testing of a water treatment system at its own facilities provided that a performance testing protocol from a standard in Table 1 or approved in accordance with 14.4(2) is used and the manufacturer's personnel, facilities and data are found to be adequate when audited by a third-party testing agency.

a. The manufacturer shall submit to the department information including, but not necessarily limited to, the following:

(1) The applicable standard(s) from Table 1 or the information required by 14.4(2).

(2) The name and address of the third-party testing agency performing the audit, and the name, address, telephone number, and E-mail address of an authorized representative of the third-party testing agency.

b. The third-party testing agency responsible for the audit of the manufacturer's facilities and data shall submit to the department information including, but not necessarily limited to, the following:

(1) A detailed description of the manufacturer's testing facilities and equipment.

(2) Résumés of the management, scientific, and technical personnel responsible for conducting the performance testing.

(3) A copy of the manufacturer's state drinking water laboratory certification for the contaminants treated by the water treatment system, or verification that the manufacturer has the capability to perform USEPA-approved analytical methods for the contaminants treated by the water treatment system. If the analyses are performed by another agency, a copy of that agency's certificate and documentation of the business relationship between the manufacturer and the agency shall be submitted.

(4) An evaluation of the manufacturer's laboratory quality assurance program.

(5) The number of water treatment systems tested at the manufacturer's testing facilities, if applicable, listed by the standard(s) used as the basis for testing and including the contaminants for which testing was done.

(6) An evaluation of the capability of the facility to conduct performance testing in accordance with the approved performance testing protocol.

c. Upon receipt of the report of the audit, the department shall transmit a letter of approval, conditional approval, or disapproval to the manufacturer within 30 days. The conditions of approval or the reasons for disapproval shall be in writing and shall be provided to the manufacturer's representative.

14.4(4) *Performance requirements.* A water treatment system shall meet or exceed the performance requirements of the standard(s) in Table 1 applicable to the water treatment system. If a contaminant treated by the water treatment system is not addressed by a standard in Table 1, the water treatment system shall reduce the level of the contaminant to or below the MCL when the water treatment system is tested in accordance with a performance testing protocol approved according to 14.4(2).

14.4(5) *Retesting.*

a. If a water treatment system is listed by an ANSI-accredited third-party testing agency, the manufacturer shall have the water treatment system retested for performance in accordance with the policies of the third-party testing agency, but no less frequently than every five years. Other water treatment systems shall be retested by a third-party testing agency at least every five years.

b. After a water treatment system is retested, the manufacturer shall submit the test data in accordance with 14.6(1). The manufacturer shall submit a PDS modified to include the results of the retesting at the time of the next annual registration.

c. A change in the capacity of the water treatment system or to the contaminant claims shall be reported in accordance with 14.6(3).

d. Water treatment systems registered prior to January 1, 2009, shall be retested, and the test data and PDS submitted prior to January 1, 2014.

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641—14.5(714) Third-party testing agencies. The department shall review and approve the facilities and capabilities of an agency before the agency is authorized as a third-party testing agency for the purposes of these rules.

14.5(1) Submission of information. An agency applying for authorization as a third-party testing agency shall submit to the department information including, but not necessarily limited to, the following:

- a. The name, address, telephone number, and E-mail address of the agency representative.
- b. Verification that the agency is not owned, fully or partially, or managed by a company engaged in the manufacture or sales of water treatment systems.
- c. A copy of the agency's laboratory certification under the Safe Drinking Water Act for the contaminants for which the agency will do performance testing (if the analyses are performed by another agency, a copy of that agency's certificate and documentation of the business relationship between the applicant and the agency shall be submitted); or
- d. Written verification to the department that the agency has the capability to perform the USEPA-approved methods of analysis for the contaminants for which the agency will do performance testing.
- e. A copy of the agency laboratory quality assurance plan.
- f. A detailed description of the agency's testing facilities and equipment.
- g. Résumés of the management, scientific, and technical personnel responsible for conducting the performance testing.
- h. The number of water treatment systems tested by the agency, if applicable, listed by the standards used as the basis for testing and including the contaminants for which testing was done.
- i. A copy of a test protocol that the agency has developed for a client or a copy of the report of the test of a water treatment system prepared for a client, if applicable.
- j. A nonrefundable \$200 review fee.
- k. If product testing is subcontracted to another testing agency, the name of the agency; the name, address, telephone number, and E-mail address of an authorized representative of the agency; the standard(s) used, and the contaminant(s) tested by the agency.
- l. An agency that is accredited by ANSI for product testing and certification in accordance with one or more of the standards in Table 1 shall submit the following:
 - (1) The information required in 14.5(1) "a" and "b" and the fee required in 14.5(1) "j."
 - (2) The ANSI certificate and scope of accreditation.
 - (3) The method by which the department can access information about a water treatment system tested and certified by the agency. The information shall include:
 1. Manufacturer's name.
 2. Model number of the water treatment system.
 3. Replacement element(s) designation.
 4. Rated capacity, if applicable.
 5. Service flow rate, if applicable.
 6. Daily production rate, if applicable.
 7. List of the contaminants for which the water treatment system has been tested.

14.5(2) Testing auditor. An agency applying for authorization to audit a manufacturer's data and facilities shall submit to the department information including, but not necessarily limited to, the following:

- a. The information and fee required by 14.5(1).
- b. A written description of the agency's qualifications and experience in performing laboratory audits and laboratory analysis.
- c. Written verification that USEPA or equivalent procedures for auditing quality control of laboratories are followed in performing an audit of a manufacturer's testing of a water treatment system.

14.5(3) Approval of third-party testing agencies. The department shall review the information submitted by an agency applying for third-party testing agency status.

- a. The department shall consider:
 - (1) The independence of the agency ownership and management.
 - (2) The adequacy of the agency's facilities and equipment for water treatment system testing.

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(3) The experience and training of the management, scientific, and technical staff directly responsible for testing water treatment systems.

(4) The adequacy of the equipment, facilities and personnel for analysis of the contaminants for which the agency will do performance testing.

(5) The adequacy of quality assurance systems at the testing facility.

b. The department shall transmit a letter of approval, conditional approval, or disapproval to the agency representative. The conditions of approval or the reasons for disapproval shall be in writing and shall be provided to the agency representative.

c. An appeal of disapproval or a condition of approval shall be submitted by the agency to the department by certified mail, return receipt requested, within 30 days of receipt of the department's letter. The address is Iowa Department of Public Health, Water Treatment System Registration, 321 E. 12th Street, Des Moines, Iowa 50319-0075. If no appeal is received within the 30 days, the disapproval or conditional approval becomes the department's final agency action. An appeal shall be forwarded to the department of inspections and appeals within 5 working days of its receipt. The department shall provide the information upon which the disapproval or conditional approval was based and any additional information provided by the agency to the department of inspections and appeals.

14.5(4) Resubmission. The department may require that an agency resubmit the information required in 14.5(1) and 14.5(2) if:

a. The testing facilities are relocated.

b. The corporate identity of the agency changes.

c. The agency has not tested a water treatment system submitted to the department for registration or has not audited a manufacturer for a period of three years or longer.

14.5(5) Revocation of authorization. The department may revoke authorization for an agency to be a third-party testing agency or a test auditor if:

a. The agency loses ANSI accreditation.

b. The agency submits false information in support of the registration of a product.

c. Information submitted to support authorization is found to be false.

d. The agency, in the judgment of the department, is incompetent to conduct or incapable of conducting testing in accordance with the standards in Table 1 or in accordance with approved protocols.

14.5(6) Notice of revocation. Notice of revocation shall be sent to the agency by restricted certified mail, return receipt requested, or by personal service. The agency shall have a right to appeal the revocation.

a. An appeal of a revocation shall be submitted by certified mail, return receipt requested, within 30 days of receipt of the department's notice. The appeal shall be sent to the Iowa Department of Public Health, Division of Environmental Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. If such a request is made within the 30-day time period, the revocation shall be deemed to be suspended. Prior to or at the hearing, the department may rescind the revocation upon satisfaction that the reason for the revocation has been or will be removed. After the hearing, or upon default of the agency, the administrative law judge shall affirm, modify or set aside the revocation. If no appeal is submitted within 30 days, the revocation shall become the department's final agency action.

b. Upon receipt of an appeal that meets contested case status, the appeal shall be transmitted to the department of inspections and appeals within five working days of receipt pursuant to the rules adopted by that agency regarding the transmission of contested cases. The information upon which the revocation is based shall be provided to the department of inspections and appeals.

c. The hearing shall be conducted in accordance with 481—Chapter 10.

d. When the administrative law judge makes a proposed decision and order, it shall be served by restricted certified mail, return receipt requested, or delivered by personal service. The proposed decision and order then becomes the department's final agency action without further proceedings ten days after it is received by the agency unless an appeal to the director is taken as provided in paragraph "e."

e. Any appeal to the director of the department for review of the proposed decision and order of the administrative law judge shall be filed in writing and mailed to the director by certified mail, return receipt requested, or delivered by personal service within ten days after the receipt of the administrative law

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judge's proposed decision and order by the aggrieved party. A copy of the appeal shall also be mailed to the administrative law judge. Any request for appeal shall state the reason for appeal.

f. Upon receipt of an appeal request, the administrative law judge shall prepare the record of the hearing for submission to the director. The record shall include the following:

- (1) All pleadings, motions and rules.
- (2) All evidence received or considered and all other submissions by recording or transcript.
- (3) A statement of all matters officially noticed.
- (4) All questions and offers of proof, objections, and rulings thereon.
- (5) All proposed findings and exceptions.
- (6) The proposed findings and order of the administrative law judge.

g. The decision and order of the director becomes the department's final agency action upon receipt by the agency and shall be delivered by restricted certified mail, return receipt requested.

h. It is not necessary to file an application for a rehearing to exhaust administrative remedies when appealing to the director or the district court as provided in Iowa Code section 17A.19. The agency may petition for judicial review pursuant to Iowa Code chapter 17A.

i. Any petition for judicial review of a decision and order shall be filed in the district court within 30 days after the decision and order becomes final. A copy of the notice of appeal shall be sent by certified mail, return receipt requested, or by personal service to the department at Iowa Department of Public Health, Division of Environmental Health, 321 East 12th Street, Des Moines, Iowa 50319-0075.

j. An agency that appeals a final department action to the district court shall pay the cost of the preparation of a transcript of the contested case hearing for the district court.

641—14.6(714) Registration. A water treatment system that has been performance tested in accordance with 14.4(714) and that meets the performance requirement of 14.4(4) may be registered with the department. A water treatment system shall be registered with the department before it is sold, leased or rented and before it is advertised for sale, lease or rent in Iowa.

14.6(1) Initial registration.

a. The manufacturer of a water treatment system or the manufacturer's authorized representative shall submit the following information to the department on forms supplied by the department:

(1) The name and address of the manufacturer and the name, address, telephone number, and E-mail address of the manufacturer's representative.

(2) The brand name, model number, and trade name(s) of the water treatment system.

(3) A detailed drawing with part numbers identifying each component of the water treatment system. Where applicable, this includes, but may not be limited to, pre- and post-filters, storage tank, dispensing unit (faucet), booster pump, and the main treatment module. Replaceable components shall be specifically identified and the approximate treatment capacity or replacement frequency shall be stated.

(4) Verification by a third-party testing agency that the water treatment system performed in accordance with 14.4(4) when tested with an approved performance testing protocol. If the third-party testing agency is ANSI-accredited and the water treatment system was tested in accordance with a standard(s) in Table 1, documentation of a listing by the ANSI-accredited agency is sufficient.

(5) The test data generated by the third-party testing agency. Submission of the test data is not required if the testing agency is an ANSI-accredited third-party testing agency and the water treatment system was tested for performance in accordance with a standard in Table 1.

(6) The PDS.

(7) Copies of the labels for the water treatment system and for any replaceable components.

(8) Copies of product packaging, product promotional materials, and sales training materials.

(9) A copy of installation and operation guides with identification of replaceable components and replacement frequencies, where applicable.

(10) A nonrefundable initial registration fee of \$800 for each water treatment system.

b. A registration issued between July 1 and March 31, inclusive, shall expire on the next June 30. A registration issued between April 1 and June 30, inclusive, shall expire on June 30 of the year after the year in which the registration is issued.

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14.6(2) Annual registration. Each calendar year on or before March 1, the department shall notify each manufacturer or the manufacturer's designated agent of the water treatment systems registered in Iowa and the requirement for renewal of the registration. For each water treatment system that a manufacturer wishes to continue to sell in Iowa, the manufacturer or the manufacturer's designated agent shall submit the following information to the department on or before May 31 of each calendar year.

a. Certification that there has been no change in the water treatment system's design since the system was tested during the initial registration process.

b. A copy of the current PDS.

(1) A statement that the PDS has not changed since the initial registration or the previous annual registration may be submitted in lieu of the PDS.

(2) Changes on the PDS must be explained and supported by third-party testing results. If the testing was done by an ANSI-accredited third-party testing agency in accordance with a standard(s) in Table 1, documentation of listing by the testing agency is sufficient.

c. A nonrefundable annual registration fee of \$400 for each water treatment system.

d. If the annual registration information is sent after May 31, the manufacturer shall pay for each water treatment system a penalty of \$50 per month or fraction thereof that the information is late to a maximum of \$200 for each water treatment system.

14.6(3) Changes to registration.

a. Modifying one or more contaminant claims, capacity claims, or treatment components of a registered water treatment system without the written approval of the department shall void the registration.

b. The manufacturer shall apply to the department for approval of a change in contaminant claims or capacity claims for a water treatment system, or of changes to the treatment components. The application shall be on a form supplied by the department. The application shall include, but may not be limited to:

(1) The name and address of the manufacturer and the name, address, telephone number, and E-mail address of the manufacturer's representative.

(2) The brand name, model number, and trade name(s) of the water treatment system.

(3) A description of the changes in claims, capacity, or components.

(4) The third-party testing agency report and data supporting the change in contaminant claims or capacity, or showing equivalent performance for a new treatment component. If the third-party testing agency is ANSI-accredited, a copy of the listing for the water treatment system showing the changes in contaminant claims or capacity, or a statement of equivalent performance by the new treatment component(s) from the testing agency is sufficient.

(5) A revised PDS that meets the requirements of 14.7(2).

(6) Copies of labels, packaging and promotional material that have been revised to reflect the changed claims.

(7) A nonrefundable \$100 fee for each water treatment system for which the registration is changed.

c. The manufacturer shall notify the department of any changes to the trade name(s) for a water treatment system. The notification shall include, but may not be limited to:

(1) The original model number(s) and trade name(s) of the water treatment system.

(2) The changed or added model number(s) and trade name(s) for the water treatment system.

(3) A statement that the treatment components and claims are the same between the original and the changed or added trade names.

(4) Copies of the PDS, labels, packaging, and promotional materials showing the changed or added trade name(s).

641—14.7(714) Label and manufacturer's performance data sheet. A label and a PDS shall be provided with a water treatment system to provide the consumer with information on the effectiveness of the water treatment system in reducing the concentration of contaminants from drinking water.

14.7(1) Label. Each water treatment system must bear a conspicuous and legible label stating, "IMPORTANT NOTICE - Read the manufacturer's performance data sheet."

14.7(2) Manufacturer's performance data sheet. A PDS for a water treatment system listed by an ANSI-accredited third-party testing agency and tested in accordance with a standard in Table 1 shall comply

PUBLIC HEALTH DEPARTMENT[641](cont'd)

with the requirements of the applicable standard(s) in Table 1 and the policies of the third-party testing agency. The PDS for other water treatment systems shall include, but may not be limited to:

- a. The name, address, and telephone number of the seller.
- b. The name, brand, or trademark under which the water treatment system is sold, and its model number.
- c. Performance and test data including, but not necessarily limited to:
 - (1) The list of contaminants found to be reduced by the water treatment system.
 - (2) The average test influent concentration level of each contaminant or surrogate.
 - (3) The average effluent concentration and the percentage reduction of each contaminant or surrogate.
 - (4) When the reduction of a contaminant is verified using a surrogate, the equivalent influent concentration, effluent concentration, and percent reduction for the contaminant.
 - (5) The MCL for each contaminant.
 - (6) The approximate capacity in gallons or the period of time during which the water treatment system is effective in reducing the concentration of contaminants based upon the contaminant influent concentrations used for the performance tests. The claimed volume capacity of a water treatment system shall be based upon the contaminant most likely to break through into the effluent during the test period.
 - (7) Where applicable, the flow rate, pressure, and temperature of the water during the performance tests.
- d. Substances or parameters that are not contaminants as defined in 14.3(714) may be listed on the PDS, but the substances may not be referred to as contaminants.
- e. The following information shall be on the PDS or in the owner's manual. If the information is in the owner's manual, there shall be a statement on the performance data sheet referring the buyer to the owner's manual.
 - (1) Installation instructions.
 - (2) Procedures and requirements necessary for the proper operation of the water treatment system including, but not limited to, electrical requirements; maximum and minimum pressure; flow rate; temperature limitations; maintenance requirements; and expected replacement frequencies.
 - (3) The seller's warranty.

641—14.8(714) Consumer information pamphlet. A consumer information pamphlet prepared by the department shall be given to the buyer by the seller along with the manufacturer's performance data sheet prior to the consummation of the sale of a water treatment system. The consumer information pamphlet may be printed in detail by the manufacturer.

641—14.9(714) Sales of water treatment systems. No water treatment system may be sold in Iowa unless it is first registered with the department.

14.9(1) Prior to the consummation of sale, the seller shall provide to the buyer:

- a. The PDS.
- b. A copy of the consumer information pamphlet.

14.9(2) Prior to the consummation of sale, the seller and the buyer shall sign and date a copy of the PDS. The seller shall retain the signed PDS on file at the seller's place of business for at least two years.

14.9(3) The seller shall make no false or deceptive claims or representations regarding the contaminant removal capability of a water treatment system.

14.9(4) The seller shall not make any representation or claim that a water treatment system is approved or endorsed by any agency of the state.

641—14.10(714) Treatment of records. Information submitted by a manufacturer to support registration of a water treatment system is subject to the provisions of 641—Chapter 175, Fair Information Practices and Public Records. A manufacturer may request that information submitted for the purposes of these rules be considered confidential by reference to the appropriate subsection of Iowa Code section 22.7.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

641—14.11(714) Penalties. A seller of a water treatment system or unit violating any provision of these rules shall be subject to civil or criminal penalties pursuant to the authority of Iowa Code chapter 714.

These rules are intended to implement Iowa Code chapter 714.

ARC 7169B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 131, "Emergency Medical Services Provider Education/Training/Certification," Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical providers and establish a standard of conduct for training programs, students, and providers. These proposed amendments update disciplinary rules for providers and eliminate the fee for retirement of an EMS certification.

Any interested person may make written comments or suggestions on the proposed amendments on or before October 14, 2008. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are proposed.

ITEM 1. Amend paragraph **131.4(3)"h"** as follows:

h. An individual may request an inactive or retired status for a certificate. The request must be made ~~to the department in writing~~ by submitting a change of status request, available through the Iowa Department of Public Health, Bureau of EMS, Lucas State Office Building, Des Moines, Iowa 50319-0075, or the bureau of EMS Web site (www.idph.state.ia.us/ems). ~~A certification card reflecting the inactive or retired status may be issued to the individual for a fee of \$30.~~ Reinstatement of an inactive or retired certificate shall be made pursuant to 131.4(3) "*f.*" A request for inactive or retired status, when accepted in connection with a disciplinary investigation or proceeding, has the same effect as an order of revocation.

ITEM 2. Rescind paragraph **131.4(8)"f."**

ITEM 3. Amend paragraph **131.7(2)"u"** as follows:

u. Having certification to practice emergency medical care suspended or revoked, or having other disciplinary action taken by a licensing or certifying authority of this state or another state, territory or country. A ~~certified~~ copy of the record or order of suspension, revocation or disciplinary action is conclusive or prima facie evidence.

ITEM 4. Adopt the following new paragraph **131.7(2)"ab"**:

ab. Failure to respond within 30 days of receipt, unless otherwise specified, of communication from the department which was sent by registered or certified mail.

ARC 7170B

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 132, "Emergency Medical Service—Service Program Authorization," Iowa Administrative Code.

The rules in Chapter 132 describe the standards for the authorization of EMS services. These proposed amendments clarify definitions for air medical services, describe requirements for driver training and require that service providers notify the Department when employees are terminated for certain reasons.

Any interested person may make written comments or suggestions on the proposed amendments on or before October 14, 2008. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

These amendments are intended to implement Iowa Code chapter 147A.

The following amendments are proposed.

ITEM 1. Amend rule **641—132.1(147A)**, definition of "Rotorcraft ambulance," as follows:

"Rotorcraft ambulance" means any privately or publicly owned rotorcraft specifically designed, modified, constructed, equipped, staffed and ~~used regularly~~ FAA-approved to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation ~~while being transported~~ during transport.

ITEM 2. Adopt the following **new** definition in rule **641—132.1(147A)**:

"Fixed-wing aircraft" means any privately or publicly owned propeller-driven or jet airplane specifically designed, modified, constructed, equipped, staffed and FAA-approved to transport the sick, injured or otherwise incapacitated who are in need of out-of-hospital emergency medical care or whose condition requires treatment or continuous observation during transport.

ITEM 3. Amend subparagraph **132.8(1)"c"(2)** as follows:

(2) One currently licensed driver. The service shall document each driver's training in CPR (AED training not required), in emergency driving techniques and in the use of the service's communications equipment. Training in emergency driving techniques shall include:

1. Review of Iowa laws regarding emergency vehicle operations.
2. A review of the service program's driving policy for first response vehicles, ambulances, rescue vehicles or personal vehicles of an emergency medical care provider responding as a member of the service.

The policy shall include, as a minimum:

- Frequency and content of driver's training requirements.
- Criteria for response with lights or sirens or both.
- Speed limits when responding with lights or sirens or both.
- Procedure of approaching intersections with lights or sirens or both.
- Notification process in the event of a motor vehicle collision involving a first response vehicle, ambulance, rescue vehicle or personal vehicle of an emergency medical care provider responding as a member of the service.

3. Behind-the-wheel driving of the service's first response vehicles, ambulances and rescue vehicles.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 4. Adopt the following **new** paragraph **132.8(6)“c”**:

c. A service program must report the termination of an emergency medical care provider due to negligence, professional incompetency, unethical conduct or substance use to the department within ten days following the termination.

ARC 7180B

PUBLIC SAFETY DEPARTMENT[661]

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 Supplement section 101B.3, the Department of Public Safety hereby gives Notice of Intended Action to adopt new Chapter 61, “Reduced Ignition Propensity Cigarettes,” Iowa Administrative Code.

Iowa Code Supplement chapter 101B, which was enacted by the Iowa General Assembly during its 2007 session, provides for cigarette fire safety standards that will restrict sales of cigarettes in Iowa to “fire-safe cigarettes.” Iowa Code Supplement section 101B.3 provides for the Department of Public Safety to promulgate administrative rules to implement the provisions of chapter 101B. The rules proposed herein are intended to do so.

A public hearing on this proposed amendment will be held on October 14, 2008, at 8:30 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on October 14, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These rules are intended to implement Iowa Code Supplement chapter 101B.

The following amendment is proposed.

Adopt the following **new** 661—Chapter 61:

CHAPTER 61

REDUCED IGNITION PROPENSITY CIGARETTES

661—61.1(101B) Definitions. The following definitions apply to rules 661—61.1(101B) through 661—61.21(101B):

“*Agent*” means a distributor as defined in Iowa Code section 453A.1 authorized by the department of revenue to purchase and affix stamps pursuant to Iowa Code section 453A.10.

“*Certified reduced ignition propensity cigarette*” means a unique cigarette brand style that meets the following criteria:

1. The unique cigarette brand style has been tested in accordance with the test method prescribed in rule 661—61.3(101B) or has been approved pursuant to rule 661—61.4(101B).

PUBLIC SAFETY DEPARTMENT[661](cont'd)

2. The unique cigarette brand style meets the performance standard specified in rule 661—61.3(101B) or has been approved pursuant to rule 661—61.4(101B).

3. A written certification for the unique cigarette brand style has been filed by the manufacturer with the department and in accordance with rule 661—61.10(101B).

4. Packaging for the unique cigarette brand style has been marked in accordance with rule 661—61.13(101B).

“Cigarette” means a cigarette as defined in Iowa Code section 453A.1, but shall not mean a tobacco product as defined in Iowa Code section 453A.1.

“Department” means the department of public safety.

“Manufacturer” means any of the following:

1. An entity that manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced, anywhere, which cigarettes the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer.

2. The first purchaser of cigarettes anywhere, that intends to resell in the United States, cigarettes manufactured or produced anywhere, that the original manufacturer did not intend to be sold in the United States.

3. An entity that becomes a successor of an entity described in numbered paragraph “1” or “2” of this definition.

“Quality control and quality assurance program” means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the repeatability testing, and which program ensures that the testing repeatability remains within the required repeatability values specified in rule 661—61.3(101B).

“Reduced ignition propensity cigarette” means a cigarette certified pursuant to this chapter.

“Repeatability” means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

“Retailer” means retailer as defined in Iowa Code section 453A.1.

“Sale” means any transfer of title or possession, exchange or barter, in any manner or by any means or any agreement. In addition to cash and credit sales, the giving of cigarettes as a sample, prize, or gift or the exchanging of cigarettes for any consideration other than money is considered a sale.

“Sell” means to sell, or to offer or agree to sell.

“Unique cigarette brand style” means a cigarette with a unique combination of the following:

1. Brand or trade name.
2. Style, such as light or ultra light.
3. Length.
4. Circumference.
5. Flavor, such as menthol or chocolate, if applicable.
6. Presence or absence of a filter.
7. Type of package, such as soft pack or box.

“Wholesaler” means wholesaler as defined in Iowa Code section 453A.1.

661—61.2(101B) Restriction on sale of cigarettes. On or after January 1, 2009, cigarettes shall not be sold or offered for sale to any person in this state unless the cigarettes are reduced ignition propensity cigarettes.

EXCEPTION I: This chapter shall not be construed to prohibit a wholesaler or retailer from selling the wholesaler’s or retailer’s inventory of cigarettes existing prior to January 1, 2009, provided that the wholesaler or retailer is able to establish both of the following:

1. Tax stamps were affixed to the cigarettes on inventory, pursuant to Iowa Code section 453A.10, before January 1, 2009.

2. The inventory of cigarettes was purchased before January 1, 2009, in comparable quantity to the amount of inventory of cigarettes purchased during the same period of the prior year.

EXCEPTION II: This chapter shall not be construed to prohibit any person from selling or offering for sale cigarettes that have not been certified by the manufacturer in accordance with Iowa Code Supplement section

PUBLIC SAFETY DEPARTMENT[661](cont'd)

101B.5 if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

661—61.3(101B) Test method, performance standard, test report. Except as provided in rule 661—61.4(101), each unique cigarette brand style submitted for certification under this chapter shall meet all of the following criteria:

61.3(1) Testing shall be conducted in accordance with ASTM (American Society for Testing and Materials) international standard E2187-04, standard test method for measuring the ignition strength of cigarettes.

61.3(2) Testing shall be conducted on ten layers of filter paper.

61.3(3) The performance standard shall require that no more than 25 percent of the cigarettes tested in a test trial shall exhibit full-length burns.

61.3(4) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

61.3(5) The performance standard required by this rule shall only be applied to a complete test trial.

61.3(6) Testing shall be conducted by a laboratory that has been accredited pursuant to International Organization for Standardization/International Electrotechnical Commission Standard 17025.

61.3(7) Laboratories conducting testing in accordance with subrule 61.3(6) shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The testing repeatability shall be no greater than nineteen one-hundredths.

61.3(8) This rule shall not require additional testing if cigarettes are tested in a manner consistent with this chapter for any other purpose.

61.3(9) Each cigarette listed in a certification submitted in accordance with Iowa Code Supplement section 101B.5 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard pursuant to this rule shall have at least two nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least 15 millimeters from the lighting end and either 10 millimeters from the filter end of the tobacco column or 10 millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.

661—61.4(101B) Alternate test method.

61.4(1) The manufacturer of a cigarette that the department determines cannot be tested in accordance with the test method prescribed in rule 661—61.3(101B) shall propose a test method and performance standard for the cigarette.

61.4(2) A manufacturer proposing an alternate test method and performance standard pursuant to this rule shall submit such proposal on a form provided by the department and shall send such form by certified mail, return receipt requested, to the following address:

Fire Marshal Division
State Public Safety Headquarters Building
215 East 7th Street
Des Moines, Iowa 50319

61.4(3) The department shall approve or deny the proposed alternate test method and performance standard within 60 days of receipt of such proposal and shall send notification of such approval or denial by certified mail, return receipt requested, to the address provided by the manufacturer.

61.4(4) If an alternate test method and performance standard are approved pursuant to this rule, the manufacturer may employ the test method and performance standard to certify the cigarette in accordance with rule 661—61.3(101B).

661—61.5(101B) Acceptance of alternate test method approved by another state.

61.5(1) If the department determines that another state has enacted reduced cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in this chapter, and the department finds that the officials responsible for implementing those requirements have approved the proposed alternate test method and performance standard for a unique cigarette brand style

PUBLIC SAFETY DEPARTMENT[661](cont'd)

proposed by a manufacturer as meeting the fire safety standards of that state's law or regulation under a legal provision comparable to rule 661—61.4(101B), the department shall authorize that manufacturer to employ the alternate test method and performance standard to certify that cigarette for sale in this state, unless the department demonstrates a reasonable basis why the alternate test method and performance standard should not be accepted under this chapter. All other applicable requirements of this chapter shall apply to the manufacturer.

61.5(2) A manufacturer proposing an alternate test method and performance standard under this rule shall use the procedure for submitting an alternate test method and performance standard specified in rule 661—61.4(101B) and shall provide documentation verifying that the alternate test method and performance standard have been approved by another state as provided in subrule 61.5(1).

661—61.6(101B) Retention of reports of testing. A manufacturer shall maintain copies of the reports of all tests conducted on all certified reduced ignition propensity cigarettes offered for sale for a period of three years and shall make copies of the reports available to the department and the office of the attorney general upon written request.

661—61.7(101B) Testing performed or sponsored by the department. Testing performed or sponsored by the department to determine a cigarette's compliance with the performance standard required by this chapter shall be conducted in accordance with rule 661—61.3(101B).

EXCEPTION: Testing performed or sponsored by the department to determine the compliance of a cigarette tested in accordance with rule 661—61.4(101B) shall be conducted in accordance with the test method and performance standard specified in a proposal approved under rule 661—61.4(101B).

661—61.8 and 61.9 Reserved.

661—61.10(101B) Certification and fee.

61.10(1) Each manufacturer shall submit a written certification to the department attesting to all of the following:

- a. Each certified reduced ignition propensity cigarette listed in the certification has been tested in accordance with rule 661—61.3(101B), 661—61.4(101B), or 661—61.5(101B).
- b. Each certified reduced ignition propensity cigarette listed in the certification meets the performance standard specified in rule 661—61.3(101B) or approved under rule 661—61.4(101B).

61.10(2) Each certified reduced ignition propensity cigarette listed in the certification shall be described in the certification as follows:

- a. The brand or trade name on the package.
- b. The style of cigarette, such as light or ultra light.
- c. The length of the cigarette in millimeters.
- d. The circumference of the cigarette in millimeters.
- e. The flavor of the cigarette, such as menthol or chocolate, if applicable.
- f. Whether the cigarette is filtered or nonfiltered.
- g. The type of cigarette package, such as soft pack or box.
- h. The marking approved in accordance with Iowa Code Supplement section 101B.7.
- i. The name, address, and telephone number of the laboratory, if different than the manufacturer, that conducted the test.
- j. The date the testing was performed.

61.10(3) Each cigarette certified under this rule shall be recertified every three years.

61.10(4) The manufacturer shall, upon request, make a copy of the written certification available to the office of the attorney general and the department of revenue for purposes of ensuring compliance with this chapter.

61.10(5) For each cigarette listed in a certification, a manufacturer shall pay a fee of \$100 to the department. Checks shall be made payable to the "Iowa Department of Public Safety." The memo portion of the check shall state "Reduced propensity cigarettes."

PUBLIC SAFETY DEPARTMENT[661](cont'd)

61.10(6) A certification and fee submitted pursuant to this rule shall be sent the following address:

Fire Marshal Division
State Public Safety Headquarters Building
215 East 7th Street
Des Moines, Iowa 50319

661—61.11(101B) Changes to the manufacture of a certified reduced ignition propensity cigarette. If a manufacturer has certified a cigarette pursuant to this chapter and makes any change to the certified reduced ignition propensity cigarette thereafter that is likely to alter the cigarette's compliance with the reduced ignition propensity standards specified in this chapter, prior to the cigarette's being sold or offered for sale in this state, the manufacturer shall retest the cigarette in accordance with the testing standards specified in rule 661—61.3(101B) or shall propose an alternate test method and performance standard pursuant to rule 661—61.4(101B) or rule 661—61.5(101B), and shall maintain records of the retesting as required by rule 661—61.6(101B). Any altered cigarette that does not meet the performance standard specified in rule 661—61.3(101B) or approved pursuant to rule 661—61.4(101B) shall not be sold in this state.

661—61.12(101B) Notification of certification.

61.12(1) A manufacturer certifying cigarettes in accordance with rule 661—61.3(101B) or rule 661—61.4(101B) shall provide a copy of the certification to all wholesalers and agents to whom the manufacturer sells cigarettes and shall also provide sufficient copies of an illustration of the cigarette packaging marking used by the manufacturer in accordance with rule 661—61.13(101B) for each retailer to whom the wholesalers or agents sell cigarettes.

61.12(2) A wholesaler or agent shall provide a copy of the cigarette packaging marking received from a manufacturer to all retailers to whom the wholesaler or agent sells cigarettes. A wholesaler, agent, or retailer shall permit the state fire marshal, the department of revenue, or the office of the attorney general to inspect markings of cigarette packaging marked in accordance with rule 661—61.13(101B).

661—61.13(101B) Marking reduced ignition propensity cigarette packaging.

61.13(1) Cigarettes that have been certified by a manufacturer in accordance with rule 661—61.3(101B) or rule 661—61.4(101B) shall be marked to indicate compliance with the requirements of this chapter. The marking shall be in eight-point type or larger and consist of one of the following:

a. Modification of the product's universal product code to include a visible mark printed at or around the area of the universal product code. The mark may consist of an alphanumeric or symbolic character or characters permanently stamped, engraved, embossed, or printed in conjunction with the universal product code.

b. Any visible alphanumeric or symbolic character or combination of alphanumeric or symbolic characters permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap.

c. Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this chapter.

NOTE: Though compliance with this subrule may be achieved by any of the methods described above, the recommended marking shall be the letters "FSC" displayed in accordance with any of the methods described above.

61.13(2) A manufacturer shall use only one marking and shall apply the marking uniformly for all packages, including but not limited to packs, cartons, and cases and to brands marketed by that manufacturer.

61.13(3) A manufacturer shall present its proposed marking to the department for approval using the following procedures:

a. Requests for approval of a proposed marking shall be included in the certification submitted pursuant to rule 661—61.10(101B).

b. Upon receipt of the request, the department shall approve or disapprove the marking offered within ten business days of receiving a request for approval.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

61.13(4) A manufacturer shall not modify its approved marking until the modification has been approved by the department in accordance with subrule 61.11(3).

EXCEPTION I: If the department fails to approve or disapprove a proposed marking within ten business days, the marking shall be deemed approved.

EXCEPTION II: A marking in use and approved for the sale of cigarettes in the state of New York shall be deemed approved.

661—61.14 to 61.19 Reserved.

661—61.20(101B) Applicability—preemption.

61.20(1) Pursuant to Iowa Code Supplement section 101B.10, this chapter shall cease to be applicable if federal fire safety standards for cigarettes that preempt this chapter are enacted and take effect subsequent to January 1, 2009, and the state fire marshal shall notify the secretary of state and the Iowa Code editor if such federal fire safety standards for cigarettes are enacted.

61.20(2) Pursuant to Iowa Code Supplement section 101B.10, political subdivisions shall not adopt or enforce any ordinance, rule, or regulation that conflicts with any provision of this chapter, or with any policy of the state expressed by this chapter, whether the policy is expressed by inclusion of or exclusion from this chapter.

661—61.21(17A) Violations and penalties. A person who violates any provision of Iowa Code Supplement chapter 101B or of this chapter shall be subject to a civil penalty of an amount no greater than specified for the specific offense in Iowa Code Supplement section 101B.8. Notice of a civil penalty may be provided by mail or by personal service. A person subject to a civil penalty may appeal the imposition of the penalty as provided in 661—Chapter 10. An appeal of a civil penalty shall be subject to the provisions of 661—Chapter 10 for contested cases.

These rules are intended to implement Iowa Code Supplement chapter 101B.

ARC 7178B

PUBLIC SAFETY DEPARTMENT[661]

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 100.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 201, "General Fire Safety Requirements," Iowa Administrative Code.

The State Fire Marshal is authorized by Iowa Code section 100.1 to establish general requirements for fire safety and specific requirements for electrical installations. Other provisions of Iowa law authorize the Building Code Commissioner and the Electrical Examining Board to establish requirements for electrical installations. The Fire Marshal, the Building Code Commissioner, and the Electrical Examining Board have agreed to attempt to coordinate their rule making in this area and, as a general policy, to adopt succeeding editions of the National Electrical Code in a timely fashion. The amendment proposed herein would update the rules of the Fire Marshal to adopt by reference the National Electrical Code, 2008 edition. Similar rule makings are being undertaken by the Electrical Examining Board and the Building Code Commissioner.

A public hearing on this proposed amendment will be held on October 14, 2008, at 10 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator,

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on October 14, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment is intended to implement Iowa Code section 100.1.

The following amendment is proposed.

Amend rule 661—201.3(100) as follows:

661—201.3(100) Electrical installations. Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, ~~2005~~ 2008 edition.

ARC 7179B**PUBLIC SAFETY DEPARTMENT[661]****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 103A.7, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 301, "State Building Code—General Provisions," Iowa Administrative Code, with the approval of the Building Code Advisory Council.

The Building Code Commissioner, the State Fire Marshal, and the Electrical Examining Board all have authority to adopt requirements for electrical installations. The Building Code Commissioner, the State Fire Marshal, and the Electrical Examining Board have agreed to attempt to coordinate their rule making in this area and, as a general policy, to adopt succeeding editions of the National Electrical Code in a timely fashion. The amendment proposed herein would update the State Building Code to adopt by reference the National Electrical Code, 2008 edition. Similar rule makings are being undertaken by the Electrical Examining Board and the State Fire Marshal.

A public hearing on this proposed amendment will be held on October 14, 2008, at 10 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on October 14, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment is intended to implement Iowa Code section 103A.7.

The following amendment is proposed.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Amend rule 661—301.5(103A) as follows:

661—301.5(103A) Electrical requirements. The provisions of the National Electrical Code, ~~2005~~ 2008 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are hereby adopted by reference as the requirements for electrical installations, ~~with the following amendments:~~

~~Delete appendices A through G.~~

~~Delete all references to the "International Plumbing Code" and insert in lieu thereof "state plumbing code."~~

ARC 7177B

PUBLIC SAFETY DEPARTMENT[661]

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 Supplement section 103.6, the Electrical Examining Board hereby gives Notice of Intended Action to amend Chapter 504, "Standards for Electrical Work," Iowa Administrative Code.

The Electrical Examining Board is authorized by Iowa Code Supplement section 103.6 to adopt standards for electrical work performed by persons licensed by the Board and in installations subject to inspection by the State Electrical Inspection Program. The statute requires that these standards be based upon the most current edition of the National Electrical Code published by the National Fire Protection Association. The amendment proposed herein would update the rules of the Electrical Examining Board to adopt by reference the National Electrical Code, 2008 edition. Similar rule makings are being undertaken by the Building Code Commissioner and the State Fire Marshal.

A public hearing on this proposed amendment will be held on October 16, 2008, at 10:15 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearings. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on October 16, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment is intended to implement Iowa Code Supplement chapter 103.

The following amendment is proposed.

Amend rule 661—504.1(82GA,ch197) as follows:

661—504.1(82GA,~~ch197~~ 103) Installation requirements. The provisions of the National Electrical Code, ~~2005~~ 2008 edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to 2007 Iowa Acts, chapter 197.

This rule is intended to implement ~~2007 Iowa Acts, chapter 197~~ Iowa Code Supplement chapter 103.

ARC 7176B**PUBLIC SAFETY DEPARTMENT[661]****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 Supplement section 103.6, the Electrical Examining Board hereby gives Notice of Intended Action to adopt new Chapter 550, "Electrical Inspection Program—Organization and Administration," Chapter 551, "Electrical Inspection Program—Definitions," Chapter 552, "Electrical Inspection Program—Permits and Inspections," Chapter 553, "Civil Penalties," and Chapter 559, "Electrical Inspection Program—Utility Notifications and Responsibilities of Utilities," Iowa Administrative Code.

During the 2007 session of the Iowa General Assembly, House File 897, now 2007 Iowa Acts, chapter 197, was enacted. This Act created the state's new electrician licensing program, which took effect on January 1, 2008, and a state electrical inspection program, which will become effective January 1, 2009. The rules proposed herein would establish procedures and requirements for the electrical inspection program.

A public hearing on these proposed amendments will be held on October 16, 2008, at 10:15 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearings. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on October 16, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments are intended to implement 2007 Iowa Acts, chapter 197.

The following amendments are proposed.

ITEM 1. Adopt the following **new** 661—Chapter 550:

CHAPTER 550

ELECTRICAL INSPECTION PROGRAM—ORGANIZATION AND ADMINISTRATION

661—550.1(103) Electrical inspection program. The electrical inspection program is created as a section within the building code bureau in the fire marshal division of the department of public safety. The program is under the general supervision of the state fire marshal and the direct supervision of the building code commissioner, and shall be headed by a chief electrical inspector. The program shall enforce requirements for electrical installations adopted by the electrical examining board in 661—Chapter 504.

661—550.2(103) Communications. The electrical inspection program may be contacted by telephone at [insert telephone number at time of adoption] or by U.S. mail or in person at the following address:

State of Iowa Electrical Inspection Program
 Fire Marshal Division
 Iowa Department of Public Safety
 Wallace State Office Building
 502 East 9th Street

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Des Moines, Iowa 50319

NOTE: The Web site of the electrical inspection program, as of [insert filing date of adopted rules], is www.dps.state.ia.us/fm/electrical/inspection/.

661—550.3(103) Organization. The electrical inspection section shall be headed by a chief electrical inspector. Reporting directly to the chief electrical inspector shall be electrical inspector supervisors, each of whom shall head a unit which shall include a number of electrical inspectors assigned by the building code commissioner and the chief electrical inspector. Each unit supervisor may designate electrical inspectors as lead workers with the approval of the chief electrical inspector and consistent with any applicable rules of the department of administrative services.

661—550.4(103) Qualifications of inspectors. Electrical inspectors, electrical inspector supervisors, and the chief electrical inspector shall be certified as commercial and residential electrical inspectors no later than one year after starting employment in any of these positions. Certification shall be obtained from the International Association of Electrical Inspectors, P.O. Box 830848, Richardson, TX 75080-0848, as both a certified electrical inspector – residential and as a certified electrical inspector – master or from the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, as both a residential electrical inspector and a commercial electrical inspector. Each of the persons employed in these classifications shall also meet any requirements established by the department of administrative services, human resource enterprise, for the job classification in which the person is employed.

661—550.5(103) Fees. The following fees shall apply to services provided by the electrical inspection program:

550.5(1) For each separate inspection of an installation, replacement, alteration, or repair, \$25.

550.5(2) For services, change of services, temporary services, additions, alterations, or repairs on either primary or secondary services as follows:

a. Zero to one hundred ampere capacity, \$25 plus \$5 per branch circuit or feeder.

b. One hundred one to two hundred ampere capacity, \$35 plus \$5 per branch circuit or feeder.

c. For each additional one hundred ampere capacity or fraction thereof, \$20 plus \$5 per branch circuit or feeder.

550.5(3) For field irrigation system inspections, \$60 for each unit inspected.

550.5(4) For the first reinspection required as a result of a correction order, \$50; a second reinspection required as a result of noncompliance with the same correction order, \$75; and subsequent reinspections associated with the same correction order, \$100 for each reinspection.

550.5(5) When an inspection is requested by an owner, the minimum fee shall be \$30 plus \$5 per branch circuit or feeder. The fee for fire and accident inspections shall be computed at the rate of \$47 per hour, and mileage and other expenses shall be reimbursed.

550.5(6) For installations requiring more than six months in the process of construction and in excess of \$300 total inspection fees, the persons responsible for the installation may, after a minimum filing fee of \$100, pay a prorated fee for each month and submit it with an order for payment initiated by the electrical inspector.

550.5(7) For issuance of a permit and performance of an initial inspection when an installation has been commenced with no Permit and Inspection Request form having been filed, twice the fees that would have been applicable if a timely request for permit and inspection had been filed.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

ITEM 2. Adopt the following **new** 661—Chapter 551:

CHAPTER 551
ELECTRICAL INSPECTION PROGRAM—DEFINITIONS

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—551.1(103) Applicability. The definitions provided in this chapter apply to 661—Chapters 550 through 559, inclusive.

661—551.2(103) Definitions. The following definitions apply to the electrical inspection program:

“Apprentice electrician” means any person who, as such person’s principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed by the board and is progressing toward completion of an apprenticeship training program registered by the Bureau of Apprenticeship and Training of the United States Department of Labor. For purposes of this chapter, persons who are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered apprentice electricians.

“Board” means the electrical examining board created under Iowa Code Supplement section 103.2.

“Class A journeyman electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and to supervise apprentice electricians and who is licensed by the board.

“Class A master electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes and who is licensed by the board.

“Class B journeyman electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to wire for or install electrical wiring, apparatus, and equipment and who meets and is subject to the requirements of Iowa Code Supplement section 103.12.

“Class B master electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation of electrical wiring, apparatus, and equipment and who meets and is subject to the requirements of Iowa Code Supplement section 103.10.

“Commercial installation” means an installation intended for commerce, but does not include a residential installation.

“Electrical contractor” means a person affiliated with an electrical contracting firm or business who is licensed by the board as either a class A or class B master electrician and who is also registered with the state of Iowa as a contractor.

“Industrial installation” means an installation intended for use in the manufacture or processing of products involving systematic labor or habitual employment and includes installations in which agricultural or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis.

“Inspector” means a person certified as an electrical inspector upon such reasonable conditions as may be adopted by the board. The board may recognize more than one class of electrical inspectors.

“New electrical installation” means the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes.

“Public use building or facility” means any building or facility designated for public use, including all property owned and occupied or designated for use by the state of Iowa.

“Residential installation” means an installation intended for a single-family or two-family residential dwelling or a multifamily residential dwelling not larger than a four-family dwelling.

“Routine maintenance” means the repair or replacement of existing electrical apparatus or equipment of the same size and type for which no changes in wiring are made. “Routine maintenance” by itself does not require an electrical inspection.

“Special electrician” means a person having the necessary qualifications, training, and experience in wiring or installing special classes of electrical wiring, apparatus, equipment, or installations which shall include irrigation system wiring, disconnecting and reconnecting existing air conditioning and refrigeration, and sign installation, and who is licensed by the board.

“Unclassified person” means any person, other than an apprentice electrician or other person licensed under this chapter, who, as such person’s principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of electrical wiring, apparatus, and equipment as an employee of a person licensed under this chapter, and who is licensed by the board as an unclassified person. For purposes of this

PUBLIC SAFETY DEPARTMENT[661](cont'd)

chapter, persons who are not engaged in the installation, alteration, or repair of electrical wiring, apparatus, and equipment, either inside or outside buildings, shall not be considered unclassified persons.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

ITEM 3. Adopt the following **new** 661—Chapter 552:

CHAPTER 552
ELECTRICAL INSPECTION PROGRAM—PERMITS AND INSPECTIONS

661—552.1(103) Required permits and inspections. Permits and inspections are required for any of the following electrical installations:

1. All new electrical installations for commercial or industrial applications, including installations both inside and outside buildings, and for public-use buildings and facilities and any installation at the request of the owner.
2. All new electrical installations for residential applications in excess of single-family residential applications.
3. All new electrical installations for single-family residential applications requiring new electrical service equipment.
4. Any existing electrical installation observed during inspection which constitutes an electrical hazard. Existing installations shall not be deemed to constitute electrical hazards if the wiring was originally installed in accordance with the electrical code in force at the time of installation and has been maintained in that condition.
5. Installations of alarm systems or alarm system components as provided in 661—Chapter 560.

EXCEPTION 1: Installations in political subdivisions which perform electrical inspections and which are inspected by the political subdivision are not required to be inspected by the state electrical inspection program. Any installation which is subject to inspection and is on property owned by the state or an agency of the state shall be inspected by the state electrical inspection program.

EXCEPTION 2: Any electrical work which is limited to routine maintenance shall not require an inspection.

661—552.2(103) Request for inspection. Prior to commencement of any electrical installation, the person making such installation shall notify the electrical inspection section of the installation by applying for a permit and shall request an inspection of the installation through one of the following methods:

552.2(1) An inspection may be requested by completing and electronically submitting a Request for Permit form, available on the Web site of the electrical inspection program. Payment of the permit and inspection fees shall be submitted with the form in accordance with the instructions on the electrical inspection section Web site.

NOTE: The Web site to obtain, complete, and submit a Request for Permit form is, as of [insert filing date of adopted rules]: [insert Web site address at time of adoption].

552.2(2) An inspection may be requested by completing a Request for Inspection form and mailing it to the electrical inspection section as provided in rule 661—550.2(103). The Request for Inspection form may be obtained upon request to the electrical inspection section or from the Web site of the electrical inspection program. If a Request for Inspection is submitted by mail, it shall be postmarked no less than seven days prior to the commencement of the installation.

552.2(3) An inspection may be requested by completing a Request for Inspection form and submitting it by fax transmission to the electrical inspection section at [insert fax number at time of adoption]. The Request for Inspection form may be obtained upon request to the electrical inspection section or from the Web site of the electrical inspection program.

661—552.3(103) Scheduling of inspections. Subject to the availability of electrical inspectors, the electrical inspector whose territory includes the location of a requested inspection shall schedule the requested inspection to be completed within three business days of the receipt of the request. If an inspection for which a timely request has been made is not completed within three business days of the completion of

PUBLIC SAFETY DEPARTMENT[661](cont'd)

the installation, a licensee who completed the installation may energize any new circuits included in the installation, although the installation remains subject to condemnation and disconnection if found to be out of compliance with any applicable provision of 661—Chapter 504 when inspected.

661—552.4(103) Report of inspection. After the completion of an inspection, the inspector shall issue an inspection report on a form prescribed by the board. The report shall indicate the results of the inspection, which may be any of the following:

552.4(1) Approval. If the inspector finds that the installation is in compliance with applicable requirements, the inspector shall issue a report indicating that the installation is approved.

552.4(2) Order of correction. If the inspector finds that the installation is not in compliance with applicable requirements but does not present an imminent threat to the health or safety of any person, the inspector shall issue an order of correction, prescribing a time frame during which corrective action shall be taken by the licensee responsible for the installation to bring the installation fully into compliance.

552.4(3) Order of disconnection. If the inspector finds that the installation is not in compliance with applicable requirements and presents an imminent threat to the health or safety of any person, the inspector shall issue an order of disconnection, requiring that the installation be disconnected until corrective action has been taken which brings the installation into full compliance with applicable requirements. The installation shall not be reconnected until corrective action has been completed and the corrected installation has been approved by an inspector as in compliance with all applicable requirements. The inspector issuing an order of disconnection shall notify the utility providing electrical service to the location of the order and shall notify the utility when the order of disconnection is no longer effective.

661—552.5(103) Appeals. An order of correction or an order of disconnection may be appealed. However, an order of disconnection shall be complied with immediately, and the installation shall not be reconnected pending the outcome of the appeal.

552.5(1) A person who has received an order of correction or disconnection may request an informal appeal to the chief electrical inspector within 14 days of receiving the order by contacting the electrical inspection section by telephone, fax, E-mail, or mail. The informal appeal may be heard in any manner agreed to by the person filing the appeal and the chief electrical inspector. If the order is upheld by the chief electrical inspector, the person receiving the order may file a formal appeal pursuant to subrule 552.5(2).

552.5(2) A person who has received an order of correction or disconnection may file a request for a formal appeal to the board within 30 days of receiving the order or, if the person has filed a request for an informal appeal, within 30 days of having been notified that the chief electrical inspector has upheld the order. Formal appeals shall be processed as provided in 661—Chapter 10, except that wherever “commissioner” or “department of public safety” appears in those rules, “electrical examining board” shall be substituted.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

ITEM 4. Adopt the following **new** 661—Chapter 553:

CHAPTER 553 CIVIL PENALTIES

661—553.1(103) Civil penalty—when applicable. Any person who commences an electrical installation subject to inspection pursuant to 2007 Iowa Acts, chapter 197, and who fails to file a Request for Permit and Inspection form with the board within 14 days of commencing work on the electrical installation may be subject to a civil penalty. The amount of the civil penalty shall be no more than \$750 and shall be determined by the chief electrical inspector.

661—553.2(103) Civil penalty—notice. Notice shall be provided by certified mail to any person on whom a civil penalty is imposed.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—553.3(103) Civil penalty—appeal. Any person on whom a civil penalty has been imposed may appeal the imposition of the civil penalty to the board within 14 days of the date on which notice of the civil penalty was mailed by notifying the board in writing that the person wishes to appeal the civil penalty. An appeal of a civil penalty shall be subject to the provisions of 661—Chapter 10 which apply to contested cases, except that wherever “commissioner” or “department” appears, “electrical examining board” shall be substituted.

These rules are intended to implement 2007 Iowa Acts, chapter 197.

ITEM 5. Reserve **661—Chapter 554** to **661—Chapter 558**.

ITEM 6. Adopt the following new 661—Chapter 559:

CHAPTER 559

ELECTRICAL INSPECTION PROGRAM—UTILITY NOTIFICATIONS AND RESPONSIBILITIES
OF UTILITIES

661—559.1(103) Notification of utility. Upon the completion of an inspection report which approves an installation, if the installation involves new electrical service, the inspector shall provide notice of the action to the utility which provides electrical service to the location of the installation.

This rule is intended to implement 2007 Iowa Acts, chapter 197.

ARC 7197B

REVENUE DEPARTMENT[701]

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 chapter 17A and sections 421.14 and 421.17, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 6, “Organization, Public Inspection,” Iowa Administrative Code.

This proposed new rule provides that the Director of Revenue may extend the period of time for filing tax returns for up to one year for businesses and persons located in disaster areas declared by the Governor.

The proposed rule will not necessitate additional expenditures by political subdivisions or agencies and entities that contract with political subdivisions.

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

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 27, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed rule on or before October 14, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and

REVENUE DEPARTMENT[701](cont'd)

Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 17, 2008.

This rule is intended to implement 2008 Iowa Acts, Senate File 2400, section 52.

The following amendment is proposed.

Adopt the following **new** rule 701—6.8(421):

701—6.8(421) Tax return extension in disaster areas. If a natural disaster is declared by the governor in any area of the state, the director may extend for a period of up to one year the due date for the filing of any tax return and may suspend any associated penalty or interest that would accrue during that period of time for any affected taxpayer whose principal residence or business is located in the covered area if the director determines it necessary for the efficient administration of the tax laws of this state. The director will notify the public of any possible extensions of tax filings as well as possible suspensions of penalty and interest. Notification will be made through different means available to the director including, but not limited to, press releases, media information, and the department's Web site. Persons eligible for extension shall notify the director that they qualify and shall include a notation of the reason for the extension request on the tax return.

This rule is intended to implement 2008 Iowa Acts, Senate File 2400.

ARC 7204B

REVENUE DEPARTMENT[701]

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 chapter 17A and Iowa Code sections 452A.59 and 452A.76, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 18, "Taxable and Exempt Sales Determined by Method of Transaction or Usage," to rescind Chapter 63, "Administration," Chapter 64, "Motor Fuel," and Chapter 65, "Special Fuel," and to amend Chapter 67, "Administration," Chapter 68, "Motor Fuel and Undyed Special Fuel," and Chapter 231, "Exemptions Primarily of Benefit to Consumers," Iowa Administrative Code.

Item 1 amends subrule 18.37(5) to replace the outdated term "gasohol" with the updated term "ethanol."

Item 2 rescinds 701—Chapter 63, "Administration," Chapter 64, "Motor Fuel," and Chapter 65, "Special Fuel." Iowa Code chapter 452A was rewritten in 1995 by House File 552, chapter 155, during the 1995 legislative session and became effective January 1, 1996. Also effective January 1, 1996, Chapter 63 was replaced by Chapter 67; Chapter 64 was replaced by Chapter 68; and Chapter 65 was replaced by Chapter 69. The administrative rules contained in 701—Chapters 63 to 65 were maintained for audit purposes. The Department has determined that these rules should be rescinded at this time.

Item 3 amends rule 701—67.1(452A), definition of "supplier," to include persons who produce or acquire biofuel or biodiesel for storage at and distribution from a terminal.

Item 4 amends the implementation clause for rule 701—67.1(452A).

Item 5 amends rule 701—67.23(452A) by adding new subrule 67.23(5), which authorizes the Director to regard a person or facility in possession of fuel products as a person or facility defined in Iowa Code section 452A.2.

REVENUE DEPARTMENT[701](cont'd)

Item 6 amends Chapter 67 by adding new rule 701—67.27(452A). This new rule requires the Department to report the number of gallons of retail fuel sales, by classification, to the Governor and the Legislative Services Agency by April 1 of each year.

Item 7 amends subrule 68.2(1) to show the change in the tax rate for gasoline from 20.7 cents to 21 cents for the fiscal year beginning July 1, 2008, and ending June 30, 2009.

Item 8 amends subrule 231.2(1) to replace the outdated term “gasohol” with the updated term “ethanol.”

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 27, 2008, to the Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, or at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written comments should be directed to the Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 17, 2008.

These amendments are intended to implement Iowa Code sections 452A.2(35), 452A.33(2), and 452A.59 as amended by 2008 Iowa Acts, Senate File 2400, sections 62, 63, and 64.

The following amendments are proposed.

ITEM 1. Amend subrule 18.37(5) as follows:

18.37(5) ~~Gasohol~~ Ethanol. For tax periods after April 30, 1981. Retail sales of ~~gasohol~~ ethanol are exempt from Iowa sales or use tax.

ITEM 2. Rescind and reserve **701—Chapter 63**, **701—Chapter 64** and **701—Chapter 65**.

ITEM 3. Amend rule **701—67.1(452A)**, definition of “Supplier,” as follows:

“*Supplier*” means a person who acquires motor fuel or special fuel by pipeline or marine vessel from a state, territory, or possession of the United States, or from a foreign country for storage at and distribution from a terminal and who is registered under 26 U.S.C. § 4101 for tax-free transactions in gasoline; a person who produces in this state or acquires by truck, railcar, or barge for storage at and distribution from a terminal, biofuel, biodiesel, alcohol, or alcohol derivative substances; or a person who produces, manufactures, or refines motor fuel or special fuel in this state. “Supplier” includes a person who does not meet the jurisdictional connection to this state but voluntarily agrees to act as a supplier for purposes of collecting and reporting the motor fuel or special fuel tax. “Supplier” does not include a retail dealer or wholesaler who merely blends alcohol with gasoline or biofuel with diesel before the sale or distribution of the product or a terminal operator who merely handles, in a terminal, motor fuel or special fuel consigned to the terminal operator.

ITEM 4. Amend rule **701—67.1(452A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~Supplement section~~ sections 452A.2 and 452A.59 as amended by ~~2006~~ 2008 Iowa Acts, ~~chapter 1142, and section 452A.3~~ Senate File 2400.

REVENUE DEPARTMENT[701](cont'd)

ITEM 5. Adopt the following **new** subrule 67.23(5):

67.23(5) Efficient administration of motor fuel laws. When in the opinion of the director it is necessary for the efficient administration of Iowa Code chapter 452A, the director may regard persons or facilities in possession of motor fuel, special fuel, biofuel, alcohol, or alcohol derivative substances as blenders, dealers, eligible purchasers, exporters, importers, restrictive suppliers, suppliers, terminal operators, or nonterminal storage facility operators. The department will notify the person or facility of the various requirements under the motor fuel tax laws and will ensure that a license is issued.

ITEM 6. Adopt the following **new** rule 701—67.27(452A):

701—67.27(452A) Retailer gallons report. The department is required to compile information reported to it by retail dealers regarding the number of gallons of the various fuel classifications sold by retail dealers in the previous calendar year and submit a report to the governor and the legislative services agency by April 1 of each year. Each retail dealer is required to file a report with the department detailing the number of gallons sold during the previous calendar year as required by the department. The retail dealer report is due by January 31 following the close of the calendar year.

The report filed by the department will include information in the aggregate relating to total sales of gasoline, ethanol blended gasoline, diesel fuel and biofuels. The report will also include appropriate percentage sales of various fuel products. The report will not include individual retail dealer information, trade secret information or confidential information.

This rule is intended to implement Iowa Code section 452A.33(2) as amended by 2008 Iowa Acts, Senate File 2400.

ITEM 7. Amend subrule 68.2(1) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	<u>21¢ per gallon (for July 1, 2008, through June 30, 2009)</u>
LPG	20¢ per gallon
Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through June 30, 2008 <u>2009</u>)
E-85 gasoline	17¢ per gallon beginning January 1, 2006, through June 30, 2007
	19¢ per gallon (for July 1, 2007, through June 30, 2008 <u>2009</u>)
Aviation gasoline	8¢ per gallon
Special fuel (diesel)	22.5¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	16¢ per 100 cu. ft.

ITEM 8. Amend subrule 231.2(1) as follows:

231.2(1) In general. The sales price from the sale of motor fuel, including ~~gasoline~~ ethanol, and special fuel is exempt from sales tax under 2005 Iowa Code section 423.3(55) if (a) the fuel is consumed for highway use, in watercraft, or in aircraft, (b) the Iowa fuel tax has been imposed and paid, and (c) no refund or credit of fuel tax has been made or will be allowed. The sales price from the sale of special fuel for diesel engines used in commercial watercraft on rivers bordering Iowa is exempt from sales tax, even though no fuel tax has been imposed and paid, providing the seller delivers the fuel to the owner's watercraft while it is afloat.

ARC 7198B**REVENUE DEPARTMENT[701]****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 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 38, "Administration," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax," and Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Iowa Administrative Code.

These amendments are proposed as a result of 2008 Iowa Acts, House Files 2539 and 2700.

Item 1 adopts new rule 701—38.19(422) to provide for the indication of health care coverage for dependent children on individual income tax returns starting with the tax year beginning January 1, 2008.

Item 2 adopts new subrule 41.5(15) to provide that an itemized deduction for charitable contributions is not allowed for individual income tax for tax years beginning on or after January 1, 2008, for the amount of the contribution which is eligible for the charitable conservation contribution tax credit.

Item 3 amends rule 701—42.23(422) to update the listing regarding the sequence of tax credits to be deducted for individual income tax.

Item 4 adopts new rule 701—42.38(422) to provide for the charitable conservation contribution tax credit for individual income tax for tax years beginning on or after January 1, 2008.

Item 5 amends rule 701—52.12(422) to update the listing regarding the sequence of tax credits to be deducted for corporation income tax.

Item 6 adopts new rule 701—52.37(422) to provide for the charitable conservation contribution tax credit for corporation income tax for tax years beginning on or after January 1, 2008. This is similar to the change in Item 4.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 27, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 17, 2008.

REVENUE DEPARTMENT[701](cont'd)

These amendments are intended to implement 2008 Iowa Acts, House File 2539, section 4, and House File 2700, section 62, and Iowa Code Supplement section 422.33 as amended by 2008 Iowa Acts, House File 2700, section 63.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 701—38.19(422):

701—38.19(422) Indication of dependent child health care coverage on tax return. For tax years beginning on or after January 1, 2008, an individual who is an Iowa resident as of December 31 of the tax year who files an Iowa individual income tax return may report on the return the presence or absence of health care coverage for each dependent child as of December 31 of the tax year for which the exemption credit described in subrule 42.2(1), paragraph “c,” is claimed. It is not mandatory that a taxpayer indicate on the tax return the presence or absence of health care coverage for each dependent, and there is no penalty if this information is not provided on the tax return.

38.19(1) Definition of health care coverage. Health care coverage includes the following:

- a. Private health care coverage provided through an employer, a relative’s employer, or through a union.
- b. Private health care coverage purchased by an individual from a private company.
- c. Government health care coverage provided through the state Medicaid program set forth in Iowa Code chapter 249A, or the Hawk-I (Healthy and Well Kids in Iowa) program set forth in Iowa Code chapter 514I.
- d. Government health care coverage provided by the military including the Civilian Health and Medical Program of the Uniformed Services (TRICARE/CHAMPUS) and the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA).
- e. Government health care coverage provided by the United States Department of Health and Human Services to eligible American Indians under the Indian Health Service program.

38.19(2) Notification to the taxpayer. If the taxpayer indicates on the return that a dependent child does not have health care coverage and the taxpayer’s income reflected on the tax return is within the eligibility requirements for either the Medicaid program or the Hawk-I program, the department will send a letter to the taxpayer indicating that the dependent may be eligible for health care coverage under either the Medicaid or Hawk-I program. The letter will also enclose an application for health care coverage under either the Medicaid or Hawk-I program which can be completed and sent to the Iowa department of human services. The department of human services will make the final determination on whether the taxpayer is eligible under the Medicaid or Hawk-I program. A dependent child must be under the age of 21 to be eligible for the Medicaid program, and a dependent child must be under the age of 19 to be eligible for the Hawk-I program.

38.19(3) Reporting requirements. The department, in cooperation with the department of human services, must submit an annual report to the governor and the general assembly which will include the following:

- a. Number of Iowa families, by income level, who claim the personal exemption credit for dependent children described in subrule 42.2(1), paragraph “c.”
- b. The number of Iowa families, by income level, who claim the personal exemption credit who also indicated the presence or absence of health care coverage for their dependent children.
- c. The effect of these reporting and notification requirements on the number and percentage of children in Iowa who are uninsured.

This rule is intended to implement 2008 Iowa Acts, House File 2539, section 4.

ITEM 2. Adopt the following **new** subrule 41.5(15):

41.5(15) Charitable contributions relating to the charitable conservation contribution tax credit. For tax years beginning on or after January 1, 2008, a taxpayer who claims a charitable conservation contribution tax credit in accordance with rule 701—42.38(422) cannot claim an itemized deduction for charitable contributions for the amount of the contribution for which the tax credit is claimed. See 701—subrule 42.38(2) for examples illustrating how this subrule is applied.

ITEM 3. Amend rule 701—42.23(422) as follows:

701—42.23(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, and 422.110 shall be deducted in the following sequence:

REVENUE DEPARTMENT[701](cont'd)

1. Personal exemption credits.
2. Tuition and textbook credit.
3. Nonresident and part-year resident credit.
4. Franchise tax credit.
5. S corporation apportionment credit.
6. School tuition organization tax credit.
7. Venture capital credits.
8. Endow Iowa tax credit.
9. Agricultural assets transfer tax credit.
10. Film qualified expenditure tax credit.
11. Film investment tax credit.
12. Investment tax credit.
13. Wind energy production tax credit.
14. Renewable energy tax credit.
15. New jobs credit.
16. Economic development region revolving fund tax credit.
17. Charitable conservation contribution tax credit.
- ~~17-18.~~ 18. Alternative minimum tax credit.
- ~~18-19.~~ 19. Historic preservation and cultural and entertainment district tax credit (refundable portion).
- ~~19-20.~~ 20. Ethanol blended gasoline tax credit or ethanol promotion tax credit.
- ~~20-21.~~ 21. Research activities credit.
- ~~21-22.~~ 22. Assistive device credit.
- ~~22-23.~~ 23. Out-of-state tax credit.
- ~~23-24.~~ 24. Child and dependent care credit or early childhood development tax credit.
- ~~24-25.~~ 25. Motor fuel credit.
- ~~25-26.~~ 26. Claim of right credit (if elected in accordance with rule 701—38.18(422)).
- ~~26-27.~~ 27. Wage-benefits tax credit.
- ~~27-28.~~ 28. Soy-based cutting tool oil tax credit.
- ~~28-29.~~ 29. Refundable portion of investment tax credit, as provided in subrule 42.2(10), paragraph “b.”
- ~~29-30.~~ 30. E-85 gasoline promotion tax credit.
- ~~30-31.~~ 31. Biodiesel blended fuel tax credit.
- ~~31-32.~~ 32. Soy-based transformer fluid tax credit.
- ~~32-33.~~ 33. Earned income tax credit.
- ~~33-34.~~ 34. Estimated payments, payment with vouchers and withholding tax.

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, 422.11C, 422.11D, 422.11E, 422.11F, 422.11G, 422.11H, 422.11I, 422.11J, 422.11K, 422.11L, 422.11M, 422.11O, 422.11P, 422.11R, 422.11S, 422.11T, 422.11U, 422.12, 422.12B, and 422.12C and 422.110 and 2007 Iowa Acts, House File 892, sections 5 and 6 and 2008 Iowa Acts, House File 2700, section 62.

ITEM 4. Adopt the following new rule 701—42.38(422):

701—42.38(422) Charitable conservation contribution tax credit. Effective for tax years beginning on or after January 1, 2008, a charitable conservation contribution tax credit is available for individual income tax which is equal to 50 percent of the fair market value of a qualified real property interest located in Iowa that is conveyed as an unconditional charitable donation in perpetuity by a taxpayer to a qualified organization exclusively for conservation purposes.

42.38(1) Definitions. The following definitions are applicable to this rule:

“*Conservation purpose*” means the same as defined in section 170(h)(4) of the Internal Revenue Code, with the exception that a conveyance of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits is not considered a conveyance for a conservation purpose.

“*Qualified organization*” means the same as defined in section 170(h)(3) of the Internal Revenue Code.

“*Qualified real property interest*” means the same as defined in section 170(h)(2) of the Internal Revenue Code. Conservation easements and bargain sales are examples of a qualified real property interest.

REVENUE DEPARTMENT[701](cont'd)

42.38(2) Computation of the credit. The credit equals 50 percent of the fair market value of the qualified real property interest. There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a qualified real property interest, and these are equally applicable in determining the amount of the charitable conservation contribution tax credit.

The maximum amount of the tax credit is \$100,000. The amount of the contribution for which the tax credit is claimed shall not be claimed as an itemized deduction for charitable contributions for Iowa income tax purposes.

42.38(3) Claiming the tax credit. The tax credit is claimed on Form IA 148, Tax Credits Schedule. The taxpayer must attach a copy of federal Form 8283, Noncash Charitable Contributions, which reflects the calculation of the fair market value of the real property interest, to the Iowa return for the year in which the contribution is made. If a qualified appraisal of the property or other relevant information is required to be attached to federal Form 8283 for federal tax purposes, the appraisal and other relevant information must also be attached to the Iowa return.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following 20 years or until used, whichever is the earlier.

If the taxpayer claiming the credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

42.38(4) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: A taxpayer conveys a real property interest with a fair market value of \$150,000 to a qualified organization during 2008. The tax credit is equal to \$75,000, or 50 percent of the \$150,000 fair market value of the real property. The taxpayer cannot claim the \$150,000 as an itemized deduction for charitable contributions on the Iowa individual income tax return for 2008.

EXAMPLE 2: A taxpayer conveys a real property interest with a fair market value of \$500,000 to a qualified organization during 2009. The tax credit is limited to \$100,000, which equates to \$200,000 of the contribution being eligible for the tax credit. The remaining amount of \$300,000 (\$500,000 less \$200,000) can be claimed as an itemized deduction for charitable contributions on the Iowa individual income tax return for 2009.

This rule is intended to implement 2008 Iowa Acts, House File 2700, section 62.

ITEM 5. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be deducted in the following sequence.

1. Franchise tax credit.
2. Venture capital credits.
3. Endow Iowa tax credit.
4. Agricultural assets transfer tax credit.
5. Film qualified expenditure tax credit.
6. Film investment tax credit.
7. Investment tax credit.
8. Wind energy production tax credit.
9. Renewable energy tax credit.
10. New jobs credit.
11. Economic development region revolving fund tax credit.
12. Charitable conservation contribution tax credit.
- ~~13.~~ 13. Alternative minimum tax credit.
- ~~14.~~ 14. Historic preservation and cultural and entertainment district tax credit.
- ~~15.~~ 15. Corporate tax credit for certain sales tax paid by developer.
- ~~16.~~ 16. Ethanol blended gasoline tax credit or ethanol promotion tax credit.
- ~~17.~~ 17. Research activities credit.
- ~~18.~~ 18. Assistive device credit.
- ~~19.~~ 19. Motor fuel credit.

REVENUE DEPARTMENT[701](cont'd)

- ~~19.~~ 20. Wage-benefits tax credit.
- ~~20.~~ 21. Soy-based cutting tool oil tax credit.
- ~~21.~~ 22. Refundable portion of investment tax credit, as provided in subrule 52.10(4).
- ~~22.~~ 23. E-85 gasoline promotion tax credit.
- ~~23.~~ 24. Biodiesel blended fuel tax credit.
- ~~24.~~ 25. Soy-based transformer fluid tax credit.
- ~~25.~~ 26. Estimated tax and payments with vouchers.

This rule is intended to implement Iowa Code sections 15.333, 15.335, 422.33, 422.91 and 422.110.

ITEM 6. Adopt the following **new** rule 701—52.37(422):

701—52.37(422) Charitable conservation contribution tax credit. Effective for tax years beginning on or after January 1, 2008, a charitable conservation contribution tax credit is available for corporation income tax which is equal to 50 percent of the fair market value of a qualified real property interest located in Iowa that is conveyed as an unconditional charitable donation in perpetuity by a taxpayer to a qualified organization exclusively for conservation purposes.

52.37(1) Definitions. The following definitions are applicable to this rule:

“*Conservation purpose*” means the same as defined in Section 170(h)(4) of the Internal Revenue Code, with the exception that a conveyance of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits is not considered a conveyance for a conservation purpose.

“*Qualified organization*” means the same as defined in Section 170(h)(3) of the Internal Revenue Code.

“*Qualified real property interest*” means the same as defined in Section 170(h)(2) of the Internal Revenue Code. Conservation easements and bargain sales are examples of a qualified real property interest.

52.37(2) Computation of the credit. The credit equals 50 percent of the fair market value of the qualified real property interest. There are numerous federal revenue regulations, rulings, court cases and other provisions relating to the determination of the value of a qualified real property interest, and these are equally applicable in determining the amount of the charitable conservation contribution tax credit.

The maximum amount of the tax credit is \$100,000. The amount of the contribution for which the tax credit is claimed shall not be claimed as a deduction for charitable contributions for Iowa income tax purposes.

52.37(3) Claiming the tax credit. The tax credit is claimed on Form IA 148, Tax Credits Schedule. The taxpayer must attach a copy of federal Form 8283, Noncash Charitable Contributions, which reflects the calculation of the fair market value of the real property interest, to the Iowa return for the year in which the contribution is made. If a qualified appraisal of the property or other relevant information is required to be attached to federal Form 8283 for federal tax purposes, the appraisal and other relevant information must also be attached to the Iowa return.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following 20 years or until used, whichever is the earlier. If the taxpayer claiming the credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual’s pro-rata share of the individual’s earnings of the partnership, limited liability company, S corporation, or estate or trust.

52.37(4) Examples. The following noninclusive examples illustrate how this rule applies:

EXAMPLE 1: A taxpayer conveys a real property interest with a fair market value of \$150,000 to a qualified organization during 2008. The tax credit is equal to \$75,000, or 50 percent of the \$150,000 fair market value of the real property. The taxpayer cannot claim the \$150,000 as a deduction for charitable contributions on the Iowa corporation income tax return for 2008.

EXAMPLE 2: A taxpayer conveys a real property interest with a fair market value of \$500,000 to a qualified organization during 2009. The tax credit is limited to \$100,000, which equates to \$200,000 of the contribution being eligible for the tax credit. The remaining amount of \$300,000 (\$500,000 less \$200,000) can be claimed as a deduction for charitable contributions on the Iowa corporation income tax return for 2009.

This rule is intended to implement Iowa Code Supplement section 422.33 as amended by 2008 Iowa Acts, House File 2700, section 63.

ARC 7199B**REVENUE DEPARTMENT[701]****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 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 53, "Determination of Net Income," Iowa Administrative Code.

These amendments are proposed as a result of 2008 Iowa Acts, House Files 2283 and 2417 and 2008 Iowa Acts, Senate Files 2123 and 2430.

Item 1 amends subrule 40.44(1) to provide that state match payments related to individual development accounts are also exempt from Iowa individual income tax.

Item 2 amends the implementation sentence for rule 701—40.44(422,541A).

Item 3 adopts new subrule 40.60(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2009, does not apply for Iowa individual income tax.

Item 4 amends the implementation sentence for rule 701—40.60(422).

Item 5 amends rule 701—40.65(422) to provide that the increased Section 179 expensing allowance for tax periods beginning after December 31, 2007, but before January 1, 2009, does apply for Iowa individual income tax.

Item 6 amends the implementation sentence for rule 701—40.65(422).

Item 7 amends rule 701—40.72(422) to provide for an exclusion for individual income tax for a Vietnam Conflict veterans bonus received by eligible veterans who served between July 1, 1958, through May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

Item 8 adopts new subrule 41.3(7) to provide that the federal rebate received by individuals in 2008 does not have to be included as part of an individual's federal income tax refund for Iowa individual income tax purposes.

Item 9 amends the implementation sentence for rule 701—41.3(422).

Item 10 amends paragraph 42.2(11)"b" to include federal revisions made in 2007 to the research activities credit for individual income tax.

Items 11 and 12 amend paragraphs 52.7(3)"c" and 52.7(5)"c" to include federal revisions made in 2007 to the research activities credit for corporation income tax.

Item 13 amends the implementation sentence for rule 701—52.7(422).

Item 14 adopts new subrule 53.22(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2009, does not apply for Iowa corporation income tax.

Item 15 amends the implementation sentence for rule 701—53.22(422).

Item 16 amends rule 701—53.23(422) to provide that the increased Section 179 expensing allowance for tax periods beginning after December 31, 2007, but before January 1, 2009, does apply for Iowa corporation income tax.

Item 17 amends the implementation sentence for rule 701—53.23(422).

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

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

REVENUE DEPARTMENT[701](cont'd)

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 27, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 17, 2008.

These amendments are intended to implement Iowa Code Supplement sections 15.335, 15A.9, 422.3, 422.7, 422.10, 422.32, 422.33 and 422.35 as amended by 2008 Iowa Acts, Senate File 2123; Iowa Code Supplement section 422.7 as amended by 2008 Iowa Acts, House File 2283 and Senate File 2430; and Iowa Code section 422.9 as amended by 2008 Iowa Acts, House File 2417.

The following amendments are proposed.

ITEM 1. Amend subrule 40.44(1) as follows:

40.44(1) *Exemption of additions to individual development accounts.* The following additions to individual development accounts are exempt from the state income tax of the owners of the accounts to the extent the additions were subject to federal income tax:

- a. The amount of contributions made in the tax year to an account by persons and entities other than the owner of the account.
- b. The amount of any savings refund or state match payments made in the tax year to an account as authorized for contributions made to the accounts by the owner of the account.
- c. Earnings on the account in the tax year or interest earned on the account.

ITEM 2. Amend rule ~~701—40.44(422,541A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.7, 541A.2 and 541A.3 as amended by ~~1996 Iowa Acts, Senate File 2324~~ 2008 Iowa Acts, Senate File 2430.

ITEM 3. Adopt the following new subrule 40.60(3):

40.60(3) *Assets acquired after December 31, 2007, but before January 1, 2009.* For tax periods beginning after December 31, 2007, but beginning before January 1, 2009, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2009, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2009, can be calculated on Form IA 4562A.

See rule 701—53.22(422) for examples illustrating how this rule is applied.

REVENUE DEPARTMENT[701](cont'd)

ITEM 4. Amend rule **701—40.60(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2005 Iowa Acts, House File 102.~~

ITEM 5. Amend rule **701—40.65(422)**, introductory paragraph, as follows:

701—40.65(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa individual income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa individual income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No.110-185, Section 102, may be taken for Iowa individual income tax.

ITEM 6. Amend rule **701—40.65(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2005 Iowa Acts, House File 102~~ 2008 Iowa Acts, Senate File 2123.

ITEM 7. 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, 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, 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 active duty in the United States armed forces from July 1, 1958, through May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2007 Iowa Acts, Senate File 578~~ 2008 Iowa Acts, House File 2283.

ITEM 8. Adopt the following **new** subrule 41.3(7):

41.3(7) Federal rebate received in 2008. For tax years beginning in the 2008 calendar year, the federal tax rebate or advanced refund of federal income tax provided to certain individuals in 2008 pursuant to the federal Economic Stimulus Act of 2008 is not to be included as part of an individual's federal income tax refund for the individual's federal tax deduction for Iowa individual income tax purposes.

EXAMPLE. Frank and Jane Casey received a federal refund of \$1,300 in March 2008 from federal income tax that had been deducted on their 2007 Iowa individual income tax return. Frank and Jane also received a \$1,200 federal rebate in June 2008. When Frank and Jane file their 2008 Iowa return, they must report a federal income tax refund of \$1,300. However, they are not required to include as part of the federal income tax refund shown on their 2008 Iowa return the \$1,200 federal rebate they received in June 2008.

ITEM 9. Amend rule **701—41.3(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.9 as amended by ~~2005 Iowa Acts, Senate File 413~~ 2008 Iowa Acts, House File 2417.

ITEM 10. Amend paragraph **42.2(11)“b”** as follows:

b. In lieu of the credit computed under paragraph “a” of this subrule, a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative

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incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer's federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

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 "b" of this subrule, 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, ~~2007~~ 2008.

ITEM 11. Amend paragraph **52.7(3)"c"** as follows:

c. 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 "b" of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this rule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

ITEM 12. Amend paragraph **52.7(5)"c"** as follows:

c. 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 subrule 52.7(3) of this rule, such amounts are limited to research activities conducted within the quality jobs enterprise zone. For purposes of this rule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

ITEM 13. Amend rule **701—52.7(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2007 Iowa Acts, House File 319~~ 2008 Iowa Acts, Senate File 2123.

ITEM 14. Adopt the following **new** subrule 53.22(3):

53.22(3) Assets acquired after December 31, 2007, but before January 1, 2009. For tax periods beginning after December 31, 2007, but beginning before January 1, 2009, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2009, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2009, can be calculated on Form IA 4562A.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: Taxpayer acquired a \$100,000 qualifying asset on January 10, 2008, which has a five-year life for depreciation purposes. Using the bonus depreciation provision in Section 168(k) of the Internal Revenue Code, taxpayer was entitled to a \$44,000 depreciation deduction on the federal return for 2008. For Iowa purposes, taxpayer must use the MACRS depreciation method which results in a \$20,000 depreciation

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deduction on the Iowa return for 2008. Therefore, a \$24,000 (\$44,000 - \$20,000) increase to net income relating to this depreciation adjustment must be made on the Iowa return for 2008.

EXAMPLE 2: Taxpayer acquired a \$1,000,000 qualifying asset on January 10, 2008, which has a ten-year life for depreciation purposes. This asset was sold on December 31, 2011, for \$500,000. Using the bonus depreciation provision, taxpayer claimed \$677,440 of depreciation deductions on the federal returns for 2008-2011. This results in a basis for this asset of \$322,560 (\$1,000,000 - \$677,440), and a gain of \$177,440 (\$500,000 - \$322,560) on the federal return for 2011 on the sale of the asset.

Using the MACRS depreciation method, taxpayer claimed \$539,200 of depreciation deductions on the Iowa returns for 2008-2011. This results in a basis for this asset of \$460,800 (\$1,000,000 - \$539,200), and a gain of \$39,200 (\$500,000 - \$460,800) on the Iowa return for 2011 on the sale of the asset. Therefore, a decrease to net income of \$138,240 (\$177,440 - \$39,200) relating to this gain adjustment must be made on the Iowa return for 2011.

ITEM 15. Amend rule **701—53.22(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2005 Iowa Acts, House File 102.~~

ITEM 16. Amend rule **701—53.23(422)**, introductory paragraph, as follows:

701—53.23(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa corporation income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa corporation income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No.110-185, Section 102, may be taken for Iowa corporation income tax.

ITEM 17. Amend rule **701—53.23(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.35 as amended by ~~2005 Iowa Acts, House File 102~~ 2008 Iowa Acts, Senate File 2123.

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REVENUE DEPARTMENT[701]

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 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, "Adjustments to Computed Tax," Chapter 43, "Assessments and Refunds," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

These amendments are proposed as a result of 2008 Iowa Acts, House Files 2689 and 2700, and 2008 Iowa Acts, Senate Files 572, 2124, 2400 and 2405.

Item 1 amends paragraphs 42.24(3)"d," "e" and "f" to provide that the wage-benefits tax credit for individual income tax will be allowed through the fiscal year ending June 30, 2011.

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Item 2 adopts new subrule 42.24(5) to provide that the wage-benefits tax credit for individual income tax is repealed effective July 1, 2008, but that the wage-benefits credit will still be allowed through the fiscal year ending June 30, 2011. Item 3 amends the implementation sentence for rule 701—42.24(15I,422).

Items 4 and 6 amend rule 701—42.25(422,476B) and subrule 42.25(2) to provide that the wind energy production tax credit for individual income tax is also available to facilities that will use the electricity for on-site consumption.

Item 5 amends subrule 42.25(1) to provide that for applications for the wind energy production tax credit filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts.

Item 7 amends subrule 42.25(3) to eliminate the provision that the wind energy production tax credit for individual income tax can only be transferred once. Item 8 amends the implementation sentence for rule 701—42.25(422,476B).

Item 9 amends rule 701—42.32(422) to provide that the computation and eligibility requirements for the biodiesel blended fuel tax credit for individual income tax will be done on a site-by-site basis for tax years beginning on or after January 1, 2009.

Items 10 and 11 amend rule 701—42.33(422) and paragraph 42.33(1)“a” to provide that the soy-based transformer fluid tax credit for individual income tax is available for costs incurred through December 31, 2008. Item 12 amends the implementation sentence for rule 701—42.33(422).

Item 13 amends subrule 42.35(2) to provide for an alternative format for submitting qualified expenditures relating to the film qualified expenditure tax credit for individual income tax.

Items 14 and 15 amend subrules 42.35(3) and 42.36(2) to eliminate the restriction that tax credit certificates for the film qualified expenditure tax credit and the film investment tax credit for individual income tax can only be transferred if the amount was \$1,000 or more.

Items 16 and 17 amend subrules 43.4(8) and 43.4(9) to provide that the veterans trust fund checkoff and the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund checkoff are only in effect until tax years beginning prior to January 1, 2008.

Item 18 adopts new subrules 43.4(10) and 43.4(11) to provide for the child abuse prevention program fund checkoff and the joint veterans trust fund and volunteer firefighter preparedness fund checkoff that takes effect for tax years beginning on or after January 1, 2008. Item 19 amends the implementation sentence for rule 701—43.4(68A,422,456A).

Item 20 amends subrule 52.1(10) to provide for the repeal of the deferment of income for start-up companies effective for tax years beginning on or after January 1, 2008. Item 21 amends the implementation sentence for rule 701—52.1(422).

Item 22 amends paragraphs 52.25(3)“d,” “e” and “f” to provide that the wage-benefits tax credit for corporation income tax will be allowed through the fiscal year ending June 30, 2011. This is similar to the change in Item 1.

Item 23 adopts new subrule 52.25(5) to provide that the wage-benefits tax credit for corporation income tax is repealed effective July 1, 2008, but that the wage-benefits credit will still be allowed through the fiscal year ending June 30, 2011. This is similar to the change in Item 2. Item 24 amends the implementation sentence for rule 701—52.25(15I,422).

Items 25 and 27 amend rule 701—52.26(422,476B) and subrule 52.26(2) to provide that the wind energy production tax credit for corporation income tax is also available to facilities that will use the electricity for on-site consumption. This is similar to the change in Items 4 and 6.

Item 26 amends subrule 52.26(1) to provide that for applications for the wind energy production tax credit filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts. This is similar to the change in Item 5.

Item 28 amends subrule rule 52.26(3) to eliminate the provision that the wind energy production tax credit for corporation income tax can only be transferred once. This is similar to the change in Item 7. Item 29 amends the implementation sentence for rule 701—52.26(422,476B).

Item 30 amends rule 701—52.31(422) to provide that the computation and eligibility requirements for the biodiesel blended fuel tax credit for corporation income tax will be done on a site-by-site basis for tax years beginning on or after January 1, 2009. This is similar to the change in Item 9.

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Items 31, 32 and 33 amend rule 701—52.32(422), paragraph 52.32(1)“a” and the implementation clause for rule 701—52.32(422) to provide that the soy-based transformer fluid tax credit for corporation income tax is available for costs incurred through December 31, 2008. This is similar to the change in Items 10 and 11.

Item 34 amends subrule 52.34(2) to provide for an alternative format for submitting qualified expenditures relating to the film qualified expenditure tax credit for corporation income tax. This is similar to the change in Item 13.

Items 35 and 36 amend subrules 52.34(3) and 52.35(2) to eliminate the restriction that tax credit certificates for the film qualified expenditure tax credit and the film investment tax credit for corporation income tax can only be transferred if the amount was \$1,000 or more. This is similar to the change in Items 14 and 15.

Item 37 amends rule 701—58.14(15I,422) to reference the repeal of the wage-benefits credit for franchise tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 27, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 17, 2008.

These amendments are intended to implement Iowa Code chapter 15I as amended by 2008 Iowa Acts, House File 2700; Iowa Code Supplement section 422.11P as amended by 2008 Iowa Acts, House File 2689; Iowa Code Supplement section 422.33 as amended by 2008 Iowa Acts, House File 2689 and Senate File 572; Iowa Code section 422.24A as amended by 2008 Iowa Acts, Senate File 2400; Iowa Code Supplement section 422.11R as amended by 2008 Iowa Acts, Senate File 572; 2008 Iowa Acts, Senate File 2124; Iowa Code chapter 476B as amended by 2008 Iowa Acts, Senate File 2405; and Iowa Code chapter 476D as amended by 2008 Iowa Acts, Senate File 572.

The following amendments are proposed.

ITEM 1. Amend paragraphs **42.24(3)“d,” “e” and “f”** as follows:

d. The tax credit certificates that are issued in a fiscal year cannot exceed \$10 million for the fiscal year ending June 30, 2007, and shall not exceed \$4 million for the fiscal ~~year~~ years ending June 30, 2008, ~~and for subsequent fiscal years through June 30, 2011.~~ The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the \$10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the \$10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the \$4 million limit for the fiscal ~~year~~ years ending June 30, 2008, ~~and for subsequent fiscal years through June 30, 2011,~~ any applications for tax credit certificates received after the \$4 million limit has been reached will

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be denied. If a business failed to receive all or a part of the tax credit due to the \$10 million or \$4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the ~~four subsequent tax years~~ fiscal years ending June 30, 2008, through June 30, 2011, subject to the \$4 million limit for tax credits for ~~subsequent years~~ the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during ~~each of these subsequent tax years~~ the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 42.24(2) for the first year is applicable for each subsequent period. Preference will be given in issuing tax credit certificates for those businesses that retain qualified new jobs, and preference will be given in the order in which applications were filed for the fiscal year ending June 30, 2007. Therefore, those businesses which received the first \$4 million of tax credits for the year ending June 30, 2007, in which the qualified jobs were created will automatically receive a tax credit for ~~a subsequent year~~ the fiscal years ending June 30, 2008, through June 30, 2011, as long as the qualified jobs are retained and an application is completed.

f. ~~After~~ For the fiscal year ~~years~~ ending June 30, 2007 2008, through June 30, 2011, if credits become available because the jobs were not retained by businesses which received the first \$4 million of credits for the year ending June 30, 2007, an application which was originally denied will be considered in the order in which the application was received for the fiscal year ending June 30, 2007.

EXAMPLE: Wage-benefits tax credits of \$4 million are issued for the fiscal year ending June 30, 2007, relating to applications filed between July 1, 2006, and March 31, 2007. For the next fiscal year ending June 30, 2008, the same businesses that received the \$4 million in wage-benefits tax credits filed applications totaling \$3 million for the retained jobs for which the application for the prior year was filed on or before March 31, 2007. The first \$3 million of the available \$4 million will be allowed to these same businesses. The remaining \$1 million that is still available for the year ending June 30, 2008, will be allowed for those retained jobs for which applications for the prior year were filed starting on April 1, 2007, until the remaining \$1 million in tax credits is issued.

ITEM 2. Adopt the following **new** subrule 42.24(5):

42.24(5) *Repeal of the wage-benefits tax credit.* The wage-benefits tax credit is repealed effective July 1, 2008. However, the wage-benefits tax credit is still available through the fiscal year ending June 30, 2011, as provided in subrule 42.24(3), paragraphs “d,” “e,” and “f.” A business is not entitled to a wage-benefits tax credit for a qualified new job created on or after July 1, 2008.

ITEM 3. Amend rule **701—42.24(151,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 15I as amended by ~~2007 Iowa Acts, Senate File 601, section 82~~ 2008 Iowa Acts, House File 2700, section 167, and Iowa Code section 422.11L.

ITEM 4. Amend rule 701—42.25(422,476B), introductory paragraph, as follows:

701—42.25(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner or used for on-site consumption against a taxpayer’s Iowa individual income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule 199—15.18(476B).

ITEM 5. Amend subrule 42.25(1), introductory paragraph, as follows:

42.25(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but before July 1, ~~2009~~ 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts. In addition, the facility must

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also be approved by the board of supervisors of the county in which the facility is located. Once the owner receives the approval from the board of supervisors, approval is not required for subsequent tax periods.

ITEM 6. Amend subrule 42.25(2) as follows:

42.25(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of "related person" uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 42.25(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

ITEM 7. Amend subrule 42.25(3), introductory paragraph, as follows:

42.25(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred ~~one~~ to any person or entity.

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ITEM 8. Amend rule **701—42.25(422,476B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11J and chapter 476B as amended by 2008 Iowa Acts, Senate File 2405.

ITEM 9. Amend rule 701—42.32(422) as follows:

701—42.32(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. “Biodiesel blended fuel” means a blend of biodiesel with petroleum-based diesel fuel which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. For tax years beginning on or after January 1, 2009, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel.

The tax credit equals three cents multiplied by the total qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA8864.

Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel, and the other site sold 10,000 gallons of biodiesel blended fuel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2006 tax year. If the facts in this example had occurred during the 2009 tax year, the taxpayer could claim a biodiesel blended fuel tax credit totaling \$750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel fuel requirement.

42.32(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2012, a taxpayer whose tax year ends prior to December 31, 2011, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2011, provided that 50 percent of ~~all~~ diesel fuel sold at qualifying retail motor fuel sites during that period was biodiesel blended fuel.

See 701—subrule 52.31(1) for examples illustrating how this subrule is applied.

42.32(2) No change.

This rule is intended to implement ~~2006 Iowa Acts, House File 2754, section 41~~ Iowa Code Supplement section 422.11P as amended by 2008 Iowa Acts, House File 2689, sections 31 and 32.

ITEM 10. Amend rule **701—42.33(422)**, introductory paragraph, as follows:

701—42.33(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, ~~2008~~ 2009, an electric utility may claim a soy-based transformer fluid

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tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

ITEM 11. Amend paragraph **42.33(1)“a”** as follows:

a. The costs must be incurred after June 30, 2006, and before January 1, ~~2008~~ 2009.

ITEM 12. Amend rule **701—42.33(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 422.11R as amended by 2006 Iowa Acts, Senate File 2402 2008 Iowa Acts, Senate File 572.

ITEM 13. Amend subrule 42.35(2), introductory paragraph, as follows:

42.35(2) Claiming the tax credit. Upon completion of the registered project in Iowa, the taxpayer must submit to the film office a completed Form Z, Schedule of Qualified Expenses, or an alternative to Form Z in a format approved by IDED prior to production, listing the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

ITEM 14. Amend subrule 42.35(3), introductory paragraph, as follows:

42.35(3) Transfer of the film qualified expenditure tax credit. The film qualified expenditure tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

ITEM 15. Amend subrule 42.36(2), introductory paragraph, as follows:

42.36(2) Transfer of the film investment tax credit. The film investment tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

ITEM 16. Amend subrule 43.4(8), introductory paragraph, as follows:

43.4(8) Veterans trust fund checkoff. For tax years beginning on or after January 1, 2006, but before January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the veterans trust fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the veterans trust fund, the amount credited to the veterans trust fund will be reduced accordingly. Once the taxpayer has designated a contribution to the veterans trust fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

ITEM 17. Amend subrule 43.4(9), introductory paragraph, as follows:

43.4(9) Joint keep Iowa beautiful fund and volunteer firefighter preparedness fund checkoff. For tax years beginning on or after January 1, 2006, but before January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund, the amount credited to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

ITEM 18. Adopt the following **new** subrules 43.4(10) and 43.4(11):

43.4(10) Child abuse prevention program fund checkoff. For tax years beginning on or after January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the child abuse prevention program fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the child abuse prevention program fund, the amount credited to the child abuse prevention program fund will be reduced accordingly. Once the

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taxpayer has designated a contribution to the child abuse prevention program fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the child abuse prevention program fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff and the state fair foundation checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the child abuse prevention program fund are due, the department of revenue shall transfer the total amount designated to the child abuse prevention program fund.

43.4(11) *Joint veterans trust fund and volunteer fire fighter preparedness fund checkoff.* For tax years beginning on or after January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the joint veterans trust fund and volunteer fire fighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the joint veterans trust fund and volunteer fire fighter preparedness fund, the amount credited to the joint veterans trust fund and volunteer fire fighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the joint veterans trust fund and volunteer fire fighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the joint veterans trust fund and volunteer fire fighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation checkoff and the child abuse prevention program fund checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the joint veterans trust fund and volunteer fire fighter preparedness fund are due, the department of revenue shall transfer one-half of the total amount designated to the veterans trust fund, and the remaining one-half will be transferred to the volunteer fire fighter preparedness fund.

ITEM 19. Amend rule **701—43.4(68A,422,456A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section sections~~ sections 422.12D, and section 422.12E, as amended by 2007 Iowa Acts, House File 923 and 422.12H and 2008 Iowa Acts, Senate File 2124, division II.

ITEM 20. Amend subrule 52.1(10), introductory paragraph, as follows:

52.1(10) *Deferment of income for start-up companies.* For tax periods beginning on or after January 1, 2002, but before January 1, 2008, a business that qualifies as a “start-up” business can defer taxable income for the first three years that the business is in operation. The deferment of income for start-up companies is repealed effective for tax years beginning on or after January 1, 2008.

ITEM 21. Amend rule **701—52.1(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 422.21, ~~422.24A~~, 422.32, 422.33, 422.34, 422.34A, and 422.36 and Iowa Code section 422.24A as amended by 2008 Iowa Acts, Senate File 2400, section 66.

ITEM 22. Amend paragraphs **52.25(3)“d,” “e” and “f”** as follows:

d. The tax credit certificates that are issued in a fiscal year cannot exceed \$10 million for the fiscal year ending June 30, 2007, and shall not exceed \$4 million for the fiscal ~~year~~ years ending June 30, 2008, ~~and for subsequent fiscal years~~ through June 30, 2011. The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the \$10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the \$10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the \$4 million limit for the fiscal ~~year~~ years ending June 30, 2008, ~~and for subsequent fiscal years~~ through June

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30, 2011, any applications for tax credit certificates received after the \$4 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the \$10 million or \$4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the ~~four subsequent tax years~~ fiscal years ending June 30, 2008 through June 30, 2011, subject to the \$4 million limit for tax credits for ~~subsequent years~~ the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during each of ~~these subsequent tax years~~ the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 52.25(2) for the first year is applicable for each subsequent period. Preference will be given in issuing tax credit certificates for those businesses that retain qualified new jobs, and preference will be given in the order in which applications were filed for the fiscal year ending June 30, 2007. Therefore, those businesses which received the first \$4 million of tax credits for the year ending June 30, 2007, in which the qualified jobs were created will automatically receive a tax credit for ~~a subsequent year~~ the fiscal years ending June 30, 2008, through June 30, 2011, as long as the qualified jobs are retained and an application is completed.

f. ~~After~~ For the fiscal year ~~years~~ ending June 30, 2007 2008, through June 30, 2011, if credits become available because the jobs were not retained by businesses which received the first \$4 million of credits for the year ending June 30, 2007, an application which was originally denied will be considered in the order in which the application was received for the fiscal year ending June 30, 2007.

EXAMPLE: Wage-benefits tax credits of \$4 million were issued for the fiscal year ending June 30, 2007, relating to applications filed between July 1, 2006, and March 31, 2007. For the next fiscal year ending June 30, 2008, the same businesses that received the \$4 million in wage-benefits tax credits filed applications totaling \$3 million for the retained jobs for which the application for the prior year was filed on or before March 31, 2007. The first \$3 million of the available \$4 million will be allowed to these same businesses. The remaining \$1 million that is still available for the year ending June 30, 2008, will be allowed for those retained jobs for which applications for the prior year were filed starting on April 1, 2007, until the remaining \$1 million in tax credits is issued.

ITEM 23. Adopt the following **new** subrule 52.25(5):

52.25(5) *Repeal of the wage-benefits tax credit.* The wage-benefits tax credit is repealed effective July 1, 2008. However, the wage-benefits tax credit is still available through the fiscal year ending June 30, 2011, as provided in subrule 52.25(3), paragraphs “d,” “e,” and “f.” A business is not entitled to a wage-benefits tax credit for a qualified new job created on or after July 1, 2008.

ITEM 24. Amend rule **701—52.25(151,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 15I as amended by ~~2007 Iowa Acts, Senate File 601, section 82~~ 2008 Iowa Acts, House File 2700, section 167, and Iowa Code section 422.33(18).

ITEM 25. Amend rule 701—52.26(422,476B), introductory paragraph, as follows:

701—52.26(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner or used for on-site consumption against a taxpayer’s Iowa corporation income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule 199—15.18(476B).

ITEM 26. Amend subrule 52.26(1), introductory paragraph, as follows:

52.26(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but before July 1, ~~2009~~ 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts. In addition, the facility must

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also be approved by the board of supervisors of the county in which the facility is located. Once the owner receives the approval from the board of supervisors, approval is not required for subsequent tax periods.

ITEM 27. Amend subrule 52.26(2) as follows:

52.26(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of "related person" uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 52.26(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

ITEM 28. Amend subrule 52.26(3), introductory paragraph, as follows:

52.26(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred ~~one~~ to any person or entity.

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ITEM 29. Amend rule **701—52.26(422,476B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476B as amended by 2008 Iowa Acts, Senate File 2405.

ITEM 30. Amend rule 701—52.31(422) as follows:

701—52.31(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. “Biodiesel blended fuel” means a blend of biodiesel with petroleum-based diesel fuel which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. For tax years beginning on or after January 1, 2009, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel.

The tax credit equals three cents multiplied by the ~~total~~ qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA8864.

Any credit in excess of the taxpayer’s tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel, and the other site sold 10,000 gallons of biodiesel blended fuel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2006 tax year. If the facts in this example had occurred during the 2009 tax year, the taxpayer could claim a biodiesel blended fuel tax credit totaling \$750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel fuel requirement.

52.31(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2012, a taxpayer whose tax year ends prior to December 31, 2011, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2011, provided that 50 percent of ~~all~~ diesel fuel sold at qualifying retail motor fuel sites during that period was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending April 30, 2006. The taxpayer sold 60,000 gallons of diesel fuel for the period from May 1, 2005, through April 30, 2006, of which 28,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through April 30, 2006, the taxpayer sold 20,000 gallons of diesel fuel, of which 12,000 gallons was biodiesel blended fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of \$360 (12,000 gallons times 3 cents) on the taxpayer’s Iowa income tax return for the period ending April 30, 2006, since more than 50 percent of all diesel fuel sold during the period from January 1, 2006, through April 30, 2006, was biodiesel blended fuel.

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EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending June 30, 2006. The taxpayer sold 80,000 gallons of diesel fuel for the period from July 1, 2005, through June 30, 2006, of which 42,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through June 30, 2006, the taxpayer sold 40,000 gallons of diesel fuel, of which 19,000 gallons was biodiesel blended fuel. The taxpayer is not entitled to claim the biodiesel blended fuel tax credit on the taxpayer's Iowa income tax return for the period ending June 30, 2006, since less than 50 percent of all diesel fuel sold during the period from January 1, 2006, through June 30, 2006, was biodiesel blended fuel, even though more than 50 percent of all diesel fuel sold during the period from July 1, 2005, through June 30, 2006, was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending February 28, 2012. The taxpayer sold 100,000 gallons of diesel fuel for the period from March 1, 2011, through February 28, 2012, of which 60,000 gallons was biodiesel blended fuel. For the period from March 1, 2011, through December 31, 2011, the taxpayer sold 85,000 gallons of diesel fuel, of which 50,000 gallons was biodiesel fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of \$1,500 (50,000 gallons times 3 cents) on the taxpayer's Iowa income tax return for the period ending February 12, 2012, since the credit is computed only on gallons sold through December 31, 2011.

52.31(2) No change.

This rule is intended to implement Iowa Code Supplement section 422.33 as amended by ~~2006 Iowa Acts, House File 2754~~ 2008 Iowa Acts, House File 2689, section 33.

ITEM 31. Amend rule 701—52.32(422), introductory paragraph, as follows:

701—52.32(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, ~~2008~~ 2009, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim ~~the~~ a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

ITEM 32. Amend paragraph **52.32(1)“a”** as follows:

a. The costs must be incurred after June 30, 2006, and before January 1, ~~2008~~ 2009.

ITEM 33. Amend rule **701—52.32(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 422.33 as amended by ~~2006 Iowa Acts, Senate File 2402~~ 2008 Iowa Acts, Senate File 572.

ITEM 34. Amend subrule 52.34(2), introductory paragraph, as follows:

52.34(2) Claiming the tax credit. Upon completion of the registered project in Iowa, the taxpayer must submit to the film office a completed Form Z, Schedule of Qualified Expenses, or an alternative to Form Z in a format approved by IDED prior to production, listing the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

ITEM 35. Amend subrule 52.34(3), introductory paragraph, as follows:

52.34(3) Transfer of the film qualified expenditure tax credit. The film qualified expenditure tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

ITEM 36. Amend subrule 52.35(2), introductory paragraph, as follows:

52.35(2) Transfer of the film investment tax credit. The film investment tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

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ITEM 37. Amend rule 701—58.14(15I,422) as follows:

701—58.14(15I,422) Wage-benefits tax credit. Effective for tax years ending on or after June 9, 2006, a wage-benefits tax credit, subject to the availability of the credit, equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in Iowa is available for eligible financial institutions. For information on the eligibility for the wage-benefits tax credit, how to file applications for the wage-benefits tax credit, how the wage-benefits tax credit is computed, the repeal of the wage-benefits credit effective July 1, 2008, and other details about the credit, see rule 701—52.25(15I,422).

This rule is intended to implement Iowa Code Supplement chapter 15I as amended by 2008 Iowa Acts, House File 2700, section 167, and Iowa Code Supplement section 422.60(10) as amended by 2008 Iowa Acts, House File 2700, section 164.

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for September is 6.00%.

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 10, 2008, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.20%
32-89 days	Minimum 1.50%
90-179 days	Minimum 1.65%
180-364 days	Minimum 1.90%
One year to 397 days	Minimum 2.15%
More than 397 days	Minimum 2.50%

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 7168B**UTILITIES DIVISION[199]****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 Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248, the Utilities Board (Board) gives notice that on September 3, 2008, the Board issued an order in Docket No. RMU-08-5, In re: Revisions to Rules Governing Certificates of Franchise Authority for Cable and Video Service [199 IAC 44], "Order Commencing Rule Making."

The proposed amendments revise the Board's rules at 199 IAC 44 regarding certificates of franchise authority for cable and video service providers. Two of the proposed revisions reflect recent legislative changes. 2008 Iowa Acts, Senate File 2248, became effective on July 1, 2008, and made two changes to Iowa Code chapter 477A, the statute authorizing the Board to issue certificates of franchise authority to cable and video service providers. Senate File 2248 removed counties from the definition of "municipality" in Iowa Code section 477A.1(12) and added a provision to Iowa Code section 477A.2(2)"b" to allow a service provider that is subject to an existing municipal franchise to file an application for a certificate of franchise authority from the Board within 60 days prior to the expiration of the municipal franchise. The proposed amendments revise Board rule 44.2(17A,476,82GA,SF554) to reflect the amended definition of "municipality" and subrule 44.3(1) to add a provision allowing an application from a service provider subject to an existing municipal franchise agreement to be filed prior to expiration of the franchise agreement.

The proposed amendments also revise subrules 44.3(5) and 44.3(7) to require a service provider to specify the effective date of a service area modification or certificate termination and revise subrules 44.3(5) through 44.3(7) to provide that the Agency will acknowledge receipt of notice of service area modification, certificate transfer, or certificate termination by letter.

The order commencing rule making contains a more thorough discussion of the proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before October 14, 2008, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested, or the Board on its own motion may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248.

The following amendments are proposed.

ITEM 1. Amend rules **199—44.2(17A,476,82GA,SF554)** and **199—44.3(17A,476,82GA,SF554)**, parenthetical implementation, by striking "82GA,SF554" and inserting "477A,82GA,SF2248" in lieu thereof.

ITEM 2. Amend rule **199—44.2(17A,476,477A,82GA,SF2248)**, definition of "Municipality," as follows:

"Municipality" means a ~~county~~ or a city.

UTILITIES DIVISION[199](cont'd)

ITEM 3. Amend subrule 44.3(1) as follows:

44.3(1) Existing franchise agreements. A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board. An application for a certificate of franchise authority from a person subject to an existing municipal franchise agreement may be filed within 60 days prior to the expiration of the agreement and, if granted, shall take effect upon the expiration date of the agreement.

ITEM 4. Amend subrules 44.3(5) to 44.3(7) as follows:

44.3(5) Modification of service area. At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board ~~upon~~ of the effective date of the expansion or other change in service area using a form developed by and available from the board. The board will acknowledge receipt of a notice of service area modification by letter.

44.3(6) Transfer of certificate of franchise authority. The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of business and the names and titles of the successor's principal executive officers with direct authority over and responsibility for the successor's cable or video operations. A notice of transfer shall be effective on the date which is the later of (1) 14 business days after the date of filing of the notice of transfer with the board or (2) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate. The board will acknowledge receipt of a notice of transfer by letter.

44.3(7) Termination of certificate of franchise authority. The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the board and to each affected municipality using a form developed by and available from the board. The board will acknowledge receipt of a notice of termination by letter.

ARC 7182B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

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

The 2008 General Assembly amended Iowa Code Supplement section 68A.402 to require any campaign disclosure report that is due less than five days before an election to be physically received by the Board by 4:30 p.m. of the due date to be considered timely filed. The amendment reflects this statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

This amendment is intended to implement Iowa Code Supplement section 68A.402 as amended by 2008 Iowa Acts, Senate File 2400, sections 24 and 28.

This amendment will become effective on October 29, 2008.

The following amendment is adopted.

Amend rule 351—4.10(68A,68B) as follows:

351—4.10(68A,68B) Time of filing. A report must be physically received by the board or, if mailed, shall bear a United States Postal Service postmark dated on or before the report due date. Faxed, E-mailed, or electronically filed reports must be submitted on or before 11:59 p.m. of the report due date. However, as provided in Iowa Code Supplement section 68A.402 as amended by ~~2007 Iowa Acts, Senate File 42, section 1, and 2007 Iowa Acts, House File 413, section 3~~ 2008 Iowa Acts, Senate File 2400, sections 24 and 28, any report that is required to be filed five days or less prior to an election must be physically received by the board prior to 4:30 p.m. on the report due date. If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the first working day when the board office is open.

This rule is intended to implement Iowa Code Supplement section 68A.402 as amended by ~~2007 Iowa Acts, Senate File 42, section 1, and 2007 Iowa Acts, House File 413, section 3, and Iowa Code section 68B.32A(6) as amended by 2007 Iowa Acts, Senate File 40, section 3~~ 2008 Iowa Acts, Senate File 2400, sections 24 and 28.

[Filed Without Notice 9/5/08, effective 10/29/08]

[Published 9/24/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7160B**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed**

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

The Board created Form DR-SFA to permit a candidate or organization that has not exceeded the \$750 financial filing threshold for registering a campaign committee to use the short form "paid for by" attribution statement on political materials as set out in Iowa Code section 68A.405. The amendment requires the candidate or organization to file a Form DR-SFA with the Board prior to the distribution of political materials containing the short form attribution statement.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 18, 2008, as **ARC 6848B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on August 28, 2008.

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

This amendment is intended to implement Iowa Code sections 68A.201 and 68A.405.

This amendment will become effective on October 29, 2008.

The following amendment is adopted.

Amend rule 351—4.11(68A) as follows:

351—4.11(68A) Voluntary registration—Form DR-SFA.

4.11(1) *Persons voluntarily registering a committee.* A person that has not exceeded the \$750 financial filing threshold may file Form DR-SFA for purposes of using the short form “paid for by” attribution statement under Iowa Code section 68A.405 and rule 351—4.38(68A). A person using the short form “paid for by” attribution statement shall file Form DR-SFA with the board prior to distributing the political material containing the short form “paid for by” attribution statement.

4.11(2) *\$750 threshold later exceeded.* A person filing Form DR-SFA shall not be required to file a statement of organization or be required to file disclosure reports unless the \$750 threshold is later exceeded. A person that later exceeds the \$750 threshold and that fails to timely file a statement of organization or to timely file disclosure reports may be subject to the appropriate board sanctions as set out by statute and board rule.

This rule is intended to implement Iowa Code sections 68A.201 and ~~68A.402A~~ 68A.405.

[Filed 9/2/08, effective 10/29/08]

[Published 9/24/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7183B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**Adopted and Filed Without Notice**

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

The 2008 General Assembly amended Iowa Code section 68A.404 to lower the financial threshold for reporting an independent expenditure statement from \$750 to \$100. The amendments reflect this statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board’s rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.404 as amended by 2008 Iowa Acts, House File 2700, sections 116 and 117.

These amendments will become effective on October 29, 2008.

The following amendments are adopted.

ITEM 1. Amend rule 351—4.27(68A), introductory paragraph, as follows:

351—4.27(68A) Filing of independent expenditure statement. Pursuant to Iowa Code section 68A.404 as amended by ~~2005 Iowa Acts, House File 312, sections 13, 14, and 15~~ 2008 Iowa Acts, House File 2700, sections 116 and 117, any person except a candidate or a registered committee that makes one or more independent expenditures in excess of ~~\$750~~ \$100 in the aggregate shall file an independent expenditure statement.

ITEM 2. Amend subrule 4.27(3) as follows:

4.27(3) *Place of filing.* An independent expenditure statement shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, or by fax at ~~(515)281-3704~~ (515)281-4073. The board shall immediately make the independent expenditure statement available for public viewing via the board’s Web site at www.iowa.gov/ethics.

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

ITEM 3. Amend subrule 4.27(4) as follows:

4.27(4) Time of filing. An independent expenditure statement shall be filed within 48 hours of the making of an independent expenditure exceeding \$750 \$100 or independent expenditures exceeding \$750 \$100 in the aggregate. An independent expenditure is deemed made at the time that the cost is incurred.

ITEM 4. Amend rule ~~351—4.27(68A)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 68A.404 as amended by ~~2005 Iowa Acts, House File 312, sections 13, 14, and 15~~ 2008 Iowa Acts, House File 2700, sections 116 and 117.

[Filed Without Notice 9/5/08, effective 10/29/08]

[Published 9/24/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7161B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 8, "Executive Branch Lobbying," Iowa Administrative Code.

The amendment clarifies the type of expenses that executive branch lobbyists disclose on their executive branch lobbying reports. The sections discussing "compensation" are removed because compensation paid to executive branch lobbyists is disclosed on separate forms filed by their clients.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 18, 2008, as **ARC 6849B**. No oral or written comments on the amendment were received. The amendment is identical to that published under Notice.

The Board adopted this amendment on August 28, 2008.

This amendment is intended to implement Iowa Code section 68B.37.

This amendment will become effective on October 29, 2008.

The following amendment is adopted.

Amend rule 351—8.6(68B) as follows:

351—8.6(68B) Executive branch lobbying expenditures defined. This rule is intended to aid executive branch lobbyists in reporting expenditures as required by Iowa Code section 68B.37 that are made by lobbyists for executive branch lobbying purposes. The provisions of this rule are intended to serve as a general guideline to obtain uniform reporting. ~~The following are defined as executive branch lobbying expenditures:~~

8.6(1) Expenditures defined. The following are defined as executive branch lobbying expenditures:

~~1. a. Direct communication expenses such as telephone calls, letters, faxes, printing, and postage for purposes of engaging in executive branch lobbying.~~

~~b. Other tangible costs directly associated with engaging in executive branch lobbying as defined in rule 351—8.1(68B).~~

~~2. Compensation received for time spent researching and drafting proposed legislation, rules, or executive orders when the draft is then submitted to any executive branch official or employee.~~

~~3. Compensation received for time spent by the lobbyist communicating with executive branch officials and employees for purposes of engaging in executive branch lobbying.~~

8.6(2) Lobbyist client expenses For purposes of this rule, any of ~~these~~ the expenses set out in subrule 8.6(1) incurred by a lobbyist's client shall apply to the lobbyist and shall be a reportable expense by the lobbyist.

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

However, an expenditure made by any organization for publishing a newsletter or other informational release for its members is not a reportable expenditure.

This rule is intended to implement Iowa Code section 68B.37.

[Filed 9/2/08, effective 10/29/08]

[Published 9/24/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7166B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board amends Chapter 71, "Administration," Chapter 72, "New Installations," Chapter 75, "Fees," and Chapter 76, "Permits," Iowa Administrative Code.

The principal reasons for adoption of these amendments are to protect worker safety and health and to implement legislative intent. No variance provision is included in these amendments as 875—Chapter 66 sets forth applicable variance procedures.

Notice of Intended Action was published in the June 18, 2008, Iowa Administrative Bulletin as **ARC 6853B**. These amendments were simultaneously Adopted and Filed Emergency as **ARC 6852B**.

No public comment opposing these amendments was received. These amendments differ from those published under Notice of Intended Action and Adopted and Filed Emergency. The description of plan and design documents found in 72.12(4)"e" was changed to coincide with current business practice and Iowa Code section 89A.8. Paragraph "e" now reads as follows:

"e. Three copies of the prints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts."

These amendments shall become effective on October 29, 2008, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code chapter 89A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 71, 72, 75, 76] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6853B** and Adopted and Filed Emergency as **ARC 6852B**, IAB 6/18/08.

[Filed 9/3/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

ARC 7167B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board amends Chapter 71, "Administration," Chapter 75, "Fees," and Chapter 76, "Permits," Iowa Administrative Code.

Pursuant to 2008 Iowa Acts, Senate File 2154, construction personnel hoists came under the jurisdiction of Iowa's elevator safety program for the first time on July 1, 2008. These amendments establish fees for operating permits, alteration permits, installation permits and inspections of construction personnel hoists. These amendments set forth procedures for construction personnel hoist alteration permits, installation permits, registration, and operating permits.

LABOR SERVICES DIVISION[875](cont'd)

The principal reasons for adoption of these amendments are to protect worker safety and health and to implement legislative intent. No variance provision is included in these rules as 875—Chapter 66 sets forth applicable variance procedures.

Notice of Intended Action was published in the July 16, 2008, Iowa Administrative Bulletin as **ARC 6946B**. No public comment was received on the proposed amendments. These amendments were simultaneously Adopted and Filed Emergency as **ARC 6947B**. These amendments are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

These amendments are intended to implement Iowa Code Supplement sections 89A.1, 89A.2 and 89A.9 as amended by 2008 Iowa Acts, Senate File 2154.

These amendments shall become effective on October 29, 2008, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [71.4, 75.1, 75.2, 75.3(2), 76.2(11), 76.3] is being omitted. These amendments are identical to those published under Notice as **ARC 6946B** and Adopted and Filed Emergency as **ARC 6947B**, IAB 7/16/08.

[Filed 9/3/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

ARC 7193B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment authorizes a hospital to make available to prescribers while they practice in the hospital generic prescription blanks or forms that may identify the hospital pharmacy.

Requests for waiver or variance of the discretionary provisions of Board rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the July 2, 2008, Iowa Administrative Bulletin as **ARC 6872B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the July 29, 2008, meeting of the Board of Pharmacy.

This amendment will become effective on October 29, 2008.

This amendment is intended to implement Iowa Code sections 147.55 and 155A.12.

The following amendment is adopted.

Amend subrule 8.11(5) as follows:

8.11(5) Freedom of choice/solicitation/kickbacks/fee-splitting and imprinted prescription blanks or forms. A pharmacist or pharmacy shall not enter into any agreement which negates a patient's freedom of choice of pharmacy services. A pharmacist or pharmacy shall not participate in prohibited agreements with any person in exchange for recommending, promoting, accepting, or promising to accept the professional pharmaceutical services of any pharmacist or pharmacy. "Person" includes an individual, corporation, partnership, association, firm, or other entity. "Prohibited agreements" includes an agreement or arrangement that provides premiums, "kickbacks," fee-splitting, or special charges as compensation or inducement for placement of business or solicitation of patronage with any pharmacist or pharmacy. "Kickbacks" includes, but is not limited to, the provision of medication carts, facsimile machines, any other equipment, or preprinted forms or supplies for the exclusive use of a facility or practitioner at no charge or billed below reasonable market rate. A pharmacist shall not provide, cause to be provided, or offer to provide to any person authorized to prescribe prescription blanks or forms bearing the pharmacist's or pharmacy's name, address, or other means of identification, except that a hospital may make available to

PHARMACY BOARD[657](cont'd)

hospital staff prescribers, emergency department prescribers, and prescribers granted hospital privileges for the prescribers' use during practice at or in the hospital generic prescription blanks or forms bearing the name, address, or telephone number of the hospital pharmacy.

[Filed 9/5/08, effective 10/29/08]

[Published 9/24/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7192B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby amends Chapter 13, "Sterile Compounding Practices," Iowa Administrative Code.

The amendments clarify the purpose and scope of the rules contained within Chapter 13 and add, delete, and modify definitions of terms used throughout the Chapter. Item 3 amends rule 13.11(155A) to specifically address defined conditions and examples of low-risk preparations and adds new subrule 13.11(3) relating to a new subset of low-risk preparations that are further identified as low-risk preparations with 12-hour or less beyond-use date. The new subrule identifies the conditions and criteria that classify a preparation within this category including the required equipment, area, personnel, and environmental processes. Standards for solid-frozen state are amended in subrules 13.11(1), 13.12(1), and 13.13(1) to comply with current industry standard temperatures for this state and conditions defining high-risk preparations are amended for clarity.

Rule 13.14(155A) is amended in Item 7 to clarify the provisions relating to immediate-use preparations, including the identification of circumstances that would qualify a preparation under this category and the detailing of processes relating to the compounding of immediate-use preparations. Requirements regarding the use of single-dose and multiple-dose vials are clarified in rule 13.15(155A).

The preferred placement of a biological safety cabinet or a compounding aseptic isolator containment and control device to be used in the sterile preparation of hazardous drugs is clarified in Item 9, and terms relating to sterilization methods are corrected and further clarified in Item 10.

Amendments adopted in Item 11 are intended to clarify the purpose for media-fill testing by personnel and provide guidance for the development of appropriate testing procedures. Redundant terms are deleted in Item 12, and Item 13 amends the requirements for periodic microbial air sampling to require semiannual sampling regardless of the level of sterile compounding engaged in at the compounding site.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the July 2, 2008, Iowa Administrative Bulletin as **ARC 6874B**. The Board received one written comment regarding the proposed amendments, suggesting that the time periods in Item 7, numbered paragraphs "4" and "5" in rule 657—13.14(155A), be amended to be consistent with industry standards and with the defined beyond-use date. The adopted amendments differ from those published under Notice. Numbered paragraphs "4" and "5" have been amended to require administration of an immediate-use preparation within one hour after compounding of the preparation is completed, which is consistent with the beyond-use date. Paragraphs "4" and "5" now read as follows:

"4. Administration begins not later than one hour after compounding of the preparation is completed."

"5. If administration has not begun within one hour after compounding of the preparation is completed, the preparation is promptly and safely discarded."

The amendments were approved during the July 29, 2008, meeting of the Board of Pharmacy.

These amendments will become effective on October 29, 2008.

PHARMACY BOARD[657](cont'd)

These amendments are intended to implement Iowa Code sections 124.301, 126.10, 155A.2, 155A.4, 155A.13, 155A.13A, and 155A.28.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 13] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 6874B**, IAB 7/2/08.

[Filed 9/5/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

ARC 7159B**PROFESSIONAL LICENSING AND REGULATION BUREAU[193]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 546.2, the Professional Licensing and Regulation Bureau hereby amends Chapter 13, "Public Records and Fair Information Practices," Iowa Administrative Code.

These amendments implement changes required by 2008 Iowa Acts, Senate File 2179, which was signed by the Governor on April 11, 2008.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6764B**. No comments were received. These amendments are identical to those published under Notice.

The Bureau adopted these amendments on May 28, 2008.

These amendments are intended to implement Iowa Code chapter 546.

The amendments shall become effective October 29, 2008.

The following amendments are adopted.

ITEM 1. Rescind paragraph **13.12(2)"f."**

ITEM 2. Reletter paragraphs **13.12(2)"g"** to **"m"** as **"f"** to **"l."**

ITEM 3. Amend subrule 13.17(3) as follows:

13.17(3) License renewal. Licensees are requested to supply a wide range of information in connection with license renewal, including continuing education information, criminal history and disciplinary actions, as provided by board statutes, rules and application forms, both on paper and electronically. Failure to provide requested information may result in denial of the application. Most information contained on renewal applications is treated as public information freely available for public examination, but some information, such as ~~criminal history~~ credit card numbers, may be confidential under state or federal law.

[Filed 9/2/08, effective 10/29/08]

[Published 9/24/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7203B**PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology hereby rescinds Chapter 239, "Administrative and Regulatory Authority for the Board of Psychology Examiners," amends Chapter 240, "Licensure of Psychologists," Chapter 241, "Continuing Education for Psychologists," and Chapter 242, "Discipline for Psychologists," and rescinds Chapter 243, "Fees," Iowa Administrative Code.

These amendments rescind chapters and rules that duplicate existing rules in 645—Chapters 4 and 5; eliminate outdated or duplicative language in the requirements for licensure; clarify the process and expand

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

the options for curriculum evaluation of foreign-trained psychologists; accept examination scores received from the state of initial licensure for endorsement applicants; provide consistency in the administrative requirements for the certified health service provider in psychology; eliminate the jurisprudence examination requirement; require new licensees to complete six hours of continuing education in legal aspects of practice; require six hours of continuing education in ethical or legal aspects of practice for subsequent renewals; allow licensees to submit mandatory reporter training for continuing education credit; revise grounds for discipline to be consistent with changes in Iowa Code chapter 147; and provide for Web-based reporting of name and address changes by licensees.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 16, 2008, as **ARC 6931B**. A public hearing was held on August 5, 2008, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. Three comments were received that oppose the requirement of six hours of required continuing education in legal or ethical aspects of practice for licensed practitioners. Those comments included the following: continuing education hours should be used for new research and treatment/assessment information; individual practitioners should be allowed to decide which continuing education topics are most relevant to their practice rather than the Board's mandating continuing education that may result in passive compliance on the part of licensed psychologists; and the number of mandated hours should be changed from six to three. One of the comments stated that the jurisprudence examination should be retained as a requirement for initial licensure in lieu of mandatory continuing education in legal and ethical issues.

The Board reviewed and discussed the comments, and did not make any revisions to the noticed rule amendments. The Board noted that providers of continuing education already provide a number of educational offerings in legal, ethical and risk management areas, and that there is likely a plethora of topics that would satisfy the requirement. The Board also noted that the areas of legal, ethical and risk management have broad applicability to licensed professional practice, and that prescribing six hours in these areas is reasonable, given the total of 40 hours of continuing education required each biennium for renewal of a psychology license.

These amendments were adopted by the Board of Psychology on September 3, 2008.

These amendments will become effective October 29, 2008.

These amendments are intended to implement Iowa Code chapters 21, 147, 154B and 272C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [rescind Chs 239, 243; amend Chs 240 to 242] is being omitted. These amendments are identical to those published under Notice as **ARC 6931B**, IAB 7/16/08.

[Filed 9/5/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

ARC 7157B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Sign Language Interpreters and Translitterators hereby gives Notice of Intended Action to rescind Chapter 360, "Administrative and Regulatory Authority for the Board of Interpreter for the Hearing Impaired Examiners," to amend Chapter 361, "Licensure of Sign Language Interpreters and Translitterators," Chapter 362, "Continuing Education for Interpreter for the Hearing Impaired Practitioners," and Chapter 363, "Discipline for Interpreter for the Hearing Impaired Practitioners," and to rescind Chapter 364, "Fees," Iowa Administrative Code.

These amendments rescind rules that duplicate currently existing rules in 645—Chapters 4 and 5.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 18, 2008, as **ARC 6845B**. A public hearing was held on July 8, 2008, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received.

Since publication of the Notice, minor changes have been made to remove all references to “interpreter for the hearing impaired” in Chapters 361 to 363. Additionally, internal references to rules or chapters that are being rescinded by this rule making have been corrected.

The amendments were adopted by the Board of Sign Language Interpreters and Transliterators on August 18, 2008.

These amendments will become effective October 29, 2008.

These amendments are intended to implement Iowa Code chapters 21, 147, 154E and 272C.

The following amendments are adopted.

ITEM 1. Rescind and reserve **645—Chapter 360**.

ITEM 2. Strike the words “interpreter for the hearing impaired” wherever they appear in **645—Chapter 361**, **645—Chapter 362** and **645—Chapter 363** and insert the words “sign language interpreters and transliterators” in lieu thereof.

ITEM 3. Rescind and reserve rules **645—361.4(147)**, **645—361.6(147)**, **645—361.7(147)** and **645—361.8(17A,147,272C)**.

ITEM 4. Amend **645—Chapter 362**, title, as follows:

CHAPTER 362

CONTINUING EDUCATION FOR ~~INTERPRETER FOR THE HEARING IMPAIRED PRACTITIONERS~~ SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

ITEM 5. Rescind and reserve rules **645—362.4(154E,272C)**, **645—362.5(154E,272C)**, **645—362.6(272C)** and **645—362.7(154E,272C)**.

ITEM 6. Amend **645—Chapter 363**, title, as follows:

CHAPTER 363

DISCIPLINE FOR ~~INTERPRETER FOR THE HEARING IMPAIRED PRACTITIONERS~~ SIGN LANGUAGE INTERPRETERS AND TRANSLITERATORS

ITEM 7. Amend subrule 363.2(25) as follows:

363.2(25) Representing oneself as an interpreter or transliterator when one’s license has been suspended or revoked, or when one’s license is on inactive status.

ITEM 8. Amend paragraphs **363.2(28)“d”** and **“e”** as follows:

d. Engaging in sexual activities or sexual contact with a consumer when there is a risk of exploitation or potential harm to the consumer or when the relationship could reasonably be expected to interfere with the interpreter’s or transliterator’s objectivity, competence, or effectiveness.

e. Failure to decline or to withdraw from an interpreting or transliterating assignment when the interpreter or transliterator does not possess the professional skills and knowledge required for the specific interpreting or transliterating situation or setting.

ITEM 9. Rescind and reserve rule **645—363.5(154E)**.

ITEM 10. Rescind and reserve **645—Chapter 364**.

[Filed 8/21/08, effective 10/29/08]

[Published 9/24/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7162B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed

Pursuant to the authority of Iowa Code section 35A.5 and 2008 Iowa Acts, Senate File 2124, the Department of Veterans Affairs hereby amends Chapter 14, "Veterans Trust Fund," Iowa Administrative Code.

The rules in Chapter 14 are amended to increase the usage of the trust fund, to improve administration of the trust fund, and to implement legislative changes enacted during the 2008 Session of the Iowa General Assembly.

These amendments were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7021B**. Notice of Intended Action was published simultaneously as **ARC 7022B**. A public hearing was held on August 19, 2008, and public comment was received by the Department.

The amendments in Item 3 have been changed since the Notice of Intended Action in response to public comments. In subrule 14.4(1), a specified distance for travel expenses has been added. In subrule 14.4(3), the term "underemployment" has been modified and the entire subrule has been changed to clarify that "unemployment" and "underemployment" must be due to a problem caused while serving in the military. The provisions in subrules 14.4(4), 14.4(5) and 14.4(8) have been revised to include references to a veteran's family members, and a change was made to the emergency medical provisions in subrule 14.4(7). In addition, these amendments rescind Item 3, which was previously Adopted and Filed Emergency, and adopt new language which incorporates the changes described above.

The Iowa Department of Veterans Affairs adopted these amendments on September 3, 2008.

These amendments shall become effective October 29, 2008, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

No fiscal impact is anticipated.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2124.

The following amendments are adopted.

ITEM 1. Amend rule 801—14.2(35A) as follows:

801—14.2(35A) Definition. For purposes of this chapter, "veteran" means the same as defined in Iowa Code section 35.1, or a resident of Iowa who served in the armed forces of the United States, completed a minimum aggregate of 90 days of active federal service, and was discharged under honorable conditions, or a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service that precluded completion of a minimum aggregate of 90 days of active federal service.

ITEM 2. Amend rule 801—14.3(35A) as follows:

801—14.3(35A) Eligibility. Veterans, their spouses, and their dependents applying for benefits available under subrules 14.4(1) through ~~14.4(6)~~ 14.4(9) must meet the following threshold requirements.

14.3(1) Income. For the purposes of this chapter, an applicant's household income, excluding VA pension benefits and service-connected disability income, shall not exceed ~~200~~ 300 percent of the federal poverty guidelines for the number of family members living in the primary residence in effect on the date the application is received by the county director of veterans affairs. Federal poverty guidelines shall be those guidelines established by the Iowa department of human services for the veteran's family size. The commission shall adjust the guidelines on July 1 of each year to reflect the most recent federal poverty guidelines.

14.3(2) Resources. The department may not pay benefits under this chapter if the available liquid assets of the veteran are in excess of \$15,000. For the purposes of this chapter, "available liquid assets" means cash on hand, cash in a checking or savings account, stocks, bonds, certificates of deposit, treasury bills, money market funds and other liquid investments owned individually or jointly by the applicant and the applicant's spouse, unless the applicant and spouse are separated or are in the process of obtaining a divorce, but does not

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include funds deposited in IRAs, Keogh plans or deferred compensation plans, unless the veteran is eligible to withdraw such funds without incurring a penalty. Cash surrender value of life insurance policies, real property, established burial account, or a personal vehicle shall not be included as available liquid assets.

14.3(3) *Funding from other sources.* Applications shall not be approved if the applicant is eligible to receive aid from other sources to meet the purposes authorized in this chapter.

14.3(4) *Additional requirements and limitations.* Applicants must meet any additional requirements and are subject to any limitations which may be set out in this chapter or which may be established for a particular benefit.

ITEM 3. Rescind rule 801—14.4(35A) and adopt the following **new** rule in lieu thereof:

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes.

14.4(1) *Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care.* Travel expenses under this subrule include the unreimbursed cost of airfare, lodging, and a per diem of \$25 per day for required out-of-state medical travel that exceeds 125 miles from the veteran's home. Spouses may be reimbursed for in-state lodging and a per diem of \$25 per day when visiting a veteran who is in a hospital for medical care related to a service-connected disability. The distance from the veteran's home to the hospital must exceed 100 miles. The veteran or the veteran's spouse shall provide such evidence as the commission may require, which includes but is not limited to evidence the injury or disability is service-connected, the necessity of treatment in a particular facility, and documentation of expenses. The maximum amount for lodging reimbursement shall be \$90. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$1,000.

14.4(2) *Job training or college tuition assistance for job retraining.*

a. The commission may pay a veteran not more than \$3,000 for retraining or postsecondary education to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school, is enrolled in an accredited postsecondary institution, or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed, underemployed, or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program, or current program, will provide retraining or initial training that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program, or current program, provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received full reimbursement or payment from any other retraining or education scholarship programs and the veteran does not have other assets or income available to meet retraining or initial training expenses. Applicants requesting aid under this subrule will only be granted the unpaid portion of their tuition statement, and the payment will be made directly to the institution.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(3) *Unemployment or underemployment assistance during a period of unemployment or underemployment due to prolonged physical or mental illness resulting from military service or disability resulting from military service.* The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness resulting from military service or disability resulting from military service. The commission may provide subsistence payments of up to \$500 per month of unemployment or underemployment to a veteran. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service-connected and evidence that the veteran is unemployed or underemployed for the period of payments. To qualify as underemployed, the applicant must be currently working at an income that is below 200 percent of federal poverty guidelines due to limitations caused by the applicant's service-connected disability or illness. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$3,000 and a lifetime maximum of \$6,000.

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14.4(4) *Expenses related to hearing care, dental care, vision care, or prescription drugs.*

a. The commission may provide health care aid to a veteran, to the veteran's spouse or dependents, or to the unremarried spouse of a deceased veteran for dental care, including dentures; vision care, including eyeglass frames and lenses; hearing care, including hearing aids; and prescription drugs that are not covered by the Veterans Affairs medical center.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for dental care, \$500 for vision care, \$1,500 per ear for hearing care, and \$1,500 for prescription drugs.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. Payment under this subrule will be provided directly to the health care provider. The commission shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of \$5,000.

d. Applicants for assistance under this subrule will be required to provide the commission with an unpaid bill for service or an estimated cost of service from the health care provider and documentation of the need for the service. For prescription drugs, the applicant must produce documentation of the need for the prescribed drug and documentation stating whether a generic drug is available or appropriate. The commission payment will not exceed an estimated cost of service by a health care provider.

14.4(5) *Expenses relating to the purchase of durable equipment or services to allow a veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home.*

a. The commission may make reimbursement payments to a veteran or to the unremarried spouse of a deceased veteran for the purchase of durable equipment that allows the veteran, the veteran's spouse or dependents, or the unremarried spouse of a deceased veteran to remain in their home or allows them the ability to utilize more of their home.

b. Individuals requesting reimbursement under this subrule will be required to provide verification of the purchase and installation of the equipment and information relating to the need for the equipment. Individuals may also provide a product and installation cost estimate to the commission for approval, with the understanding that the commission will pay no more than the cost estimate to the supplier or installer. Applicants needing durable equipment as a medical necessity should provide information from a physician.

c. Assistance under this subrule cannot duplicate assistance from other entities, and the maximum amount that may be paid may not exceed \$2,500.

d. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of \$5,000.

14.4(6) *Individual counseling or family counseling programs.*

a. The commission may make mental health, substance abuse, and family counseling available to veterans and their families. Individual family members are eligible for counseling.

b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families. Veterans who are eligible for VA mental health services must initially visit their nearest VA medical facility for initial consultation and continued psychiatric treatment. Payment under this subrule will be made for additional services for the veteran in a location closer to the veteran's home and at a greater frequency than the VA medical center can accommodate.

d. The commission may provide up to \$150 per hour and \$75 per half-hour for outpatient counseling visits to providers who will accept as full payment for the counseling services the amount provided. Counseling and substance abuse services provided in a group setting may be paid up to \$40 per hour. Counseling and substance abuse services may also be provided in an inpatient setting, subject to the maximum amount eligible under 14.4(6) "f."

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed \$5,000. Individuals seeking counseling services are eligible for up to \$2,500, individuals seeking substance abuse treatment and counseling combined are eligible for up to \$3,500, and families

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seeking counseling services that may also include individual counseling and substance abuse services are eligible for up to \$5,000.

f. The commission may not provide counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the commission determines the veteran is capable of paying. The commission will make payment directly to the entity providing counseling and substance abuse services. The commission shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of \$5,000.

14.4(7) *Expenses relating to ambulance and emergency room services for veterans.*

a. The commission may provide assistance to veterans for expenses related to ambulance trips, including air ambulance transportation, and emergency room visits for emergency care patients or VA health care patients that cannot indicate to emergency personnel that they are to be presented to a VA medical center.

b. Funding through this subrule shall be paid directly to the entity providing the emergency service or transportation after the commission is provided with an unpaid bill. All efforts should be made to utilize all other methods of payment prior to accessing assistance under this subrule.

c. The maximum amount that may be paid under this subrule may not exceed \$5,000.

14.4(8) *Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.*

a. The commission may provide assistance to a veteran or to the unremarried spouse of a deceased veteran for emergency vehicle repair, emergency housing repair, and temporary housing.

b. Assistance for vehicle repair is limited to expenses that are required for continued use of the vehicle. This assistance will only be granted in cases where the vehicle is needed for travel to and from work-related activities, the applicant is over the age of 65, or substantial hardship will occur if the vehicle is not repaired. Assistance may be provided in situations where the applicant does not have sufficient means to pay an insurance deductible. Assistance may be paid directly to the entity performing the maintenance or the insurance company owed the deductible. In certain circumstances, reimbursement may be made to the veteran or to the unremarried spouse of a deceased veteran in order for the vehicle to be released from the entity providing the service. Assistance will not be provided for damage caused during the commission of a crime, for cosmetic needs, for damage resulting in an auto accident when automobile insurance has not been purchased, or for routine maintenance.

c. Assistance for home repair is limited to repairs that are required to improve the conditions and integrity of the home and are necessary for the safety and security of the residents. Applicants with homeowners insurance may request assistance for payment of a deductible. Assistance may be provided for applicants in disaster situations, home accidents, vandalism, or other situations as determined by the commission. In situations where a home is damaged beyond repair, assistance under this subrule is available to assist the applicant in purchasing a new home.

d. Assistance for transitional housing may be provided to applicants who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. Any refunded security deposits paid for under this subrule shall be returned to the Iowa veterans trust fund.

e. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for vehicle repair, \$3,000 for housing repair, and \$1,000 for transitional housing.

f. The commission shall not pay a reimbursement under this subrule if the available liquid assets of the veteran are in excess of \$3,000.

14.4(9) *Expenses related to establishing whether a minor child is a dependent of a deceased veteran.*

a. The commission may provide assistance to the family of veterans who are killed while serving on active federal service, for expenses related to paternity or maternity tests or the cost of procuring additional DNA samples from the deceased veteran. This assistance is available to determine whether a child is eligible for United States Department of Veterans Affairs war orphan benefits.

b. Applicants are required to provide the results of the paternity or maternity examinations to the commission upon completion of the tests. Where the deceased veteran is not the parent of the child, the applicant will be required to repay the assistance received as provided in 801—14.6(35A).

c. The maximum amount that may be paid under this subrule is \$2,500.

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14.4(10) *Family support group programs or programs for children of members of the military.*

a. The commission may award grants to unit family readiness/support groups, family support offices, and other such organizations providing support and programs to families and children of family members.

b. The grant shall be only for projects or programs which are not funded from any other source. The commission shall determine if the applicant's proposed project or program will provide the intended support. In making its determination, the commission shall consider whether the proposed program will provide anticipated favorable results.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a family readiness/support group is \$500.

14.4(11) *Honor guard services.*

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, \$25.

(2) If a single veterans organization provides full honors, \$50.

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a firing detail, \$50. The organizations may request that the commission split the reimbursement.

(4) If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the commission.

b. Notwithstanding paragraph "a," the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral per day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a veterans organization is \$500.

d. Veterans service organizations that are not currently providing honor guard services may apply for a \$500, up-front grant, for the use of creating a new honor guard within their organization. Applicants must present the commission with an estimated cost for purchasing uniforms and firearms for providing military honors and an estimated number of members who will be available to perform honor guard services. Organizations should also provide information regarding how they plan to pay for additional expenses that may occur outside of trust fund assistance. Applicants will be eligible for reimbursements under 14.4(11) "a" to "c" 12 months after the receipt of their original \$500 grant.

14.4(12) *Matching funds to veterans service organizations to provide for accredited veteran service officers.*

a. The commission may provide matching funds to veterans service organizations for maintaining accredited veteran service officers located at the Des Moines Veterans Affairs Regional Office.

b. Funding for all service organizations combined is available in an amount of up to 20 percent of the interest and earnings on the trust fund balance during the fiscal year or \$150,000, whichever is less.

c. Service organizations requesting funding from the trust fund must provide financial data on the level of organizational funding for the staffing and operation of an office in the Des Moines Veterans Affairs Regional Office. Of the available amount outlined in this subrule, assistance will be split evenly among the service organizations eligible for the trust fund assistance. If the service organization's expenditures are less than their share of the grant, the grant amount will be reduced to the amount of their previous fiscal year's expenditures.

d. Service organizations will be required to maintain the same level of expenditures in the year they receive funding as in the previous year. Funding will be recaptured by the treasurer of the state of Iowa if this funding is used to supplant funding from an individual veterans service organization. Trust fund assistance will not be included in future fiscal year maintenance of effort requirements. A report on the previous fiscal year's expenditures will be required to determine the maintenance of effort for the organization.

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ITEM 4. Amend subrule 14.5(3) as follows:

14.5(3) Eligibility determination.

a. The county director of veterans affairs or members of the county commission shall make a recommendation to the Iowa commission of veterans affairs as to whether to approve or deny the application. The Iowa commission of veterans affairs or a subcommittee appointed by the chair shall approve or deny all applications. Applications that are denied by the subcommittee will be forwarded to the Iowa commission of veterans affairs and will be processed at its quarterly meetings as set forth in 801—paragraph 1.2(2)“a” or during a conference call for the sole purpose of voting on a trust fund expenditure. Applications must be approved by a majority vote of the commission membership. The director of the Iowa department of veterans affairs shall notify an applicant within 15 days of the commission’s decision. An explanation of the reasons for rejection of an application will accompany denials.

b. Applications for honor guard reimbursements under subrule 14.4(11) shall be processed solely by the Iowa department of veterans affairs and do not need commission approval for expenditure of trust fund interest balance funds for this purpose.

ITEM 5. Amend subrule 14.7(1) as follows:

14.7(1) Final agency action. The approval or denial of an application by the commission or the department shall be the final decision of the agency.

[Filed 9/3/08, effective 10/29/08]

[Published 9/24/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/24/08.

ARC 7163B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed

Pursuant to the authority of Iowa Code section 17A.3(1)“b” and Iowa Code Supplement section 35A.5(12), the Iowa Department of Veterans Affairs hereby amends Chapter 15, “Veterans Commemorative Property,” Iowa Administrative Code.

These amendments implement 2008 Iowa Acts, Senate File 2333, which eliminates the requirement that veterans commemorative property be placed in a cemetery and be at least 75 years old before coming under the jurisdiction of the Iowa Department of Veterans Affairs for a property transaction.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7002B**. A public hearing was held on August 19, 2008. No public comment was received. These amendments are identical to those published under Notice of Intended Action.

The Iowa Department of Veterans Affairs adopted these amendments on September 3, 2008.

These amendments shall become effective October 29, 2008.

No fiscal impact is anticipated.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2333.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [15.2, 15.3(1), 15.4(6)] is being omitted. These amendments are identical to those published under Notice as **ARC 7002B**, IAB 7/30/08.

[Filed 9/3/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

ARC 7164B**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 35A.5 and 2008 Iowa Acts, House File 2283, the Department of Veterans Affairs hereby adopts Chapter 16, "Limited Residency Vietnam Conflict Veterans Bonus," Iowa Administrative Code.

The rules in Chapter 16 are established to create a limited Vietnam veteran bonus for the time period of July 1, 1958, to May 31, 1975, for veterans of that time period who were inducted into the military in Iowa, were denied a previous Iowa Vietnam bonus due to residency, and have not received a similar bonus from another state.

These rules were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7018B**. Notice of Intended Action was published simultaneously as **ARC 7019B**. A public hearing was held on August 19, 2008. No public comment was received. These rules are identical to those published under Notice of Intended Action and Adopted and Filed Emergency.

The Iowa Department of Veterans Affairs adopted these rules on September 3, 2008.

These rules shall become effective October 29, 2008, at which time the Adopted and Filed Emergency rules are hereby rescinded.

No fiscal impact is anticipated.

These rules are intended to implement 2008 Iowa Acts, House File 2283.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 16] is being omitted. These rules are identical to those published under Notice as **ARC 7019B** and Adopted and Filed Emergency as **ARC 7018B**, IAB 7/30/08.

[Filed 9/3/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

ARC 7172B**VETERINARY MEDICINE BOARD[811]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 169.5, the Iowa Board of Veterinary Medicine hereby amends Chapters 1 through 7 and 9 through 14, Iowa Administrative Code.

The amendments set out the discipline standards in Chapter 10. The civil penalties that could be imposed are increased. Additionally, financial responsibility for disciplinary actions may be imposed.

Increases in fees are made in Chapter 6. Application requirements, licensing and the licensing fee structure for veterinarians are revised. The description of the Veterinary Medicine Board organization is revised, and updated definitions are provided in Chapter 1.

Notice of Intended Action was published in the April 23, 2008, Iowa Administrative Bulletin as **ARC 6747B**. A public hearing was held on May 27, 2008, and written comments were received. An Amended Notice of Intended Action was published in the June 18, 2008, Iowa Administrative Bulletin as **ARC 6863B**. A public hearing was held on July 9, 2008. No public comments were made, and one written comment was received.

Two clarifications have been made to the amendments published in the Amended Notice of Intended Action.

First, in Item 2, rule 811—1.1(17A,169) has been changed to provide that the Board member who is a licensed technician is considered "credentialed" instead of "licensed." Rule 811—1.1(17A,169) now reads as follows:

VETERINARY MEDICINE BOARD[811](cont'd)

“811—1.1(17A,169) Organization and duties. The board of veterinary medicine shall consist of five members, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians and who shall represent the general public. One public member may be a graduate of an AVMA-accredited school of veterinary technology and be credentialed in Iowa as a veterinary technician. The state veterinarian shall serve as secretary. The board may administer examinations to applicants for a license or temporary permit to practice veterinary medicine and to applicants for licenses or certificates for auxiliary personnel. The board shall investigate and discipline, as necessary, persons for whom credentials have been issued or who are engaged in an activity regulated by the board.”

Second, in Item 62, in rule 811—12.2(169), introductory paragraph, and subrule 12.2(2), the phrase “drug and immunization” was added before the word “products.” The introductory paragraph of rule 811—12.2(169) and subrule 12.2(2) now read as follows:

“811—12.2(169) Extra-label use of veterinary drugs and immunization products. Any extra-label use of veterinary drug and immunization products shall be by or under the order of a licensed veterinarian only and shall be subject to the following criteria:”

“12.2(2) For drugs used in animals not intended for food, there are no marketed drug and immunization products specifically labeled for the conditions diagnosed; or in the veterinarian’s clinical judgment the labeled dosage is inappropriate for the condition or the extra-label use should result in a better outcome for the patient.”

The Board of Veterinary Medicine adopted these amendments on August 28, 2008.

These amendments are intended to implement Iowa Code chapters 169 and 272C.

These amendments shall become effective on October 29, 2008.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 1 to 7, 9 to 14] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Amended Notice as **ARC 6863B**, IAB 6/18/08.

[Filed 9/4/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

ARC 7174B**WORKFORCE DEVELOPMENT DEPARTMENT[871]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 96.11, the Director of the Workforce Development Department hereby amends Chapter 24, “Claims and Benefits,” Iowa Administrative Code.

New rule 871—24.10(96) is adopted pursuant to 2008 Iowa Acts, Senate File 2160, and provides criteria for the implementation of the legislation. Senate File 2160 states that an unemployment insurance accounting firm which demonstrates a continuous pattern of failing to participate in the initial unemployment benefit hearings shall be denied permission to represent employers before the Department of Workforce Development. The new rule defines suspension criteria and allows the Department to reduce suspensions based upon all the facts of the situation.

Notice of Intended Action was published in the July 30, 2008, Iowa Administrative Bulletin as **ARC 7044B**. Comments regarding this rule were received during the comment period and at the public hearing held on August 19, 2008. The comments are contained in the responsiveness summary, which can be obtained by telephoning Joe Bervid at (515)281-8117. There are no changes from the Notice of Intended Action resulting from the public comments.

This rule is intended to implement Iowa Code section 96.3(7)“b” as amended by 2008 Iowa Acts, Senate File 2160.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

This rule shall become effective October 29, 2008.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this rule [24.10] is being omitted. This rule is identical to that published under Notice as **ARC 7044B**, IAB 7/30/08.

[Filed 9/4/08, effective 10/29/08]

[Published 9/24/08]

[For replacement pages for IAC, see IAC Supplement 9/24/08.]

AGENCY	RULE	DELAY
Insurance Division[191]	59.6(3), 59.6(5) and 59.7(6) [IAB 8/13/08, ARC 7082B]	Effective date of September 17, 2008, delayed 70 days by the Administrative Rules Review Committee at its meeting held September 9, 2008. [Pursuant to §17A.4(6)]