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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2011

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

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

PLEASE NOTE:

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

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

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

EDUCATION DEPARTMENT[281]

Senior year plus program—student proficiency, regional academies, 22.2(2)“b”(3), 22.26, 22.27 IAB 10/5/11 ARC 9791B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 25, 2011 1 to 2 p.m.
Child development programs for at-risk children—grantee use of moneys received, 64.15 IAB 10/5/11 ARC 9792B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 25, 2011 3 to 4 p.m.
Uses of categorical funding—home school assistance program, physical plant and equipment levy, 98.12, 98.64(2) IAB 10/5/11 ARC 9793B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 25, 2011 1 to 2 p.m.
Child abuse reports—duties of school authorities, 102.5 IAB 10/5/11 ARC 9794B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 25, 2011 3 to 4 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality—carbon dioxide emissions, 22.100, 33.1, 33.3(1) IAB 9/7/11 ARC 9736B	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	October 11, 2011 2 p.m.
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LABOR SERVICES DIVISION[875]

Child labor—exemption for golf cart driving, 32.8(2)“a” IAB 10/5/11 ARC 9758B	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	October 26, 2011 9 a.m. (If requested)
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PROFESSIONAL LICENSURE DIVISION[645]

Dietitians—discipline, 83.2(12) IAB 10/5/11 ARC 9799B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 2, 2011 10 to 10:30 a.m.
Hearing aid dispensers—discipline, 124.2 IAB 10/5/11 ARC 9800B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 1, 2011 10:30 to 11 a.m.
Nursing home administrators—licensure, discipline, 141.9(1), 144.2(13) IAB 10/5/11 ARC 9801B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 1, 2011 10 to 10:30 a.m.
Psychologists—discipline, 242.2(12) IAB 10/5/11 ARC 9798B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	November 2, 2011 10:30 to 11 a.m.
Respiratory care practitioners—continuing education sponsors, 262.3(2) IAB 10/5/11 ARC 9780B	Fifth Floor Conference Room 518 Lucas State Office Bldg. Des Moines, Iowa	October 25, 2011 9 to 9:30 a.m.
Social work—renewal notices, 280.9(1) IAB 9/21/11 ARC 9750B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	October 17, 2011 9 to 10 a.m.

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Speech pathologists and audiologists—licensure, board meetings, discipline, 300.11(1), 300.12, 304.2(11) IAB 10/5/11 ARC 9767B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	October 25, 2011 8 to 8:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

Liquefied natural gas, rescind ch 51; adopt ch 228 IAB 10/5/11 ARC 9765B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	November 1, 2011 9:45 a.m.
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Fire fighter training and certification, 251.101 to 251.103, 251.201, 251.204(1) IAB 10/5/11 ARC 9766B	First Floor Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	November 1, 2011 9:30 a.m.
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REAL ESTATE COMMISSION[193E]

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

Primary highway system—access management, utility accommodation, 112.1, 115.1 IAB 10/5/11 ARC 9781B	First Floor South Conference Room DOT Administration Building 800 Lincoln Way Ames, Iowa	October 27, 2011 10 a.m. (If requested)
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The following list will be updated as changes occur.

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

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

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

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ARC 9791B

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 22, “Senior Year Plus Program,” Iowa Administrative Code.

The proposed amendments conform to 2011 Iowa Acts, House File 645, sections 14 and 15. Item 1 reflects section 14 of 2011 Iowa Acts, House File 645, which expands the criteria by which a student under competent private instruction may be deemed “proficient” under Iowa Code section 261E.3, subsection 1, paragraph “e.” Items 2 and 3 amend the definition of and details regarding regional academies pursuant to section 15 of 2011 Iowa Acts, House File 645.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before October 25, 2011, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on October 25, 2011, from 1 to 2 p.m., in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of specific needs by calling (515)281-5295.

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

These amendments are intended to implement Iowa Code section 261E.3(1)“e” as amended by 2011 Iowa Acts, House File 645, section 14, and Iowa Code section 261E.9 as amended by 2011 Iowa Acts, House File 645, section 15.

The following amendments are proposed.

ITEM 1. Amend subparagraph **22.2(2)“b”(3)** as follows:

(3) A student under competent private instruction shall meet the same proficiency standard as students in the school district in which the student is dually enrolled and shall have the approval of the school board in that school district to register for the postsecondary course. In lieu of ITBS or ITED scores as the state assessment, a school district shall ~~accept either the annual assessment instrument used by a student under competent private instruction pursuant to Iowa Code section 299A.4 or the written recommendation of the licensed practitioner providing supervision to the student under competent private instruction pursuant to Iowa Code section 299A.2.~~ allow a student under competent private instruction to demonstrate proficiency in reading, mathematics, and science by any one of the following means:

1. By meeting the same alternative but equivalent qualifying performance measures established by the local school board for all students in the school district in which the student is dually enrolled;

2. By submitting the written recommendation of the licensed practitioner providing supervision to the student in accordance with Iowa Code section 299A.2;

3. As evidenced by achievement scores on the annual achievement evaluation required under Iowa Code section 299A.4;

4. As evidenced by a composite score of at least 21 on the college readiness assessment administered by ACT, Inc.;

5. As evidenced by a sum of at least 141 in critical reading, mathematics, and writing skills on the preliminary scholastic aptitude test (PSAT) administered by the College Board; or

EDUCATION DEPARTMENT[281](cont'd)

6. As evidenced by a sum of at least 990 in critical reading and mathematics on the college readiness assessment (SAT) administered by the College Board.

ITEM 2. Rescind rule 281—22.26(261E) and adopt the following **new** rule in lieu thereof:

281—22.26(261E) Regional academies. A regional academy is a program established by a school district to which multiple school districts send students in grades 7 through 12. In addition to partnering with other school districts, the school district establishing a regional academy may enter into a contract or a chapter 28E agreement with one or more accredited nonpublic schools, area education agencies, community colleges, accredited public or nonpublic postsecondary institutions, businesses, and private agencies located within or outside of Iowa.

22.26(1) Purpose. A regional academy shall be established to build a culture of innovation for students and community; to diversify educational and economic opportunities by engaging in learning experiences that involve students in complex, real-world projects; and to develop regional or global innovation networks.

22.26(2) Curriculum. A regional academy shall include in its curriculum advanced-level courses. A regional academy may include in its curriculum career and technical courses and core curriculum coursework. The coursework may be delivered virtually, or via the ICN, asynchronous learning networks, or Internet-based delivery systems.

22.26(3) Supplementary weighting. School districts participating in regional academies are eligible for supplementary weighting as provided in Iowa Code section 257.11(2). The school districts participating in the regional academy shall enter into an agreement on how the funding generated by the supplementary weighting received shall be used and shall submit the agreement, as well as a copy of the minutes of meetings of the local school district boards of directors in which the boards approved the agreement, to the department for approval by October 1 of the year in which the districts intend to request supplementary weighting for the regional academy.

22.26(4) Student plan. Information regarding regional academies shall be provided to a student and the student's parent or guardian prior to the development of the student's core curriculum plan under Iowa Code section 279.61.

ITEM 3. Adopt the following **new** rule 281—22.27(261E):

281—22.27(261E) Waivers for certain regional academies. A school district that establishes a regional academy may, but is not required to, submit to the department a request for waiver from any statutory or regulatory provision identified by the school district as a barrier to the school district's goal of increasing student achievement or increasing competency-based learning opportunities for students. The school district shall submit a plan to the department demonstrating how the regional academy will increase student achievement or increase competency-based learning opportunities for students, how the regional academy will assess either the increase in student achievement or the increase in competency-based learning opportunities for students, and why the requested waiver or waivers are necessary. The waiver request and plan shall be submitted to the department for approval by January 1 of the school year immediately preceding the school year for which waiver is sought. The department may not waive or modify any statutory or regulatory provision relating to requirements applicable to school districts that pertain to audit requirements, investment of public funds, collective bargaining, open meetings, public records, civil rights, human rights, special education, contracts with and discharge of teachers and administrators, powers and duties of school boards, teacher quality, and school transportation.

ARC 9792B**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to amend Chapter 64, “Child Development Coordinating Council,” Iowa Administrative Code.

The proposed amendment conforms to 2011 Iowa Acts, House File 645, section 18, expanding the use of moneys received pursuant to Iowa Code section 279.51.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment on or before October 25, 2011, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on October 25, 2011, from 3 to 4 p.m., at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

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

This amendment is intended to implement Iowa Code section 279.51(2) as amended by 2011 Iowa Acts, House File 645, section 18.

The following amendment is proposed.

Amend rule 281—64.15(256A,279) as follows:

281—64.15(256A,279) Grantee responsibilities.

64.15(1) The grantee shall maintain records which include but are not limited to:

- ~~1.~~ a. Information on children and families served.
- ~~2.~~ b. Direct services provided to children.
- ~~3.~~ c. Record of expenditures.
- ~~4.~~ d. Other appropriate information specified by the council necessary to the overall evaluation.

~~5.~~ **64.15(2)** Continuation programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs. Programs shall have two years from the date of initial funding to complete the self-study process. Programs shall have three years from the date of initial funding to attain accreditation. Programs unable to attain accreditation by the end of the three-year period may apply for a waiver of accreditation by March 15 of the third year. Waivers shall be awarded at the discretion of the council. Programs not attaining accreditation or not receiving a waiver of accreditation will be terminated.

~~6.~~ **64.15(3)** New/expansion programs shall participate in the Self-Study and Accreditation Program of the National Academy of Early Childhood Programs during their first year of council funding. New/expansion programs shall be granted a waiver of accreditation during their first year of funding. New/expansion programs must complete self-study and attain accreditation during their second year of funding. Programs not able to attain accreditation during their second year may apply for a waiver of accreditation by March 15 of the current fiscal year. Waivers shall be granted at the discretion of the council. Programs not attaining accreditation or not receiving waivers will be terminated.

EDUCATION DEPARTMENT[281](cont'd)

64.15(4) Grantees shall provide quarterly reports that include information detailing progress toward goals and objectives, expenditures and services provided on forms provided for those reports. Failure to submit reports by the due date shall result in suspension of financial payments to the grantee until the time that the report is received. No new awards shall be made for continuation programs where there are delinquent reports from prior grants.

64.15(5) Grantees may direct the use of moneys received to serve any qualifying child ranging in age from three years old to five years old, regardless of the age of population indicated on the grant request in the grantee's initial year of application. A grantee is encouraged to consider the degree to which the program complements existing local programs and services for three-year-old, four-year-old, and five-year-old at-risk children, including other child care and preschool services, services provided through a school district, and services available through an area education agency.

ARC 9793B

EDUCATION DEPARTMENT[281]**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 256.7(5), the State Board of Education hereby proposes to amend Chapter 98, “Financial Management of Categorical Funding,” Iowa Administrative Code.

The proposed amendment in Item 1 conforms to 2011 Iowa Acts, House File 645, sections 23 through 25, which address appropriate and inappropriate uses of funding for a home school assistance program. The proposed amendment in Item 2 reflects the amendment to the allowable uses of the Physical Plant and Equipment Levy in 2011 Iowa Acts, House File 645, section 20. The definition of “maintenance” in Item 3 has its origin in statutory and case law, as well as the Uniform Financial Accounting Procedures, and is proposed to be added as a courtesy to school districts.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before October 25, 2011, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515) 281-4122.

A public hearing will be held on October 25, 2011, from 1 to 2 p.m., at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

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

These amendments are intended to implement Iowa Code section 298.3(1)“c” as amended by 2011 Iowa Acts, House File 645, section 20, and Iowa Code section 299A.12 as amended by 2011 Iowa Acts, House File 645, sections 23 to 25.

The following amendments are proposed.

ITEM 1. Amend rule 281—98.12(257,299A) as follows:

281—98.12(257,299A) Home school assistance program. The home school assistance program (HSAP) is a program for a specific category of students and is provided outside the basic educational program provided to regularly enrolled students by the school district. If a district offers a home school

EDUCATION DEPARTMENT[281](cont'd)

assistance program, the state foundation aid that the district receives pursuant to Iowa Code section 257.6(1)“a”(5) shall be expended for purposes of providing the home school assistance program.

98.12(1) *Appropriate uses of categorical funding.* Appropriate uses of the home school assistance program funding include, but are not limited to, the following:

- a. Assisting Instruction for students and assistance for parents with instruction.
- b. to h. No change.

98.12(2) *Inappropriate uses of categorical funding.* Inappropriate uses of the home school assistance program funding include, but are not limited to, indirect costs or use charges; operational or maintenance costs ~~in addition to the cost of maintaining school district facilities other than those necessary to operate and maintain the program;~~ capital expenditures other than equipment or facility acquisition, including the lease or rental of space to supplement existing schoolhouse facilities; student transportation except in cases of home school assistance program-approved field trips or other educational activities; administrative costs other than the costs necessary to administer the program; concurrent and dual enrollment program costs, including postsecondary enrollment options program costs; or any other expenditures not directly related to providing the home school assistance program. A home school assistance program shall not provide moneys to parents or students utilizing the program.

ITEM 2. Amend paragraph **98.64(2)“e”** as follows:

e. Purchasing, leasing, or lease-purchasing ~~a single unit of equipment or a single unit of technology exceeding \$500 in value per unit purchase, lease, or lease-purchase transaction.~~ “Single unit of equipment” means both equipment and furnishings and does not include bulk purchases or multiple purchases of units. The cost limitation for a single unit of equipment does not apply to recreational equipment or equipment that becomes an integral part of real property such as furnaces, boilers, water heaters, and central air conditioning units that are included in repairs to a building.

(1) “Equipment” means both equipment and furnishings. The cost limitation for equipment does not apply to recreational equipment pursuant to paragraph 98.64(2)“n” or equipment that becomes an integral part of real property such as furnaces, boilers, water heaters, and central air conditioning units that are included in repairs to a building pursuant to paragraph 98.64(2)“h.”

(2) Technology may be bundled for purposes of exceeding \$500. A bundle for purposes of this subparagraph means a collection of items related to a specific technology purpose from the same vendor.

ITEM 3. Amend paragraph **98.64(2)“h”** as follows:

h. Repairing, remodeling, reconstructing, improving, or expanding the schoolhouses or buildings and the additions to existing schoolhouses. “Repairing” means restoring an existing structure or thing to its original condition, as near as may be, after decay, waste, injury, or partial destruction, but does not include maintenance. “Reconstructing” means rebuilding or restoring as an entity a thing which was lost or destroyed. “Maintenance” means to cause to remain in a state of good repair or to keep equipment in effective working condition and ready for daily use. Maintenance includes cleaning, upkeep, making minor repairs, replacing parts, inspecting for needed maintenance, preserving the existing state or condition, and preventing a decline in the existing state or condition.

ITEM 4. Amend **281—Chapter 98**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 24, 29C, 76, 143, 256, 256B, 257, 274, 275, 276, 279, 280, 282, 283A, 284, 284A, 285, 291, 294A, 296, 298 as amended by 2011 Iowa Acts, House File 645, section 20, 298A, 299A as amended by 2010 Iowa Acts, Senate File 2376, section 40 2011 Iowa Acts, House File 645, sections 23 to 25, 300, 301 as amended by 2010 Iowa Acts, Senate File 2478, 423E, 423F, 565, and 670 and sections 11.6(1)“a”(1), 256C.4(1)“c,” 256D.4(3) and 284.13.

ARC 9794B**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to amend Chapter 102, “Procedures for Charging and Investigating Incidents of Abuse of Students by School Employees,” Iowa Administrative Code.

The proposed amendment conforms to 2011 Iowa Acts, House File 645, section 95, requiring certain duties of the board of directors of a school district and the authorities in charge of an accredited nonpublic school when an employee is under investigation for an allegation of abuse under this chapter and when a finding is made that an employee’s conduct constitutes a crime.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment on or before October 25, 2011, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on October 25, 2011, from 3 to 4 p.m., at the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

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

This amendment is intended to implement Iowa Code section 280.17 as amended by 2011 Iowa Acts, House File 645, section 95.

The following amendment is proposed.

Adopt the following **new** subrules 102.5(5) and 102.5(6):

102.5(5) Place on administrative leave a school employee who is the subject of an investigation under this chapter of an alleged incident of physical or sexual abuse, once the Level One investigator has determined that the written complaint is investigable under rule 281—102.3(280).

102.5(6) Report to the board of educational examiners the results of an investigation that finds that the school employee’s conduct constitutes a crime.

ARC 9760B**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DIVISION[605]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 17A.3 and 29C.8(3)“c,” the Homeland Security and Emergency Management Division terminates the rule making initiated in its Notice of Intended Action published in the Iowa Administrative Bulletin on January 26, 2011, as **ARC 9345B** to amend Chapter 7, “Local Emergency Management,” Iowa Administrative Code.

The Notice proposed to amend rule 605—7.7(29C) to update the allocation and distribution process for Emergency Management Performance Grant pass-through moneys received from the federal Department of Homeland Security.

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

The Division is terminating the rule making commenced in **ARC 9345B** as a majority of public input was unfavorable. The Division will continue to explore possible improvements to the allocation and distribution process and will proceed with further rule making if appropriate.

ARC 9776B**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 234.6, the Department of Human Services proposes to amend Chapter 202, “Foster Care Placement and Services,” Iowa Administrative Code.

At the request of the State Ombudsman’s Office, the Department is proposing an amendment to clarify the conditions under which the Department may decline to release the location of a foster child to the child’s parents. The proposed amendment would require evidence of a direct or indirect threat to harm the foster child or the foster parent or credible third-party information of a threat of harm to the foster child or the foster parent. The evidence would have to be documented in the child’s case permanency plan. Any decision not to disclose the location of the foster child would be reviewed at least every six months when the plan is updated.

Any interested person may make written comments on the proposed amendment on or before October 25, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment does not provide for waivers in specified situations since the decision not to disclose a foster child’s location is based on the Department’s judgment of the safety of the child and the foster care provider.

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

This amendment is intended to implement Iowa Code section 234.6.

The following amendment is proposed.

Amend subrule 202.12(2) as follows:

202.12(2) The parents shall be notified of the location and nature of the child’s placement, unless ~~it is documented in the child’s case record that to do so would be disruptive to the placement~~ the conditions of this subrule are met. The decision not to disclose the location of the child’s placement to the parents shall be reviewed at least every six months when the child’s case permanency plan is revised.

a. The department evaluates the situation and determines that notifying the child’s parents of the location of the placement would be detrimental to the child’s safety, well-being, and stability of the child’s placement due to:

(1) Evidence of a direct or indirect threat to harm the foster child or the foster parent; or

(2) Credible third-party information of a threat of harm to the foster child or the foster parent.

b. The department includes a statement in the child’s case permanency plan explaining the decision not to disclose the location of the child to the parents.

ARC 9758B**LABOR SERVICES DIVISION[875]****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 92.21, the Labor Commissioner hereby proposes to amend Chapter 32, “Child Labor,” Iowa Administrative Code.

The proposed amendments make an editorial change and create a new exemption allowing youth aged 16 and 17 to drive golf carts.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on October 25, 2011, a public hearing will be held on October 26, 2011, at 9 a.m. in the Capitol View Room, 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than October 26, 2011, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

The principal reasons for adoption of these amendments are to implement legislative intent and to conform Iowa rules with federal child labor rules.

No variance procedures are included in these rules because variance provisions are set forth in 875—Chapter 1.

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

These amendments are intended to implement Iowa Code chapter 92.

The following amendments are proposed.

ITEM 1. Amend paragraph **32.8(2)“a,”** introductory paragraph, as follows:

a. The following exemption is for occupations “Occupations of motor vehicle driver and helper” does not include:

ITEM 2. Amend subparagraph **32.8(2)“a”(2)** as follows:

(2) ~~Reserved.~~ During daylight hours, a child who is 16 or 17 years of age driving a golf cart on or across a golf course or a private or public roadway that crosses a golf course if the child has passed a state-approved driver education class; the child holds a full license, an intermediate license, or a Class C noncommercial operator’s license; and the child has been trained on use of the golf cart.

ARC 9787B**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 6, “General Pharmacy Practice,” Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

The amendment was approved at the September 13, 2011, regular meeting of the Board of Pharmacy.

The proposed amendment clarifies the required placement of a notice informing patients that the pharmacist is required to discuss with the patient any new prescriptions dispensed to the patient. The amendment also defines the instances when patient counseling is required.

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 25, 2011. 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.

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

This amendment is intended to implement Iowa Code section 155A.13.

The following amendment is proposed.

Amend rule 657—6.14(155A) as follows:

657—6.14(155A) Patient counseling and instruction. Every general pharmacy located in Iowa shall post in the every prescription pickup area, including in every drive-through prescription pickup lane, in a manner clearly visible to patients, a notice that Iowa law requires the pharmacist to discuss with the patient any new prescriptions dispensed to the patient. The board shall provide a general pharmacy with the required signage. A pharmacy that provides no direct patient access to the pharmacy department, commonly referred to as a “closed-door pharmacy,” shall not be required to post the counseling notice.

6.14(1) Counseling required. Upon receipt of a new prescription drug order, or upon receipt of a change in drug therapy including but not limited to a change of dose, directions, or drug formulation, and following a prospective drug use review pursuant to 657—8.21(155A), a pharmacist shall counsel each patient or patient’s caregiver. An offer to counsel shall not fulfill the requirements of this rule. Patient counseling shall be on matters which, in the pharmacist’s professional judgment, will enhance or optimize drug therapy. Appropriate elements of patient counseling may include:

a. to j. No change.

6.14(2) to 6.14(6) No change.

ARC 9788B

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 7, “Hospital Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the September 13, 2011, regular meeting of the Board of Pharmacy.

The proposed amendments clarify the definition of a hospital pharmacy to which the chapter applies and clarify the processes and security requirements for a verbal order for the administration of a prescription drug to a patient in a hospital. The proposed amendments also organize subrule 7.8(3) into distinct paragraphs and identify the subject of each of the paragraphs with catchwords.

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 amendments not later than 4:30 p.m. on October 25, 2011. Such written materials may be sent to Terry

PHARMACY BOARD[657](cont'd)

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.

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

These amendments are intended to implement Iowa Code sections 124.306, 124.308, and 155A.13.

The following amendments are proposed.

ITEM 1. Amend rule 657—7.1(155A) as follows:

657—7.1(155A) Purpose and scope. Hospital pharmacy means and includes a pharmacy licensed by the board and located within any hospital, health system, institution, or establishment which maintains and operates organized facilities for the diagnosis, care, and treatment of ~~human~~ illnesses to which ~~persons~~ patients may or may not be admitted for overnight stay at the facility. A hospital is a facility licensed pursuant to Iowa Code chapter 135B. This chapter does not apply to a pharmacy located within such a facility for the purpose of providing outpatient prescriptions. A pharmacy providing outpatient prescriptions is and shall be licensed as a general pharmacy subject to the requirements of 657—Chapter 6. The requirements of these rules for hospital pharmacy practice apply to all hospitals, regardless of size or type, and are in addition to the requirements of 657—Chapter 8 and other rules of the board relating to services provided by the pharmacy.

ITEM 2. Amend subrule 7.8(3) as follows:

7.8(3) Medication orders. Except as provided in subrule 7.8(14) or this subrule, a pharmacist shall receive a copy of ~~the an~~ original written medication order for review except when the prescriber directly enters the medication order into an electronic medical record system or when the prescriber issues a verbal medication order directly to a registered nurse or pharmacist who then enters the order into an electronic medical record system.

a. Verbal order. The use of verbal orders shall be minimized. All verbal orders shall be read back to the prescriber, and the read back shall be documented with or on the order.

b. Written order not entered by prescriber. If an individual other than the prescriber enters a medication order into an electronic medical record system from an original written medication order, the pharmacist shall review and verify the entry against the original written order before the drug is dispensed except for emergency use, when the pharmacy is closed, ~~or when the original order is a verbal order from the prescriber to the registered nurse or pharmacist,~~ or as provided in rule 657—7.7(155A).

c. Order entered when pharmacy closed. When the pharmacy is closed, a registered nurse or pharmacist may enter a medication order into an electronic medical record system for the purpose of creating an electronic medication administration record and a pharmacist shall verify the entry against the original written medication order, if such written order exists, as soon as practicable.

d. System security. Hospitalwide and pharmacy stand-alone computer systems shall be secure against unauthorized entry. System login or access credentials issued to an authorized system user shall not be shared or disclosed to any other individual.

e. Abbreviations and chemical symbols on orders. The use of abbreviations and chemical symbols on medication orders shall be discouraged but, if used, shall be limited to abbreviations and chemical symbols approved by the appropriate patient care committee.

ARC 9789B**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 sections 147.76 and 155A.13B, the Board of Pharmacy hereby gives Notice of Intended Action to adopt new Chapter 24, “Pharmacy Internet Sites,” Iowa Administrative Code.

The amendment was approved at the September 13, 2011, regular meeting of the Board of Pharmacy.

The proposed rules establish the requirements for the Internet sale of prescriptions by pharmacies and for accreditation by the National Association of Boards of Pharmacy (NABP) as a verified Internet pharmacy practice site (VIPPS). The proposed rules identify specific information that must be displayed on a pharmacy Internet site and establish requirements for site registration with the Board. Terms used in the chapter are defined, prescription requirements are identified and responsibilities established, and record-keeping requirements are established. The proposed rules also establish grounds for denial of an application for pharmacy Internet site registration or registration renewal and for disciplinary action and identify appeal processes and sanctions relating to those actions.

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 rules not later than 4:30 p.m. on October 25, 2011. 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.

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

These rules are intended to implement Iowa Code section 155A.13B.

The following amendment is proposed.

Adopt the following **new** 657—Chapter 24:

CHAPTER 24
PHARMACY INTERNET SITES

657—24.1(155A) Purpose and scope. In the interests of public information, health, and safety, and pursuant to the provisions of Iowa Code section 155A.13B, this chapter establishes requirements for the Internet sale of prescription drugs by pharmacies and for VIPPS accreditation. This chapter identifies specific information that must be displayed on a pharmacy Internet site and establishes requirements for site registration. The requirements of this chapter apply to any Internet pharmacy and pharmacy Internet site as defined in rule 657—24.2(155A).

657—24.2(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Board*” means the Iowa board of pharmacy.

“*DEA*” means the U.S. Department of Justice, Drug Enforcement Administration.

“*Electronic mail*” or “*e-mail*” means any message transmitted through the Internet, including but not limited to messages transmitted from or to any address affiliated with an Internet site.

“*Internet*” means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the World Wide

PHARMACY BOARD[657](cont'd)

Web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

“*Internet broker*” means an entity that serves as an agent or intermediary or other capacity that causes the Internet to be used to bring together a buyer and seller.

“*Internet pharmacy*” means a pharmacy that delivers, distributes, or dispenses, by means of an Internet sale pursuant to a prescription drug order, a prescription product to a patient located in Iowa, whether the patient is human or animal. “Internet pharmacy” does not include a pharmacy that maintains an Internet site for the convenience of the pharmacy’s patients to request a prescription refill or to request or retrieve drug information but requires that the filled prescription be delivered to the patient from the licensed physical location of the pharmacy.

“*Internet sale*” means a transaction, initiated via an Internet site, which includes the order of and the payment for a prescription drug product.

“*Internet site*” means a specific location on the Internet that is determined by Internet protocol numbers, by a domain name, or by both, including but not limited to domain names that use the designations “.com”, “.edu”, “.gov”, “.org”, and “.net”.

“*Iowa PMP*” means the prescription monitoring program established pursuant to 657—Chapter 37.

“*NABP*” means the National Association of Boards of Pharmacy.

“*Prescription product*” means any prescription drug or device, including any controlled substance, as those terms are defined in Iowa Code section 155A.3.

“*Vet-VIPPS accreditation*” means that a pharmacy which dispenses prescription products for companion and non-food-producing animals has been evaluated by NABP and has been determined to be properly licensed and in compliance with federal and state laws, rules and regulations regarding the operation of a veterinary pharmacy.

“*VIPPS*” means verified Internet pharmacy practice site.

“*VIPPS accreditation*” means that a pharmacy has been evaluated by NABP and has been determined to be in compliance with federal and state laws, rules and regulations regarding the operation of a pharmacy and with NABP evaluation criteria. “VIPPS accreditation” includes Vet-VIPPS accreditation.

“*VIPPS seal*” means the symbol provided by NABP to a pharmacy for display on the pharmacy’s Internet site evidencing the pharmacy’s VIPPS accreditation.

657—24.3(155A) General requirements for Internet pharmacy. A pharmacy operating within or outside Iowa shall not provide any prescription product to any patient within Iowa through an Internet site or e-mail unless the pharmacy is in compliance with the provisions of this chapter.

24.3(1) Pharmacy license. A pharmacy, prior to providing any prescription drug, including any controlled substance, to any patient within Iowa, shall apply for, obtain, and maintain a pharmacy license pursuant to the provisions of rule 657—8.35(155A).

24.3(2) Pharmacist license. A pharmacist practicing in a pharmacy that provides any prescription drug, including any controlled substance, to any patient within Iowa shall be licensed by the pharmacist licensing authority in the state wherein the pharmacist practices.

24.3(3) Iowa PMP. A pharmacy located within Iowa that provides any controlled substance included in Schedules II through IV of Iowa Code chapter 124 to any patient within Iowa, unless the pharmacy is exempt from reporting pursuant to 657—subrule 37.3(1), shall report those dispensed prescriptions to the Iowa PMP as provided in rule 657—37.3(124).

24.3(4) VIPPS accreditation. An Internet pharmacy that provides any prescription drugs, including controlled substances, to any patient within Iowa shall obtain and maintain VIPPS accreditation and shall include evidence of such VIPPS accreditation on any Internet site identifying the pharmacy as provided in 657—24.7(155A).

657—24.4 and 24.5 Reserved.

PHARMACY BOARD[657](cont'd)

657—24.6(155A) Prescription requirements. A prescription drug order issued by an authorized prescriber shall comply with the requirements for a prescription identified in Iowa Code section 155A.27. No prescription product may be delivered, distributed, or dispensed by means of, through, or on behalf of an Internet site or by means of an e-mail communication without a valid prescription drug order.

24.6(1) Prescriber licensed. A prescriber who authorizes a prescription drug order through an Internet site or e-mail for a patient located in Iowa shall:

- a. Be licensed by the licensing authority of the state in which the prescriber practices,
- b. Be in compliance with all applicable federal and state laws, rules and regulations relating to the prescriber's practice, and
- c. If the prescription drug order authorizes the dispensing of a controlled substance, be registered to prescribe controlled substances by the DEA and, if required, by the appropriate state agency or board.

24.6(2) Pharmacist responsibility. A licensed pharmacist practicing within or outside Iowa shall not fill a prescription drug order for a patient located in Iowa if the pharmacist knows or reasonably should have known that the prescription drug order was issued under both of the following conditions:

- a. Solely on the basis of an Internet questionnaire, an Internet consultation, or a telephonic consultation, and
- b. Without a valid patient-practitioner relationship.

657—24.7(155A) Internet site registration. An Internet site that intends to display, advertise, or solicit the Internet sale of prescription products to patients in Iowa shall apply for, obtain, and maintain from the board a pharmacy Internet site registration. A pharmacy Internet site registration shall be issued to the Internet site by the domain name and the owner of the Internet site.

24.7(1) Application for registration. Application for registration and registration renewal shall be on forms provided by the board. The application form shall include the following information:

- a. The common or searchable name, if such name exists, of the Internet site.
- b. The domain name including "dot" extension of the Internet site.
- c. The Internet protocol number of the Internet site.
- d. The name and address of the owner or owners of the Internet site. If the owner is a corporation, the names and addresses of the officers and directors of the corporation shall be included. If the owner is a partnership or limited partnership, the names and addresses of all partners shall be included.
- e. The name, address, and Iowa pharmacy license number of each Internet pharmacy that will be identified on the Internet site.
- f. The signature of the owner of the Internet site or the signature of the owner's, partnership's or corporation's authorized representative and the date the application is signed.

24.7(2) Timeliness of application. An application for pharmacy Internet site registration or registration renewal shall be timely submitted to the board.

a. *Existing Internet site.* If the application is for registration of a pharmacy Internet site that is operational at the time these rules became effective on [insert the effective date of these rules], the application and registration fee shall be due no later than [insert date that is 90 days following the effective date of these rules].

b. *New Internet site.* If the application is for registration of a new pharmacy Internet site that was not operational at the time these rules became effective on [insert the effective date of these rules], the application and registration fee shall be due no less than 30 days prior to implementation of the Internet site.

c. *Renewal.* If the application is for renewal of an existing pharmacy Internet site registration, the application and registration fee shall be due prior to expiration of the current registration.

24.7(3) Renewal of registration. A pharmacy Internet site registration shall be annually renewed prior to expiration of the registration on December 31. Registration renewal shall require the completion of a renewal application form provided by the board. A completed application shall include payment of the renewal fee and any applicable late payment penalty fee. A registration that is not timely renewed shall be delinquent unless previously cancelled by written notification to the board. If a pharmacy Internet

PHARMACY BOARD[657](cont'd)

site registration is cancelled or delinquent, the Internet site shall discontinue association with any Internet pharmacy and shall discontinue the display, advertising, or solicitation of the Internet sale of prescription products to patients in Iowa.

24.7(4) Fees and term of registration. The following fees, as applicable, shall accompany an application for pharmacy Internet site registration or registration renewal:

a. Initial registration. The fee for initial registration of a pharmacy Internet site shall be \$150. All registrations shall expire annually on December 31.

b. Registration renewal. The fee for renewal of a pharmacy Internet site registration shall be \$150. Failure to renew a registration prior to expiration shall require payment of a late payment fee in the amount of \$150 in addition to the renewal fee. Failure to renew a registration within 30 days following expiration shall require payment of a late payment fee in the amount of \$250 in addition to the renewal fee. Failure to renew a registration within 60 days following expiration shall require payment of a late payment fee in the amount of \$350 in addition to the renewal fee. Failure to renew a registration within 90 days following expiration shall require payment of a late payment fee in the amount of \$450 in addition to the renewal fee. The total renewal and late payment fee shall not exceed \$600. Failure to timely renew a registration may subject the registrant to disciplinary action.

24.7(5) Internet site registration changes. The board shall be notified as provided in this subrule within ten days of any of the following:

a. Change of domain name or Internet protocol number. Change of domain name or Internet protocol number requires completion and submission of a new registration application and payment of the registration fee within ten days.

b. Change of ownership. Change of ownership requires completion and submission of a new registration application and payment of the registration fee within ten days. The sale or transfer of all or a portion of the stock of a corporation, or a change of the individual partners comprising a partnership, shall not constitute a change of ownership provided the corporation or partnership that owns the Internet site continues to exist as the owner of the Internet site following the transaction.

c. Discontinuation of the registered pharmacy Internet site. Prior to discontinuation of a registered pharmacy Internet site but no later than 30 days prior to removal of the pharmacy Internet site from public access, written notification shall be provided to the board. The written notice shall include the domain name and the Internet protocol number of the Internet site, the registration number issued by the board to the pharmacy Internet site, the date the Internet site will be removed from Internet access, the reason for discontinuation of the Internet site, the date of the notice, and the signature of the owner or the owner's authorized representative. If discontinuation of the Internet site also involves the sale or closing of a licensed pharmacy, the closing pharmacy shall comply with all requirements of 657—subrule 8.35(7).

657—24.8(155A) Internet site information. A pharmacy Internet site shall display on the home page of the Internet site or on a page directly linked to the home page the information identified in this rule. If the information is displayed on a page directly linked to the home page, the link on the home page shall be visible and clearly and conspicuously identified.

24.8(1) Registration number. The Internet site registration number shall be displayed. Display shall consist of the following statement or a statement substantially equivalent to the following statement: "In compliance with Iowa Code section 155A.13B and 657 IAC Chapter 24, this internet site is registered with the Iowa Board of Pharmacy, registration number ____."

24.8(2) Pharmacy identification. The following information shall be displayed for each pharmacy that delivers, distributes, or dispenses prescription drugs pursuant to orders made on, through, or on behalf of the Internet site:

- a.* The name of the pharmacy.
- b.* The address of the licensed physical location of the pharmacy.
- c.* The telephone number of the pharmacy.
- d.* The pharmacy license number issued to the pharmacy by the board.

PHARMACY BOARD[657](cont'd)

24.8(3) VIPPS accreditation. The VIPPS seal shall be prominently displayed. The following links to information regarding the VIPPS accreditation maintained by each Internet pharmacy associated with the Internet site shall also be displayed.

a. A link to the NABP's VIPPS accreditation verification site.

b. A link to the certification issued by NABP which identifies the individual Internet pharmacy as a VIPPS-accredited site.

24.8(4) DEA requirements relating to controlled substances. A pharmacy Internet site identifying any pharmacy that dispenses controlled substances through the Internet site shall, in addition to the requirements of this rule for the posting of Internet site information, comply with DEA disclosure requirements found at 21 CFR 1304.45.

657—24.9 and 24.10 Reserved.

657—24.11(155A) Records. Records regarding the operation of a pharmacy and the dispensing of prescription products to patients within Iowa shall be maintained by each Internet pharmacy pursuant to the requirements of federal and state laws, rules and regulations. Required pharmacy and inventory records shall be available for inspection and copying by the board or its representative for at least two years from the date of the record or inventory unless a longer retention period is specified for a particular record or inventory.

657—24.12(155A) Pharmacy liability. An Internet pharmacy shall not disclaim, limit, or waive any liability to which the pharmacy otherwise is subject under law for the act or practice of selling, dispensing, distributing, or delivering prescription products to any patient in Iowa based on the patient's submission of the purchase order or refill request for the prescription product through an Internet site or by e-mail.

657—24.13(155A) Application denial.

24.13(1) The executive director or designee may deny an application for registration or renewal of a registration as a pharmacy Internet site for any violation of the laws of this state, another state, or the United States relating to prescription products, Internet pharmacy practices, or the distribution of prescription products utilizing the Internet or e-mail or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board.

24.13(2) An applicant whose application has been denied pursuant to this rule may, within 30 days after issuance of the notice of denial, appeal to the board for reconsideration of the application.

657—24.14(155A) Discipline.

24.14(1) Internet site. The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription products, Internet pharmacy practices, or the distribution of prescription products utilizing the Internet or e-mail or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board. The board may impose on the pharmacy Internet site registrant any disciplinary sanctions allowed by law as may be appropriate including, but not limited to, revocation of the registration, suspension of the registration for a specified period or until further order of the board, nonrenewal of a registration, the imposition of civil penalties not to exceed \$25,000, or issuance of a citation and warning.

24.14(2) Pharmacy, pharmacist, and other pharmacy staff. The board may impose discipline for any violation of the laws of this state, another state, or the United States relating to prescription products, Internet pharmacy practices, or the distribution of prescription products utilizing the Internet or e-mail or for any violation of Iowa Code chapter 124, 124A, 124B, 126, 147, 155A, or 205 or any rule of the board. The board may impose on the pharmacy, pharmacist, or other registered pharmacy staff any disciplinary sanctions allowed by law as may be appropriate or as may be identified in Iowa law or rules of the board regarding sanctions that may be imposed on the specific license or registration.

These rules are intended to implement Iowa Code section 155A.13B.

ARC 9799B**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 Dietetics hereby gives Notice of Intended Action to amend Chapter 83, “Discipline for Dietitians,” Iowa Administrative Code.

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

Any interested person may make written comments on the proposed amendment no later than November 4, 2011, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail sharon.dozier@idph.iowa.gov.

A public hearing will be held on November 2, 2011, from 10 to 10:30 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 amendment.

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

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

The following amendment is proposed.

Amend subrule 83.2(12) as follows:

83.2(12) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee’s ability to practice dietetics within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9800B**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 amend Chapter 124, “Discipline for Hearing Aid Dispensers,” Iowa Administrative Code.

Because 2011 Acts, House File 649, section 87, repealed Iowa Code section 154A.24(3)(s), the amendment in Item 1 proposes to rescind the same language in paragraph 124.2(6)“d,” which requires advertisements related to hearing aids to include qualifying words in the same size type as the title of the business if the title of the business does not include the words “hearing aid.” The amendment in Item 2 clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Any interested person may make written comments on the proposed amendments no later than November 4, 2011, addressed to Sharon Dozier, Professional Licensure Division,

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail sharon.dozier@idph.iowa.gov.

A public hearing will be held on November 1, 2011, from 10:30 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.

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

These amendments are intended to implement Iowa Code chapters 21, 147, 154A and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 124.2(6) as follows:

124.2(6) Failure to place all of the following in an advertisement relating to hearing aids:

- a. Hearing aid dispenser's name.
- b. Hearing aid dispenser's office address.
- c. Hearing aid dispenser's telephone number.
- d. ~~The qualifying words in the same size type as the title of the business: "for the purpose of fitting, selection, adaption, and sale of hearing aids." However, the qualifying words are not required if the advertisement includes the words "hearing test," "hearing evaluation," "free hearing test," "free hearing evaluation," "hearing measurement," or "free hearing measurement," and the title of the business which is advertising appears in the advertisement and includes the words "hearing aid."~~

ITEM 2. Amend subrule 124.2(16) as follows:

124.2(16) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice ~~as a hearing aid dispenser within the profession, regardless of whether the judgment of conviction or sentence was deferred.~~ A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9801B**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 Nursing Home Administrators hereby gives Notice of Intended Action to amend Chapter 141, "Licensure of Nursing Home Administrators," and Chapter 144, "Discipline for Nursing Home Administrators," Iowa Administrative Code.

The proposed amendments remove the requirement for the Board to send a renewal notice to the licensee to make licensure requirements consistent with Code of Iowa changes. The amendments also clarify that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Any interested person may make written comments on the proposed amendments no later than November 4, 2011, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail sharon.dozier@idph.iowa.gov.

A public hearing will be held on November 1, 2011, from 10 to 10:30 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.

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

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.
The following amendments are proposed.

ITEM 1. Amend subrule 141.9(1) as follows:

141.9(1) The biennial license renewal period for a license to practice nursing home administration shall begin on January 1 of each even-numbered year and end on December 31 of the next odd-numbered year. All licensees shall renew on a biennial basis. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive ~~the notice from the board~~ does not relieve the licensee of the responsibility for renewing the license.

ITEM 2. Amend subrule 144.2(13) as follows:

144.2(13) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice ~~as a nursing home administrator~~ within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9798B

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 Psychology hereby gives Notice of Intended Action to amend Chapter 242, "Discipline for Psychologists," Iowa Administrative Code.

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

Any interested person may make written comments on the proposed amendment no later than November 4, 2011, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail sharon.dozier@idph.iowa.gov.

A public hearing will be held on November 2, 2011, from 10:30 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 amendment.

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

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

The following amendment is proposed.

Amend subrule 242.2(12) as follows:

242.2(12) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice psychology within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9780B**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 152B.6, the Board of Respiratory Care hereby gives Notice of Intended Action to amend Chapter 262, “Continuing Education for Respiratory Care Practitioners,” Iowa Administrative Code.

The proposed amendments remove language that references an approved continuing education sponsor. The change makes the rules consistent with changes made in 2007 that removed Board approval of continuing education sponsors.

Any interested person may make written comments on the proposed amendments no later than October 25, 2011, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail tony.alden@idph.iowa.gov.

A public hearing will be held on October 25, 2011, from 9 to 9:30 a.m. in the Fifth Floor Conference Room 518, 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.

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

These amendments are intended to implement Iowa Code chapters 21, 147, 152B and 272C.

The following amendments are proposed.

ITEM 1. Rescind paragraph 262.3(2)“e.”

ITEM 2. Reletter paragraphs 262.3(2)“f” and “g” as 262.3(2)“e” and “f.”

ARC 9767B**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 Speech Pathology and Audiology hereby gives Notice of Intended Action to amend Chapter 300, “Licensure of Speech Pathologists and Audiologists,” and Chapter 304, “Discipline for Speech Pathologists and Audiologists,” Iowa Administrative Code.

These proposed amendments remove outdated language to be consistent with Iowa Code chapter 147, define requirements for conducting board meetings and clarify that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Any interested person may make written comments on the proposed amendments no later than October 25, 2011, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail judith.manning@idph.iowa.gov.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on October 25, 2011, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, 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.

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

These amendments are intended to implement Iowa Code chapters 21, 147, 154F and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 300.11(1) as follows:

300.11(1) The biennial license renewal period for a license to practice speech pathology or audiology shall begin on January 1 of an even-numbered year and end on December 31 of the next odd-numbered year. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 2. Adopt the following new rule 645—300.12(17A,147,272C):

645—300.12(17A,147,272C) Board meetings.

300.12(1) Board meetings shall be governed in accordance with Iowa Code chapter 21, and board proceedings shall be conducted to ensure that all members have equal rights, privileges and obligations.

300.12(2) A majority of the members of the board shall constitute a quorum.

300.12(3) The board shall discuss all motions prior to a vote to allow for full and free discussion of every motion.

300.12(4) Official action, including filing of formal charges or imposition of discipline, requires a majority vote of members present.

ITEM 3. Amend subrule 304.2(11) as follows:

304.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9795B

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

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 20.6(5), the Public Employment Relations Board hereby gives Notice of Intended Action to amend Chapter 5, “Elections,” Iowa Administrative Code.

Current rule 621—5.4(20) provides that in an election upon a petition seeking to decertify the exclusive bargaining representative of a bargaining unit of public employees, the bargaining representative retains its certification in the event of a tie vote. The Board believes this result does not reflect the Legislature's intention and that amendment of the rule is thus necessary.

These amendments do not provide for a waiver of their terms but are instead subject to the Board's general waiver provisions, which are found at rule 621—1.9(17A,20).

Any interested person may make written suggestions or comments on these proposed amendments on or before October 25, 2011. Written suggestions or comments should be directed to James R. Riordan, Chairperson, Public Employment Relations Board, 510 E. 12th Street, Des Moines, Iowa 50319.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

Persons who wish to convey their views orally should contact the Public Employment Relations Board by telephone at (515)281-4414 or in person at the Board's office at the address noted above. Requests for a public hearing must be received by October 25, 2011.

These amendments are intended to implement Iowa Code sections 20.14 and 20.15.

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

The following amendments are proposed.

ITEM 1. Amend paragraph 5.4(1)"f" as follows:

f. Upon completion of a valid decertification election, in which a majority of employees voting cast their ballots in the affirmative, or in the case of a tie, the board shall serve notice of decertification.

ITEM 2. Amend paragraph 5.4(1)"g" as follows:

g. Upon completion of a valid decertification election, in which a majority of employees voting cast their ballots in the negative, ~~or in the case of a tie~~, the board shall serve notice of continued certification.

ARC 9771B

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 691.6, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 126, "State Medical Examiner," Iowa Administrative Code.

This proposed amendment clarifies that the fees collected under subrule 126.3(1) are considered repayment receipts. The amendment also letters paragraphs within the subrule.

Any interested person may make written comments or suggestions on the proposed amendment on or before October 25, 2011. Such written comments should be directed to John C. Kraemer, Office of the State Medical Examiner, 2250 S. Ankeny Blvd., Ankeny, Iowa 50023. E-mail may be sent to john.kraemer@idph.iowa.gov.

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

This amendment is intended to implement Iowa Code section 691.6.

The following amendment is proposed.

Amend subrule 126.3(1) as follows:

126.3(1) Fee schedule. The fees collected under this subrule shall be considered repayment receipts as defined in Iowa Code section 8.2.

a. The following fees shall apply to autopsies conducted by the state medical examiner:

Autopsy	\$1400
Copies of reports	\$20

EXCEPTIONS: A copy of the autopsy report is automatically sent to the county medical examiner and to the county attorney without fee. A single copy of an autopsy report may be provided to the immediate next of kin of the deceased without fee. Copies of autopsy reports may be provided to public officials and physicians of record for official purposes without fee.

b. The following fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

State, deputy, or associate medical examiner(s)
time for all court cases \$450 per hour with a one-hour minimum

~~This fee is for time spent reviewing case materials, preparing for deposition or court, testifying in deposition or court, and travel time.~~

c. A cremation permit fee of \$75 will be assessed for each permit investigated and authorized by the state medical examiner’s office.

ARC 9765B

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 101.1, the State Fire Marshal hereby gives Notice of Intended Action to rescind Chapter 51, “Flammable and Combustible Liquids,” and adopt new Chapter 228, “Liquefied Natural Gas,” Iowa Administrative Code.

Iowa Code section 101.1 authorizes the State Fire Marshal to establish requirements for the safe transportation, storage, handling, and use of liquefied natural gas. The standard has not been updated since 2002. The amendments proposed herein would update the reference to the national standard used as the basis for requirements for transportation, storage, handling, and use of liquefied natural gas and would move the rule to a new chapter. This is part of a renumbering of administrative rules of the Department of Public Safety intended to make the rules more accessible and easier to understand.

Any person may submit written comments regarding the amendments proposed herein by mail to Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by fax to (515)725-6195 (cover sheet should say “Attention: Agency Rules Administrator”); or by E-mail to admrule@dps.state.ia.us, by 4:30 p.m. on October 31, 2011. Written comments may also be submitted at the public hearing.

There will be a public hearing to accept oral comments on these amendments at 9:45 a.m. on November 1, 2011, in the First Floor Public Conference Room (Room 125) in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines. Any person who wishes to speak on these proposed amendments may do so at the public hearing. Persons who wish to speak at the hearing are encouraged to notify the Agency Rules Administrator of their wish to do so at least one day prior to the hearing by telephone at (515)725-6185 or by E-mail to admrule@dps.state.ia.us. Persons who speak at the public hearing are also encouraged to submit their comments in writing but are not required to do so. The hearing room is fully accessible.

These amendments are not anticipated to have any fiscal impact.
After analysis and review of this rule making, no impact on jobs has been found.
These amendments are intended to implement Iowa Code chapter 101.
The following amendments are proposed.

- ITEM 1. Rescind **661—Chapter 51.**
- ITEM 2. Adopt the following **new** 661—Chapter 228:

CHAPTER 228
LIQUEFIED NATURAL GAS

PUBLIC SAFETY DEPARTMENT[661](cont'd)

661—228.1(101) Transportation, storage, handling, and use of liquefied natural gas. NFPA 59A, “Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG),” 2009 edition, is adopted by reference as the rules governing the transportation, storage, handling, and use of liquefied natural gas. Persons who transport, store, handle, or use liquefied natural gas shall comply with the applicable requirements established therein.

This rule is intended to implement Iowa Code chapter 101.

ARC 9766B

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 100B.10, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 251, “Fire Fighter Training and Certification,” Iowa Administrative Code.

Iowa Code chapter 100B requires the State Fire Marshal to establish minimum training standards for fire fighters. The current standards were adopted several years ago. The proposed amendments to the rules which establish minimum training required for fire fighters engaged in structural fire fighting do not modify the substance of those requirements but update a reference to a national standard used in the rule, delete references to a past effective date which are no longer needed, and modify the format, but do not change the content, of the list of subjects for continuing training of fire department members.

In addition, the Fire Service Training Bureau, which is under the direction of the State Fire Marshal, administers the certification program for fire fighters in the State of Iowa. This certification program is recognized nationally by the National Board on Fire Service Professional Qualifications (PROBOARD) and internationally by the International Fire Service Accreditation Congress (IFSAC). Certification is not required by state law to work in the fire service in Iowa, but certification is required by some fire departments as a condition of employment. Amendments proposed herein to the rules establishing certification standards do not change the substance of those standards but add references to recognition of Iowa’s certification program by the PROBOARD and reorganize explanatory information in the notes to rule 661—251.201(100B) for greater clarity.

Any person may submit written comments regarding the proposed amendments by mail to Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by fax to (515)725-6195 (cover sheet should say “Attention: Agency Rules Administrator”); or by E-mail to admrule@dps.state.ia.us, by 4:30 p.m. on October 31, 2011. Written comments may also be submitted at the public hearing.

There will be a public hearing to accept oral comments on these amendments at 9:30 a.m. on November 1, 2011, in the First Floor Public Conference Room (Room 125) in the State Public Safety Headquarters Building, 215 East 7th Street, Des Moines. Any person who wishes to speak on these proposed amendments may do so at the public hearing. Persons who wish to speak at the hearing are encouraged to notify the Agency Rules Administrator of their wish to do so at least one day prior to the hearing by telephone at (515)725-6185 or by E-mail to admrule@dps.state.ia.us. Persons who speak at the public hearing are also encouraged to submit their comments in writing but are not required to do so. The hearing room is fully accessible.

These amendments are not anticipated to have any fiscal impact.

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

These amendments are intended to implement Iowa Code chapter 100B.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The following amendments are proposed.

ITEM 1. Amend rule 661—251.101(100B), introductory paragraph, as follows:

661—251.101(100B) Minimum training standard. ~~On or after July 1, 2010, any~~ Any member of a fire department shall have completed the training requirements identified in the job performance requirements for the fire fighter I classification in NFPA 1001, Standard for Fire Fighter Professional Qualifications, ~~2002~~ 2008 edition, chapter 5, prior to the member's engaging in structural fire fighting. Each fire department shall identify its members who are or will be engaged in structural fire fighting and shall ensure that any member engaged in structural fire fighting ~~on or after July 1, 2010,~~ has completed the training requirements specified in this rule prior to the member's engaging in structural fire fighting.

ITEM 2. Amend rule 661—251.102(100B) as follows:

661—251.102(100B) Other training. Any member of a fire department who serves in a capacity other than structural fire fighting at an emergency incident ~~on or after July 1, 2010,~~ shall have received training based on the duties the member might perform at an emergency incident. Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

ITEM 3. Amend rule 661—251.103(100B) as follows:

661—251.103(100B) Continuing training. ~~After July 1, 2010, fire~~ Fire department members shall participate in at least 24 hours of continuing training annually, which shall be selected from the following subject areas:

- 1. Personal protective equipment and respiratory protection.
- 2. Structural fire fighting techniques including standard operating policies or standard operating guidelines.
- 3. Ground ladders.
- 4. Hose and hose appliances.
- 5. Ventilation.
- 6. Forcible entry.
- 7. Search and rescue techniques.
- 8. Fire fighter safety.
- 9. Incident management system or incident command system.
- 10. Emergency vehicle driver-operator.
- 11. Hazardous materials first responder—operations level.
- 12. Emergency medical service (EMS) training.
- 13. Additional training based on standard operating procedures or standard operating guidelines.
- 14. Other Occupational Safety and Health Administration (OSHA)-related training, such as blood-borne pathogen protection.
- 15. Specialty training such as confined space entry, vehicle extrication, rescue techniques, wildland or agricultural fire fighting techniques.
- 16. Emergency response to terrorism.
- 17. Any other training designed to meet local training needs.

NOTE: Training to meet this requirement may be provided by the fire service training bureau, a community college, a regional fire training facility, or a local fire department, or any combination thereof.

ITEM 4. Amend rule 661—251.201(100B), introductory paragraphs, as follows:

661—251.201(100B) Fire fighter certification program. There is established within the fire service training bureau of the fire marshal division a fire fighter certification program for the state of Iowa, which shall be known as the Iowa fire service certification system. The Iowa fire service certification system is accredited by the National Board on Fire Service Professional Qualifications (PROBOARD) and the International Fire Service Accreditation Congress (IFSAC) to certify fire service personnel to accepted

PUBLIC SAFETY DEPARTMENT[661](cont'd)

national standards. All certifications issued by the Iowa fire service certification system shall be based upon nationally accepted standards.

NOTE 1: Participation in the Iowa fire service certification system is voluntary in that state law does not require certification to work or volunteer as a fire fighter in Iowa. However, some fire departments within the state require certification for continued employment or promotion. Inquiries regarding such requirements should be directed to the hiring or employing department.

NOTE 2: Inquiries and requests regarding the Iowa fire service certification system should be directed to Iowa Fire Service Certification System, Fire Service Training Bureau, 3100 Fire Service Road, Ames, Iowa 50010-3100. The bureau can be contacted by telephone at (888)469-2374 (toll-free) or at (515)294-6817, by fax at (800)722-7350 (toll-free) or (515)294-2156, or by electronic mail at fstbinfo@dps.state.ia.us. Further information can be found on the Web site for the fire service training bureau at www.state.ia.us/government/dps/fm/fstb.

ITEM 5. Amend subrule 251.204(1) as follows:

251.204(1) Certification. Upon completion of the requirements for certification, the applicant's name shall be entered into the Iowa certification database maintained by the fire service training bureau for the respective level of certification and into the ~~National Certification Data Base~~ certification databases maintained by the National Board on Fire Service Professional Qualifications (PROBOARD) and the International Fire Service Accreditation Congress (IFSAC). Individuals who successfully complete the certification requirements shall also receive an individualized certificate awarding national certification from the fire service training bureau, which will bear a numbered seal ~~seals~~ from the PROBOARD and the International Fire Service Accreditation Congress IFSAC, and additional insignia from the fire service training bureau.

ARC 9797B

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 6, “Organization, Public Inspection,” Chapter 7, “Practice and Procedure before the Department of Revenue,” and Chapter 8, “Forms and Communications,” Iowa Administrative Code.

These amendments clarify existing rules and provisions related to Department reorganization. In addition, these amendments provide an update to Department practice regarding substitute tax forms.

Items 1 through 4 amend rules 701—6.1(17A), 701—6.2(17A), 701—6.4(17A), and 701—6.5(17A) to reference the new Policy and Communications Division of the Department. In Item 1, several paragraphs from subrule 6.1(3) that describe the organization of the Department are incorporated into subrule 6.1(2). The only substantive changes to the material are in the lists of responsibilities of the Director's Office and the Compliance Division, the addition of the Policy and Communications Division, and the addition of paragraph letters and numbers to clarify organization.

Item 5 amends subrule 7.50(7) to provide that an order issued in a contested case proceeding by a presiding officer can also be sent by regular mail or by any other method to which the parties may agree.

Item 6 amends rule 701—8.2(17A) to update mailing addresses for corresponding with the Department due to reorganization.

REVENUE DEPARTMENT[701](cont'd)

Item 7 amends rule 701—8.3(17A) to remove a reference to a Department publication that no longer exists, update a reference based on Department reorganization, and make other changes regarding the current practice involving the substitution of official forms.

Item 8 amends subrule 8.4(1) to allow substitute forms for sales tax, use tax, local option sales and services tax and hotel/motel tax in limited situations and to make other changes regarding the description of forms provided by the Director of Revenue.

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 November 7, 2011, to the Policy Section, Policy and Communications 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 25, 2011. Such written comments should be directed to the Policy Section, Policy and Communications 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, Policy and Communications Division, Department of Revenue, at (515)281-8450 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 25, 2011.

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

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

The following amendments are proposed.

ITEM 1. Amend rule 701—6.1(17A) as follows:

701—6.1(17A) Establishment, organization, general course and method of operations, methods by which and location where the public may obtain information or make submissions or requests.

6.1(1) No change.

6.1(2) *Organization of the department.* The department consists of the office of the director; the following divisions: compliance, property tax, policy and communications, revenue operations, internal services, and technology and information management; and the state board of tax review. For ease of administration, the director has organized the ~~department into~~ department's divisions ~~which are~~ in some instances ~~further divided~~ into bureaus, sections, subsections and units.

a. The office of the director. The office of the director consists of the director and the following areas within this office: strategic planning, internal audit, clerk of the hearing section, public/private partnership, and research and fiscal analysis. The essential functions of the director's office include:

(1) Overall management of the agency and review of protest and revocation cases on appeal.

(2) Strategic planning and coordination of the future operations and goals of the department.

(3) Providing financial checks and balances within the department.

(4) The clerk of the hearing section receives all protests, tracks protests and coordinates protest processing.

(5) Public/private partnership provides for a working relationship between the public and private sector.

b. Divisions.

REVENUE DEPARTMENT[701](cont'd)

(1) Property tax division. The property tax division provides technical assistance and training to local assessing jurisdictions, ensures equal assessment of property, and is responsible for determining valuation for railroads, electric, water, and pipeline companies.

(2) Compliance division. The compliance division includes the examination section, investigative audit section, in-state field offices and out-of-state field offices. The essential functions of the compliance division include:

1. Examination, which includes office examination of returns, assessment, and review and approval of refund claims, and which identifies nonfilers and those that underreport income;

2. Investigative audit, which is responsible for audits for criminal prosecution, reviews cases for potential prosecution and represents the department in criminal proceedings and depositions;

3. In-state field offices, which provide assistance to taxpayers concerning procedure and perform audits; and

4. Out-of-state field offices, which perform audits for all taxes throughout the country from nine locations throughout the United States.

(3) Policy and communications division. The policy and communications division consists of audit services, taxpayer services, policy and tax research and data analysis. The essential functions of the policy and communications division include:

1. Audit services, which includes the development and review of audit programs and completed audits, manuals, and guidelines for auditors, and which coordinates the administrative process of protests and protest resolution;

2. Taxpayer services, which is responsible for responding to inquiries from the public, practitioners and other agencies, drafting brochures and graphics, completing returns, maintaining the department's library and Web page, and coordinating public education by the department;

3. Policy, which is responsible for the interpretation of legislation, statutes and cases, developing and maintaining rules for the department and monitoring tax-related issues considered by the general assembly and the United States Congress. This section also drafts declaratory orders, offers technical advice and completes studies and reports;

4. Tax research and data analysis, which provides research, data information, fiscal analysis and reporting, which includes fact-finding, defining issues, issue resolution, and projection of revenues, and evaluates the fiscal impact of tax legislation and policies on state budget.

(4) Internal services division. The essential functions of the internal services division include:

1. Central accounting, which includes operating budget development, maintenance and reporting; and

2. Employee resource team, which governs personnel activities, payroll, benefits, quality of the environment and customer service.

(5) Technology and information management division. This division consists of information resources management, application design and development, program management, program evaluation, operations, forms management, reporting, and technical planning and support. The essential functions of the technology and information management division include:

1. Application development, which includes system analysis, programming, database administration and support;

2. Forms management, which includes review and performing the function of compliance with federal and state law and managing electronic filing programs; and

3. Technical planning and support, which includes technical support to the agency on software and hardware issues, and which assists in application and development regarding technology-related issues.

(6) Revenue operations division. This division includes collections (accounts receivable, central collections, field office advanced collections), customer accounts, document processing, and data operations and information technology. The essential functions of the revenue operations division include:

1. Collections, which includes accounts receivable, central collections, field office advanced collections and customer accounts;

REVENUE DEPARTMENT[701](cont'd)

2. Document processing, which includes preparing tax information for processing, deposits and records; and

3. Data entry, which includes entry of all tax forms, files, and databases, and which edits taxpayer documents and mailing information.

6.1(3) *Methods by which and location where the public may obtain information or make submissions or requests.* The department of revenue maintains its principal office in the Hoover State Office Building, 1305 East Walnut Street, P.O. Box 10460, Des Moines, Iowa 50306.

a. Principal office. Members of the public wishing to obtain information or make submissions or requests on any matters may do so at the department's principal office. Applications for permits or licenses may be obtained and submitted at the principal office, and any assistance needed in filling out the applications will be provided if the taxpayer so desires. Requests for confidential information should be submitted to the director, and the appropriate form will be provided and should be filled out and submitted to the director. Members of the public wishing to inspect information required to be made available to members of the public may do so in the director's office.

b. Regional offices. Regional offices do not have facilities for making available all matters that are available for public inspection under 701—6.2(17A). The regional offices and auditors do have copies of all rules and will make them available to the public. Members of the public needing forms or needing assistance in filling out forms are encouraged to contact the principal office.

DEPARTMENT OF REVENUE

~~The department consists of the office of the director; the following divisions: compliance, property tax, revenue operations, internal services, and technology and information management; and the state board of tax review.~~

THE OFFICE OF THE DIRECTOR

~~The office of the director consists of the director and the following areas within this office: strategic planning, internal audit, clerk of the hearing section, public/private partnership and research and fiscal analysis.~~

~~Essential Functions of the Director's Office:~~

~~1. The director's office provides overall management of the agency and reviews protest and revocation cases on appeal.~~

~~2. The strategic planning function plans and coordinates the future operations and goals of the department.~~

~~3. The director's office provides financial checks and balances within the department.~~

~~4. The clerk of the hearing section receives all protests, tracks protests and coordinates protest processing.~~

~~5. Public/private partnership provides for a working relationship between the public and private sector.~~

~~6. The director's office provides research and data information.~~

~~7. The director's office provides fiscal analysis and reporting, which includes fact finding, defining issues, issue resolution, and projection of revenues, and evaluates the fiscal impact of tax legislation and policies on state budget.~~

PROPERTY TAX DIVISION

~~The property tax division provides technical assistance and training to local assessing jurisdictions, ensures equal assessment of property, and is responsible for determining valuation for railroads, electric, water, and pipeline companies.~~

COMPLIANCE DIVISION

~~The compliance division includes the examination section, audit services, taxpayer services, policy section, investigative audit section, in-state field offices and out-of-state field offices.~~

~~Essential Functions of the Compliance Division:~~

~~1. Examination, which includes office examination of returns, assessment, and review and approval of refund claims, and which identifies nonfilers and those that underreport income;~~

REVENUE DEPARTMENT[701](cont'd)

2.— Audit services, which includes the development and review of audit programs and completed audits, manuals, and guidelines for auditors, and which coordinates the administrative process of protests and protest resolution;

3.— Taxpayer services, which is responsible for responding to inquiries from the public, practitioners and other agencies, and drafting brochures and graphics, completes returns, maintains library and Web page, and coordinates public education by the department;

4.— Policy, which is responsible for the interpretation of legislation, statutes and cases, develops and maintains rules for the department and monitors tax-related issues considered by the general assembly and the United States Congress. This section also drafts declaratory orders, offers technical advice and completes studies and reports;

5.— Investigative audit, which is responsible for audits for criminal prosecution, reviews cases for potential prosecution and represents the department in criminal proceedings and depositions;

6.— In-state field offices provide assistance to taxpayers concerning procedure and perform audits; and

7.— Out-of-state field offices perform audits for all taxes throughout the country from nine locations throughout the United States.

INTERNAL SERVICES DIVISION

Essential Functions of the Internal Services Division:

1.— Central accounting, which includes operating budget development, maintenance and reporting; and

2.— Employee resource team, which governs personnel activities, payroll, benefits, quality of the environment and customer service.

TECHNOLOGY AND INFORMATION MANAGEMENT DIVISION

This division consists of information resources management, application design and development, program management, program evaluation, operations, forms management, reporting, and technical planning and support.

Essential Functions of the Technology and Information Management Division:

1.— Application development, which includes system analysis, programming, database administration and support;

2.— Forms management, which includes review and performing the function of compliance with federal and state law and managing electronic filing programs; and

3.— Technical planning and support, which includes technical support to the agency on software and hardware issues, and which assists in application and development regarding technology-related issues.

REVENUE OPERATIONS DIVISION

This division includes collections (accounts receivable, central collections, field office advanced collections), customer accounts, document processing, and data operations and information technology.

Essential Functions of the Revenue Operations Division:

1.— Collections, which includes accounts receivable, central collections, advanced collection field offices and customer accounts;

2.— Document processing, which includes preparing tax information for processing, deposits and records; and

3.— Data entry, which includes entry of all tax forms, files, and databases, and which edits taxpayer documents and mailing information.

This rule is intended to implement Iowa Code sections 421.1, 421.2, 421.9, 421.14, 421.17, 422.1 and 422.72 and 2003 Iowa Acts, chapter 178, sections 66 through 121.

ITEM 2. Amend rule **701—6.2(17A)**, last unnumbered paragraph, as follows:

All information accorded public inspection treatment shall be made available for inspection in the office of the Policy Section, Compliance Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306, during established office hours.

REVENUE DEPARTMENT[701](cont'd)

ITEM 3. Amend rule 701—6.4(17A) as follows:

701—6.4(17A) Copies of proposed rules. A trade or occupational association, which has registered its name and address with the department of revenue, may receive, by mail, copies of proposed rules. Registration of the association's name and address with the department is accomplished by written notification to the Administrator, Compliance Policy and Communications Division, Department of Revenue, Hoover State Office Building, Fourth Floor, P.O. Box 10457, Des Moines, Iowa 50319. In the written notification, the association must designate, by reference to rule 701—7.36(421,17A), the type of proposed rules and the number of copies of each rule it wishes to receive. If the association wishes to receive copies of proposed rules not enumerated in rule 701—7.36(421,17A), it may make a blanket written request at the time of registration or at any time prior to the adoption of such rules. A charge of 20 cents per single-sided page shall be charged to cover the actual cost of providing each copy of the proposed rule. In the event the actual cost exceeds 20 cents for a single-sided page, it will be billed accordingly.

This rule does not prevent an association which has registered with the department in accordance with this rule from changing its designation of types of proposed rules or number of copies of proposed rules which the association desires to receive. If an association makes such changed designation, it must do so by written notification to the Administrator, Compliance Policy and Communications Division, Department of Revenue, Hoover State Office Building, Fourth Floor, P.O. Box 10457, Des Moines, Iowa 50319.

This rule is intended to implement Iowa Code section 17A.4 as amended by 1998 Iowa Acts, chapter 1202.

ITEM 4. Amend rule 701—6.5(17A) as follows:

701—6.5(17A) Regulatory analysis procedures. Any small business as defined in Iowa Code section 17A.4A [~~1998 Iowa Acts, chapter 1202, section 10~~] or organization of small businesses which has registered its name and address with the department of revenue shall receive by mail a copy or copies of any proposed rule which may have an impact on small business. Registration of the business's or organization's name and address with the department is accomplished by written notification to the Policy Section, Compliance Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. In the written notification, the business or organization must state that it wishes to receive copies of rules which may have an impact on small business, the number of copies of each rule it wishes to receive, and must also designate, by reference to rule 701—7.36(421,17A), the types of proposed rules it wishes to receive. If the small business or organization of small businesses wishes to receive copies of proposed rules not enumerated in rule 701—7.36(421,17A), it may make a blanket written request at the time of registration or at any time prior to the adoption of the rules. A charge of 20 cents per single-sided page shall be imposed to cover the actual cost of providing each copy of the proposed rule. In the event the actual cost exceeds 20 cents for a single-sided page, it will be billed accordingly.

The administrative rules review committee, the administrative rules coordinator, at least 25 persons signing that request who qualify as a small business, or an organization representing at least 25 such persons may request issuance of a regulatory analysis by writing to the Policy Section, Compliance Policy and Communications Division, Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319. The request shall contain the following information: the name of the persons qualified as a small business and the name of the small business or the name of the organization as stated in its request for registration and an address; if a registered organization is requesting the analysis, a statement that the registered organization represents at least 25 persons; the proposed rule or portion of the proposed rule for which a regulatory analysis is requested; the factual situation which gives rise to the business's or organization's difficulties with the proposed rule; any of the methods for reducing the impact of the proposed rule on small business contained in Iowa Code section 17A.4A [~~1998 Iowa Acts, chapter 1202, section 10~~] which may be particularly applicable to the circumstances; the name, address and telephone

REVENUE DEPARTMENT[701](cont'd)

number of any person or persons knowledgeable regarding the difficulties which the proposed rule poses for small business and other information as the business or organization may deem relevant.

This rule is intended to implement Iowa Code section 17A.4A [~~1998 Iowa Acts, chapter 1202~~].

ITEM 5. Amend subrule **7.50(7)**, seventh unnumbered paragraph, as follows:

Orders will be issued within a reasonable time after termination of the hearing. Parties shall be promptly notified of each order by delivery to them of a copy of the order by personal service, regular mail, or certified mail, return receipt requested, ~~except in the case of an order revoking a sales or use tax permit or a motor fuel license which may be delivered by ordinary mail or any other method to which the parties may agree.~~ For example, a copy of the order can be submitted by electronic mail if both parties agree.

ITEM 6. Amend rule 701—8.2(17A) as follows:

701—8.2(17A) Official forms. The department and the director have developed and provide or prescribe many official forms designed to help persons exercise their rights and discharge their duties under the tax laws and rules, to explain tax laws and rules, to assist in the administration of tax laws and rules, and to assist in general financial administration. Communications with the department, for which official forms have been created, shall be carried out using those forms or approved substitutes. Each direction of every instruction contained within or accompanying official forms shall be followed, and each question within or accompanying every form shall be answered as if the instructions and forms were contained in these rules.

Copies of all official forms, instructions and communication formats may be obtained from the Iowa Department of Revenue, ~~Taxpayer Services Section~~ Policy and Communications Division, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306; ~~from the department's various field offices located throughout the state;~~ by telephoning (800)367-3388 or (515)281-3114 (for large orders of forms: ~~(515)281-5370 (800)532-1531~~); or by faxing (515)242-6040 or ~~by using the fax-on-demand system (800)572-3943~~ on the department's Web site at www.iowa.gov/tax.

8.2(1) Nature of official forms. Most, but not all, official forms are on paper. As prescribed by the director, communication means other than paper documents may be used for official forms.

8.2(2) Mailing addresses. The following post office box numbers should be used when corresponding with the department. All addresses are completed: Des Moines, Iowa 50306.

Box Number	Addressee
<u>1792</u>	<u>Individual Income Tax Returns</u>
<u>9187</u>	<u>Motor Vehicle Fuel Tax Returns</u>
<u>10306</u>	<u>Deposit Unit</u>
10411	Withholding — Other than High Dollar <u>Tax Returns</u>
10412	Sales and <u>Use Tax Returns</u> — Other than High Dollar
10413	Revenue Operations <ul style="list-style-type: none"> Real Estate Transfer Accounts and Finance Receiving Unit Records Electronic Funds Transfer Registration Treasurers' Monthly Use Tax

REVENUE DEPARTMENT[701](cont'd)

Box Number	Addressee
	Franchise Estimates <u>Tax Returns and Estimated Payments</u> Cigarette Tax Inventories
10455	Insurance Premiums Tax Household Hazardous Materials Environmental Protection Charge
10456	Compliance Division Examination Section Investigative Audit Audit Services Motor Fuel Refund Cigarette and Tobacco Tax Returns and General Mail
10457	Technical Services <u>Policy and Communications Division</u> Policy Taxpayer Services
10458	Field Services
10459	Property Tax Credit Rent Reimbursement <u>Claims</u>
10460	Department of Revenue <u>Internal Services Division</u> <u>Technology and Information Management Division</u> Administration Information and Management Services Local Government Services Clerk of the Hearing Section
10462	Sales Tax Return — High Dollar
10463	Withholding — High Dollar
10464	Collections
<u>10465</u>	<u>Revenue Operations Division</u> <u>Customer Accounts</u> <u>Registration Services</u>
10466	Individual Estimates <u>Estimated Payments</u>
10467	Fiduciary and Inheritance Tax
10468	Corporation <u>Income Tax Returns and Estimated Payments</u> Corporation Returns Corporation Estimates

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Box Number	Addressee
10469	Consumer-Use <u>Property Tax</u>
10470	<u>Retailers' Use Tax Withholding — Verified Summary of Payments Report</u>
10471	Accounts Receivable Pre-edit Collections
10472	<u>Priority Handling Hearings Section</u> Hearing Officer Cigarette Stamp Orders

This rule is intended to implement Iowa Code paragraph 17A.3(1) "b."

ITEM 7. Amend rule 701—8.3(17A) as follows:

701—8.3(17A) Substitution of official forms. This rule is to provide guidance for the use of other than official forms, whether they use are on paper, are computer-generated, or are created using other media for communication. Approval shall be obtained prior to use of computer forms, replacement forms, reproduced forms, facsimile forms, or any other forms not ~~designed~~ provided by the department. The director reserves the right to make changes to forms when needed without prior notification to users of forms. The director also reserves the right to require use of official forms in communications with the department concerning tax administration or other matters.

8.3(1) Types of substitute forms. Many types of forms may, upon approval, be substituted for official forms. Descriptions of a partial list follow.

a. Reproduced forms. Reproduction (photocopy reprinting) of Iowa tax forms may be accomplished without prior approval of the department provided the following conditions are met:

- (1) There is no variation from the official copy or format provided by the department, including reduction and enlargement or other format specification.
- (2) Reprinting, copying, or reproduction of the form is not prohibited by another rule within this chapter.
- (3) Reprinting or reproduction of the form does not vary from criteria stated elsewhere in this chapter.

b. Replacement forms. Replacement forms are forms which are ~~retypeset~~ produced by imagery, or otherwise replicated using the department official form as a model. These forms may include facsimiles of department forms that have been modified by the addition of ~~pin-feeds~~, line enlargements, copy deletion, or any other modifications. ~~All replacement forms must be submitted to the department for approval prior to use.~~

c. Computer-generated forms. Computer-generated forms are forms that are created in their entirety, including layout, by the computer. These forms must be a facsimile of the official form that it is meant to replace. ~~Also, computer-generated forms must have prior approval of the department before the form will be accepted for processing.~~

d. Federal forms. Federal forms, or their alternates, do not require prior approval for use provided the form is approved for federal use and Iowa tax instructions or other administrative instructions authorize or require the use of federal forms in lieu of official Iowa forms.

e. ~~Magnetic tape, diskette, Removable media and electronic reporting.~~ Any use of ~~magnetic tape, diskettes, removable media, such as compact discs, or any electronic transmission in other than official form requires prior approval of the department. No prior approval is necessary for submission of magnetic tape and diskette reports compact discs for certain information reporting when they are submitted in accordance with the department policy. Information concerning the submission of magnetic tape and diskettes is found in department publication, "State of Iowa Income Information~~

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Return Reporting Guidelines,” which is available from Taxpayer Services Section, P.O. Box 10457, Des Moines, Iowa 50306, or by telephone at (515)281-3114. To obtain additional information regarding the submitting of magnetic tapes, diskettes or other electronic reporting, please contact the Technology and Information Management Division, P.O. Box 10460, Des Moines, Iowa 50306.

8.3(2) Approval of substitute forms. Prior approval of substitute forms may be obtained by writing ~~Information and Management Services~~ Technology and Information Management Division, P.O. Box 10460, Des Moines, Iowa 50306, by telephoning ~~(515)281-5777~~, or, by faxing (515)242-6040; or by a PDF submission via E-mail to IDRSubForms@iowa.gov. Fax communication or PDF submissions via E-mail to the department of approval requests are acceptable ~~only~~ in limited circumstances ~~because approval of substitute paper document forms requires receipt by the department of a sample of the actual substitute form before approval can be provided~~. Normally, approval will be granted for use of substitute forms for one year only. Those forms listed on the substitute forms checklist should be submitted for approval. If doubt exists about the need for approval of a particular substitute form, the form should be submitted for consideration.

8.3(3) Failure to obtain required approval. ~~Other than official or approved forms~~ Forms filed with the department that are not official or approved may be returned at the discretion of the director.

8.3(4) Forms that may not be reproduced. Certain forms supplied by the department shall not be duplicated or reproduced because of special processing requirements for the forms. These forms will normally have an optical scan line with special characters or print to ensure that automated processing equipment accurately credits the proper accounts. Exceptions to allow reproduction may occur on a limited basis with the consent of the department. The requestor must demonstrate compatibility with and meet all requirements and standards of the department to ensure proper and accurate processing of the form by the department. The department, at its option, may provide an explanation as to why a form is not acceptable, but is not required to do so. Forms that may not be reproduced, except as provided for above, include ~~but are not limited to:~~

- ~~a. Sales/use tax returns.~~
- ~~b. Withholding tax returns.~~
- ~~c. Annual withholding verified summary of payments forms.~~
- ~~d. Department department-generated accounts receivable notices.~~

8.3(5) General information. The following general information is applicable to all reproduced, replacement, or computer-generated forms:

a. Paper. Paper must be of at least equal quality to stock used by the department for official forms. Carbon-bonded paper is prohibited for all forms. Colored paper should be used for all forms substituting for official paper forms unless paper used is of the identical color of an official paper form.

b. Ink and imaging material. Black ink or black imaging material should be used in the printing or duplication of all substitute forms using on paper.

c. Size. ~~Reproduced or computer-generated paper~~ Paper forms must be the same size as the official form.

d. Legibility. All forms must have a high standard of legibility.

e. Distinctive markings and symbols. Some official forms contain distinctive symbols. These symbols must be reproduced on other than official forms.

f. Labels. Preprinted labels furnished by the department should be affixed to returns submitted to the department.

g. Accuracy of reproduction. Forms submitted for approval should be a facsimile of the official form. No variation from the official form will be allowed for forms which are identified as returns.

This rule is intended to implement Iowa Code paragraph 17A.3(1) “b.”

ITEM 8. Amend subrule 8.4(1) as follows:

8.4(1) Tax forms. Taxes administered by the department that require forms are listed in the following lettered paragraphs:

- a. to h.* No change.

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- i.* Individual income tax withholding ~~returns and annual withholding verified summary of payments forms~~ payment voucher systems have forms designed by the department. ~~No~~ Approved substitute forms may be used.
- j.* No change.
- k.* Sales and use tax returns and payment voucher systems have forms designed by the department. ~~No~~ Approved substitute forms may be used in limited situations.
- l.* Local option sales and services tax and hotel/motel tax systems have forms designed by the department. Approved substitute forms may be used in limited situations.
- m.* No change.
- n.* Motor ~~vehicle~~ fuel tax returns systems have forms designed by the department. Approved substitute forms may be used.
- o.* to *bb.* No change.

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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 and Tax Credits,” Chapter 43, “Assessments and Refunds,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Iowa Administrative Code.

These amendments are proposed as a result of 2011 Iowa Acts, Senate Files 302, 361, 514, 517, 521 and 533, and 2011 Iowa Acts, House File 672.

Items 1, 2 and 3 amend subrules 42.19(1) and 42.19(3) and the implementation clause for rule 701—42.19(404A,422) to provide for changes to the types of properties and rehabilitation costs eligible for the historic preservation and cultural and entertainment district tax credit for Iowa individual income tax.

Items 4 and 5 amend rule 701—42.24(15E,422) to provide for changes in the aggregate amount of endow Iowa tax credits available for 2011 and subsequent calendar years for Iowa individual income tax.

Items 6 and 7 amend subrule 42.27(1) and the implementation clause for rule 701—42.27(422,476B) to provide for changes in the maximum amount of nameplate capacity eligible for the wind energy production tax credit for Iowa individual income tax.

Item 8 amends subrule 42.28(1) to provide for changes in both the maximum amount of nameplate capacity and the placed-in-service date for facilities eligible for the renewable energy tax credit for Iowa individual income tax.

Item 9 amends subrule 42.28(2) to provide that renewable energy used for on-site consumption by the producer is eligible for the renewable energy tax credit for Iowa individual income tax.

Item 10 amends the implementation clause for rule 701—42.28(422,476C).

Items 11 and 12 amend subrule 42.32(4) and the implementation clause for rule 701—42.32(422) to provide for changes in the aggregate amount of school tuition organization tax credits available for 2012 and subsequent calendar years for Iowa individual income tax.

Items 13 and 14 amend subrule 42.41(1) and the implementation clause for rule 701—42.41(15,422) to provide for changes in the aggregate amount of redevelopment tax credits available for fiscal years beginning on or after July 1, 2011, for Iowa individual income tax.

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Item 15 amends rule 701—42.44(422) to update the listing regarding the sequence of tax credits to be deducted for Iowa individual income tax.

Item 16 rescinds subrule 43.4(3), which is an obsolete rule regarding the domestic abuse services checkoff for individual income tax that has not been on an Iowa tax return since 1999.

Items 17, 18 and 19 amend subrules 43.4(4), 43.4(10) and 43.4(11) to reflect the corrected name of the State Fair Foundation Fund tax checkoff for Iowa individual income tax.

Item 20 amends rule 701—52.12(422) to update the listing regarding the sequence of tax credits to be deducted for Iowa corporation income tax.

Items 21 to 24 amend rule 701—52.18(422) to provide for changes to the types of properties and rehabilitation costs eligible for the historic preservation and cultural and entertainment district tax credit for Iowa corporation income tax. This is similar to the changes in Items 1, 2 and 3.

Items 25 to 27 amend rule 701—52.23(15E) to provide for changes in the aggregate amount of endow Iowa tax credits available for 2011 and subsequent calendar years for Iowa corporation income tax. This is similar to the change in Item 4.

Items 28 and 29 amend subrule 52.26(1) and the implementation clause for rule 701—52.26(422,476B) to provide for changes in the maximum amount of nameplate capacity eligible for the wind energy production tax credit for Iowa corporation income tax. This is similar to the change in Items 6 and 7.

Item 30 amends subrule 52.27(1) to provide for changes in both the maximum amount of nameplate capacity and placed-in-service date for facilities eligible for the renewable energy tax credit for Iowa corporation income tax. This is similar to the change in Item 8.

Item 31 amends subrule 52.27(2) to provide that renewable energy used for on-site consumption by the producer is eligible for the renewable energy tax credit for Iowa corporation income tax. This is similar to the change in Item 9.

Item 32 amends the implementation clause for rule 701—52.27(422,476C).

Items 33 and 34 amend subrule 52.38(1) and the implementation clause for rule 701—52.38(422) to provide for changes in the aggregate amount of school tuition organization tax credits available for 2012 and subsequent calendar years for Iowa corporation income tax. This is similar to the change in Item 11.

Items 35 and 36 amend subrule 52.39(1) and the implementation clause for rule 701—52.39(15,422) to provide for changes in the aggregate amount of redevelopment tax credits available for fiscal years beginning on or after July 1, 2011, for Iowa corporation income tax. This is similar to the change in Item 13.

Items 37 to 39 amend rule 701—58.13(15E) to provide for changes in the aggregate amount of endow Iowa tax credits available for 2011 and subsequent calendar years for Iowa franchise income tax. This is similar to the change in Items 4 and 26.

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 November 7, 2011, to the Policy Section, Policy and Communications 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 25, 2011. Such written comments should be directed to the Policy Section, Policy and Communications 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,

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Policy and Communications Division, Department of Revenue, at (515)281-8450 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 25, 2011.

After analysis and review of this rule making, no adverse impact on jobs has been found. The tax credits may positively impact job and economic growth for businesses in the state of Iowa.

These amendments are intended to implement Iowa Code section 15E.305 as amended by 2011 Iowa Acts, Senate File 302; section 422.12D as amended by 2011 Iowa Acts, Senate File 361; section 15.293A as amended by 2011 Iowa Acts, Senate File 514; sections 404A.1 through 404A.4 as amended by 2011 Iowa Acts, Senate Files 517 and 521; section 422.11S as amended by 2011 Iowa Acts, Senate File 533; and sections 476B.5 and 476C.1 through 476C.5 as amended by 2011 Iowa Acts, House File 672.

The following amendments are proposed.

ITEM 1. Amend subrule 42.19(1) as follows:

42.19(1) *Eligible properties for the historic preservation and cultural and entertainment district tax credit.* The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

- a. Property verified as listed on the National Register of Historic Places or eligible for such listing ~~through the state historic preservation office (SHPO).~~
- b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation ~~by being located in an area previously surveyed and evaluated as eligible for the National Register of Historic Places.~~
- c. Property or district designated as a local landmark by a city or county ordinance.
- d. Any barn constructed prior to 1937.

ITEM 2. Amend subrule **42.19(3)**, first unnumbered paragraph, as follows:

In the case of commercial property, qualified rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation. In the case of residential property or barns, the qualified rehabilitation costs must equal at least \$25,000 or 25 percent of the fair market assessed value, excluding the value of the land, prior to the rehabilitation, whichever amount is less. ~~In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs shall not exceed \$100,000 per residential unit. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. The rehabilitation period may include dates that precede approval of a project, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project are qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code costs.~~

ITEM 3. Amend rule **701—42.19(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ Files 517 and 521, and Iowa Code section 422.11D.

ITEM 4. Amend rule **701—42.24(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 ~~and subsequent calendar years~~ is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code

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section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For example, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 5. Amend rule **701—42.24(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ 302, and section 422.11H.

ITEM 6. Amend subrule **42.27(1)**, first unnumbered paragraph, as follows:

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed ~~150~~ 50 megawatts. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

ITEM 7. Amend rule **701—42.27(422,476B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476B as amended by ~~2009~~ 2011 Iowa Acts, Senate House File ~~456~~ 672.

ITEM 8. Amend subrule 42.28(1) as follows:

42.28(1) *Application and review process for the renewable energy tax credit.* A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, ~~2012~~ 2015.

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed ~~330~~ 363 megawatts. The maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of ~~20~~ 53 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy₂ who is the person who owns the renewable energy facility₂ cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility.

A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.21(1).

ITEM 9. Amend subrule 42.28(2) as follows:

42.28(2) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per

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1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months.

EXAMPLE: A qualified wind energy production 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 year 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 generated and purchased or used for on-site consumption by the producer between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. 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 42.28(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 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 42.28(1). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

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 renewable energy facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and purchased or used for on-site consumption by the producer between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased or produced for on-site consumption after December 31, ~~2021~~ 2024.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period 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.

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ITEM 10. Amend rule **701—42.28(422,476C)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11J and Iowa Code chapter 476C as amended by ~~2009~~ 2011 Iowa Acts, ~~Senate File 456 and House File 810~~ Senate File 672.

ITEM 11. Amend paragraph **42.32(4)“a”** as follows:

a. By December 1 of each year, the department will authorize school tuition organizations to issue tax credit certificates for the following tax year. For the tax year beginning in the 2006 calendar year only, the department, by September 1, 2006, will authorize school tuition organizations to issue tax credit certificates for the 2006 calendar year only. The total amount of tax credit certificates that may be authorized is \$2.5 million for the 2006 calendar year, \$5 million for the 2007 calendar year, ~~and \$7.5 million for the 2008 through 2011 calendar years~~, and \$8.75 million for 2012 and subsequent calendar years.

ITEM 12. Amend rule **701—42.32(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.11S as amended by 2011 Iowa Acts, Senate File 533.

ITEM 13. Amend subrule 42.41(1) as follows:

42.41(1) Eligibility for the credit. ~~The Iowa department of economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. Investments in brownfield or grayfield sites must be made on or after January 1, 2009, but before June 30, 2010, to be eligible for the tax credit. The maximum amount of tax credits that can be issued for redevelopment projects is \$1 million in the aggregate, and the amount of credits for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For the fiscal year beginning July 1, 2011, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000.~~

ITEM 14. Amend rule **701—42.41(15,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section15.293A as amended by 2011 Iowa Acts, Senate File 514, and section 422.11V.

ITEM 15. Amend rule 701—42.44(422) as follows:

701—42.44(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:

1. Personal exemption credit.
2. Tuition and textbook credit.
3. Nonresident and part-year resident credit.
4. Franchise tax credit.
5. S corporation apportionment credit.
6. Disaster recovery housing project tax credit.
7. School tuition organization tax credit.
8. Venture capital credit tax credits (excluding redeemed Iowa fund of funds tax credit).
9. Endow Iowa tax credit.
10. Agricultural assets transfer tax credit.
11. Film qualified expenditure tax credit.
12. Film investment tax credit.
13. Redevelopment tax credit.
14. Investment tax credit.
15. Wind energy production tax credit.
16. Renewable energy tax credit.
17. ~~New jobs credit. Redeemed Iowa fund of funds tax credit.~~
18. ~~Economic development region revolving fund tax credit.~~ New jobs tax credit.

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19. ~~Charitable conservation contribution tax credit.~~ Economic development region revolving fund tax credit.
20. ~~Alternative minimum tax credit.~~ Charitable conservation contribution tax credit.
21. ~~Historic preservation and cultural and entertainment district tax credit.~~ Alternative minimum tax credit.
22. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit.~~ Historic preservation and cultural and entertainment district tax credit.
23. ~~Research activities credit.~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
24. ~~Assistive device credit.~~ Research activities tax credit.
25. Out-of-state tax credit.
26. Child and dependent care credit or early childhood development tax credit.
27. Motor fuel credit.
28. Claim of right credit (if elected in accordance with rule 701—38.18(422)).
29. Wage-benefits tax credit.
30. Soy-based cutting tool oil tax credit.
31. Refundable portion of investment tax credit, as provided in subrule 42.14(2).
32. E-85 gasoline promotion tax credit.
33. Biodiesel blended fuel tax credit.
34. Soy-based transformer fluid tax credit.
35. ~~Earned income tax credit.~~ E-15 plus gasoline promotion tax credit.
36. ~~Estimated payments, payment with vouchers and withholding tax.~~ Earned income tax credit.
37. ~~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, 422.11N, 422.11O, 422.11P, 422.11Q, ~~422.11R~~, 422.11S, 422.11T, 422.11U, 422.11W, 422.11X, 422.12, 422.12B and 422.12C and 2011 Iowa Acts, Senate File 531, section 35.

ITEM 16. Rescind and reserve subrule **43.4(3)**.

ITEM 17. Amend subrule 43.4(4) as follows:

43.4(4) *State fair foundation fund checkoff.* For tax years beginning on or after January 1, 1993, a taxpayer filing a state individual income tax return can designate a checkoff of \$1 or more to the foundation fund of the Iowa state fair foundation. If the overpayment on the return or the payment made with the filing of the return is not sufficient to cover the amount designated to the ~~state fair~~ foundation fund checkoff, the amount credited to the ~~state fair~~ foundation fund checkoff will be reduced accordingly. The designation to the ~~state fair~~ foundation fund checkoff is irrevocable.

A designation to the ~~state fair~~ foundation 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, and the Iowa fish and game protection fund checkoff and the ~~domestic abuse services checkoff~~ are satisfied.

On or before January 31 of the year following the year in which returns with the ~~state fair~~ foundation fund checkoff are due, the department of revenue shall transfer the total amount designated to the ~~state fair~~ foundation fund checkoff to the ~~state fair~~ foundation fund.

ITEM 18. Amend subrule **43.4(10)**, first unnumbered paragraph, as follows:

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 fund checkoff are satisfied.

REVENUE DEPARTMENT[701](cont'd)

ITEM 19. Amend subrule **43.4(11)**, first unnumbered paragraph, as follows:

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 fund checkoff and the child abuse prevention program fund checkoff are satisfied.

ITEM 20. 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. Disaster recovery housing project tax credit.
3. School tuition organization tax credit.
4. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
5. Endow Iowa tax credit.
6. Agricultural assets transfer tax credit.
7. Film qualified expenditure tax credit.
8. Film investment tax credit.
9. Redevelopment tax credit.
10. Investment tax credit.
11. Wind energy production tax credit.
12. Renewable energy tax credit.
13. ~~New jobs credit.~~ Redeemed Iowa fund of funds tax credit.
14. ~~Economic development region revolving fund tax credit.~~ New jobs tax credit.
15. ~~Charitable conservation contribution tax credit.~~ Economic development region revolving fund tax credit.
16. ~~Alternative minimum tax credit.~~ Charitable conservation contribution tax credit.
17. ~~Historic preservation and cultural and entertainment district tax credit.~~ Alternative minimum tax credit.
18. ~~Corporate tax credit for certain sales tax paid by developer.~~ Historic preservation and cultural and entertainment district tax credit.
19. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit.~~ Corporate tax credit for certain sales tax paid by developer.
20. ~~Research activities credit.~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
21. ~~Assistive device credit.~~ Research activities tax credit.
22. ~~Motor fuel credit.~~ Assistive device tax credit.
23. ~~Wage benefits tax credit.~~ Motor fuel credit.
24. ~~Soy-based cutting tool oil tax credit.~~ Wage-benefits tax credit.
25. ~~Refundable portion of investment tax credit, as provided in subrule 52.10(4).~~ Soy-based cutting tool oil tax credit.
26. ~~E-85 gasoline promotion tax credit.~~ Refundable portion of investment tax credit, as provided in subrule 52.10(4).
27. ~~Biodiesel blended fuel tax credit.~~ E-85 gasoline promotion tax credit.
28. ~~Soy-based transformer fluid tax credit.~~ Biodiesel blended fuel tax credit.
29. ~~Estimated tax and payments with vouchers.~~ Soy-based transformer fluid tax credit.
30. E-15 plus gasoline promotion tax credit.
31. Estimated tax and payment with vouchers.

This rule is intended to implement Iowa Code sections 15.333, 15.335, 422.33, 422.91 and 422.110.

REVENUE DEPARTMENT[701](cont'd)

ITEM 21. Amend rule 701—52.18(422), parenthetical implementation statute, as follows:

701—52.18(404A,422) Historic preservation and cultural and entertainment district tax credit.

ITEM 22. Amend subrule 52.18(1) as follows:

52.18(1) Eligible property for the historic preservation and cultural and entertainment district tax credit. The following types of property are eligible for the historic preservation and cultural and entertainment district tax credit:

- a. Property verified as listed on the National Register of Historic Places or eligible for such listing ~~through the state historic preservation office (SHPO).~~
- b. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation ~~by being located in an area previously surveyed and evaluated as eligible for the National Register of Historic Places.~~
- c. Property or district designated as a local landmark by a city or county ordinance.
- d. Any barn constructed prior to 1937.

ITEM 23. Amend subrule **52.18(3)**, first unnumbered paragraph, as follows:

In the case of commercial property, qualified rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the value of the land, prior to rehabilitation. In the case of residential property or barns, the qualified rehabilitation costs must equal at least \$25,000 or 25 percent of the ~~fair market assessed~~ value, excluding the value of the land, prior to the rehabilitation, whichever amount is less. ~~In computing the tax credit for eligible property that is classified as residential or as commercial with multifamily residential units, the rehabilitation costs are not to exceed \$100,000 per residential unit. In computing the tax credit, the only costs which may be included are the qualified rehabilitation costs incurred between the period ending on the project completion date and beginning on the date two years prior to the project completion date commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service. The rehabilitation period may include dates that precede approval of a project, provided that any qualified rehabilitation costs incurred prior to the date of approval of the project must be qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code costs.~~

ITEM 24. Amend rule **701—52.18(404A,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ Files 517 and 521, and Iowa Code section 422.33.

ITEM 25. Amend rule 701—52.23(15E), parenthetical implementation statute, as follows:

701—52.23(15E,422) Endow Iowa tax credit.

ITEM 26. Amend rule **701—52.23(15E,422)**, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 ~~and subsequent calendar years~~ is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For example, the total amount of endow Iowa tax credits authorized for the

REVENUE DEPARTMENT[701](cont'd)

2011 calendar year is \$4,551,813, so the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 27. Amend rule **701—52.23(15E,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15E.305 as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ 302, and Iowa Code section 422.33.

ITEM 28. Amend subrule **52.26(1)**, first unnumbered paragraph, as follows:

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed ~~450~~ 50 megawatts of nameplate generating capacity. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

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 ~~2009~~ 2011 Iowa Acts, Senate House File ~~456~~ 672.

ITEM 30. Amend subrule 52.27(1) as follows:

52.27(1) *Application and review process for the renewable energy tax credit.* A producer or purchaser of a renewable energy facility must be approved by the Iowa utilities board in order to qualify for the renewable energy credit. The eligible renewable energy facility can be a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility or refuse conversion facility. The facility must be located in Iowa and placed in service on or after July 1, 2005, and before January 1, ~~2012~~ 2015.

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed ~~330~~ 363 megawatts of nameplate generating capacity. The maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of ~~20~~ 53 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. Extensions can be renewed for succeeding 12-month periods if the facility applies for the extension prior to expiration of the current extension period. A producer of renewable energy, which is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility.

A producer or purchaser of a renewable energy facility must apply to the utilities board for the renewable energy tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.21(1).

ITEM 31. Amend subrule 52.27(2) as follows:

52.27(2) *Computation of the credit.* The renewable energy tax credit equals 1½ cents per kilowatt-hour of electricity, or 44 cents per 1000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose generated by and purchased from an eligible renewable energy facility or used for on-site consumption by the producer during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours, standard cubic feet or British thermal units generated by and purchased from the facility or used for on-site consumption by the producer may exceed 12 months.

REVENUE DEPARTMENT[701](cont'd)

EXAMPLE: A qualified wind energy production 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 year 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 generated and purchased or used for on-site consumption by the producer between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours, standard cubic feet or British thermal units that are purchased from an eligible facility by a related person. Persons shall be treated as related to each other if either person owns an 80 percent or more equity interest in the other person.

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility or used for on-site consumption by the producer during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. 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 52.27(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 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 52.27(1). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

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 renewable energy facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours, standard cubic feet or British thermal units generated and purchased or used for on-site consumption by the producer between April 1, 2006, and March 31, 2016. Tax credit certificates cannot be issued for renewable energy purchased or produced for on-site consumption after December 31, ~~2021~~ 2024.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period 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 32. Amend rule **701—52.27(422,476C)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476C as amended by ~~2009~~ 2011 Iowa Acts, ~~Senate File 456 and House File 810~~ 672.

ITEM 33. Amend subrule 52.38(1) as follows:

52.38(1) *Amount of tax credit authorized.* Of the \$7.5 million of school tuition organization tax credits authorized for the 2009 and subsequent through 2011 calendar years, no more than 25 percent,

REVENUE DEPARTMENT[701](cont'd)

or \$1,875,000, can be authorized for corporation income tax taxpayers. Of the \$8.75 million of school tuition organization tax credits authorized for 2012 and subsequent calendar years, no more than 25 percent, or \$2,187,500, can be authorized for corporation income taxpayers.

ITEM 34. Amend rule ~~701—52.38(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 as ~~amended by 2009 Iowa Acts, Senate File 470.~~

ITEM 35. Amend subrule 52.39(1) as follows:

52.39(1) Eligibility for the credit. ~~The Iowa department of economic development authority is responsible for developing a system for registration and authorization of projects receiving redevelopment tax credits. Investments in brownfield or grayfield sites must be made on or after January 1, 2009, but before June 30, 2010, to be eligible for the tax credit. The maximum amount of tax credits that can be issued for redevelopment projects is \$1 million in the aggregate, and the amount of credits for any one redevelopment project cannot exceed \$100,000. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits allowed was \$1 million, and the amount of credits authorized for any one redevelopment project could not exceed \$100,000. For fiscal years beginning July 1, 2011, and subsequent fiscal years, the maximum amount of tax credits allowed cannot exceed \$5 million, and the amount of credit authorized for any one redevelopment project cannot exceed \$500,000.~~

ITEM 36. Amend rule ~~701—52.39(15,422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 15.293A as amended by 2011 Iowa Acts, Senate File 514, and section 422.33.

ITEM 37. Amend rule 701—58.13(15E), parenthetical implementation statute, as follows:

701—58.13(15E,422) Endow Iowa tax credit.

ITEM 38. Amend rule ~~701—58.13(15E,422)~~, first unnumbered paragraph, as follows:

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and 2009 calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 ~~and subsequent calendar years~~ is \$2.7 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2011 and subsequent calendar years is \$3.5 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. For example, the total amount of endow Iowa tax credits authorized for the 2011 calendar year is \$4,551,813, so the maximum amount of tax credit authorized to a single taxpayer is \$227,590.65 (\$4,551,813 times 5 percent). The endow Iowa tax credit cannot be transferred to any other taxpayer.

ITEM 39. Amend rule ~~701—58.13(15E,422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections section~~ 15E.305 ~~and 422.60~~ as amended by ~~2010~~ 2011 Iowa Acts, Senate File ~~2380~~ 302, and section 422.60.

ARC 9761B

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 17A.4 and 421.1A(4)“e,” the Property Assessment Appeal Board hereby gives Notice of Intended Action to amend Chapter 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

The amendments to rule 701—71.21(421) in Items 1 to 4 provide for corrections to subrules to remove the old address of the Board. In addition, Item 2 updates the notice of appeal caption.

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 Board for a waiver of the discretionary provisions, if any. Any interested person may make written suggestions or comments on these proposed amendments on or before October 25, 2011. Such written comments should be directed to the Property Assessment Appeal Board, PO Box 10486, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Property Assessment Appeal Board, at (515)725-0338 or at the Property Assessment Appeal Board offices at the Hoover State Office Building, Fourth Floor, 1305 E. Walnut Street, Des Moines, Iowa 50319.

Requests for a public hearing must be received by October 25, 2011.

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

These amendments are intended to implement Iowa Code sections 421.1A and 441.37A and chapter 17A.

The following amendments are proposed.

ITEM 1. Amend paragraph **71.21(7)“b”** as follows:

b. The notice of appeal must be proper in format and content as set forth in subrule 71.21(9), which governs the notice of appeal. Notice of appeal may be delivered in person, mailed by first-class mail, or delivered to an established courier service for immediate delivery to the secretary of the board. ~~The mailing address for the board is Secretary of the Property Assessment Appeal Board, 401 SW 7th Street, Suite D, Des Moines, Iowa 50309-4634.~~

ITEM 2. Amend subrule 71.21(9) as follows:

71.21(9) Form of appeal. The written notice of appeal shall contain a caption in the following form:

THE PROPERTY ASSESSMENT APPEAL BOARD
401 SW 7th STREET, SUITE D
DES MOINES, IOWA 50309-4634

IN THE MATTER OF _____
(Appellant’s name and address)
v.
(Board of Review)



NOTICE OF APPEAL and PETITION
DOCKET NO. _____
(Docket No. assigned by board)

The notice of appeal shall include:

- a. The appellant’s name and mailing address;
- b. A copy of the petition to the local board of review;

REVENUE DEPARTMENT[701](cont'd)

- c. Copies of all evidence submitted to the local board of review in support of the petition to the local board of review;
- d. A copy of the postmarked envelope and a copy of the letter of disposition by the local board of review;
- e. A short and plain statement of the claim showing that the appellant is entitled to relief;
- f. The relief sought; and
- g. The signature of the appealing party or the party's legal representative.

To have legal representation before the board, a party must file a valid and complete power of attorney form as provided by the board or in compliance with the power of attorney form provided by the board.

ITEM 3. Amend subrule 71.21(14), introductory paragraph, as follows:

71.21(14) *Filing of papers.* After the notice of appeal and petition have been filed, either in person, mailed by first-class mail, or delivered to an established courier service for immediate delivery, all motions, pleadings, briefs, and other papers to be filed shall be filed with the secretary at ~~401 SW 7th Street, Suite D, Des Moines, Iowa 50309-4634~~ of the board. Motions, pleadings, briefs, and other papers to be filed with the board shall be delivered in person, mailed by first-class mail, or delivered to an established courier service. Parties shall also send copies to all other parties of record, unless represented by counsel of record, and then to such counsel.

ITEM 4. Amend subrule 71.21(18), introductory paragraph, as follows:

71.21(18) *Notice of hearing.* Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board at ~~401 SW 7th Street, Suite D, Des Moines, Iowa~~. All hearings are open to the public. If a hearing is requested, the secretary shall mail a notice of hearing to the parties at least 30 days prior to the hearing. The notice of hearing shall contain the following information:

ARC 9763B

SECRETARY OF STATE[721]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 22, “Voting Systems,” Iowa Administrative Code.

This amendment is necessary to update the administrative rule to reflect the newest version of voting system testing guidelines, approved by the U.S. Election Assistance Commission (EAC) in 2005. The current administrative rule provides that voting systems approved for use in Iowa must meet the Voting Systems Performance and Test Standards as adopted by the Federal Election Commission on April 30, 2002. Passed in 2002, the Help America Vote Act vested authority for approval of future federal voting system standards with the EAC. The 2005 Voluntary Voting System Guidelines (2005 VVSG) were adopted by the EAC in December 2005 and became effective in December 2007. The first voting systems that have been tested to the new standards and certified by the EAC are beginning to appear on the market. Amending this administrative rule will make it possible for these systems to be considered for approval by the Iowa Board of Voting Equipment Examiners.

Any interested person may make written suggestions or comments on this proposed amendment on or before October 25, 2011. Written suggestions or comments should be directed to Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

SECRETARY OF STATE[721](cont'd)

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-0145 or in person at the Secretary of State's office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by October 25, 2011.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 9762B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

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

This amendment is intended to implement 2011 Iowa Code section 52.5.

ARC 9781B

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

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

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 112, "Primary Road Access Control," and Chapter 115, "Utility Accommodation," Iowa Administrative Code.

The proposed amendments:

- Reaffirm the principle that access to the primary highway system is controlled.
- Renumber subrules.
- Update the Web site address to reflect the Office of Traffic and Safety's home page.
- Identify the permit approval process for access management and utility accommodation.
- Amend and enhance the Department's methodology concerning the evaluation of a proposed allowance.
- Correct the waiver process so the requirements are consistent with all the requirements in 761—Chapter 11.

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)817-6511; Internet E-mail address: tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than October 25, 2011.

A meeting to hear requested oral presentations is scheduled for Thursday, October 27, 2011, at 10 a.m. at the Administration Building, First Floor South Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

After analysis and review of this rule making, no adverse impact on jobs has been found. This rule making should positively impact jobs because it streamlines efficiencies and reduces red tape.

These amendments are intended to implement Iowa Code chapter 306A.

Proposed rule-making actions:

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend rule 761—112.1(306A) as follows:

761—112.1(306A) General information.

112.1(1) *Statement of policy.* The efficiency and safety of a highway depend to a large extent upon the amount and character of interruptions to the movement of traffic. The primary cause of these interruptions is vehicular movements to and from businesses, residences, and other developments along the highway. All primary highways are controlled access facilities. Regulation and overall control of highway access are necessary to provide efficient and safe highway operation and to utilize the full potential of the highway investment.

Accordingly, the department hereby establishes rules for control of access to primary roads highways.

112.1(2) *Information and forms.* Information and forms regarding this chapter may be obtained from any of the department's six district offices; the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or the Internet Web site: <http://www.iowadot.gov/traffic/index.htm>.

~~112.1(2)~~ **112.1(3) *Considerations.*** If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation. The appropriate district office shall include justification for the design in the permit or the highway project file, as applicable. ~~This~~ The appropriate design shall address:

1. a. Safety to the traveling public.
2. b. Perpetuation of the traffic-carrying capacity of the highway.
3. ~~The impact upon the economy of the state.~~
4. c. Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.

d. Topography and geometric limitations and constraints affecting typical engineering standards. Justification for the design must be included in the permit or the highway project file, as applicable.

112.1(4) *Permit approval process.*

a. A district representative may, in response to an application for an access connection to the primary highway system, grant approval for an access permit. The process for inquiring about and applying for an access connection to the primary highway system is through one of the department's six district offices. All applications for access permits must be applied for in the particular district where the entrance is proposed. A district representative will do one of the following: approve the application for an access permit, approve the application for an access permit with conditions, or deny the application for an access permit. The district representative may use the considerations set forth in subrule 112.1(3) in making the decision. The district representative shall notify the applicant of the determination in writing.

b. Upon receipt of a denial letter or if the permit was approved with conditions, the applicant may choose to pursue a waiver from the director of transportation, pursuant to subrule 112.1(5).

~~112.1(3)~~ **112.1(5) *Waivers.*** The director of transportation may, in response to a written request or petition, waive provisions of this chapter. ~~761—Chapter 11 applies, with the following exceptions: in accordance with 761—Chapter 11. The written petition must contain the information as required in 761—subrule 11.5(2) and shall be submitted to the Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.~~

~~a. If a person is applying for an access permit under this chapter, the person shall submit a related waiver request as an addendum to the application, in lieu of petition for waiver. The request must include:~~

- ~~(1) A description of and citation to the specific rule from which a waiver is requested.~~
- ~~(2) The specific waiver requested.~~
- ~~(3) The relevant facts and reasons the applicant believes will justify the waiver, if they have not already been provided to the department in the application. The applicant should address each of the following:~~

1. ~~Why applying the rule will result in an undue hardship to the applicant.~~
2. ~~Why waiving the rule will not prejudice the substantial legal rights of any other person.~~

TRANSPORTATION DEPARTMENT[761](cont'd)

~~3. Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.~~

~~4. How substantially equal protection of the public health, safety, and welfare will be afforded by means other than those prescribed by the rule.~~

~~(4) The names of persons who may be adversely impacted by the grant of the waiver, if known.~~

~~b. In all other cases, a person requesting a waiver shall submit a petition for waiver in accordance with 761—11.5(17A). The petition shall be submitted to the district engineer.~~

~~c. Rescinded IAB 10/12/05, effective 11/16/05.~~

~~d. Rescinded IAB 10/12/05, effective 11/16/05.~~

~~112.1(4) 112.1(6) Waivers involving interstate highways.~~ The department director of transportation shall not waive these rules in access situations involving the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

~~112.1(5) Contact information.~~ Information and forms regarding primary road access control may be obtained from any of the department's six district offices or from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010. Forms are available on the department's Internet Web site at the following address: <http://www.dot.state.ia.us/forms/index.htm>.

ITEM 2. Amend rule 761—115.1(306A) as follows:

761—115.1(306A) General information.

115.1(1) No change.

115.1(2) Information and forms. Information and forms regarding this chapter may be obtained from any of the department's six district offices; the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or the Internet Web site: <http://www.iowadot.gov/traffic/index.htm>.

~~115.1(2) 115.1(3) Considerations.~~ If the department determines that the literal application of these rules to a specific situation will create or result in an unsafe situation or an unreasonable design, the department shall use sound engineering practices to determine the appropriate design for the specific situation. The appropriate district office shall include justification for the design in the permit or the highway project file, as applicable. This The appropriate design shall address:

1. *a.* Safety of motorists, pedestrians, construction workers and other highway users.

2. *b.* Integrity of the highway.

3. ~~The impact upon the economy of the state.~~

4. *c.* Protection of the rights of the traveling public and of property owners, including the rights of abutting property owners.

d. Topography and geometric limitations and constraints affecting typical engineering standards.

~~Justification for the design must be included in the permit or the highway project file, as applicable.~~

115.1(4) Permit approval process.

a. A district representative may, in response to an application for a utility accommodation on the primary highway system grant approval for a utility permit. The process for inquiring about and applying for a utility accommodation on the primary highway system is through one of the department's six district offices. All applications for utility permits must be applied for in the particular district where the utility accommodation is proposed. A district representative will do one of the following: approve the application for a utility permit, approve the application for a utility permit with conditions, or deny the application for a utility permit. The district representative may use the considerations set forth in subrule 115.1(3) in making the decision. The district representative shall notify the applicant of the determination in writing.

b. Upon receipt of a denial letter or if the permit was approved with conditions, the applicant may choose to pursue a waiver from the director of transportation, pursuant to subrule 115.1(5).

~~115.1(3) 115.1(5) Waivers.~~ The director of transportation may, in response to a written request or petition, waive provisions of this chapter. ~~761—Chapter 11 applies, with the following exceptions:~~ in accordance with 761—Chapter 11. The written petition must contain the information as required

TRANSPORTATION DEPARTMENT[761](cont'd)

in 761—subrule 11.5(2) and shall be submitted to the Office of Policy and Legislative Services, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

a.—If a person is applying for a utility permit under this chapter, the person shall submit a related waiver request as an addendum to the application, in lieu of petition for waiver. The request must include:

(1) A description of and citation to the specific rule from which a waiver is requested.

(2) The specific waiver requested.

(3) The relevant facts and reasons the applicant believes will justify the waiver, if they have not already been provided to the department in the application. The applicant should address each of the following:

1. Why applying the rule will result in an undue hardship to the applicant.

2. Why waiving the rule will not prejudice the substantial legal rights of any other person.

3. Whether the provisions of the rule are specifically mandated by statute or another law other than the rule.

4. How substantially equal protection of the public health, safety, and welfare will be afforded by means other than those prescribed by the rule.

(4) The names of persons who may be adversely impacted by the grant of the waiver, if known.

b.—In all other cases, a person requesting a waiver shall submit a petition for waiver in accordance with 761—11.5(17A). The petition shall be submitted to the district engineer.

c.—Rescinded IAB 10/12/05, effective 11/16/05.

d.—Rescinded IAB 10/12/05, effective 11/16/05.

115.1(4) 115.1(6) *Additional requirement for waivers involving interstate highways.* The department director of transportation shall not waive these rules in utility accommodation and adjustment situations involving the interstate highway system, including its ramps, without the approval of the Federal Highway Administration.

115.1(5) *Contact information.* Information and forms regarding this chapter may be obtained from any of the department's six district offices or from the Office of Traffic and Safety, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

October 1, 2010 — October 31, 2010	4.75%
November 1, 2010 — November 30, 2010	4.75%
December 1, 2010 — December 31, 2010	4.50%
January 1, 2011 — January 31, 2011	4.75%
February 1, 2011 — February 28, 2011	5.25%
March 1, 2011 — March 31, 2011	5.50%
April 1, 2011 — April 30, 2011	5.50%
May 1, 2011 — May 31, 2011	5.50%
June 1, 2011 — June 30, 2011	5.50%
July 1, 2011 — July 31, 2011	5.25%
August 1, 2011 — August 31, 2011	5.00%
September 1, 2011 — September 30, 2011	5.00%
October 1, 2011 — October 31, 2011	4.25%

ARC 9802B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.5(1)“m,” the Iowa Finance Authority hereby amends Chapter 39, “HOME Partnership Program,” Iowa Administrative Code.

The purpose of this amendment is to revise paragraph “a” of subrule 39.4(1) to reflect more accurately the manner in which the HOME Partnership Program has been administered in the past until previously approved rules can be fully implemented.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that assistance to home buyers is needed immediately, and the normal notice and public participation process would delay implementation of certain assistance and important clarifications of rules.

The Authority finds that this amendment confers a benefit on low-income home buyers, in that the amendment provides clarity and consistency with prior practices and eases and speeds the administration of an important program benefiting low-income home buyers. This amendment should be implemented as soon as feasible in order to avoid a disruption in the provision of assistance under the program; therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

Paragraph 39.4(1)“a,” subparagraph (3), is also amended in an Adopted and Filed rule making published herein as **ARC 9764B**. That rule making, which will become effective November 9, 2011, adds the words “with net proceeds” to the last sentence of the subparagraph. The amendment to 39.4(1)“a”(3) in **ARC 9764B** and the amendment in this rule making have been simultaneously incorporated into the Iowa Administrative Code.

The Authority adopted this amendment on September 16, 2011.

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

This amendment is intended to implement Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 12701, et seq.

This amendment became effective on September 16, 2011.

The following amendment is adopted.

Amend paragraph **39.4(1)“a”** as follows:

a. Assisted units shall be affordable.

(1) and (2) No change.

(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single family housing in the area single family mortgage limits under Section 203(b) of the National Housing Act established in February 2008 for home buyers with purchase agreements fully executed before February 15, 2012. For all home buyers with purchase agreements executed on or after February 15, 2012, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the HUD after rehabilitation value limits for median sales price by county. Assisted units shall remain affordable through recapture or resale provisions for a specified period: 5 years for projects receiving

IOWA FINANCE AUTHORITY[265](cont'd)

less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.

[Filed Emergency 9/16/11, effective 9/16/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9762B

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 22, "Voting Systems," Iowa Administrative Code.

This amendment is necessary to update the administrative rule to reflect the newest version of voting system testing guidelines, approved by the U.S. Election Assistance Commission (EAC) in 2005. The current administrative rule provides that voting systems approved for use in Iowa must meet the Voting Systems Performance and Test Standards as adopted by the Federal Election Commission on April 30, 2002. Passed in 2002, the Help America Vote Act vested authority for approval of future federal voting system standards with the EAC. The 2005 Voluntary Voting System Guidelines (2005 VVSG) were adopted by the EAC in December 2005 and became effective in December 2007. The first voting systems that have been tested to the new standards and certified by the EAC are beginning to appear on the market. Amending this administrative rule will make it possible for these systems to be considered for approval by the Iowa Board of Voting Equipment Examiners.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because these voting system standards have been thoroughly vetted by the EAC, and all voting equipment used in the state must still be approved for use by the Iowa Board of Voting Equipment Examiners. The amended rule confers benefits to Iowa county commissioners of elections, boards of supervisors and voters by allowing the Iowa Board of Voting Equipment Examiners to approve systems that are built and tested to the most recent federally certified voting system standards. This amendment has the potential of providing additional choices for county boards of supervisors needing to purchase new voting systems.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment made effective upon filing. The normal effective date should be waived because this is a technical change, simply adding the most recent voting system standards adopted by the EAC to an existing administrative rule.

This amendment is also published herein under Notice of Intended Action as **ARC 9763B** to allow for public comment.

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

This amendment is intended to implement 2011 Iowa Code section 52.5.

This amendment became effective September 8, 2011.

The following amendment is adopted.

Amend rule 721—22.2(52) as follows:

721—22.2(52) Voting system standards. All electronic voting systems approved for use by the board of examiners after April 9, 2003, shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002, or the 2005 Voluntary Voting Systems Guidelines, as adopted by the U.S. Election Assistance Commission in December 2005. The report of

SECRETARY OF STATE[721](cont'd)

an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

[Filed Emergency 9/8/11, effective 9/8/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9777B

CREDIT UNION DIVISION[189]

Adopted and Filed

Pursuant to the authority of Iowa Code section 533.104, the Credit Union Division hereby amends Chapter 18, "Maintenance of Allowance for Loan Losses Account," Iowa Administrative Code.

The amendments serve to clarify the Division's expectations regarding methodologies and support for the Allowance for Loan and Lease Losses (ALLL). The amendments are intended to provide the necessary parallel guidance issued in Interpretive Rulings & Policy Statements (IRPS) 02-3 by the National Credit Union Administration for all federally insured credit unions.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 10, 2011, as **ARC 9672B**. No comments were received. These amendments are identical to those published under Notice.

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

These amendments are intended to implement Iowa Code chapter 533.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Amend **189—Chapter 18**, title, as follows:

MAINTENANCE OF ALLOWANCE FOR LOAN AND LEASE LOSSES ACCOUNT

ITEM 2. Amend rule **189—18.1(533)**, definitions of "Allowance for loan losses" and "Provision for loan losses," as follows:

~~"Allowance for loan and lease losses" means a valuation account of the general ledger that is established for the purpose of disclosing and recognizing probable loan losses and is reported as a reduction to the loan asset whenever the credit union's financial statement is generated.~~ means an estimate of loan and lease losses in the entire loan portfolio, including estimated inherent losses, in conformity with generally accepted accounting principles and which meets regulatory requirements for full and fair disclosure of the financial statements.

"Provision for loan and lease losses" means an expense account of the general ledger to which debit or credit adjustments to the allowance for loan and lease losses ~~account~~ are charged.

ITEM 3. Rescind the definitions of "Contingency," "Financial statement," "General ledger," "Loan classified as doubtful," "Loan classified as loss" and "Loan classified as substandard" in rule **189—18.1(533)**.

ITEM 4. Amend rule 189—18.3(533) as follows:

189—18.3(533) Generally accepted accounting principles.

18.3(1) Credit union financial statements shall be prepared in accordance with generally accepted accounting principles (GAAP), except for authorized intentional regulatory accounting practices (RAP) which may differ, and shall provide for the complete and accurate disclosure of all assets, liabilities, and equity, including any valuation allowance accounts as may be necessary to correctly present the financial position; and all income and expenses necessary to correctly present the results of operations for the period concerned. ~~The financial statement shall be prepared and made available within 15 days after the end of each month showing the condition of the credit union as of the close of business on the last business day of the month.~~

18.3(2) The financial statement shall be prepared and made available within 15 days after the end of each month and shall show the condition of the credit union as of the close of business on the last business day of the month.

~~**18.3(2)**~~ **18.3(3)** Complete and accurate disclosure shall be required of a credit union so as to provide for a level of disclosure to any person or entity in order to clearly and objectively inform them of the financial condition and the results of operations of the credit union.

CREDIT UNION DIVISION[189](cont'd)

~~18.3(3) Valuation allowance accounts shall be required of a credit union to provide for the net presentation of loan amounts without actually writing off estimated losses or expenses.~~

ITEM 5. Amend rule 189—18.4(533) as follows:

189—18.4(533) Allowance for loan and lease losses.

~~18.4(1) Loans outstanding should be recorded to reflect the outstanding balance due the credit union and adjusted by the establishment of an allowance for loan losses account through periodic charges to operating expenses. This credit balance account reflects the amount set aside by the credit union to provide a cushion to absorb losses on outstanding loans. The amount carried in this account shall represent possible losses which may be incurred in the normal payoff of outstanding loans, and shall be considered as a deduction from total loans shown on the financial statement in order that the asset reflects fair market value. an amount at least equal to reasonably foreseeable loan and lease losses. Each credit union is required to establish and maintain a methodology to determine the amount needed in the allowance for loan and lease losses account in accordance with generally accepted accounting principles (GAAP).~~

~~18.4(2) A credit union may, at its option, establish separate allowance accounts for each of its various categories of loans, i.e., allowance for loan losses—consumer loans, allowance for loan losses—lines of credit, etc. The credit union's board of directors must adopt a policy ensuring that loans are charged off in a timely manner.~~

~~18.4(3) Periodic adjustment of the allowance for loan losses account shall be required to provide for the disclosure of the credit union's best estimate of potential losses which will be sustained in the liquidation of current outstanding loans. As At a minimum, the account shall be adjusted at least quarterly or prior to the end of each dividend period, or more often as required. The amount of the periodic adjustments shall be determined by the credit union after all charge-offs and recoveries applicable to the period have been recorded. Periodic adjustments to the allowance for loan and lease losses account will be charged to the provision for loan and lease losses account.~~

~~18.4(4) The credit union shall maintain full and complete documentation of the determination of the balance in the allowance for loan and lease losses account.~~

~~18.4(4) 18.4(5) The maintenance of an allowance for loan and lease losses account shall not eliminate the requirement for transferring the percentage of gross income before the payment of a dividend to the credit union's regular reserves as required by Iowa Code chapter 533.~~

~~18.4(5) Credit unions shall be required to use an acceptable method of adjusting the allowance for loan losses account, such as, but not limited to, the "adjustment method" or "experience method." There is no one method that is preferable. The method used by a credit union shall be consistent, comprehensive, logical, and relevant to the credit union's circumstances, and the calculation shall be comprehensive, taking into account the risks inherent in the various types of lending.~~

ITEM 6. Amend rule 189—18.5(533), catchwords, as follows:

189—18.5(533) Allowance for loan and lease losses computation.

ITEM 7. Amend subrule 18.5(1) as follows:

~~18.5(1) The credit union shall perform a review of all loans to determine potential losses which will be sustained in collection and to establish an adequate allowance for loan losses account. The estimate shall be based on the best judgment of the credit union officials and take all pertinent factors into consideration including, but not limited to: Credit unions are responsible for determining an adequate allowance for loan and lease losses account and adopting a reasonable methodology for doing so. In determining the appropriate allowance, each credit union shall:~~

- ~~a. Separate the loan portfolio into homogenous loan pools based on common risk factors;~~
- ~~b. Calculate the net loss percentage of each pool, using the historical loss or adjusted loss method which includes consideration of: loan delinquency status of two months or more; collection experience of the credit union; unusual economic conditions that may affect collectibility; availability of pledged~~

CREDIT UNION DIVISION[189](cont'd)

shares; collateral, security, or endorsers; insured FHA or educational loan coverage guaranteed status; and the general credit reputation of the borrowers;

c. Individually classify loans with unique characteristics;

d. Add the resulting amounts to determine the amount needed in the allowance for loan and lease losses account.

ITEM 8. Rescind subrules **18.5(2)** to **18.5(4)**.

ITEM 9. Renumber subrule **18.5(5)** as **18.5(2)**.

ITEM 10. Amend renumbered subrule 18.5(2) as follows:

18.5(2) ~~The allowance for loan losses account should include estimated amounts to cover loan losses which may result from specifically identified troubled or classified loans, pools of classified loans, pools of loan types or credit instruments, and a general portion of all other loans and credit instruments for inherent losses. Credit unions are responsible for determining an adequate allowance for loan losses account, and adopting a reasonable methodology for doing so. If a credit union fails to determine an adequate and reasonable allowance for loan and lease losses account which will result in the fair presentation of its financial statement, the superintendent may require additional amounts to be set aside as provided by Iowa Code chapter 533.~~

ITEM 11. Amend rule 189—18.6(533) as follows:

189—18.6(533) Accounting treatment.

18.6(1) The allowance for loan and lease losses account shall be charged with the amount of the uncollectible loans which have been authorized for ~~write-off~~ charge-off by the board of directors or as directed by the superintendent. Likewise, recoveries on loans charged off shall be credited to this account.

18.6(2) Routine periodic adjustments to the allowance for loan and lease losses account, accomplished during an accounting or dividend period within the current fiscal year, shall be made by a charge to the provision for loan and lease losses account.

18.6(3) Prior period adjustments to the allowance for loan and lease losses account, within the current fiscal year, may be permitted only in relation to the correction of an error in a prior period financial statement. These corrections shall be accounted for and reported in the same manner as routine periodic adjustments, and shall be charged to the current period expenses through the provision for loan and lease losses ~~account~~.

18.6(4) Prior period adjustments to the allowance for loan and lease losses account, outside of the current fiscal year, may be permitted only in relation to the correction of an error in the previous fiscal year financial statement. These corrections shall be accounted for and reported as a charge to the undivided earnings account. If the result of this correction would create a deficit balance in the undivided earnings account, the deficiency so created may be transferred to other segregations of undivided earnings or to the legal reserve account, subject to the prior approval of the superintendent.

18.6(5) If a deficit is created in the legal reserve account, through the establishment or maintenance of the allowance for loan and lease losses account, the deficit shall be transferred first to undivided earnings and, if this shall cause a deficit in undivided earnings, then to other segregations of undivided earnings that may exist, exclusive of the special reserve account should it be required by the superintendent.

18.6(6) The superintendent may waive, in whole or in part, the requirement for the maintenance of the allowance for loan and lease losses account which is in excess of the statutory reserve requirements of Iowa Code chapter 533 but is required under this chapter. Such waiver shall be as a result of written

CREDIT UNION DIVISION[189](cont'd)

application from the directors of a credit union and shall set forth their justification for the requested waiver.

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9778B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 156, "Payments for Foster Care," Iowa Administrative Code.

These amendments reflect an increase in maintenance payments and initial allowance for supervised apartment living placements as published in the Department's Request for Proposal ACFS-11-15. The previous maintenance payment was based upon the foster family maintenance payment for children aged 16 to 20 and has increased only \$88 since 1998. Based on economies of scale, one child living in an apartment and covering all expenses other than medical requires a higher maintenance payment to maintain safe and stable housing. These amendments increase the maintenance payment from \$573.90 per month to \$750 per month and increase the initial allowance from \$400 to \$600.

The amendments also make technical changes to update the legislative reference for freezing foster family payments rather than setting them according to the USDA estimated costs for raising a child as required in Iowa Code section 234.38.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9625B**. The Department received no comments on the Notice of Intended Action.

One technical change has been made to the amendments published under Notice of Intended Action. New Item 4 has been added to correct an address and the subsequent item has been renumbered.

The Council on Human Services adopted these amendments on September 14, 2011.

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

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

These amendments are intended to implement Iowa Code section 234.35 and 2011 Iowa Acts, House File 649, section 28(4).

These amendments shall become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **441—156.6(234)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 234.38 and ~~2010~~ 2011 Iowa Acts, ~~House File 2526, section 33(4), and House File 2531~~ 649, section 28(4).

ITEM 2. Amend subrule 156.8(2) as follows:

156.8(2) Supervised apartment living. ~~When~~ Effective July 1, 2011, when a youth child is initially placed in supervised apartment living, the service area manager or designee may authorize an allowance not to exceed ~~\$400~~ \$600 if the ~~youth~~ child does not have sufficient resources to cover initial costs.

ITEM 3. Adopt the following new implementation sentence in rule **441—156.8(234)**:

This rule is intended to implement Iowa Code section 234.35.

ITEM 4. Amend paragraph **156.9(2)“b”** as follows:

b. Procedure. The service area manager or chief juvenile court officer shall submit the request for director's exception to the ~~Bureau of Policy Analysis~~ Appeals Section, Department of Human Services, Fifth Floor, Hoover State Office Building, Des Moines, Iowa 50319-0114. This request shall be made

HUMAN SERVICES DEPARTMENT[441](cont'd)

in advance of placing the child and should allow a minimum of two weeks for a response. The request shall contain documentation addressing the criteria for director's approval listed in 156.9(2) "a."

ITEM 5. Amend rule 441—156.12(234) as follows:

441—156.12(234) Supervised apartment living.

156.12(1) Maintenance. ~~When~~ Effective July 1, 2011, when a youth child at least aged 16½ but under the age of 20 is living in a supervised apartment living situation, the ~~maximum~~ monthly maintenance payment for the youth child shall be ~~\$573.90~~ \$750. This payment may be paid to the youth child or another payee, other than a department employee, for the youth's ~~care~~ child's living expenses.

156.12(2) No change.

This rule is intended to implement Iowa Code section 234.35 and 2011 Iowa Acts, House File 649, section 28(4).

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9779B

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 158, "Foster Home Insurance Fund," Iowa Administrative Code.

These amendments update 441—Chapter 158 to conform to statutory changes made by 2011 Iowa Acts, Senate File 482. Division II of that legislation amended Iowa Code section 237.13, foster home insurance fund, to:

- Strike language referring to a guardian appointed on a voluntary petition pursuant to Iowa Code section 232.178 or a voluntary petition of a ward pursuant to Iowa Code section 633.557 and a conservator appointed on a voluntary petition of a ward pursuant to Iowa Code section 633.572 for purposes of defining a "foster home."
- Strike language pertaining to guardians and conservators receiving payment from the fund for legal fees incurred in defending against a suit filed by a ward or the ward's representative and damages awarded as a result of the suit.

These amendments remove corresponding language from the rules and update references. These changes will reserve coverage for licensed foster parents associated with the Department's family foster care program.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9636B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on September 14, 2011.

These amendments do not provide for waivers in specified situations because the Department has no authority to waive statutory provisions. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

These amendments shall become effective on November 9, 2011.

The following amendments are adopted.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Rescind and reserve subrule **158.1(2)**.

ITEM 2. Amend rule 441—158.2(237) as follows:

441—158.2(237) Payment limits. The fund is not liable for the first \$100 for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for ~~claims damages~~ in excess of \$300,000 for all claims ~~based on~~ arising out of one or more occurrences during a fiscal year related to a single home.

ITEM 3. Amend rule 441—158.4(237) as follows:

441—158.4(237) Time frames for filing claims.

1- **158.4(1)** Claims by children who were under the age of 18 at the time of the occurrence shall be submitted within two years of the date of the occurrence; or after the child's eighteenth birthday, but before the child's nineteenth birthday.

2- **158.4(2)** Claims by persons who were aged 18 or older at the time of the occurrence, ~~parents, foster parents, guardians, or guardians ad litem~~ shall be submitted within two years of the occurrence.

3- **158.4(3)** Claims by foster parents ~~and by guardians or conservators~~ pursuant to ~~subrules paragraph 158.1(1) "c" and 158.1(2)~~ for legal fees or court-ordered judgments shall be submitted within two years of the date of the judgment.

ITEM 4. Amend **441—Chapter 158**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9803B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(1)"r" and 16.54, the Iowa Finance Authority hereby amends Chapter 27, "Military Service Member Home Ownership Assistance Program," Iowa Administrative Code.

The purpose of these amendments is to clarify the requirements of the Military Service Member Home Ownership Assistance Program and to implement Iowa Code section 16.54.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 29, 2011, as **ARC 9590B**. The Authority received no public comment on the proposed amendments and made no changes to the amendments as noticed.

The Iowa Finance Authority adopted these amendments on September 16, 2011.

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

These amendments are intended to implement Iowa Code sections 16.5(1)"r" and 16.54.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **265—27.2(16)**, definition of "Qualified mortgage," as follows:

"*Qualified mortgage*" means a permanent mortgage loan made pursuant to one of the authority's home buyer mortgage programs unless the lender offers a lower annual percentage interest rate (APR), fixed-rate, fully amortizing first mortgage or, in cases where the home buyer is not eligible for standard 30-year, fixed-rate FHA, RD, VA, Fannie Mae, or Freddie Mac mortgage financing, any permanent, fully amortizing, ~~fixed-rate~~ mortgage loan made by a participating lender with a maturity date of not

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less than five years. The authority's home buyer mortgage program information may be obtained on the authority's Web site at www.iowafinanceauthority.gov.

ITEM 2. Amend subrule 27.3(2) as follows:

27.3(2) *Financed home purchases.*

a. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority's home buyer mortgage programs if the service member qualifies for it, unless lower APR, fixed-rate, fully amortizing mortgage financing is available or unless another permanent, ~~fixed-rate~~, fully amortizing mortgage loan is available if the service member does not qualify for one of the authority's home buyer mortgage programs.

b. to d. No change.

e. ~~Service members~~ A service member who were was otherwise eligible for the program and closed on a home on or after July 1, 2008, and prior to July 1, 2010, but who were was ineligible for assistance under the program at the during that time of closing due to the fact that they the service member purchased a home using a mortgage loan other than one made through one of IFA's with financing from a lender that was not a participating lender in the authority's home buyer programs, may retroactively receive assistance under the program provided that:

(1) The mortgage loan used by the service member had a lower annual percentage rate than the mortgage loans being made through the authority's home buyer programs at the time the service member closed on the service member's mortgage loan; ~~and~~

(2) The service member and the service member's lender provide all documentation as required by paragraphs "*b*" through "*d*," above; and

(3) The financing lender becomes a facilitating lender pursuant to 27.3(7).

ITEM 3. Amend **265—Chapter 27**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 16.5(1) "*r*" and ~~section~~ 16.54 as ~~amended by 2010 Iowa Acts, House File 2148.~~

[Filed 9/16/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9764B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1) "*b*," 16.5(1) "*r*," and 16.5(1) "*m*," the Iowa Finance Authority hereby amends Chapter 39, "HOME Partnership Program," Iowa Administrative Code.

The purpose of these amendments is to revise the rules to more fully take advantage of opportunities allowed under federal law to better benefit low-income housing in the state of Iowa.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9644B**. The Authority received public comment on the proposed amendments. In response to the public comment received, the Authority has made the following changes to the amendments as published under Notice: The definition of "developer" in rule 265—39.2(16) was revised to state those things to which the development process applies; the definition of "subrecipient" was revised to state that the term includes a state recipient pursuant to 24 CFR 92.201(b)(2) and to clarify that eligible activities to be administered by a subrecipient are tenant-based rental assistance and home ownership assistance without development subsidies; the proposed changes in subrule 39.4(1), introductory paragraph, that would have limited eligible activities in the case of rental housing rehabilitation (including conversion

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and preservation) or rental housing new construction to projects involving five or more units were not adopted; and the amendment to subrule 39.9(4) was expanded to provide that IFA shall retain up to 10 percent of the HOME funds for development subsidies from payment to the developer until 30 days after the recipient satisfactorily completes the work and full occupancy of the HOME-assisted units is attained, and that, at IFA's discretion, up to 5 percent of the HOME funds for home buyer and tenant-based rental assistance activities may be retained from payment to the subrecipient for program or administrative costs until the final closeout documents are submitted to and approved by IFA.

In addition, subparagraph 39.4(1)"a"(3), which is amended in this rule making to add the words "with net proceeds" to the last sentence of the subparagraph, is also amended in an Adopted and Filed Emergency rule making published herein as **ARC 9802B**. In **ARC 9802B**, subparagraph 39.4(1)"a"(3) is amended to temporarily adjust the base home purchase price eligibility limits. That amendment became effective on September 16, 2011. The amendment in **ARC 9802B** and the amendment to subparagraph 39.4(1)"a"(3) in this rule making have been simultaneously incorporated into the Iowa Administrative Code.

The Iowa Finance Authority adopted these amendments on September 7, 2011.

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

These amendments are intended to implement Iowa Code section 16.5(1)"m" and 42 U.S.C. Sections 12701 et seq.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following new definitions in rule **265—39.2(16)**:

"*Developer*" means any individual or entity responsible for initiating and controlling the development process and ensuring that all phases of the development process, or any material portion thereof, are accomplished. The development process applies to transitional housing, rental housing, rehabilitation, rental housing new construction, and homeowner assistance with development subsidies.

"*IDIS*" means the HUD Integrated Disbursement and Information System.

"*Subrecipient*" means a public agency or nonprofit organization selected by IFA to administer all or a portion of an activity under the HOME program. "Subrecipient" includes a state recipient pursuant to 24 CFR 92.201(b)(2). A public agency or nonprofit organization that receives HOME funds as a developer or owner of housing is not a subrecipient. The selection of a subrecipient by IFA is not subject to the procurement procedures and requirements under federal or state law. Eligible activities to be administered by a subrecipient are tenant-based rental assistance and home ownership assistance without development subsidies.

ITEM 2. Amend rule **265—39.2(16)**, definition of "CHDO," as follows:

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

ITEM 3. Rescind the definition of "IDED" in rule **265—39.2(16)**.

ITEM 4. Amend rule 265—39.4(16) as follows:

265—39.4(16) Eligible activities and forms of assistance.

39.4(1) Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance that includes some form of direct subsidy to the home buyer (including development subsidies), and other housing-related activities as may be deemed appropriate by IFA. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

a. Assisted units shall be affordable.

(1) and (2) No change.

(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price

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as established by HUD mortgage limits for the same type of single-family housing in the area. Assisted units shall remain affordable through recapture with net proceeds or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.

b. to d. No change.

39.4(2) and **39.4(3)** No change.

39.4(4) Program income must be returned to IFA except in the following instances:

a. Subrecipients who receive program income shall reduce the HOME draw amount requested by the amount of program income received and must report to IFA the amount and source of the program income.

b. CHDOs that have an IFA-approved reuse plan and a written agreement that specifies that program income may be retained by the CHDO may use program income as CHDO proceeds.

ITEM 5. Amend rule 265—39.6(16) as follows:

265—39.6(16) Application requirements. To be considered for HOME assistance, an application shall meet the following threshold criteria.

39.6(1) No change.

39.6(2) The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IFA reserves ~~the right~~ sole discretion to deny funding to an applicant that has failed to comply with federal or state requirements in the administration of a previous project funded by the state of Iowa or that failed to comply with federal requirements in the administration of a previous project funded in any other state. Documentation of the ability of the applicant to provide technical services and the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the HOME fund activity.

39.6(3) to **39.6(6)** No change.

39.6(7) Local participating jurisdiction requirement. ~~An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IFA HOME funds requested. Sources of local PJ financial commitment may include one or more of the following: HOME, community development block grant, tax increment financing, tax abatement, or general funds; the value of waived taxes, fees or charges associated with HOME projects; the value of donated land or real property; the cost of infrastructure improvements associated with HOME projects; and the contracted commitment to provide the direct costs of supportive services to residents of HOME projects provided by a city-owned agency using nonfederal funds.~~ Maximum per-unit subsidy amount and subsidy layering. The following shall apply to all applications:

a. The total amount of HOME funds awarded on a per-unit basis may not exceed the per-unit dollar limitations established under Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located.

b. IFA shall evaluate the project in accordance with subsidy layering guidelines adopted for this purpose.

c. The total amount of HOME funds awarded on a per-unit basis cannot exceed the pro rata or fair share of the total project costs when compared to a similar unit in a rental activity.

39.6(8) An application for a home ownership assistance activity must indicate that recipients will require the beneficiaries of the applicant's home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

a. No change.

b. The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME ~~fund~~ home ownership assistance ~~activities~~ must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other form

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of assistance, such as home equity loans. A home buyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.

c. and *d.* No change.

39.6(9) An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time home buyers only and that the assisted unit will remain as the assisted home buyer's principal residence throughout the required period of affordability, which must be verified annually by the subrecipient. If the assisted home buyer fails to maintain the home as the principal residence during the affordability period, then all HOME funds associated with that address must be repaid to IFA.

39.6(10) An application for a home ownership assistance activity must stipulate that all assisted units will be insured for at least the full value of the assisted unit, which must be verified annually by the subrecipient.

ITEM 6. Amend rule 265—39.8(16) as follows:

265—39.8(16) Allocation of funds.

39.8(1) to **39.8(3)** No change.

39.8(4) ~~Reserved.~~ Not more than 5 percent of the state's annual HOME allocation may be reserved for CHDO operating expenses.

39.8(5) No change.

39.8(6) Awards shall be limited to no more than ~~\$500,000~~ \$600,000 for all single-family activities assisting ~~homeowners~~ or home buyers. Awards shall be limited to no more than ~~\$900,000~~ \$1,000,000 for all multifamily rental activities.

39.8(7) Single-family per unit subsidies.

a. and *b.* No change.

c. Assistance for single-family activities providing development subsidies for newly constructed housing is limited to ~~\$20,000~~ \$30,000 per unit. Development subsidies ~~may~~ shall only be provided in addition to ~~acquisition~~ direct subsidies within home buyer assistance activities. When a development subsidy is used in combination with home buyer assistance activities, assistance is limited to \$35,000 per unit, inclusive of all costs.

39.8(8) Multifamily per unit subsidies. The maximum per unit HOME funds subsidy for all multifamily activities is ~~\$60,000~~ \$70,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The ~~\$60,000~~ \$70,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.

39.8(9) ~~Recipients~~ Subrecipients shall identify general administrative costs in the HOME funds application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME funds award. Only local government and nonprofit recipients are eligible for general administrative funds. Subrecipients must certify that all general administrative costs reimbursed by HOME funds are separate from and not reimbursed by HOME funds as technical services costs.

39.8(10) and **39.8(11)** No change.

ITEM 7. Amend rule 265—39.9(16) as follows:

265—39.9(16) Administration of awards. Applicants selected to receive HOME funds awards shall be notified by letter from the IFA executive director or IFA affordable rental production division director.

39.9(1) ~~Preaudit survey.~~ A preaudit survey may be required for all for-profit and nonprofit direct recipients for assistance that exceeds \$150,000.

39.9(2) *Contract.* A contract shall be executed between the recipient and IFA. These rules, the approved application, the IFA HOME ~~Management Program~~ Guide for the specified activity and all applicable federal and state laws and regulations shall be part of the contract.

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a. to e. No change.

39.9(3) Local administrative and technical services contracts.

a. ~~Recipients Subrecipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed to perform the general administrative functions for home ownership assistance and tenant-based rental assistance activities shall enter into a contract for services with IFA.~~

b. Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed. The procurement must follow 24 CFR Part 84 and 24 CFR Part 85, when necessitated by those regulations.

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

39.9(4) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds. Adequate and itemized documentation supporting the amount of funds requested must be provided and approved by IFA prior to release of funds. IFA shall retain up to 10 percent of the HOME funds for development subsidies from payment to the recipient until 30 days after the recipient satisfactorily completes the work and full occupancy of the HOME-assisted units is attained. At IFA's discretion, up to 5 percent of the HOME funds for home buyer and tenant-based rental assistance activities may be retained from payment to the subrecipient for program or administrative costs until the final closeout documents are submitted to and approved by IFA.

39.9(5) Record keeping and retention.

a. No change.

b. Representatives of IFA, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a HOME funds award; to the total project receipts and expenditures related to new construction, acquisition, or rehabilitation; and to any records maintained by third-party administrators for general administration or technical services for the HOME-funded project. IFA reserves the right to demand any and all additional records and documents that may relate to the HOME award.

39.9(6) and 39.9(7) No change.

39.9(8) Contract Work completion closeout. Upon the contract expiration date or work completion date, as applicable, and IFA's receipt of final draw and completion documentation, IFA shall initiate closeout procedures in IDIS. Recipients shall comply with applicable audit requirements, ~~quarterly~~ performance reports and Section 3 requirements and provide other required documents described in the HOME funds application, the contract, the IFA HOME Management Program Guide, and any other IFA HOME partnership program policies and procedures.

39.9(9) to 39.9(11) No change.

[Filed 9/8/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9790B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89.14(5), the Boiler and Pressure Vessel Board amends Chapter 90, "Administration of the Boiler and Pressure Vessel Program," and Chapter 91, "General Requirements for All Objects," Iowa Administrative Code.

The amendments rescind paragraph 91.1(1)"c" relating to international boiler and pressure vessel codes and make conforming changes.

The purposes of these amendments are to protect the safety of the public and implement legislative intent.

Notice of Intended Action was published in the May 18, 2011, Iowa Administrative Bulletin as **ARC 9511B**. No public comment was received on the proposed amendments. These amendments are identical to those that were published under Notice of Intended Action.

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 81.

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

These amendments are intended to implement Iowa Code chapter 89.

These amendments shall become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Rescind the definitions of "BSI," "CSA," "DIN" and "JIS" in rule **875—90.2(89,261,252J,272D)**.

ITEM 2. Amend rule **875—90.2(89,261,252J,272D)**, definition of "Construction or installation code," as follows:

"Construction or installation code" means the applicable ~~recognized national or international~~ standard for construction or installation in effect at the time of installation ~~such as ASME, DIN, BSI, JIS or CSA.~~

ITEM 3. Rescind and reserve paragraph **91.1(1)"c."**

[Filed 9/15/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9782B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Pharmacy hereby amends Chapter 2, "Pharmacist Licenses," Iowa Administrative Code.

The amendments require that a pharmacist complete no less than 0.2 continuing education units (CEUs) in activities dealing with patient or medication safety and that a pharmacist complete no less than 0.2 CEUs in activities dealing with pharmacy law. The pharmacy law credits shall be obtained through Accreditation Council for Pharmacy Education (ACPE)-accredited provider activities; the patient or medication safety credits may be obtained through ACPE-accredited provider activities or through non-ACPE provider activities if those activities are provided by an accredited health-professional continuing education provider, such as a continuing medical education (CME) provider, and if the activity content directly relates to the pharmacist's professional practice. The rules continue to require that a pharmacist complete at least 50 percent of the total required continuing education credits, or 1.5 CEUs, in ACPE-accredited provider activities dealing with drug therapy. The amendments do not change the total number of continuing education credits required for pharmacist license renewal.

PHARMACY BOARD[657](cont'd)

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 June 15, 2011, Iowa Administrative Bulletin as **ARC 9554B**. The Board received written comments regarding the proposed amendments. One commenter objected to any identification by the Board of required continuing education subject matter, suggesting that pharmacists should be permitted to use their professional judgment to determine the course subjects that would be most beneficial to a pharmacist's practice. The other commenter supported the identification of the specific requirements for continuing education activities in medication safety and pharmacy law. The same commenter also suggested that the Board require that all pharmacist continuing education be obtained through ACPE-accredited provider activities. The adopted amendments are identical to those published under Notice.

The amendments were approved during the September 13, 2011, meeting of the Board of Pharmacy. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 147.10, 155A.11, and 272C.3.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Amend subrule 2.12(1) as follows:

2.12(1) Continuing education activity attendance. Continuing education activities that carry the seal of an Accreditation Council for Pharmacy Education (ACPE)-accredited provider will automatically qualify for continuing education credit. Attendance is mandated in order for a pharmacist to receive credit unless the activity is an ACPE-accredited correspondence course.

a. Non-ACPE provider activity. A maximum of ~~50 percent~~ 1.3 CEUs (13 contact hours) of the total 3.0 CEUs of continuing education credits required pursuant to subrule 2.12(4) may be obtained through completion of non-ACPE provider activities if such activities are provided by an accredited health-professional continuing education provider, such as a continuing medical education (CME) provider, and if the activity content directly relates to the pharmacist's professional practice. The pharmacist is responsible for ensuring that the activity content directly relates to the pharmacist's professional practice. In addition, if one or more non-ACPE provider activities are intended to fulfill the requirement in paragraph 2.12(4) "c," the pharmacist is responsible for ensuring the activity content relates to patient or medication safety.

b. Exemption for health-related graduate studies. A pharmacist who is continuing formal education in health-related graduate programs, including participation in a pharmacy residency program, may be exempted from meeting the continuing education requirements during the period of such enrollment or participation. An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program or commencement of the pharmacy residency program and prior to completion of the qualifying program, on forms provided by the board office. At the discretion of the board, exemption during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

ITEM 2. Amend subrule 2.12(4) as follows:

2.12(4) Continuing education activity topics. Each pharmacist is required to obtain continuing education by completing activities in the topics specified in this subrule.

a. Drug therapy. ~~A~~ A minimum of 50 percent 1.5 CEUs (15 contact hours) of the pharmacist's required 3.0 CEUs shall be in ACPE-accredited ~~courses~~ activities dealing with drug therapy. Activities qualifying for the drug therapy requirement will include the ACPE topic designator "01" or "02" in the last two digits of the universal activity number.

b. Pharmacy law. A minimum of 0.2 CEUs (2 contact hours) of the pharmacist's required 3.0 CEUs shall be in ACPE-accredited activities dealing with pharmacy law. Activities qualifying for the pharmacy law requirement will include the ACPE topic designator "03" in the last two digits of the universal activity number.

c. Patient or medication safety. A minimum of 0.2 CEUs (2 contact hours) of the pharmacist's required 3.0 CEUs shall be in activities dealing with patient or medication safety. Activities completed

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to fulfill this requirement may be ACPE-accredited activities, in which case the last two digits of the universal activity number will include the ACPE topic designator "05," or non-ACPE provider activities as provided in subrule 2.12(1).

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9783B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6A, the Board of Pharmacy hereby amends Chapter 3, "Pharmacy Technicians," and adopts new Chapter 40, "Tech-Check-Tech Programs," Iowa Administrative Code.

The amendments authorize the establishment of a tech-check-tech program in a hospital pharmacy or in a general pharmacy only for dispensing to patients in a residential care facility. The rules define terms utilized within the chapter and establish the requirements for an Iowa pharmacy that proposes to establish a tech-check-tech program. A plan for implementation of a tech-check-tech program shall be submitted to the Board for approval at least 90 days prior to the anticipated implementation of the program, and the plan shall not be implemented before the pharmacist in charge has received notification that the Board has approved the plan. The rules require that any pharmacy technician authorized by the pharmacist in charge to participate in an approved tech-check-tech program be registered with the Board and maintain national certification as a pharmacy technician. Requirements for pharmacy technician training, supervision of participating pharmacy technicians, program and participant evaluations, and record keeping are identified.

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 June 15, 2011, Iowa Administrative Bulletin as **ARC 9557B**. The Board received written comments regarding the proposed amendments. One commenter pointed out a misunderstanding of the application of the rules to tech-check-tech programs in general pharmacy practice, which the Board has now clarified. Two commenters questioned who is responsible for the activities performed by certified pharmacy technicians practicing under an approved program, suggesting that at least a portion of the responsibility for the actions of the technician be placed with the technician and stating that too much of the responsibility for the actions of various pharmacy staff is being placed on the pharmacist in charge. Commenters also expressed concerns that financial considerations would dictate the implementation of tech-check-tech programs as a means of reducing professional pharmacist staffing rather than directing pharmacist activities to cognitive and patient care activities.

The adopted amendments differ from those published under Notice. Rule 657—40.1(155A) is changed to clarify the limited authority for implementation of a tech-check-tech program in a general pharmacy practice to dispensing to patients in long-term care facilities only. The rule is further changed to clarify the intent of a tech-check-tech program in any pharmacy practice setting to increase pharmacist availability and involvement in cognitive and patient care activities. The introductory paragraph in rule 657—40.3(155A) is changed to clearly restrict implementation of a tech-check-tech program in a general pharmacy practice to the provision of pharmaceutical services to patients in a long-term care facility located in Iowa. Subrule 40.3(5) is changed to establish the responsibilities of all individuals involved in a tech-check-tech program and to direct the pharmacist in charge to develop and implement policies and procedures for a tech-check-tech program. Policies and procedures requirements addressed by subrule 40.3(6) are changed to ensure the policies and procedures address pharmacy staffing requirements.

The amendments were approved during the September 13, 2011, meeting of the Board of Pharmacy.

PHARMACY BOARD[657](cont'd)

After analysis and review of this rule making, no impact on jobs has been found. These amendments are intended to implement Iowa Code sections 147.107, 155A.6A, and 155A.33. These amendments will become effective on November 9, 2011. The following amendments are adopted.

ITEM 1. Amend subrule 3.21(1) as follows:

3.21(1) *Technical dispensing functions.* A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy in 657—Chapter 9. The Except as provided for an approved tech-check-tech program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

ITEM 2. Amend rule 657—3.23(155A) as follows:

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician shall not be authorized to perform any of the following judgmental tasks:

1. Provide Except for a certified pharmacy technician participating in an approved tech-check-tech program pursuant to 657—Chapter 40, provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;
2. to 6. No change.

ITEM 3. Adopt the following **new** 657—Chapter 40:

CHAPTER 40
TECH-CHECK-TECH PROGRAMS

657—40.1(155A) Purpose and scope. The board may authorize a hospital pharmacy to participate in a tech-check-tech program. The board may authorize a general pharmacy providing pharmaceutical services to patients in a long-term care facility as defined herein to participate in a tech-check-tech (TCT) program for dispensing only to patients in the long-term care facility. The purpose of the tech-check-tech program is to authorize certified pharmacy technicians to review the work of other certified pharmacy technicians in connection with the filling of floor stock, including automated medication distribution systems (AMDS) and unit dose dispensing systems for institutionalized patients whose orders have previously been reviewed and approved by a licensed pharmacist, for the purpose of redirecting and optimizing pharmacist patient care services. Implementation of a tech-check-tech program is not intended to reduce pharmacist staffing levels but is intended to increase the availability of the pharmacist for involvement in cognitive and patient care activities.

657—40.2(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Automated medication distribution system*” or “*AMDS*” includes, but is not limited to, an automated device or series of devices operated by an electronic interface with one or more computers that is used to prepare, package, or dispense specified dosage units of drugs for administration or dispensing to a patient or the ultimate user. “*AMDS*” includes a device that prepares and packages a drug for unit dose dispensing, that prepares and packages a drug into outpatient prescription vials, and that dispenses prepackaged drugs.

“*Board*” means the board of pharmacy.

“*Certified medication aide*” means an individual who has successfully completed a medication aide course approved by the Iowa department of inspections and appeals or who has passed a medication aide challenge examination approved by the Iowa department of inspections and appeals and administered

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by an area community college. A “certified medication aide” is not a “licensed health care professional” as that term is used herein.

“*Certified pharmacy technician*” means an individual who holds a valid current national certification and who has registered with the board as a certified pharmacy technician pursuant to 657—Chapter 3.

“*Checking technician*” means a certified pharmacy technician who has been authorized by the pharmacist in charge to participate in a TCT program by checking the work of other certified pharmacy technicians.

“*Component*” means any single physical or electronic storage or access device that, in combination with other devices, makes up an AMDS.

“*Drug bin*” means a compartment in an AMDS component that is designed to contain one specific drug.

“*Floor stock*” means a supply of drugs consisting of emergency drugs and controlled substances that are routinely maintained on patient care units and accessible by nursing staff for patient administration.

“*Hospital pharmacy*” means a pharmacy licensed by the board pursuant to 657—Chapter 7 and located within a facility which is primarily engaged in providing, by or under the supervision of physicians, concentrated medical and nursing care on a 24-hour basis to inpatients and which maintains and operates organized facilities for the diagnosis, care, and treatment of human illnesses.

“*Long-term care facility*” means a nursing home, retirement care, mental care, or other facility or institution which provides extended health care to resident patients and which is registered by the board for controlled substances under Iowa Code chapter 124.

“*Medication order*” means a written or electronic order from a practitioner or an oral order from a practitioner or the practitioner’s authorized agent for administration of a drug or device and, for purposes of this chapter, includes a prescription drug order.

“*TCT program*” means a board-approved tech-check-tech program implemented and formally established pursuant to these rules by the pharmacist in charge who has determined that one or more certified pharmacy technicians are qualified to safely check the work of other certified pharmacy technicians and thereby provide final verification of drugs which are dispensed for subsequent administration to patients in an institutional setting.

“*Unit dose dispensing system*” means a drug distribution system utilizing single unit, unit dose, or unit of issue packaging in a manner that helps reduce or remove traditional drug stocks from patient care areas, enables the selection and distribution of drugs to be pharmacy-based and controlled, and improves accountability and accuracy.

657—40.3(155A) General requirements. To participate in a TCT program, a hospital pharmacy shall be located in Iowa and provide pharmaceutical services to patients receiving treatment in a hospital located in Iowa. To participate in a TCT program, a general pharmacy shall be located in Iowa, and a TCT program shall only be implemented to provide pharmaceutical services to patients in a long-term care facility located in Iowa.

40.3(1) Site-specific. A TCT program shall be specific to the site at which implementation of the program is proposed and shall include a site-specific training program tailored to the patient population and the drug distribution system utilized.

40.3(2) Plan approval. At least 90 days prior to anticipated implementation of a TCT program, the pharmacist in charge shall submit the program plan, consistent with the requirements of these rules, for board approval. A pharmacy shall not implement a TCT program prior to receipt of notification that the board has approved the submitted TCT program plan.

40.3(3) Technician utilization plan. The pharmacy technician utilization plan shall specifically identify the individual certified pharmacy technicians authorized to participate in the TCT program and shall identify in detail the types of work that the certified pharmacy technicians may perform and check. The pharmacy shall include participation in the TCT program in the defined duties of any certified pharmacy technician authorized to participate in the TCT program, and if the certified pharmacy technician is authorized to check the work of other certified pharmacy technicians, that function shall be clearly identified in the checking technician’s duties.

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40.3(4) *Certified pharmacy technician participation.* All of the following shall apply to a certified pharmacy technician authorized to participate in a TCT program.

a. National certification. The certified pharmacy technician's national certification shall be current and in good standing.

b. Iowa registration. The certified pharmacy technician's registration with the board shall be current, in good standing, and not currently subject to disciplinary charges or sanctions.

c. Prior experience. The checking technician shall be working at the pharmacy full- or part-time and shall have met the experience requirement for a checking technician as specified in policies and procedures and in the TCT program plan.

d. Training. The certified pharmacy technician shall complete site-specific training in the TCT program and the functions to be performed by the certified pharmacy technician as part of the TCT program.

e. Specialized training for checking technician. A certified pharmacy technician who is a checking technician shall receive specialized and advanced training as provided in policies and procedures, including training in the prevention, identification, and classification of medication errors. The training program for a checking technician shall be didactic in nature and shall include successful completion of a competency test.

40.3(5) *Responsible individuals.* The pharmacist in charge may designate one pharmacist to be responsible for meeting TCT program training and validation requirements and may designate one or more pharmacists to supervise the activities of certified pharmacy technicians authorized to participate in the TCT program. A pharmacist supervising TCT program activities shall provide program plan evaluation information to the responsible pharmacist or the pharmacist in charge for collection and analysis. Each individual involved in the TCT program shall be responsible for the activities performed by that individual and for ensuring that those activities adhere to the TCT program policies and procedures and comply with board rules. The pharmacist in charge shall be ultimately responsible for TCT program activities and for development and implementation of TCT program policies and procedures.

40.3(6) *Policies and procedures.* Parameters for supervising the activities of certified pharmacy technicians participating in the TCT program, including but not limited to specialized and advanced training for checking technicians, shall be specified in policies and procedures regarding the utilization of pharmacy technicians. Policies and procedures shall provide for continuous evaluation of certified pharmacy technicians authorized to participate in the TCT program, shall identify benchmarks and sentinel events, shall define an excessive overall error rate, shall address certified pharmacy technician retraining procedures, and shall address pharmacy staffing.

40.3(7) *Staffing.* Pharmacy staffing shall be adequate to ensure consistent and safe implementation of the TCT program and to optimize pharmacist patient care services.

40.3(8) *Pharmacist review.* Except in an emergency, when the pharmacy is closed, or when the prescriber is directly supervising and overseeing the administration of the drug to the patient, a pharmacist shall review all orders against a medication profile as required by rule 657—8.21(155A). A pharmacist shall be on site and available to certified pharmacy technicians during any period that TCT functions are being performed.

40.3(9) *Additional drug check prior to administration.* The drug distribution system shall be structured so that at least one additional check of dispensed drugs, following dispensing and checking by a checking technician, is completed by a licensed health care professional in the facility prior to administration of the drug to the patient. A licensed health care professional or certified medication aide shall administer the drug to the patient. The TCT program plan shall identify the individuals authorized to administer the drug to the patient. The identification of these individuals may consist of a description of the classification of the authorized individuals, such as "registered nurse," "licensed practical nurse," or "certified medication aide," or the identification may specifically identify the authorized individuals by name and title. Alternatively, the identification may reference an existing facility policy or procedure that identifies or specifies the individuals authorized to administer a drug to a patient.

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40.3(10) Program evaluation. Implementation of a TCT program shall result in the redirection of the pharmacist from distributive tasks to cognitive and patient care activities. As part of an ongoing program review and evaluation as provided in subrule 40.4(5), the pharmacist in charge or designee shall document the specific cognitive and patient care activities, and a summary of the approximate amount of time pharmacists spend on those activities, as a result of implementation of the TCT program. Program review and evaluation records shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years following the date of the record.

657—40.4(155A) TCT program requirements. A TCT program shall be conducted in compliance with the following requirements.

40.4(1) Training of checking technician. No certified pharmacy technician shall be designated or authorized by the pharmacist in charge or responsible pharmacist to perform, nor shall a certified pharmacy technician perform, the function of checking the work of another certified pharmacy technician without having received and satisfactorily completed the specialized and advanced training provided for in the pharmacy's policies and procedures. The specialized training shall include the prevention, identification, and classification of medication errors. Training requirements shall include provisions for retraining of a checking technician who fails to maintain the level of competence necessary for the performance of authorized duties as demonstrated by the technician's failure to satisfactorily meet ongoing evaluation and competency audits.

40.4(2) Authorized checking functions. A certified pharmacy technician authorized by the pharmacist in charge or responsible pharmacist to check the work of another certified pharmacy technician may check activities relating to the filling of floor stock, unit dose distribution systems, proprietary bag and vial systems or manufactured premix intravenous products, and AMDS components for hospital and long-term care facility patients. Medication orders shall have previously been reviewed by a licensed pharmacist against the patient's medication profile, and the prepared drugs shall be checked by at least one additional licensed health care professional in the facility at the time the drugs are administered to a patient. The checking function performed by the checking technician shall be limited to those types of drugs identified in the written TCT program plan, and the TCT program plan shall specifically describe the method for verifying cassette or drug bin fills.

40.4(3) Certified pharmacy technician evaluation. The responsible pharmacist shall conduct continuous monitoring and evaluation of each certified pharmacy technician authorized to participate in the TCT program in order to ensure the continued competency of the certified pharmacy technicians and the safety of patients. As a component of the pharmacy's continuous quality improvement program and except as otherwise specifically provided by these rules, errors shall be identified and records maintained as provided in rule 657—8.26(155A).

a. Periodic review and pharmacist check. Evaluation shall include periodic review and checking by the pharmacist of work checked by the checking technician and identification and documentation of all errors not identified and corrected by the checking technician.

b. Review of errors identified by pharmacist or checking technician. The responsible pharmacist shall review with all certified pharmacy technicians involved any errors identified during the evaluation and shall discuss procedures to ensure the errors are not repeated.

c. Review of errors identified following release by checking technician. The responsible pharmacist shall receive, evaluate, and review with all certified pharmacy technicians involved any errors identified by a health care professional, a certified medication aide, a patient, or any other individual following release of a drug by the checking technician.

40.4(4) Records. The pharmacist in charge shall maintain in the pharmacy department a record for each certified pharmacy technician authorized by the pharmacist in charge or responsible pharmacist to participate in the TCT program. The record shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years beyond the term of the certified pharmacy technician's employment. The record shall include:

a. The name of the certified pharmacy technician.

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b. The date on which the certified pharmacy technician completed the site-specific training for participation in the TCT program.

c. The date on which the certified pharmacy technician was authorized to participate in the TCT program and the specific TCT program functions and tasks the certified pharmacy technician is authorized to perform.

d. If the certified pharmacy technician is authorized to check the work of other certified pharmacy technicians, the date on which the checking technician completed the specialized and advanced training as provided in policies and procedures.

e. The dates and results of all competency evaluations.

f. The dates of and reasons for any suspension or revocation of the certified pharmacy technician's TCT program authorization, identification of corrective action or retraining completed, and the date of the subsequent reinstatement of the certified pharmacy technician's TCT program authorization.

g. The dates of and reasons for any disciplinary action taken against the certified pharmacy technician in connection with the certified pharmacy technician's performance of duties relating to the TCT program.

40.4(5) TCT program evaluation. The pharmacist in charge shall maintain in the pharmacy department program evaluation records that demonstrate the redirection of pharmacist activities from distributive tasks to cognitive and patient care activities. The approximate amount of time each pharmacist spent on specific distributive tasks and on specific cognitive and patient care activities prior to implementation of the TCT program shall be documented in the program evaluation records and shall be maintained for the duration of the TCT program. Program evaluation records shall identify the specific cognitive and patient care activities and a summary of the approximate amount of time pharmacists spend on those activities as a result of implementation of the TCT program. TCT program evaluation records shall be updated at least semiannually and shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years following the date of the record.

These rules are intended to implement Iowa Code sections 147.107, 155A.6A, and 155A.33.

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9784B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 4, "Pharmacist-Interns," Iowa Administrative Code.

The amendments add a new subrule that identifies the information required to be provided in or with the application for registration as a pharmacist-intern, renumber subsequent subrules, and correct a reference in the definition of "nontraditional internship booklet" to a renumbered subrule.

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 June 15, 2011, Iowa Administrative Bulletin as **ARC 9555B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the September 13, 2011, meeting of the Board of Pharmacy. After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 155A.6.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

PHARMACY BOARD[657](cont'd)

ITEM 1. Amend rule **657—4.1(155A)**, definition of “Nontraditional internship booklet,” as follows:

“*Nontraditional internship booklet*” means that internship booklet comprised of competencies and affidavits relating exclusively to that nontraditional internship segment and approved by the board for the individual pharmacist-intern pursuant to subrule ~~4.6(5)~~ 4.6(6).

ITEM 2. Renumber subrules **4.6(1)** to **4.6(5)** as **4.6(2)** to **4.6(6)**.

ITEM 3. Adopt the following **new** subrule 4.6(1):

4.6(1) Application for registration—required information. Application for registration as a pharmacist-intern shall be on forms provided by the board, and all requested information shall be provided on or with such application. The application shall require that the applicant provide, at a minimum, the following: name; address; telephone number; date of birth; social security number; and name and location of college of pharmacy and anticipated month and year of graduation. The college of pharmacy shall certify the applicant’s eligibility to practice as a pharmacist-intern.

[Filed 9/14/11, effective 11/9/11]

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ARC 9785B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 5, “Pharmacy Support Persons,” Iowa Administrative Code.

The amendments clarify the authority of a pharmacy support person, under the supervision of a pharmacist, to place a prescription container that has been verified by a pharmacist into a bag or sack for delivery to the patient as part of the sales transaction.

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 June 15, 2011, Iowa Administrative Bulletin as **ARC 9556B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the September 13, 2011, meeting of the Board of Pharmacy.

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

These amendments are intended to implement Iowa Code section 155A.6B.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 657—5.17(155A) as follows:

657—5.17(155A) Tasks a pharmacy support person shall not perform. A pharmacy support person shall not perform any of the following judgmental or technical functions. Performance of any of these tasks by a pharmacy support person shall constitute the practice of pharmacy without a license in violation of Iowa Code section 155A.7. A pharmacy support person shall not:

1. to 6. No change.

7. Package, pour, or place in a container for dispensing, sale, distribution, transfer, vending, or barter any drug which, under federal or state laws, may be sold or dispensed only pursuant to the prescription of a practitioner authorized to prescribe drugs. This prohibited task includes the addition of water or other liquid for reconstitution of oral antibiotic liquids. A pharmacy support person may place a prescription container into a bag or sack for delivery to the patient as part of the sales transaction after the accuracy of the prescription has been verified by the pharmacist.

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8. to 15. No change.

ITEM 2. Amend rule 657—5.18(155A) as follows:

657—5.18(155A) Nontechnical pharmacy support tasks. An appropriately trained and registered pharmacy support person may perform any of the following nontechnical functions that have been delegated to the pharmacy support person by the supervising pharmacist:

1. Perform the duties of a pharmacy clerk. The duties of a pharmacy clerk may include placing a prescription container into a bag or sack for delivery to the patient as part of the sales transaction after the accuracy of the prescription has been verified by the pharmacist.

2. to 9. No change.

[Filed 9/14/11, effective 11/9/11]

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ARC 9786B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301 and 147.76, the Board of Pharmacy hereby rescinds Chapter 11, "Drugs in Emergency Medical Service Programs," Iowa Administrative Code, and adopts a new Chapter 11 with the same title.

The rules define terms used throughout the chapter and establish responsibilities for parties involved in the provision of drugs to emergency medical service (EMS) programs. The rules require a written agreement between the EMS program and the party or parties responsible for providing drugs to the EMS program and include procedures for termination of those services. The rules address requirements for storage and security of drugs maintained at the EMS program site and require the development of, implementation of, and adherence to policies and procedures for the operation and management of the EMS program. Record-keeping requirements are established, methods for utilization and replenishment of drug stocks are defined, and special handling and record keeping relating to controlled substances are identified.

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 June 1, 2011, Iowa Administrative Bulletin as **ARC 9528B**. The Board received no written comments regarding the proposed rules but did receive an oral suggestion regarding the required signatories on the agreement for a pharmacy-based service. The adopted rules differ from those published under Notice. Subrule 11.3(1) has been modified to require that the written agreement be signed by the pharmacist in charge and the service director, eliminating the medical director as a required signatory on the agreement for a pharmacy-based program. Subrule 11.2(1) now reads as follows:

"11.3(1) Pharmacy-based programs. An Iowa-licensed pharmacy may enter into an agreement with a service program located in the state. The agreement with the service program shall establish that the service is operating as an extension of the pharmacy with respect to prescription drugs. The agreement shall be signed by the pharmacist in charge and the service director at the primary program site. A copy of this agreement shall be maintained at both the pharmacy and the primary program site while the agreement is in effect."

The rules were approved during the September 13, 2011, meeting of the Board of Pharmacy.

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

These rules are intended to implement Iowa Code chapter 147 and Iowa Code sections 124.301 and 155A.13.

PHARMACY BOARD[657](cont'd)

These rules will become effective on November 9, 2011.

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 11] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 9528B**, IAB 6/1/11.

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

[For replacement pages for IAC, see IAC Supplement 10/5/11.]

ARC 9768B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Professional Licensure Division hereby amends Chapter 4, "Board Administrative Processes," Iowa Administrative Code.

The adopted amendment removes the requirement to use Robert's Rules of Order when conducting meetings, as advised by the Attorney General's Office. Removing the requirement does not preclude the use of Robert's Rules of Order if circumstances merit.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 20, 2011, as **ARC 9459B**. A public hearing was held on May 10, 2011, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, Des Moines, Iowa. No public comments were received.

The amendment was adopted by the 19 professional boards during the months of June through September, 2011. The adopted amendment is identical to the Noticed amendment.

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

This amendment is intended to implement Iowa Code chapter 272C.

This amendment will become effective November 9, 2011.

The following amendment is adopted.

Amend subrule 4.3(5) as follows:

4.3(5) Board meetings shall be governed in accordance with Iowa Code chapter 21, ~~and the board's proceedings shall be conducted in accordance with Robert's Rules of Order, Revised.~~

[Filed 9/13/11, effective 11/9/11]

[Published 10/5/11]

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ARC 9772B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 135.22A(5), the Iowa Department of Public Health hereby rescinds Chapter 55, "Advisory Council on Head Injuries," and adopts new Chapter 55, "Advisory Council on Brain Injuries," Iowa Administrative Code.

The rules in new Chapter 55 describe the mission and duties of the Advisory Council on Brain Injuries. This chapter also provides rules to govern the operation of Council meetings.

Changes from the existing rules include the change in the name of the Council from "Advisory Council on Head Injuries" to "Advisory Council on Brain Injuries" and the addition of a definitions rule and a mission statement. The majority of the remaining additions are a result of incorporating the Council's current bylaws into the rules.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Notice of Intended Action was published in the July 27, 2011, Iowa Administrative Bulletin as **ARC 9631B**. No written comments were received. The adopted rules are identical to those published under Notice.

The State Board of Health adopted these rules on September 14, 2011.

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

These rules are intended to implement Iowa Code section 135.22A.

These rules will become effective on November 9, 2011.

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 55] is being omitted. These rules are identical to those published under Notice as **ARC 9631B**, IAB 7/27/11.

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

[For replacement pages for IAC, see IAC Supplement 10/5/11.]

ARC 9773B**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 137.119, the Iowa Department of Public Health hereby rescinds Chapter 77, "Local Boards of Health," and adopts new Chapter 77 with the same title and rescinds Chapter 78, "District Health Departments," Iowa Administrative Code.

The rules in new Chapter 77 define the roles and responsibilities, parameters and structure of the local boards of health. Chapter 77 also allows local boards of health and boards of supervisors an optional process to merge counties to form a district board of health in order to increase the efficiencies of the core functions of public health and to meet public health standards. This rule making also rescinds Chapter 78, pertaining to district health departments, because the rules in Chapter 78 are superseded by new Chapter 77.

Notice of Intended Action was published in the July 27, 2011, Iowa Administrative Bulletin as **ARC 9632B**. No one attended the public hearing. No written comments were received. The following changes have been made upon further internal review. Three definitions have been added to rule 641—77.2(137): "county health department," "district board" and "district health department." Changes have been made in rules 641—77.8(137), 641—77.9(137), and 641—77.12(137) to clarify the difference between the district board of health, district health department, and a county health department.

The State Board of Health adopted these amendments on September 14, 2011.

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

These amendments are intended to implement Iowa Code chapter 137.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Rescind 641—Chapter 77 and adopt the following new chapter in lieu thereof:

CHAPTER 77
LOCAL BOARDS OF HEALTH

641—77.1(137) Purpose. The local board of health shall have jurisdiction over public health matters within its designated geographic area in accordance with Iowa Code chapter 137. The local board of health shall promote and protect the health of the residents and shall carry out the powers of local boards as specified in Iowa Code sections 137.103 and 137.104 and all applicable Iowa Code chapters.

641—77.2(137) Definitions. For the purpose of these rules, the following definitions apply:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

“Core public health functions” means the functions of assessment, policy development, and assurance.

1. Assessment: Regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development: Development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values and in accordance with state public health policy.

3. Assurance: Ensuring by encouragement, regulation, or direct action that programs and interventions that maintain and improve health are carried out.

“County health department” refers to the personnel and property under the jurisdiction of a county board.

“Department” means the Iowa department of public health.

“District” means any two or more geographically contiguous counties.

“District board” means a board of health representing at least two geographically contiguous counties formed with the approval of the department in accordance with Iowa Code chapter 137, or any district board of health in existence prior to July 1, 2010.

“District health department” refers to the personnel and property under the jurisdiction of a district board.

“Environmental health services” means services focused on the environment to support population-based health services.

“Essential public health services” means those activities carried out by public health that fulfill the core functions.

“Iowa public health standards” means the governmental public health standards adopted by rule by the state board of health.

“Local board of health” means a city, county, or district board of health.

“Personal health services” means services focused on the care of individuals.

“Population-based health services” means services focused on the health status of population groups and their environments.

641—77.3(137) Local boards of health—roles and responsibilities. Public health is responsible for safeguarding the community’s health. This goal is pursued through three core functions: assessment, policy development and assurance.

77.3(1) Assessment: Regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs, personal health services, and epidemiologic and other studies of health problems. A local board of health may perform the following essential public health services:

- a. Monitor health status to identify community health problems;
- b. Diagnose and investigate health problems and health hazards in the community; and
- c. Evaluate effectiveness, accessibility, and quality of personal, population-based, and environmental health services.

77.3(2) Policy development: Exercise responsibility to serve the public interest in the development of comprehensive public health policies. This core function can be accomplished by promoting use of a scientific knowledge base in decision making about public health and by taking the lead in public health policy development.

- a. A local board of health may perform the following essential public health services:
 - (1) Develop policies and plans that support individual and community health efforts; and
 - (2) Research new insights and innovative solutions to health problems and health threats.
- b. A local board of health shall perform the following essential public health services:
 - (1) Enforce laws and regulations that protect public health and enforce lawful orders of the department;

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(2) Make and enforce reasonable rules and regulations not inconsistent with the law, the rules of the state board, or the Iowa public health standards as may be necessary for the protection and improvement of the public health; and

(3) Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of Iowa Code chapter 8A, subchapter IV, or any civil service provision adopted under Iowa Code chapter 400.

77.3(3) Assurance: Assure constituents that services necessary to achieve agreed-upon goals are provided either by encouraging action by other entities (private or public sector), by requiring such action through regulation, or by providing services directly. Each local board of health must involve key policymakers and the general public in determining a set of high-priority personal and population-based health services. A local board of health may perform the following essential public health services:

- a. Link people to needed personal health services; provide such personal, population-based and environmental health services as deemed necessary for the promotion and protection of the health of the public; and charge reasonable fees for personal health services;
- b. Ensure the competence of the public health, environmental health, and personal health care workforce;
- c. Inform, educate, and empower people about health issues;
- d. Mobilize community partnerships to identify and solve health problems;
- e. Issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems;
- f. Engage in joint operations by:
 - (1) Contracting with colleges and universities, the department, other public, private, and nonprofit agencies, and individuals; or
 - (2) Forming a district health department to provide personal and population-based health services;
- g. Enforce, by written agreement with the council of any city within its jurisdiction, appropriate ordinances of the city relating to public health.

641—77.4(137) Local boards of health—Iowa public health standards. Local boards of health may:

1. Designate an agency to assure compliance with the Iowa public health standards in the jurisdiction.
2. Demonstrate a commitment to comply with the Iowa public health standards.
3. Request at least annually reports from organizations that provide public health services within the jurisdiction.

641—77.5(137) Organization of local boards of health.

77.5(1) Qualifications. Members of a local board of health should have experience or education related to the core public health functions, essential public health services, public health, environmental health services, personal health services, population-based services, or community-based initiatives.

77.5(2) Officers of local boards of health. Each local board of health shall, at its first meeting during any calendar year, elect one of its members to serve as chairperson until the first meeting of the following calendar year.

- a. The local board of health may elect a vice-chairperson, secretary, or other such officers as it may deem advisable.
- b. In case of a vacancy of the office of chairperson, a successor, who shall serve the remainder of the term, shall be elected at the next meeting of the board.

77.5(3) Meetings of local boards of health. The place, date and time of regular meetings of the local board of health shall be determined by vote of the board, and such meetings shall comply with the provisions of the open meetings law which is found in Iowa Code chapter 21.

- a. Each local board of health shall meet at least six times per year.

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b. Special meetings of a local board of health may be called, as needed, by the chairperson or by any three board members. The local board of health shall provide at least 24 hours' notice of special meetings, except in case of emergency.

c. A majority of the members of a local board of health shall be considered a quorum, and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest, and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

641—77.6(137) Operation of local boards of health. Local boards of health shall submit to the department the following information:

77.6(1) Names, addresses, E-mail addresses and telephone numbers of members of the local board of health, within one month after their appointment.

77.6(2) Names of the chairperson and any other officers elected by the local board of health, within one month after their election.

77.6(3) A copy of the minutes of each regular and special meeting of the local board of health, within two weeks of their being approved. The minutes shall include at least:

- a.* The date and place of the meeting;
- b.* A list of members present; and
- c.* A report of any official board actions.

641—77.7(137) Expenses of local board of health members.

77.7(1) The following may be considered necessary expenses of local board of health members:

a. Travel in private car on local board of health business at the same rate as provided for a public officer or employee in Iowa Code section 70A.9.

b. Lodging and meal expenses including sales tax on lodging and meals.

c. Expense of public transportation when traveling on local board of health business.

d. Miscellaneous expenses related to performance of duties as approved by the local board of health.

e. Training and education expenses.

77.7(2) This rule shall not be construed as requiring the payment of reimbursement to any person or as prohibiting local boards of health from imposing additional restrictions or administrative requirements on expenses of their members.

641—77.8(137) District boards of health. The county boards of health of any two or more geographically contiguous counties may at any time submit to the department a written request to form a district board of health.

77.8(1) A request to form a district board of health shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district.

77.8(2) A request to form a district board of health shall be submitted to the department and shall be completed on the department's application form. The application form shall include:

a. A written narrative that explains how the formation of a district board of health will increase organizational capacity and capability to provide population-based and personal health services compared with operating as local boards of health.

b. A written narrative that details the infrastructure capability of the proposed district board of health to deliver core public health functions, provide essential public health services, and comply with Iowa public health standards.

c. The composition of the district board of health, including the number of members each county shall appoint pursuant to Iowa Code section 135.105 and the total number of members on the district board of health.

d. Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district and of the elements included in the formation plan.

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e. A service delivery plan to include each component of the public health standards. The service delivery plan shall detail how population-based and environmental health services will be delivered throughout the district.

f. The budget and fiscal plan for the proposed district health department. The budget plan shall include an estimate of the proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district.

g. A table of organization.

h. A personnel system description, including identification of the district health department treasurer and district health department auditor and a section which addresses the employment issues contained in Iowa Code section 137.110.

i. The location of the district health department offices and workforce throughout the jurisdiction. The request shall include a map showing district boundaries.

j. An inventory of the property and equipment in the custody of each county health department and a description as to whether such property and equipment shall remain in the custody of the county health department or shall be transferred to the district health department to become property of the district health department. Property and equipment include any item which costs more than \$5,000.

k. An information technology (IT) plan that details the formation of a centralized IT department able to serve the needs of the proposed district health department.

l. A proposed date upon which the district board of health shall be formed and established and a timeline for the adoption of district board of health rules and regulations.

641—77.9(137) Approval of district board of health formation.

77.9(1) Upon receipt of the application form and all information contained in rule 641—77.8(137), the department shall review such information and shall determine, within 30 days, whether the required elements have been presented by the proposed district.

77.9(2) The department shall present its findings to the state board of health at the board's next regularly scheduled meeting, at which time the state board of health may approve formation of the district board of health.

77.9(3) The state board of health shall immediately provide notice of approval of district board of health formation, including effective dates, to the county board of health of each county in the district and to the board of supervisors of each county in the district.

77.9(4) Upon receipt of the notice of approval of district board of health formation, each appointing authority shall, prior to the effective date of district board of health formation, appoint district board of health members as specified in Iowa Code section 137.105.

641—77.10(137) Denial of district board of health formation. The department and the state board of health have the authority to deny formation of a district board of health. The department is responsible for assessing the application form for completeness and accuracy. The state board of health has the authority to deny formation of a district board of health if the application does not show sufficient organizational capacity to deliver core public health functions and essential public health services, does not ensure compliance with the Iowa public health standards, or otherwise fails to conform with Iowa Code chapter 137 or this chapter.

77.10(1) The department will notify, in writing, all local boards of health in the proposed district of the reason and rationale for the denial of the district board of health formation within 30 days of the decision.

77.10(2) The local boards of health in the proposed district shall have the right to request reconsideration of the decision by submitting the request to the department within 30 days of receiving notice of the decision.

77.10(3) The state board of health shall reconsider the request by the local boards of health at its next regularly scheduled meeting. The reconsideration shall not constitute a contested case hearing. The state board of health's final decision following reconsideration shall constitute final agency action pursuant

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to Iowa Code section 17A.19, and judicial review of any such decision shall be treated as other agency action.

641—77.11(137) Adding to a district board of health. A county may be added to an existing district board of health by submission and approval of a request, as specified in Iowa Code sections 137.106 and 137.107.

641—77.12(137) Withdrawal from a district board of health. A county may voluntarily withdraw from a district board of health by submitting a request for withdrawal to the department for approval. The request shall include a time line and plan to reestablish a county board of health or to join a different district board of health to provide the core public health functions and essential public health services to the county's geographic area.

77.12(1) If the request for withdrawal of the applicant county from the district board of health is approved by the state board of health, an effective date shall be set for the action, and notification shall be sent to the district board of health and the board of supervisors of the applicant county.

77.12(2) The ownership of property and equipment shall follow the guidelines submitted in the original request to form the district board of health.

77.12(3) The remaining counties in the district shall submit an application including the information specified in rule 641—77.8(137) to the department for review as provided in Iowa Code section 137.107. These rules are intended to implement Iowa Code chapter 137.

ITEM 2. Rescind and reserve **641—Chapter 78.**

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9775B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 82, "Office of Multicultural Health," Iowa Administrative Code.

These amendments change the name of the Office of Multicultural Health to the Office of Minority and Multicultural Health. The amendments also add a statement of purpose for the office and additional language to the rule on responsibilities of the office. All of these changes are the result of legislation passed in 2010.

Notice of Intended Action was published in the July 27, 2011, Iowa Administrative Bulletin as **ARC 9634B**. No written comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on September 14, 2011.

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

These amendments are intended to implement Iowa Code section 135.12.

These amendments will become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Amend **641—Chapter 82**, title, as follows:

OFFICE OF MINORITY AND MULTICULTURAL HEALTH

ITEM 2. Amend rule 641—82.1(135) as follows:

641—82.1(135) Purpose. The office of minority and multicultural health exists to actively promote and facilitate health equity for Iowa's multicultural communities.

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ITEM 3. Amend rule 641—82.3(135) as follows:

641—82.3(135) Responsibilities of the office of minority and multicultural health. The purpose of the office is to improve the health of racial and ethnic minorities by bridging communication, delivery and service requirements and by providing customized services and practical approaches to problems and issues encountered by organizations and communities working to address the needs of these populations. The office of minority and multicultural health shall provide public health leadership regarding existing or potential issues or practices that can or could affect the health status of racial, ethnic, and linguistic multicultural individuals and families, immigrants and refugees. The office shall provide this leadership through the core functions of (1) education; (2) advocacy; (3) data management; (4) technical assistance and consultation; and (5) training and development. The office is responsible for the following:

82.3(1) to 82.3(3) No change.

82.3(4) Providing technical planning assistance to communities and counties throughout the state and promoting community strategic planning;

82.3(5) ~~Advocating~~ Serving as the liaison and advocate for the department on minority and multicultural health matters and advocating for Iowa's racial, ethnic, and linguistic multicultural communities;

82.3(6) Creating and promoting a climate of inclusiveness in the public health sector on state, regional and local levels by partnering with ~~its~~ the office's racial, ethnic, and linguistic multicultural constituents in Iowa to help them improve their collective health status; ~~and~~

82.3(7) Promoting the Iowa public health standards and providing technical assistance and consultation regarding state and local criteria relating to disparate populations and delivery of culturally appropriate services; ~~and~~

82.3(8) Reviewing the impact of programs, regulations and health care resource policies on the delivery of and access to minority and multicultural health services.

ITEM 4. Amend rule 641—82.4(135), introductory paragraph, as follows:

641—82.4(135) Advisory council. A minority and multicultural health advisory council shall be established within the department.

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9774B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 125.7 and 135.11, the Department of Public Health hereby amends Chapter 155, "Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs," Iowa Administrative Code.

These amendments add a requirement that substance abuse and gambling treatment programs notify the Department in writing within ten working days when a certified or licensed staff member has been sanctioned or disciplined by a certifying or licensing body.

Notice of Intended Action was published in the July 27, 2011, Iowa Administrative Bulletin as **ARC 9638B**. No written comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on September 14, 2011.

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

These amendments are intended to implement Iowa Code chapter 125.

These amendments will become effective on November 9, 2011.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The following amendments are adopted.

ITEM 1. Reletter paragraphs **155.21(8)“j”** and **“k”** as **155.21(8)“k”** and **“l.”**

ITEM 2. Adopt the following new paragraph **155.21(8)“j”**:

j. The program shall notify the department in writing within ten working days when a certified or licensed staff member has been sanctioned or disciplined by a certifying or licensing body.

[Filed 9/14/11, effective 11/9/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.

ARC 9769B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 100.1 and 100.35, the State Fire Marshal hereby amends Chapter 201, “General Fire Safety Requirements,” Iowa Administrative Code.

Iowa Code sections 100.1 and 100.35 authorize the State Fire Marshal to adopt requirements for fire safety in a variety of occupancies including schools, college buildings and “buildings or structures in which persons congregate from time to time.” Included in the State Fire Marshal’s rules are requirements for bleachers, telescopic and folding seating, and grandstands. Language included in a nationally recognized standard for these types of seating, which is adopted by reference within the rules of the State Fire Marshal, requires annual inspections. The same standard has also been adopted by reference within the State of Iowa Building Code by the Building Code Commissioner.

Several inquiries have been received recently regarding the qualifications of the persons who perform the required inspections. This issue was addressed by a formal interpretation of the requirement issued jointly by the State Fire Marshal and the Building Code Commissioner in May 2011. The amendment adopted herein incorporates the explanatory language used in the interpretation directly into the rule. This language should aid in reducing confusion about who may perform the required inspections. The language adopted herein clarifies that any person, including the owner or an employee of the owner of the structure being inspected, may perform a required inspection, provided that the person performing the inspection is knowledgeable about the requirements for the structure.

This amendment was proposed in a Notice of Intended Action and was published in the Iowa Administrative Bulletin as **ARC 9561B** on June 15, 2011. A public hearing to accept comments on the proposed amendment was held on August 2, 2011. No comments were received at the hearing or otherwise.

A nonsubstantive change was made in the amendment adopted herein. Paragraph letters have been added to the previously unlettered paragraphs of the amended subrule. This should ease identification of particular provisions within the subrule and eliminate the need to reprint the entire subrule if amendments to it are made in the future.

No fiscal impact to the state is anticipated.

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

This amendment is intended to implement Iowa Code section 100.35.

This amendment will become effective December 1, 2011.

The following amendment is adopted.

Amend subrule 201.2(1) as follows:

201.2(1) International Fire Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, with the following amendments:

a. Delete section 103 and sections contained therein, section 104 and sections contained therein, section 105 and sections contained therein, section 106 and sections contained therein, section 107 and sections contained therein, section 108 and sections contained therein, section 109 and sections contained

PUBLIC SAFETY DEPARTMENT[661](cont'd)

therein, section 110 and sections contained therein, section 111 and sections contained therein, section 112, and section 113 and sections contained therein.

b. Delete section 301.2.

c. Delete section 307.2.

d. Delete section 307.3 and insert in lieu thereof the following new section:

307.3 Extinguishment Authority. The state fire marshal or an employee of the fire marshal division authorized to do so by the fire marshal, or local fire chief or member of the local fire department authorized to do so by the fire chief, is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

e. Delete section 308.1.4 and insert in lieu thereof the following new section:

308.1.4 Open Flame Cooking Devices. Charcoal burners and ash- or coal-producing devices shall not be operated on combustible balconies or within 10 feet of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. LP-gas burners connected to one (1) 20-pound LP-gas container.
3. Where buildings, balconies and decks are protected by an automatic sprinkler system.

f. Delete section 315.2.3 and insert in lieu thereof the following new section:

315.2.3 Equipment Rooms. Combustible material shall not be stored in boiler rooms, mechanical rooms, or electrical equipment rooms.

Exception: In sprinklered equipment rooms that have sufficient space to allow a minimum of 10 feet between all combustible storage and the heating, mechanical or electrical equipment in the room.

g. Delete section 405.2 and table 405.2 and insert in lieu thereof the following new section and new table:

405.2 Frequency. Required emergency evacuation drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

TABLE 405.2

FIRE AND EVACUATION DRILL FREQUENCY AND PARTICIPATION

GROUP OR OCCUPANCY	FREQUENCY	PARTICIPATION
Group A	Quarterly	Employees
Group B ^(c)	Annually	Employees
Group E	See ^(a) below	All occupants
Group I	Quarterly on each shift	Employees
Group I ^(b) and Group R-4 (assisted living facilities)	Quarterly	All occupants
Group R-1	Quarterly on each shift	Employees
Group R-2 ^(d)	Four annually	All occupants
High-rise	Annually	Employees

Footnotes:

^(a) The frequency shall be allowed to be modified in accordance with Section 408.3.2. Fire and severe weather drills shall be conducted in accordance with Iowa Code chapter 100.

^(b) Fire and evacuation drills in assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Drills shall be conducted not less than six times per year on a bimonthly basis, with not less than two drills conducted during the night when residents could reasonably be expected to be sleeping. The drills shall be permitted to be announced in advance to the residents. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.

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(c) Group B buildings that have an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.

(d) Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

h. Delete section 609.1 and insert in lieu thereof the following new section:

609.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of National Fire Protection Association (NFPA) 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2004 edition.

i. Delete section 807.4.3.1 and insert in lieu thereof the following new section:

807.4.3.1 Storage in corridors and lobbies. Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. Storage in metal lockers, provided the minimum required egress width is maintained.

j. Delete section 906.1 and insert in lieu thereof the following new section:

906.1 Where Required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

2. Within 30 feet (9144 mm) of commercial cooking equipment.

3. In areas where flammable or combustible liquids are stored, used or dispensed.

4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms.

k. Add the following new paragraph to section 907.2.2:

4. The Group B fire area that contains an educational occupancy for students above the twelfth grade with an occupant load of greater than 50 persons.

l. Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.

2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

2.1. Interior corridors are protected by smoke detectors with alarm verification.

2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.

2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

2.4. Off-premises monitoring is provided.

2.5. The capability to activate the evacuation signal from a central point is provided.

2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.

m. Add the following new section 1003.8:

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1003.8 Location of Preschool through Second Grade Students. In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

n. Delete section 1028.1.1 and insert in lieu thereof the following new section:

1028.1.1 Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2007 edition, with the following amendments to ICC-300:

(1) Delete section 105.2 and insert in lieu thereof the following new section:

105.2 Yearly inspection required. The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

(2) Delete section 501.2 and insert in lieu thereof the following new section:

501.2 Inspections. All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

o. Amend any reference to any section within chapter 22 to read as a reference to "Chapter 22."

p. Delete chapter 22 and insert in lieu thereof the following new chapter:

CHAPTER 22

MOTOR FUEL-DISPENSING FACILITIES AND REPAIR GARAGES

SECTION 2201

GENERAL

2201.1 Motor fuel-dispensing facilities and repair garages shall comply with the applicable provisions of 661—Chapter 221.

q. Amend any reference to any section within chapter 34 to read as a reference to "Chapter 34."

r. Delete chapter 34 and insert in lieu thereof the following new chapter:

CHAPTER 34

FLAMMABLE AND COMBUSTIBLE LIQUIDS

SECTION 3401

GENERAL

3401.1 Transportation, storage, handling, and use of flammable and combustible liquids shall comply with the applicable provisions of 661—Chapter 221.

s. Amend any reference to any section within chapter 38 to read as a reference to "Chapter 38."

t. Delete chapter 38 and insert in lieu thereof the following new chapter:

CHAPTER 38

LIQUEFIED PETROLEUM GASES

PUBLIC SAFETY DEPARTMENT[661](cont'd)

**SECTION 3801
GENERAL**

3801.1 Transportation, storage, handling, and use of liquefied petroleum gases shall comply with the applicable provisions of 661—Chapter 226.

u. Delete section 4603.6.1 and insert in lieu thereof the following new section:

4603.6.1 Existing Group E occupancies shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. Where smoke or heat detectors are installed, such detectors shall be connected to the building fire alarm system.

Exceptions:

1. A building with a maximum area of 1,000 square feet that contains a single classroom and is located no closer than 50 feet from another building.

2. Group E occupancy with an occupant load of less than 50.

v. Any reference to NFPA 10 is amended to read as follows:

NFPA 10 with the following amendment:

Delete sections 7.1.2.1, 7.1.2.2, and 7.1.2.3 and insert in lieu thereof the following new sections:

7.1.2.1 A trained person who has undergone the instructions necessary to reliably perform maintenance and has the manufacturer's service manual shall service the fire extinguishers not more than one year apart, as outlined in Section 7.3.

7.1.2.2* Maintenance, servicing, and recharging shall be performed by trained persons who have available the appropriate servicing manual(s), the proper types of tools, recharge materials, lubricants, and manufacturer's recommended replacement parts or parts specifically listed for use in the fire extinguisher.

NOTE: Requirements in NFPA 10 for certification of personnel who maintain portable fire extinguishers are removed. These personnel must still be trained and have available service manuals.

w. Adopt Appendices B, C, and D.

[Filed 9/13/11, effective 12/1/11]

[Published 10/5/11]

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ARC 9770B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 301, "State Building Code—General Provisions," Iowa Administrative Code.

Iowa Code section 103A.7 authorizes the Building Code Commissioner, with the approval of the Building Code Advisory Council, to adopt requirements for safe construction of those buildings and facilities which are subject to the rules adopted. Included in the State of Iowa Building Code are requirements for bleachers, telescopic and folding seating, and grandstands. Language included in a nationally recognized standard for these types of seating, which is adopted by reference within the State of Iowa Building Code, requires annual inspections. The same standard has also been adopted by reference within the rules of the State Fire Marshal.

Several inquiries have been received recently regarding the qualifications of the persons who perform the required inspections. This issue was addressed by a formal interpretation of the requirement issued jointly by the State Fire Marshal and the Building Code Commissioner in May 2011. The amendment adopted herein incorporates the explanatory language used in the interpretation directly into the rule. This language should aid in reducing confusion about who may perform the required inspections. The language adopted herein clarifies that any person, including the owner or an employee of the owner of

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the structure being inspected, may perform a required inspection, provided that the person performing the inspection is knowledgeable about the requirements for the structure.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9562B** on June 15, 2011. A public hearing on the amendment proposed in the Notice of Intended Action was held on August 2, 2011. No comments were received on the proposed amendment during the hearing or otherwise. A nonsubstantive change was made to the amendment proposed in the Notice of Intended Action. Unnumbered paragraphs in the rule are numbered as subrules, and language referencing the National Electrical Code in subrule 301.3(21) is changed to avoid potential confusion regarding the edition of the referenced code which applies. These changes are entirely editorial in nature and do not involve any substantive change in the rule.

No fiscal impact to the state is anticipated.

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

This amendment is intended to implement Iowa Code section 103A.7.

This amendment will become effective December 1, 2011.

The following amendment is adopted.

Amend rule 661—301.3(103A) as follows:

661—301.3(103A) General provisions. The provisions of the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the general requirements for building construction, with the following amendments:

301.3(1) Delete section 101.1.

301.3(2) Delete section 101.2 and insert in lieu thereof the following new section:

101.2 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code, as amended by rule 661—301.8(103A).

301.3(3) Delete section 101.4 and sections therein.

301.3(4) Delete section 102.6 and insert in lieu thereof the following new section:

102.6 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

301.3(5) Delete sections 103, 104, 105 and sections therein.

301.3(6) Delete section 106.2.

301.3(7) Delete section 107.1 and insert in lieu thereof the following new section:

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, a geotechnical report and other data shall be submitted in one or more sets with each plan review application. The construction documents shall be prepared by a responsible design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the commissioner is authorized to require additional construction documents to be prepared by a responsible design professional.

Exception: The commissioner is authorized to waive the submission of construction documents and other data not required to be prepared by a responsible design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

301.3(8) Delete sections 107.3, 107.4, and 107.5 and sections therein.

301.3(9) Delete sections 109, 110, 111, 112, 113, 114, 115, and 116 and sections therein.

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301.3(10) Delete section 906.1 and insert in lieu thereof the following new section:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1 of the International Fire Code.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

301.3(11) Delete section 907.2.2 and insert in lieu thereof the following new section:

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The Group B fire area contains a Group B ambulatory health care facility.
4. The Group B fire area contains an educational occupancy for students above the twelfth grade with an occupant load of 50 or more persons.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

301.3(12) Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - 2.1. Interior corridors are protected by smoke detectors with alarm verification.
 - 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - 2.4. Off-premises monitoring is provided.
 - 2.5. The capability to activate the evacuation signal from a central point is provided.
 - 2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.
3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow and manual activation is provided from a normally occupied location.

301.3(13) Add the following new section 1003.8:

1003.8 Location of Preschool through Second Grade Students. In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

301.3(14) Delete section 1028.1.1 and insert in lieu thereof the following new section:

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1028.1.1 Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2007 edition, with the following amendments to ICC-300:

a. Delete section 105.2 and insert in lieu thereof the following new section:

105.2 Yearly inspection required. The owner shall cause all bleachers and folding and telescopic seating installed on or after December 1, 2011, to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

b. Delete section 501.2 and insert in lieu thereof the following new section:

501.2 Inspections. All tiered seating that was installed prior to December 1, 2011, shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

301.3(15) Add the following new section 1100:

1100. Any building or facility which is in compliance with the applicable requirements of 661—Chapter 302 shall be deemed to be in compliance with any applicable requirements contained in the International Building Code concerning accessibility for persons with disabilities.

301.3(16) Delete chapter 29.

301.3(17) Amend section 3001.2 by adding the following new unnumbered paragraph after the introductory paragraph:

Notwithstanding the references in Chapter 35 to editions of national standards adopted in this section, any editions of these standards adopted by the elevator safety board in 875—Chapter 72 are hereby adopted by reference. If a standard is adopted by reference in this section and there is no adoption by reference of the same standard in 875—Chapter 72, the adoption by reference in this section is of the edition identified in Chapter 35.

301.3(18) Amend section 3401.3 by deleting “International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

301.3(19) Delete appendices A through K.

301.3(20) Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

301.3(21) Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2008 edition as amended by rule 661—301.5(103A).”

301.3(22) Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

301.3(1) 301.3(23) *Hospitals and health care facilities.*

a. to e. No change.

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~~301.3(2)~~ Reserved.

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