



# IOWA ADMINISTRATIVE BULLETIN

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Pages 631 to 716

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## PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

## CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2015

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
11	Wednesday, November 4, 2015	November 25, 2015
12	Wednesday, November 18, 2015	December 9, 2015
13	Wednesday, December 2, 2015	December 23, 2015

#### PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, November 10, 2015, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **ADMINISTRATIVE SERVICES DEPARTMENT[11]**

Organization and operation of Terrace Hill, 114.1 to 114.8 Filed **ARC 2199C** ..... 10/14/15

#### **CHILD ADVOCACY BOARD[489]**

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Local foster care review boards, 3.1 to 3.5 Notice **ARC 2223C** ..... 10/28/15

#### **COLLEGE STUDENT AID COMMISSION[283]**

EDUCATION DEPARTMENT[281]“umbrella”

All Iowa opportunity scholarship program, 8.2, 8.4 Filed **ARC 2206C** ..... 10/28/15

Uniform residency policies, adopt ch 10; amend chs 8, 9, 12, 13, 17, 18, 22 to 25, 32, 36

Filed **ARC 2205C** ..... 10/28/15

National Guard educational assistance, 20.1(6)“c” Filed **ARC 2207C** ..... 10/28/15

Iowa grant program, rescind ch 27 Notice **ARC 2217C** ..... 10/28/15

Teach Iowa scholar program—selection criteria, 28.4(1) Filed **ARC 2209C** ..... 10/28/15

Governor Terry E. Branstad Iowa state fair scholarship—monetary award, 36.1(4) Filed **ARC 2208C** ..... 10/28/15

#### **EDUCATION DEPARTMENT[281]**

Accountability for student achievement—selected districtwide assessment, 12.8(1)“h”

Notice **ARC 2185C** ..... 10/14/15

School health services—school district and accredited nonpublic school stock epinephrine

auto-injector voluntary supply, ch 14 Notice **ARC 2183C** ..... 10/14/15

Gap tuition assistance program—eligibility and priority for assistance, 25.21 Notice **ARC 2182C** ..... 10/14/15

Intensive summer literacy program, 61.3 Notice **ARC 2186C** ..... 10/14/15

Categorical funding—statewide voluntary preschool program, at-risk formula weighting, returning dropout and dropout prevention program, management fund, physical plant

and equipment levy, 98.13, 98.17, 98.18, 98.21, 98.62(2), 98.64(2) Notice **ARC 2184C** ..... 10/14/15

#### **ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Fundamentals of land surveying examination application process; board verification of education and experience of candidates for engineering licensure, 3.2(2), 4.1(2)“e”

Notice **ARC 2219C** ..... 10/28/15

#### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Application fees for construction and operation of air pollution emitting equipment; fees for

asbestos notifications, amend chs 20, 22, 23, 31, 33; adopt ch 30 Notice **ARC 2222C** ..... 10/28/15

#### **HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Organization, amendments to ch 1 Notice **ARC 2187C** ..... 10/14/15

Petitions for rule making, amendments to ch 2 Notice **ARC 2188C** ..... 10/14/15

Declaratory orders, amendments to ch 3 Notice **ARC 2189C** ..... 10/14/15

Agency procedure for rule making, amendments to ch 4 Notice **ARC 2190C** ..... 10/14/15

Fair information practices, amendments to ch 5 Notice **ARC 2216C** ..... 10/28/15

Contested cases, amendments to ch 6 Notice **ARC 2215C** ..... 10/28/15

Local emergency management, amendments to ch 7 Notice **ARC 2214C** ..... 10/28/15

Criteria for awards or grants, amendments to ch 8 Notice **ARC 2213C** ..... 10/28/15

Iowa comprehensive plan, amendments to ch 9 Notice **ARC 2212C** ..... 10/28/15

Repair, calibration, and maintenance of radiological monitoring, detection, and survey

equipment, amendments to ch 11 Notice **ARC 2211C** ..... 10/28/15

Homeland security and emergency response teams, amendments to ch 12 Notice **ARC 2210C** ..... 10/28/15

Flood mitigation program, 14.2, 14.3(2) Filed **ARC 2220C** ..... 10/28/15

#### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

Targeted small business certification program—service-disabled veterans, 25.1, 25.2(8),

25.4(1)“e” Filed **ARC 2221C** ..... 10/28/15

Regulation of elder group homes, assisted living programs, and adult day services,

amendments to chs 67, 69, 70 Notice **ARC 2200C** ..... 10/14/15

**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Prompt payment of health claims—removal of exemption for long-term care insurance,  
 15.32, 15.83(1), 15.85 Notice **ARC 2201C** ..... 10/14/15  
 Rate-filing deadline for crop-hail insurance, 20.8 Filed **ARC 2227C** ..... 10/28/15  
 Prior authorization—prescription drug benefits, ch 79 Notice **ARC 2228C** ..... 10/28/15  
 Corporate governance annual disclosure, ch 111 Notice **ARC 2181C** ..... 10/14/15

**IOWA FINANCE AUTHORITY[265]**

Low-income housing tax credit program—qualified allocation plan, amendments to ch 12

Filed **ARC 2225C** ..... 10/28/15  
 Agricultural development division, 44.2, 44.4 to 44.7 Filed **ARC 2226C** ..... 10/28/15

**MEDICINE BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Relinquishment of license to practice, 9.1, 9.19 Notice **ARC 2203C** ..... 10/14/15**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Iowa nurse assistance program, ch 19 Filed **ARC 2204C** ..... 10/28/15**PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Compounding practices, amend chs 3, 6, 7; rescind chs 13, 20; adopt ch 20 Filed **ARC 2194C** ..... 10/14/15  
 Reference library resources, 6.3, 7.3, 15.4, 16.5 Filed **ARC 2196C** ..... 10/14/15  
 Administration of influenza and pneumococcal vaccines, 7.8(14), 23.9(4) Filed **ARC 2197C** ..... 10/14/15  
 Designation of imitation controlled substances, rescind 10.41 Filed **ARC 2195C** ..... 10/14/15

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Chiropractors—continuing education, grounds for discipline, 44.3(2), 45.2(31) Filed **ARC 2202C** ..... 10/14/15  
 Polysomnographic technologists and respiratory care and polysomnography  
 practitioners—licensure, practice, discipline, continuing education, amendments to chs  
 261 to 263, 265 Notice **ARC 2224C** ..... 10/28/15

**PUBLIC EMPLOYMENT RELATIONS BOARD[621]**Negotiations and negotiability disputes, 6.1, 6.3 to 6.5 Notice **ARC 2191C** ..... 10/14/15**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Iowa greyhound pari-mutuel racing fund, 7.15 Filed **ARC 2198C** ..... 10/14/15**SOIL CONSERVATION DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Division name change; conservation cost-share management practices; general updates,  
 amendments to chs 3 to 5, 10 to 12, 16, 20 to 22, 30, 40, 50, 60, 101, 102, 107 Filed **ARC 2192C** ..... 10/14/15

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Telephone service regulations, amendments to ch 22 Filed **ARC 2180C** ..... 10/14/15

## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Mark Chelgren  
819 Hutchinson  
Ottumwa, Iowa 52501

Senator Mark Costello  
37265 Rains Avenue  
Imogene, Iowa 51645

Senator Thomas Courtney  
2609 Clearview  
Burlington, Iowa 52601

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

Senator Pam Jochum  
2368 Jackson Street  
Dubuque, Iowa 52001

Jack Ewing  
**Legal Counsel**  
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Telephone (515)281-6048  
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Representative Lisa Heddens  
2401 Westwind Drive  
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Representative Megan Jones  
4470 Highway 71  
Sioux Rapids, Iowa 50585

Representative Rick Olson  
3012 East 31st Court  
Des Moines, Iowa 5031

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

Representative Guy Vander Linden  
1610 Carbonado Road  
Oskaloosa, Iowa 52577

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

**EDUCATION DEPARTMENT[281]**

Accountability for student achievement—selected districtwide assessment, 12.8(1) IAB 10/14/15 <b>ARC 2185C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 1 to 2 p.m.
School health services—school district and accredited nonpublic school stock epinephrine auto-injector voluntary supply, ch 14 IAB 10/14/15 <b>ARC 2183C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 10 to 11 a.m.
Gap tuition assistance program—eligibility and priority for assistance, 25.21 IAB 10/14/15 <b>ARC 2182C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 9 to 10 a.m.
Intensive summer literacy program, 61.3 IAB 10/14/15 <b>ARC 2186C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 2 to 3 p.m.
Categorical funding—statewide voluntary preschool program, at-risk formula weighting, returning dropout and dropout prevention program, management fund, physical plant and equipment levy, 98.13, 98.17, 98.18, 98.21, 98.62(2), 98.64(2) IAB 10/14/15 <b>ARC 2184C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	November 3, 2015 11 a.m. to 12 noon

**ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]**

Fundamentals of land surveying examination application process; board verification of education and experience of candidates for engineering licensure, 3.2(2), 4.1(2) IAB 10/28/15 <b>ARC 2219C</b>	Bureau Office, Suite 350 200 E. Grand Ave. Des Moines, Iowa	November 17, 2015 9 a.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Application fees for construction and operation of air pollution emitting equipment; fees for asbestos notifications, amend chs 20, 22, 23, 31, 33; adopt ch 30 IAB 10/28/15 <b>ARC 2222C</b>	Public Library 400 Willow Ave. Council Bluffs, Iowa	November 18, 2015 6 p.m.
	Air Quality Bureau, Suite 1 7900 Hickman Rd. Windsor Heights, Iowa	November 19, 2015 10 a.m.
	Public Library 2950 Learning Campus Dr. Bettendorf, Iowa	November 24, 2015 6 p.m.

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

Organization, amendments to ch 1 IAB 10/14/15 <b>ARC 2187C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
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**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](cont'd)**

Petitions for rule making, amendments to ch 2 IAB 10/14/15 <b>ARC 2188C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
Declaratory orders, amendments to ch 3 IAB 10/14/15 <b>ARC 2189C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
Agency procedure for rule making, amendments to ch 4 IAB 10/14/15 <b>ARC 2190C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 3, 2015 11 a.m.
Fair information practices, amendments to ch 5 IAB 10/28/15 <b>ARC 2216C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 17, 2015 11 a.m.
Contested cases, amendments to ch 6 IAB 10/28/15 <b>ARC 2215C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 17, 2015 11 a.m.
Local emergency management, amendments to ch 7 IAB 10/28/15 <b>ARC 2214C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 17, 2015 11 a.m.
Criteria for awards or grants, amendments to ch 8 IAB 10/28/15 <b>ARC 2213C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 17, 2015 11 a.m.
Iowa comprehensive plan, amendments to ch 9 IAB 10/28/15 <b>ARC 2212C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 17, 2015 11 a.m.
Repair, calibration, and maintenance of radiological monitoring, detection, and survey equipment, amendments to ch 11 IAB 10/28/15 <b>ARC 2211C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 17, 2015 11 a.m.
Homeland security and emergency response teams, amendments to ch 12 IAB 10/28/15 <b>ARC 2210C</b>	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	November 17, 2015 11 a.m.

**INSURANCE DIVISION[191]**

Prompt payment of health claims—removal of exemption for long-term care insurance, 15.32, 15.83(1), 15.85 IAB 10/14/15 <b>ARC 2201C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 3, 2015 10 a.m.
Prior authorization—prescription drug benefits, ch 79 IAB 10/28/15 <b>ARC 2228C</b>	Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 18, 2015 10 a.m.
Corporate governance annual disclosure, ch 111 IAB 10/14/15 <b>ARC 2181C</b>	Conference Rm. 4 North, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	November 4, 2015 10 a.m.

**MEDICINE BOARD[653]**

Relinquishment of license to  
practice, 9.1, 9.19  
IAB 10/14/15 **ARC 2203C**

Board Office, Suite C  
400 S.W. 8th St.  
Des Moines, Iowa

November 10, 2015  
11 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Polysomnographic technologists  
and respiratory care  
and polysomnography  
practitioners—licensure,  
practice, discipline, continuing  
education, amendments to  
chs 261 to 263, 265  
IAB 10/28/15 **ARC 2224C**

Fifth Floor Conference Room 526  
Lucas State Office Bldg.  
Des Moines, Iowa

November 17, 2015  
9 to 9:30 a.m.

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.

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
AGING, DEPARTMENT ON[17]  
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        Architectural Examining Board[193B]  
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## ARC 2223C

## CHILD ADVOCACY BOARD[489]

## 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 237.18, the Child Advocacy Board hereby gives Notice of Intended Action to amend Chapter 3, “Local Foster Care Review Boards,” Iowa Administrative Code.

The proposed amendments delineate the process for selecting, appointing, and reappointing members of local foster care review boards and change the length of the term of appointment from two years to three years. This change in length of term is necessary to accommodate the time it takes for a new board member to become fully acquainted with the board member’s duties.

The proposed amendments also make technical changes throughout the chapter by changing references to the State Foster Care Review Board to the Child Advocacy Board. These changes are consistent with statutory language references to the Board contained in Iowa Code chapter 237.

The Board approved these amendments at its August 28, 2015, meeting.

The Board does not believe that the proposed amendments pose a financial hardship on any regulated entity or individual.

Any interested person may make written suggestions or comments on the proposed amendments on or before November 17, 2015. Such written materials should be addressed to Jim Hennessey, Child Advocacy Board, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)281-5975; or e-mailed to [jim.hennessey@dia.iowa.gov](mailto:jim.hennessey@dia.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 section 237.18.

The following amendments are proposed.

ITEM 1. Amend rule 489—3.1(237) as follows:

**489—3.1(237) Local boards.** The state child advocacy board shall establish local foster care boards in judicial districts as funding is made available for that purpose. The number of local boards needed and established shall be determined by the state child advocacy board. A sufficient number of boards will be established to ensure that no board shall carry a caseload larger than 100 cases.

**3.1(1)** The state child advocacy board is responsible under the statute for establishment of policy and procedures which must be consistent with the provisions of the statute. Local boards are required to comply with policies and procedures. If a local board does not agree with a policy ~~and~~ or procedure, the local board may bring that issue to the state child advocacy board for discussion and request a change ~~of policy by the board~~. If the state child advocacy board upholds the policy, local boards must comply.

**3.1(2)** Day-to-day implementation of policy is delegated by the state child advocacy board to administrative staff. Staff is responsible for bringing questions about policy issues to the state child advocacy board for clarification or changes of policy.

**3.1(3)** Any written communication from a local review board or local board member, ~~in their the~~ member’s capacity as a board member to state officials or media shall be sent to the ~~foster care review~~ child advocacy board office and reviewed by the ~~director~~ administrator prior to its release.

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.

## CHILD ADVOCACY BOARD[489](cont'd)

ITEM 2. Rescind rule 489—3.2(237) and adopt the following **new** rule in lieu thereof:

**489—3.2(237) Membership.**

**3.2(1)** The child advocacy board delegates responsibility to the administrator to develop and for local board coordinators to implement an application, recruitment, screening and training process for appointments to vacated local board positions:

*a.* The process will culminate in the coordinator's preparation of a written selection rationale statement about the prospective appointee to the child advocacy board.

*b.* The process will include consultation with the chief judge for the court district served by the local board.

*c.* The administrator will submit each written selection rationale statement electronically to all child advocacy board members no later than 30 calendar days prior to the beginning date of the local board member's prospective term. If a board member vacates the position mid-term, the selection process and resulting written selection rationale statement shall be submitted to the child advocacy board as soon as practicable.

*d.* Within 15 calendar days after receipt of the written selection rationale statement, any child advocacy board member may request a telephonic child advocacy board meeting to review a prospective appointment. During the meeting, child advocacy board members may raise questions and then vote for the approval or disapproval of the prospective appointment.

*e.* If no meeting is requested, the prospective local board member is deemed approved by the child advocacy board.

**3.2(2)** A person employed by the department of inspections and appeals, the department of human services, the judicial department, an employee of an agency with which the department of human services contracts for services for children under foster care, a foster parent providing foster care, or a child-placing agency shall not serve on a local board. The child advocacy board shall provide the names of the members of the local boards to the department of human services.

**3.2(3)** Vacancies on a local board shall be filled in the same manner as original appointments are made.

**3.2(4)** The term of a local board member's appointment shall not exceed three years. The child advocacy board shall fix the tenure of individual appointments so that no more than one-third of the membership's terms expire in a given year.

**3.2(5)** The administrator shall develop a local board member evaluation process. The local board coordinator shall complete the evaluation process at least once for each local board member during the member's three-year term. The local board coordinator shall consider the results of the evaluation when determining whether to seek appointment of the local board member to a successive term. When submitting a written selection rationale statement to the child advocacy board for a local board member to serve a successive term, the local board coordinator shall include a summary of the evaluation results for that member.

**3.2(6)** A local board member may serve continuous successive terms when selected and approved in accordance with this rule.

**3.2(7)** A quorum consists of at least three local review board members or alternates. A quorum shall be present before cases can be reviewed and recommendations can be voted on. At least two members must be present during questioning of interested parties.

This rule is intended to implement Iowa Code sections 17A.3 and 237.19.

ITEM 3. Amend rule 489—3.3(237) as follows:

**489—3.3(237) Removal of a local board member.**

**3.3(1)** Grounds for removal are:

*a.* Not attending mandatory training sessions.

*b.* Missing two consecutive board meetings or four board meetings in a year's period, without justifiable cause as determined by the ~~director~~ administrator.

## CHILD ADVOCACY BOARD[489](cont'd)

c. Releasing confidential information pursuant to Iowa Code sections 600.16, 217.30, 235A.15, and 237.21, chapters 21 and 22, and other statutory provisions requiring confidentiality.

d. Any action or behavior that is inconsistent with the purpose and objectives of Iowa Code sections 237.15 to 237.22, the board, and these rules.

**3.3(2)** The ~~director~~ administrator shall write a letter requesting the state child advocacy board to take action with specific cause and nature of the cause for removal of local board members. Copies of this request will be given to all state child advocacy board members and the person in question at least 15 days in advance of the state child advocacy board meeting where a decision will be made.

**3.3(3)** The person in question may enter written or oral testimony to the state child advocacy board ten days in advance of the board meeting for the state child advocacy board's consideration.

**3.3(4)** The state child advocacy board shall make the final decision, with no further appeal available, when a quorum is present by an affirmative majority vote. Written notice of the decision will be given to the local board member and will be reflected in the board minutes.

This rule is intended to implement Iowa Code sections 17A.3 and 237.18(2) "f."

ITEM 4. Amend subrule 3.4(1), introductory paragraph, as follows:

**3.4(1)** Local board reviews. Every six months the local board shall review the case of each child receiving foster care assigned to the local board by the state child advocacy board to determine whether satisfactory progress is being made towards the goals of the case permanency plan pursuant to Iowa Code section 237.2. ~~As much as~~ Whenever possible, reviews shall be conducted prior to court review of the cases.

ITEM 5. Adopt the following **new** paragraphs **3.4(3)"h"** and **"i"**:

h. The person providing services to the child.

i. The child's attorney.

ITEM 6. Amend rule 489—3.5(237), introductory paragraph, as follows:

**489—3.5(237) Local board coordinator.** The local board coordinators are employees of the ~~foster care review~~ child advocacy board. They provide a full range of administrative support services to the local boards. As funds permit, the administrator may delegate some of the services and duties of the local board coordinators to administrative support staff or to contracted board facilitators.

ITEM 7. Amend subrule 3.5(1), introductory paragraph, as follows:

**3.5(1)** Duties of the local board coordinators or other personnel assigned by the administrator include:

ITEM 8. Amend paragraph **3.5(1)"b"** as follows:

b. Ensuring conformance with standards, official policies and procedures promulgated by the state child advocacy board to ensure uniform implementation across the state, and reporting to the ~~director~~ administrator and state child advocacy board on policy questions and procedural matters that local board members may have.

**ARC 2217C****COLLEGE STUDENT AID COMMISSION[283]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby gives Notice of Intended Action to rescind Chapter 27, “Iowa Grant Program,” Iowa Administrative Code.

The proposed rescission of the chapter is a result of changes to the Iowa Code that were enacted in 2015 Iowa Acts, House File 658, section 18.

Interested persons may submit comments orally or in writing by 4:30 p.m. on November 17, 2015, to the Executive Director, Iowa College Student Aid Commission, 430 East Grand Avenue, Third Floor, Des Moines, Iowa 50309-1920. Written comments may also be sent by fax to (515)725-3401, by e-mail to [julie.leeper@iowa.gov](mailto:julie.leeper@iowa.gov), or via the Iowa administrative rules Web site at <https://rules.iowa.gov>.

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

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

This amendment is intended to implement 2015 Iowa Acts, House File 658, section 18.

The following amendment is proposed.

Rescind and reserve **283—Chapter 27**.

**ARC 2219C****ENGINEERING AND LAND SURVEYING  
EXAMINING BOARD[193C]****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 542B.6, the Engineering and Land Surveying Examining Board proposes to amend Chapter 3, “Application and Renewal Process,” and Chapter 4, “Engineering Licensure,” Iowa Administrative Code.

The proposed amendment to Chapter 3 reflects simplifications in the application process for the Fundamentals of Land Surveying examinations, which increase the availability of the examinations. The proposed amendment to Chapter 4 removes outdated information and reflects current practice.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before November 17, 2015. Comments should be directed to Robert Lampe, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309; by telephone at (515)725-9024; or by e-mail to [robert.lampe@iowa.gov](mailto:robert.lampe@iowa.gov).

A public hearing will be held at 9 a.m. on November 17, 2015, at the offices of the Professional Licensing Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.



## ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Any person who plans to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Board to discuss specific needs.

There is no fiscal impact. No current fees are being changed and no new fees are being imposed.

The proposed amendments are subject to waiver or variance pursuant to 193—Chapter 5.

The proposed amendments were approved by the Board on September 24, 2015.

After analysis and review of this rule making, no impact on jobs has been found. The proposed amendments do not impact the time line for licensure or for new licensees to begin working.

These amendments are intended to implement Iowa Code section 542B.21.

The following amendments are proposed.

ITEM 1. Amend subrule 3.2(2) as follows:

**3.2(2) Fundamentals of Land Surveying examination application components ~~and due dates~~.** The components of this application include: the completed, notarized application form; references pursuant to 193C—paragraph 5.1(5)“b”; and transcripts. Fundamentals of Land Surveying examination applications must be submitted to the board office. ~~Examinations are offered during four two-month testing periods throughout the year. Applications must be postmarked on or before October 15 for the January/February window, February 15 for the April/May window, April 15 for the July/August window, and August 15 for the October/November window.~~ Applications will be reviewed by the board at the next regularly scheduled board meeting.

ITEM 2. Amend paragraph **4.1(2)“e”** as follows:

~~e. Commencing with the computer-based FE exams in 2014, all All~~ FE exam candidates will apply directly to the National Council of Examiners for Engineering and Surveying (NCEES) and will self-attest as to the candidate’s eligibility to sit for the FE exam. ~~At that time, NCEES will cease its prior practice of receiving and verifying college transcripts for candidates with ABET/EAC- or CEAB-accredited engineering degrees and for candidates in their senior years of such programs. The board will also cease its practice of processing FE exam applications for those candidates who hold engineering degrees from nonaccredited programs who must have one year of experience in order for the degrees to be accepted by the board.~~ The board will instead verify acceptable education and experience at the time an applicant applies to sit for the Principles and Practice of Engineering examination or applies for an Engineer Intern (EI) number. The board shall apply the education and experience standards set forth in this rule, but will allow reasonable flexibility in timing in the event an applicant sat for and passed the FE exam at a point earlier than provided in this rule. The board will not, however, issue an EI number unless all required experience required for candidates who hold engineering degrees from nonaccredited programs has been satisfied at the time of the EI application.

**ARC 2222C**

## **ENVIRONMENTAL PROTECTION COMMISSION[567]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455B.133 and 455B.133B as amended by 2015 Iowa Acts, Senate File 488, and 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C], the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22, “Controlling Pollution,” and Chapter 23, “Emission Standards for Contaminants”; to adopt new Chapter 30, “Fees”; and to amend Chapter 31, “Nonattainment Areas,” and Chapter 33, “Special Regulations

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The proposed amendments adopt new rules to implement 2015 Iowa Acts, Senate File 488, signed by Governor Branstad on May 15, 2015, and amend existing rules to establish application fees for construction and operation of air pollution emitting equipment and fees for asbestos notifications. It is anticipated that the proposed amendments will result in the following:

- A 25 percent quicker response time to process air quality construction permit applications at large and small industries. The proposed fees for construction permit application processing will help ensure that critical services, such as providing flexible and simple permitting solutions to meet applicants’ needs and finding unique approaches that reduce regulatory burdens, will continue to allow industries to add jobs and grow the economy while at the same time protecting air quality.
- A 15 percent quicker average issuance rate for Title V operating permits. The proposed fees will help ensure that industries can successfully navigate the complexities of the Title V operating permit program, including a guidebook permit that summarizes all of the information that a company needs in order to meet air quality requirements at its facility.

These improvements in the Department of Natural Resources’ (Department’s) services will allow industries to add jobs and grow the economy while at the same time protecting air quality.

Industries that are already permitted and make no changes triggering the requirement for a modification to an existing construction permit will not have to pay a construction permit application fee. The proposed rules and associated fees will apply to industries only when they add new equipment or modify existing equipment that emits regulated air pollutants and to industries required to obtain a Title V operating permit.

The proposed amendments add new Chapter 30, which sets forth:

1. The types of application and notification fees and the requirements to pay them;
2. The dollar cap for each fee and the process for establishing fees in the fee schedule;
3. Limitations on how fee revenues may be expended; and
4. Requirements for the Department to meet annually with each fee advisory group.

The provisions for the existing Title V emissions fee is proposed to be moved from rule 567—22.106(455B) to new Chapter 30 to consolidate all fee details in one chapter. The Title V emission dollar-per-ton rate currently located in rule 567—22.106(455B) is proposed to be moved to rule 567—30.4(455B). The Title V emission dollar-per-ton cap is proposed to be increased to \$70 per ton to reflect the estimated program expenses associated with projected actual emissions for FY 2017. The proposed amendments would also clarify the Department’s current practice of excluding greenhouse gases from annual Title V air emissions fees by adding “greenhouse gases” to the list of regulated pollutants that are excluded from Title V air emissions fees.

The proposed amendments set a flat fee for new source review applications from minor sources, including registration permits, permit by rule, and permit templates; and for asbestos notifications. In addition, the amendments propose to assess billable, hourly review fees during the application review process for new source review applications for major sources and for applications for initial and renewal Title V operating permits.

The Commission seeks comment on the proposed alternative approach to the billable-hour method. In this alternative approach, a flat fee would be required to be submitted instead of a billable, hourly review fee for each type of permit application before work on the application would commence.

The Commission also seeks comment on whether for Title V applications for initial or renewal operating permits, the entire application fee should be included with the submittal of the application or whether an option should be made available for the fee to be paid in equal annual installments over a five-year time period, beginning when the application is submitted.

The Department will conduct a study to measure the time and cost of application review and permit issuance for new source review and operating permits. The Department will provide periodic reports regarding the progress of the study and will provide the results of this study to the fee advisory groups (created pursuant to proposed rule 567—30.5(455B)).

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Following public comment and public hearings, the Commission intends to file these amendments as Adopted and Filed Emergency After Notice, to be effective on December 16, 2015, pursuant to Iowa Code section 17A.5(2)“b”(1) and (2). The normal effective date would be waived and the amendments would be made effective upon filing, as the amendments confer a benefit on economic development for regulated entities by providing the Department the financial means to provide quality environmental services to Iowa business, while protecting the citizens of Iowa.

Proposed amendments are as follows:

**Item 1** amends rule 567—20.1(455B,17A) to add a description of the new Chapter 30.

**Item 2** amends paragraph 22.1(3)“a” to revise the catchphrase and to specify that regulatory determinations, including concept reviews, are subject to fees as defined in Chapter 30.

**Item 3** amends paragraph 22.1(3)“b” by adding a new subparagraph (10) to establish the requirement to pay application fees for a construction permit.

**Item 4** amends rule 567—22.4(455B) to establish the requirement to pay application fees for a prevention of significant deterioration (PSD) permit.

**Item 5** amends rule 567—22.5(455B) to establish the requirement to pay application fees for a nonattainment major new source review (NSR) permit.

**Item 6** amends subrule 22.8(1) to establish the requirement to pay application fees for a permit by rule for spray booths.

**Item 7** amends rule 567—22.10(455B) to establish the requirement to pay application fees for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment.

**Item 8** amends the definition of “Regulated air pollutant or contaminant (for fee calculation)” in rule 567—22.100(455B) to clarify that greenhouse gases are not subject to annual emissions fees under the Title V operating permit program.

**Item 9** amends subrule 22.101(1) to establish the requirement to pay application fees for an operating permit.

**Item 10** amends rule 567—22.103(455B) to update a cross reference due to the relocation of the existing Title V emissions fee provisions from rule 567—22.106(455B) to new Chapter 30.

**Item 11** amends subrule 22.105(1) to add the requirement that the owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit fees as required in Chapter 30.

**Item 12** amends subrule 22.105(2) to provide a reference indicating that the emissions fee information for the Title V operating permit program is located in Chapter 30.

**Item 13** amends rule 567—22.106(455B) to move the existing Title V operating permit emissions fee to new Chapter 30 and to add a reference to Chapter 30.

**Item 14** amends subrule 22.108(10) to update the Title V operating permit’s general condition language to refer to Chapter 30 for the fees.

**Item 15** amends paragraph 23.1(3)“a” to add a notification fee for the asbestos demolition and renovation program.

**Item 16** proposes new Chapter 30 pertaining to fees. Rule 567—30.1(455B) defines the purpose of the chapter and describes each rule, provides definitions for terms used in Chapter 30, and adds provisions regarding the duty to correct errors, exemptions to fee requirements for administrative amendments, and refunds of application fees. Rule 567—30.2(455B) details which new source review activities are required to submit an application fee. Rule 567—30.3(455B) explains when asbestos notification fees are required. Rule 567—30.4(455B) contains the Title V application fee requirement and the Title V emissions fee that was formerly in rule 567—22.106(455B). Rule 567—30.5(455B) explains the fee advisory groups for new source review for major sources, new source review for minor sources, asbestos, and Title V. Rule 567—30.6(455B) explains the process to establish or adjust fees and contains the fee types and the dollar caps on the fee types for which the Commission may set a fee amount. Rule 567—30.7(455B) explains how fee revenues may be used and specifies the calculated estimate of maximum fee revenues.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

**Item 17** amends rule 567—31.1(455B) to establish the requirement to pay application fees for a nonattainment major new source review (NSR) permit or fees for a request of a plantwide applicability limit.

**Item 18** amends rule 567—33.1(455B) to establish the requirement to pay application fees for a prevention of significant deterioration (PSD) permit or fees for a request of a plantwide applicability limit.

Any person may make written suggestions or comments on the proposed amendments until 4:30 p.m. on November 30, 2015. Written comments should be directed to Wendy Walker, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324; fax (515)725-9501; or by e-mail to [wendy.walker@dnr.iowa.gov](mailto:wendy.walker@dnr.iowa.gov).

Public hearings will be held as follows:

November 18, 2015	6 p.m.	Council Bluffs Public Library 400 Willow Avenue Council Bluffs
November 19, 2015	10 a.m.	Air Quality Bureau 7900 Hickman Road, Suite 1 Windsor Heights
November 24, 2015	6 p.m.	Bettendorf Public Library 2950 Learning Campus Drive Bettendorf

Any person who intends to attend a public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Wendy Walker at (515)725-9570 or by e-mail at [wendy.walker@dnr.iowa.gov](mailto:wendy.walker@dnr.iowa.gov) to advise of any specific needs.

After analysis and review, the Commission has determined that the proposed amendments will likely have a positive impact on jobs at Iowa's large facilities but could have a negative impact on jobs at medium- to small-sized facilities (i.e., facilities that are now subject to payment of fees if they make changes triggering a new or modified air quality construction permit). However, it is the Commission's expectation that the fees proposed in this rule making are expected to result in reductions in the time it takes for industries to receive air quality permits, thus allowing industries to respond quickly to changing economic conditions and facilitate job growth.

The Department is pursuing several efficiency objectives including, but not limited to, electronic filing, removing redundant provisions in application forms and permits through LEAN events, and exploring best practices in air quality programs in other states, all while ensuring compliance with environmental regulations.

The complete jobs impact statement is available from the Department upon request.

These amendments are intended to implement Iowa Code sections 455B.133 and 455B.133B as amended by 2015 Iowa Acts, Senate File 488, and 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C].

The following amendments are proposed.

ITEM 1. Amend rule **567—20.1(455B,17A)**, second unnumbered paragraph, as follows:

Chapter 21 contains the provisions requiring compliance schedules, allowing for variances, and setting forth the emission reduction program. Chapter 22 contains the standards and procedures for the permitting of emission sources. Chapter 23 contains the air emission standards for contaminants. Chapter 24 provides for the reporting of excess emissions and the equipment maintenance and repair requirements. Chapter 25 contains the testing and sampling requirements for new and existing sources. Chapter 26 identifies air pollution emergency episodes and the preplanned abatement strategies. Chapter 27 sets forth the conditions political subdivisions must meet in order to secure acceptance of a local air pollution control program. Chapter 28 identifies the state ambient air quality standards. Chapter 29 sets forth the qualifications for an observer for reading visible emissions. Chapter 30 sets forth requirements to pay fees for specified activities. Chapter 31 contains the conformity of general federal actions to the

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Iowa state implementation plan or federal implementation plan and requirements for areas designated nonattainment. Chapter 32 specifies requirements for conducting the animal feeding operations field study. Chapter 33 contains special regulations and construction permit requirements for major stationary sources and includes the requirements for prevention of significant deterioration (PSD). Chapter 34 contains provisions for air quality emissions trading programs.

ITEM 2. Amend paragraph **22.1(3)“a”** as follows:

*a. ~~New equipment design in concept review~~ Regulatory applicability determinations.* If requested in writing, the director will review the design concepts of ~~proposed new~~ equipment and associated control equipment prior to application for a construction permit. The purpose of the review would be to determine the acceptability of the location of the ~~proposed~~ equipment. If the review is requested, the requester shall supply the following information and submit a fee as required in 567—Chapter 30:

- (1) Preliminary plans and specifications of ~~proposed~~ equipment and related control equipment.
- (2) The exact site location and a plot plan of the immediate area, including the distance to and height of nearby buildings and the estimated location and elevation of the emission points.
- (3) The estimated emission rates of any air contaminants which are to be considered.
- (4) The estimated exhaust gas temperature, velocity at the point of discharge, and stack diameter at the point of discharge.
- (5) An estimate of when construction would begin and when construction would be completed.

ITEM 3. Amend paragraph **22.1(3)“b”** as follows:

*b. Construction permit applications.* Each application for a construction permit shall be submitted to the department on the form “Air Construction Permit Application.” Final plans and specifications for the proposed equipment or related control equipment shall be submitted with the application for a permit and shall be prepared by or under the direct supervision of a professional engineer licensed in the state of Iowa in conformance with Iowa Code section 542B.1, or consistent with the provisions of Iowa Code section 542B.26 for any full-time employee of any corporation while doing work for that corporation. The application for a permit to construct shall include the following information:

- (1) to (6) No change.
- (7) Any additional information deemed necessary by the department to determine compliance with or applicability of rules 567—22.4(455B), 567—22.5(455B), 567—31.3(455B) and 567—33.3(455B); and
- (8) Application for a case-by-case MACT determination. If the source meets the definition of construction or reconstruction of a major source of hazardous air pollutants, as defined in paragraph 22.1(1)“b,” then the owner or operator shall submit an application for a case-by-case MACT determination, as required in 567—subparagraph 23.1(4)“b”(1), with the construction permit application. In addition to this paragraph, an application for a case-by-case MACT determination shall include the following information:

1. to 7. No change.

8. An identification of any listed source category or categories in which the major source is included;<sub>2</sub>

(9) A signed statement that ensures the applicant’s legal entitlement to install and operate equipment covered by the permit application on the property identified in the permit application. A signed statement shall not be required for rock crushers, portable concrete or asphalt equipment used in conjunction with specific identified construction projects which are intended to be located at a site only for the duration of the specific, identified construction project;<sub>2</sub> and

(10) Application fee.

1. The owner or operator shall submit a fee as required in 567—Chapter 30, to obtain a permit under subrule 22.1(1), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33.

2. For application submittals from a minor source as defined in 567—Chapter 30, the department shall not initiate review and processing of a permit application submittal until all required application fees have been paid to the department.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 4. Amend rule 567—22.4(455B) as follows:

**567—22.4(455B) Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD).** As applicable, the owner or operator of a stationary source shall comply with the rules for prevention of significant deterioration (PSD) as set forth in 567—Chapter 33. An owner or operator required to apply for a construction permit under this rule shall submit all required fees as required in 567—Chapter 30.

ITEM 5. Amend rule 567—22.5(455B) as follows:

**567—22.5(455B) Special requirements for nonattainment areas.** As applicable, the owner or operator of a stationary source shall comply with the requirements for the nonattainment major NSR program as set forth in rule 567—31.20(455B). An owner or operator required to apply for a construction permit under this rule shall submit all required fees as required in 567—Chapter 30.

ITEM 6. Amend subrule 22.8(1), introductory paragraph, as follows:

**22.8(1) Permit by rule for spray booths.** Spray booths which comply with the requirements contained in this rule will be deemed to be in compliance with the requirements to obtain an air construction permit and an air operating permit. Spray booths which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source limits for regulated air pollutants and hazardous air pollutants as defined in rule 567—22.100(455B). An owner or operator required to apply for a permit by rule under this subrule shall submit fees as required in 567—Chapter 30.

ITEM 7. Amend rule 567—22.10(455B), introductory paragraph, as follows:

**567—22.10(455B) Permitting requirements for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment.** The requirements of this rule apply only to country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment, as these terms are defined in subrule 22.10(1). The requirements of this rule do not apply to equipment located at grain processing plants or grain storage elevators, as “grain processing” and “grain storage elevator” are defined in rule 567—20.2(455B). Compliance with the requirements of this rule does not alleviate any affected person’s duty to comply with any applicable state or federal regulations. In particular, the emission standards set forth in 567—Chapter 23, including the regulations for grain elevators contained in 40 CFR Part 60, Subpart DD (as adopted by reference in 567—paragraph 23.1(2) “ooo”), may apply. An owner or operator subject to this rule shall submit fees as required in 567—Chapter 30.

ITEM 8. Amend rule **567—22.100(455B)**, definition of “Regulated air pollutant or contaminant (for fee calculation),” as follows:

“*Regulated air pollutant or contaminant (for fee calculation),*” which is used only for purposes of rule 567—22.106(455B) Chapter 30, means any “regulated air pollutant or contaminant” except the following:

1. Carbon monoxide;
2. Particulate matter, excluding PM<sub>10</sub>;
3. Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act;
4. Any pollutant that is a regulated pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act;
5. Greenhouse gas, as defined in rule 567—20.2(455B).

ITEM 9. Amend subrule 22.101(1), introductory paragraph, as follows:

**22.101(1)** Except as provided in rule 567—22.102(455B), any person who owns or operates any of the following sources shall obtain a Title V operating permit and shall submit fees as required in 567—Chapter 30:

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 10. Amend rule 567—22.103(455B), introductory paragraph, as follows:

**567—22.103(455B) Insignificant activities.** The following are insignificant activities for purposes of the Title V application if not needed to determine the applicability of or to impose any applicable requirement. Title V permit emissions fees are not required from insignificant activities pursuant to ~~subrule 22.106(7).~~ 567—paragraph 30.4(2) “f.”

ITEM 11. Amend subrule 22.105(1), introductory paragraph, as follows:

**22.105(1) Duty to apply.** For each source required to obtain a Title V permit, the owner or operator or designated representative, where applicable, shall present or mail a complete and timely permit application in accordance with this rule to the following locations: Iowa Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324 (two copies); and U.S. EPA Region VII, 901 North 5th Street, Kansas City, Kansas 66101 (one copy); and, if applicable, the local permitting authority, which is either Linn County Public Health Department, Air Quality Division, 501 13th Street NW, Cedar Rapids, Iowa 52405 (one copy); or Polk County Public Works, Air Quality Division, 5885 NE 14th Street, Des Moines, Iowa 50313 (one copy). Alternatively, an owner or operator may submit a complete and timely application through the electronic submittal format specified by the department. An owner or operator of a source required to obtain a Title V permit pursuant to subrule 22.101(1) shall submit all required fees as required in 567—Chapter 30.

ITEM 12. Amend subrule 22.105(2), introductory paragraph, as follows:

**22.105(2) Standard application form and required information.** To apply for a Title V permit, applicants shall complete the standard permit application form available only from the department of ~~natural resources~~ and supply all information required by the filing instructions found on that form. The information submitted must be sufficient to evaluate the source and its application and to determine all applicable requirements and to evaluate the emissions fee amount required by rule 567—22.106(455B) Chapter 30. If a source is not a major source and is applying for a Title V operating permit solely because of a requirement imposed by paragraphs 22.101(1) “c” and “d,” then the information provided in the operating permit application may cover only the emissions units that trigger Title V applicability. The applicant shall submit the information called for by the application form for each emissions unit to be permitted, except for activities which are insignificant according to the provisions of rule 567—22.103(455B). The applicant shall provide a list of all insignificant activities and specify the basis for the determination of insignificance for each activity. Nationally standardized forms shall be used for the acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the Act. The standard application form and any attachments shall require that the following information be provided:

ITEM 13. Amend rule 567—22.106(455B) as follows:

**567—22.106(455B) Title V permit fees Annual Title V emissions inventory.**

**22.106(1) Fee established Emissions fee.** Fees shall be paid as set forth in 567—Chapter 30. ~~Any person required to obtain a Title V permit shall pay an annual fee based on the total tons of actual emissions of each regulated air pollutant, beginning November 15, 1994. Beginning July 1, 1996, Title V operating permit fees will be paid on or before July 1 of each year. The fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The department and the commission will review the fee structure on an annual basis and adjust the fee as necessary to cover all reasonable costs required to develop and administer the programs required by the Act. The department shall submit the proposed budget for the following fiscal year to the commission no later than the March meeting. The commission shall set the fee based on the reasonable cost to run the program and the proposed budget no later than the May commission meeting of each year. The commission shall provide an opportunity for public comment prior to setting the fee. The commission shall not set the fee higher than \$56 per ton without adopting the change pursuant to formal rule making.~~

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~22.106(2) Fee calculation.~~ The fee amount shall be calculated based on the first 4,000 tons of each regulated air pollutant or contaminant emitted each year from each major source.

~~22.106(3) 22.106(2) Fee Emissions inventory and documentation due dates.~~

~~a.~~ The fee shall be submitted annually by July 1. For emissions located in Polk County or Linn County, the fee shall be submitted with three copies of the following forms. For emissions in all remaining counties, the fee shall be submitted with two copies of the following forms:

- ~~1.~~ Form 1.0 "Facility identification";
- ~~2.~~ Form 5.0 "Title V annual emissions summary/fee"; and
- ~~3.~~ Part 3 "Application certification."

~~b.~~ For emissions located in Polk County or Linn County, three copies of the following forms shall be submitted annually by March 31 documenting actual emissions for the previous calendar year. For emissions in all other counties, two copies of the following forms shall be submitted annually by March 31, documenting actual emissions for the previous calendar year:

- ~~1. a.~~ Form 1.0, "Facility Identification";
- ~~2. b.~~ Form 4.0, "Emission Unit—Actual Operations and Emissions" for each emission unit;
- ~~3. c.~~ Form 5.0, "Title V Annual Emissions Summary/Fee"; and
- ~~4. d.~~ Part 3, "Application Certification."

Alternatively, an owner or operator may submit the required emissions inventory information through the electronic submittal format specified by the department.

If there are any changes to the emission calculation form, the department shall make revised forms available to the public by January 1. If revised forms are not available by January 1, forms from the previous year may be used and the year of emissions documented changed. The department shall calculate the total statewide Title V emissions for the prior calendar year and make this information available to the public no later than April 30 of each year.

~~22.106(4) Phase I acid rain sources.~~ No fee shall be required to be paid for emissions which occur during the years 1993 through 1999 inclusive, with respect to any Phase I acid rain affected unit under Section 404 of the Act.

~~22.106(5) Operation in Iowa.~~ The fee for a portable emissions unit or stationary source which operates both in Iowa and out of state shall be calculated only for emissions from the source while operating in Iowa.

~~22.106(6) Title V exempted stationary sources.~~ No fee shall be required to be paid for emissions until the year in which sources exempted under subrules 22.102(1) and 22.102(2) are required to apply for a Title V permit. Fees shall be paid for the emission year preceding the year in which the application is due and thereafter.

~~22.106(7) Insignificant activities.~~ No fee shall be required to be paid for insignificant activities, as defined in rule 567—22.103(455B).

~~22.106(8) 22.106(3) Correction of errors.~~ If an owner or operator, or the department, finds an error in a Title V emissions inventory or Title V fee payment, the owner or operator shall submit to the department revised forms making the necessary corrections to the Title V emissions inventory or Title V fee payment. Forms Corrected forms shall be submitted as soon as possible after the errors are discovered or upon notification by the department.

ITEM 14. Amend subrule 22.108(10) as follows:

**22.108(10) Fees.** The permit shall include a provision to ensure that the Title V permittee pays fees to the director pursuant to rule ~~567—22.106(455B)~~ 567—30.4(455B).

ITEM 15. Amend paragraph **23.1(3)"a"** as follows:

*a. Asbestos.* Any of the following involves asbestos emissions: asbestos mills, surfacing of roadways, manufacturing operations, fabricating, insulating, waste disposal, spraying applications and demolition and renovation operations. (Subpart M). Any person subject to notification requirements under this rule shall submit fees as required in 567—Chapter 30.



## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 16. Adopt the following new 567—Chapter 30:

CHAPTER 30  
FEES

**567—30.1(455B) Purpose.** This chapter sets forth requirements to pay fees for specified activities. Rule 567—30.1(455B) adds definitions for this chapter, a duty to correct errors, and an exemption to fee requirements for administrative amendments. Rule 567—30.2(455B) sets forth the requirements for applicants to submit fees for specified activities associated with new source review in 567—Chapter 22, 567—Chapter 31 and 567—Chapter 33. Rule 567—30.3(455B) contains requirements for the submission of demolition and renovation notification fees for the asbestos emission standard for hazardous air pollutants listed in 567—paragraph 23.1(3)“a.” Rule 567—30.4(455B) sets forth the requirements for applicants to submit fees for specified activities associated with the Title V program found in 567—Chapter 22. Rule 567—30.5(455B) sets forth the requirement to convene fee advisory groups. Rule 567—30.6(455B) details the process by which fee levels shall be established, lists the types of fees and the dollar caps on the fee types that the commission may set, and establishes the mechanism for notification of the fee schedule. Rule 567—30.7(455B) details how fee revenues may be expended and specifies the calculated estimate of maximum fee revenues.

The department shall not initiate review and processing of an application submittal from a minor source until all required fees have been paid to the department. Fees are nonrefundable, except as provided in subrule 30.1(4).

**30.1(1) Definitions.** For purposes of this chapter, the following definitions shall apply:

“*Application submittal*” means one or more applications required under rule 567—22.1(455B) and submitted at the same time or required to be submitted under rule 567—22.4(455B), rule 567—22.5(455B), 567—Chapter 31 or 567—Chapter 33.

“*Major source*” means a “major source” as defined in rule 567—22.100(455B).

“*Minor source*” means any stationary source not included in the definition of “major source” as defined in rule 567—22.100(455B).

“*Regulated air pollutant*” means “regulated air pollutant or contaminant (for fee calculation)” as defined in rule 567—22.100(455B).

**30.1(2) Duty to correct errors.** If an owner or operator, or the department, finds an error in a fee assessed or collected under this chapter, the owner or operator shall submit to the department revised forms making the necessary corrections to the fee and shall submit the correct fee. Corrected forms shall be submitted as soon as possible after the error is discovered or upon notification by the department. If the error correction results in a determination by the department that a fee was overpaid or that a duplicate fee was submitted, the department will return the overpaid balance of the fee to the applicant.

**30.1(3) Exemption to fee requirements for administrative amendments.** A fee shall not be required for any of the following:

- a. Corrections of typographical errors;
- b. Corrections of word processing errors;
- c. Changes in the name, address, or telephone number of any person identified in a permit, or similar minor administrative changes at the source;
- d. Changes in ownership or operational control of a source where the department determines that no other change in the permit is necessary, provided that a written agreement that contains a specific date for transfer of permit responsibility, coverage, and liability between the current permittee and the new permittee has been submitted to the department.

**30.1(4) Refund of application fee minus administrative cost for permit applications at minor sources.** The department may refund the application fee minus administrative costs if the owner or operator requests to withdraw the application prior to commencement of the technical review of the application.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

**567—30.2(455B) Fees associated with new source review applications.** Beginning on January 15, 2016, each owner or operator required to provide an application submittal, including air quality modeling as applicable; registration; permit by rule; and template under 567—subrule 22.1(1), rule 567—22.4(455B), rule 567—22.5(455B), rule 567—22.8(455B), rule 567—22.10(455B), 567—Chapter 31 or 567—Chapter 33, shall pay fees as specified in the fee schedule approved by the commission and posted on the department's Web site. Fees shall be submitted with forms supplied by the department.

**30.2(1) *Payment of regulatory applicability determination fee.*** Beginning on January 15, 2016, each owner or operator requesting a regulatory applicability determination, as specified in 567—paragraph 22.1(3) "a," shall pay fees as specified in the fee schedule approved by the commission and posted on the department's Web site. Fees shall be submitted with forms provided by the department.

**30.2(2)** Reserved.

**567—30.3(455B) Fees associated with asbestos demolition or renovation notification.**

**30.3(1) *Payment of fees established.*** Beginning on January 15, 2016, the owner or operator of a site subject to the national emission standard for hazardous air pollutants (NESHAP) for asbestos notifications, adopted by reference in 567—paragraph 23.1(3) "a," shall submit a fee with each required original or each annual notification for each demolition or renovation, including abatement. Fees shall be paid as specified in the fee schedule approved by the commission and posted on the department's Web site. Fees shall be submitted with the notification forms provided by the department.

**30.3(2) *Fee not required.*** A fee shall not be required for the following:

- a. Notifications when the total amount of asbestos to be removed or disturbed is less than 260 linear feet, less than 160 square feet, and less than 35 cubic feet of facility components and is below the reporting thresholds as defined in 40 CFR 61.145 as amended on January 16, 1991;
- b. Notifications of training fires as required in 567—paragraph 23.2(3) "g";
- c. Controlled burning of demolished buildings as required in 567—paragraph 23.2(3) "j";
- d. Revised, canceled, and courtesy notifications. A revision to a previously submitted courtesy notification due to applicability of the notification requirements in 567—paragraph 23.1(3) "a" is considered an original notification and is subject to the fee requirements of subrule 30.3(1).

**567—30.4(455B) Fees associated with Title V operating permits.**

**30.4(1) *Payment of Title V application fee.*** Beginning on January 15, 2016, each owner or operator required to apply for a Title V permit, or a renewal of a Title V permit, shall pay fees as specified in the fee schedule approved by the commission and posted on the department's Web site. Fees shall be submitted with forms supplied by the department.

**30.4(2) *Payment of Title V annual emissions fee.***

a. *Fee required.* Any person required to obtain a Title V permit shall pay an annual fee based on the first 4,000 tons of each regulated air pollutant, beginning on November 15, 1994. Beginning on July 1, 1996, Title V operating permit fees shall be paid on or before July 1 of each year. The Title V emissions fee shall be based on actual emissions required to be included in the Title V operating permit application and the annual emissions statement for the previous calendar year. The commission shall not set the fee higher than \$70 per ton without adopting the change pursuant to formal rule making.

b. *Fee and documentation due dates.* The fee shall be submitted annually by July 1. The fee shall be submitted with a copy of the following forms:

- (1) Form 1.0, "Facility Identification";
- (2) Form 5.0, "Title V Annual Emissions Summary/Fee"; and
- (3) Part 3, "Application Certification."

c. *Phase I acid rain sources.* No fee shall be required to be paid for emissions which occurred during the years 1993 through 1999, inclusive, with respect to any Phase I acid rain affected unit under 42 U.S.C. 7651c.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*d. Operation in Iowa.* The fee for a portable emissions unit or stationary source which operates both in Iowa and out of state shall be calculated only for emissions from the source while it is operating in Iowa.

*e. Title V exempted stationary sources.* No fee shall be required for emissions until the year in which sources exempted under 567—subrules 22.102(1) and 22.102(2) are required to apply for a Title V permit. Fees shall be paid for the emission year preceding the year in which the application is due and thereafter.

*f. Insignificant activities.* No fee shall be required for insignificant activities as defined in rule 567—22.103(455B).

**567—30.5(455B) Fee advisory groups.** Prior to each March commission meeting, the director shall convene fee advisory groups for the purposes of reviewing a draft budget and providing recommendations to the department regarding establishing or adjusting fees. Any stakeholder may attend meetings of the advisory groups. The meetings will be open to the public. The date of each meeting shall be posted on the department's Web site 14 days prior to the meeting date.

**30.5(1) New source review for major sources fee advisory group.** The director shall convene annually a fee advisory group to review the draft budget and major source fees required by rule 567—30.2(455B) and listed in rule 567—30.6(455B). Participants in the advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the major source permit program.

**30.5(2) New source review for minor sources fee advisory group.** The director shall convene annually a fee advisory group which shall not include major sources as defined in subrule 30.1(1). The fee advisory group will review the draft budget and minor source application fees required in rule 567—30.2(455B) and listed in rule 567—30.6(455B). Participants in the fee advisory group shall include, but may not be limited to, any minor sources and their representatives. The advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the minor source permit program.

**30.5(3) Asbestos fee advisory group.** The director shall convene annually an asbestos NESHAP fee advisory group to review the draft budget and asbestos notification fee required by rule 567—30.3(455B) and listed in rule 567—30.6(455B). Participants in the advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the asbestos NESHAP program.

**30.5(4) Title V fee advisory group.** The director shall convene annually a fee advisory group to review the draft budget and Title V emissions and application fees required by rule 567—30.4(455B) and listed in rule 567—30.6(455B). Participants in the advisory group may provide recommendations to the department regarding fees necessary to cover all direct and indirect costs to administer the Title V operating permit program.

**567—30.6(455B) Process to establish or adjust fees and notification of fee rates.**

**30.6(1) Setting the fees.** Beginning on January 15, 2016, fees shall be paid as specified in the fee schedule approved by the commission and posted on the department's Web site. Following the setting of the fee schedule effective January 15, 2016, the department shall submit the proposed budget and fees for major and minor source construction permit programs, the Title V operating permit program, and the asbestos NESHAP program for the following fiscal year to the commission no later than the March commission meeting of each year, at which time the proposal will be available for public comment until such time as the commission acts on the proposal or until the May commission meeting, whichever occurs first. The department's calculated estimate for each fee shall not produce total revenues in excess of limits specified in Iowa Code section 455B.133B as amended by 2015 Iowa Acts, Senate File 488, section 2, and 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C], during any fiscal year. If an established fee amount must be adjusted, the commission shall set the fees no later than the May commission meeting of each year.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Fees established prior to January 15, 2016, shall become effective on January 15, 2016. In subsequent years, adjusted or established fees shall become effective on July 1. A fee not adjusted by the commission shall remain in effect as previously established until the fee is adjusted by the commission.

**30.6(2) *Fee types and dollar caps on fee types.*** The commission may set fees for the fee types and activities specified in this subrule and shall not set a fee in the fee schedule higher than the levels specified in this subrule without adopting the change pursuant to formal rule making:

- a. New source review applications from major sources, which may include:
  - (1) Review of each application for a construction permit: \$115 per hour;
  - (2) Review of each application for a prevention of significant deterioration permit: \$115 per hour;
  - (3) Review of each plantwide applicability limit request, renewal, or reopening: \$115 per hour;
  - (4) Review of each regulatory applicability determination: \$115 per hour; and
  - (5) Air quality modeling review: \$90 per hour, which may include:
    1. Reviewing air quality modeling for construction permit application submittal; prevention of significant deterioration application submittal; and nonattainment new source review project application submittal; and
    2. Conducting air quality modeling for construction permit application submittal.
- b. New source review applications from minor sources, which may include:
  - (1) Each application for a construction permit: \$385;
  - (2) Each application for a registration permit: \$100;
  - (3) Each application for a permit by rule: \$100; and
  - (4) Each application for a permit template: \$100.
- c. Asbestos notifications: \$100.
- d. Review of each initial or renewal Title V operating permit application: \$100 per hour.
- e. Title V annual emissions: \$70 per ton.

**30.6(3) *Notification of fee schedule.*** Following the initial setting of any fee by the commission, the department shall make available to the public a fee schedule at least 30 days prior to its effective date. If any established fee amount is adjusted, the department shall make available to the public a revised fee schedule at least 30 days prior to its effective date. The fee schedule shall be posted on the department's Web site.

**567—30.7(455B) Fee revenue.** Each fee program is established to provide revenue for and is limited in use to specific activities.

**30.7(1) *New source review application fees from major sources.*** In accordance with 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C(5)], new source review fee revenues may be used to fund the direct and indirect costs related to reviewing and acting on applications for new source review permits, including permit revisions submitted by major sources as defined under new source review programs pursuant to the federal Act, and as provided under 567—Chapter 22, 567—Chapter 31, and 567—Chapter 33, as follows:

- a. Reviewing and acting on any application for a new source review permit, including the determination of all applicable requirements and dispersion modeling as part of the processing of a permit or permit revision or an applicability determination;
- b. General administrative costs of administering new source review programs, including supporting and tracking of any application for a new source review permit and related data entry; and
- c. Developing and implementing an expedited new source review permit application process, and additional fees associated with this process.

The calculated estimate of total revenues from new source review application fees from major sources shall not exceed \$1,500,000 during any state fiscal year.

**30.7(2) *New source review application fees from minor sources.*** In accordance with 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C(6)], minor new source review fee revenues may be used to fund the direct and indirect costs for reviewing and acting on applications submitted by minor air contaminant sources for construction permits and providing for registrations, permits by rule, or template permits in lieu of obtaining construction permits, under minor source new source review

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

programs pursuant to the federal Clean Air Act Amendments of 1990, including as provided under 567—Chapter 22. The calculated estimate of total revenues from new source review application fees from minor sources shall not exceed \$250,000 during any state fiscal year.

**30.7(3) Title V emissions.** In accordance with Iowa Code section 455B.133B as amended by 2015 Iowa Acts, Senate File 488, section 2(5), Title V emissions fee revenues may be used to fund the direct and indirect costs related to:

*a.* General administrative costs of administering the operating permit program, including the supporting and tracking of operating permit applications, compliance certification, and related data entry.

*b.* Costs of implementing and enforcing the terms of an operating permit, not including any court costs or other costs associated with an enforcement action, including adequate resources to determine which sources are subject to the program.

*c.* Costs of emissions and ambient site-specific monitors.

*d.* Costs of Title V source-specific modeling, analyses or demonstrations.

*e.* Costs of preparing inventories and tracking emissions.

*f.* Costs of providing direct support to sources under the small business stationary source technical and environmental compliance assistance program as provided in Iowa Code section 455B.133A.

*g.* Costs associated with implementing and administering regulatory activities, including programs, as provided for in division II of Iowa Code chapter 455B, other than costs covered by any of the following: operating permit application fees, new source review application fees, or notification fees, pursuant to Iowa Code section 455B.133B as amended by 2015 Iowa Acts, Senate File 488, section 2(5) “d”(2).

The calculated estimate of total revenues from emissions fees shall not exceed \$8,250,000 during any state fiscal year.

**30.7(4) Title V applications.** In accordance with Iowa Code section 455B.133B as amended by 2015 Iowa Acts, Senate File 488, section 2(6), Title V application fee revenues may be used to fund the direct and indirect costs related to reviewing and acting on applications for operating permits submitted by major sources as defined in rule 567—22.100(455B) and sources subject to rule 567—22.101(455B), as follows:

*a.* Costs of reviewing and acting on any application for an operating permit or operating permit revision.

*b.* General administrative costs of administering the operating permit program, including the supporting and tracking of operating permit applications and related data entry.

The calculated estimate of total revenues from Title V application fees shall not exceed \$1,250,000 during any state fiscal year.

**30.7(5) Asbestos notification.** Pursuant to 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C(7)], asbestos notification fee revenues may be used to fund the direct and indirect costs related to implementing and administering the asbestos national emission standard for hazardous air pollutants program pursuant to 567—Chapter 23. The calculated estimate of total revenues from asbestos notification fees shall not exceed \$450,000 during any state fiscal year.

These rules are intended to implement Iowa Code sections 455B.133 and 455B.133B as amended by 2015 Iowa Acts, Senate File 488, and 2015 Iowa Acts, Senate File 488, section 3 [Iowa Code section 455B.133C].

ITEM 17. Amend rule **567—31.1(455B)**, third unnumbered paragraph, as follows:

Requirements for nonattainment areas designated on or after May 18, 1998, are in rules 567—31.3(455B) through 567—31.10(455B). Requirements for nonattainment areas designated before May 18, 1998, are in rule 567—31.20(455B). A list of Iowa’s nonattainment area designations is found at 40 CFR 81.316 as amended through August 5, 2013. An owner or operator required to apply for a construction permit under this chapter or requesting a plantwide applicability limit shall submit fees as required in 567—Chapter 30.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 18. Amend rule 567—33.1(455B) as follows:

**567—33.1(455B) Purpose.** This chapter implements the major New Source Review (NSR) program contained in Part C of Title I of the federal Clean Air Act as amended on November 15, 1990, and as promulgated under 40 CFR 51.166 and 52.21 as amended through July 20, 2011. This is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under Part C of the Clean Air Act as amended on November 15, 1990. In areas that do not meet the national ambient air quality standards (NAAQS), the nonattainment major program applies. The requirements for the nonattainment major NSR program are set forth in 567—22.5(455B), 567—22.6(455B), 567—31.20(455), and 567—31.3(455B). In areas that meet the NAAQS, the PSD program applies. Collectively, the nonattainment major and PSD programs are referred to as the major NSR program. An owner or operator required to apply for a construction permit under 567—Chapter 33 shall submit fees as required in 567—Chapter 30.

Rule 567—33.2(455B) is reserved.

Rule 567—33.3(455B) sets forth the definitions, standards and permitting requirements that are specific to the PSD program.

Rules 567—33.4(455B) through 567—33.8(455B) are reserved.

Rule 567—33.9(455B) includes the conditions under which a source subject to PSD may obtain a plantwide applicability limitation (PAL) on emissions. An owner or operator requesting a PAL under 567—33.9(455B) shall submit fees as required in 567—Chapter 30.

In addition to the requirements in this chapter, stationary sources may also be subject to the permitting requirements in 567—Chapter 22, including requirements for Title V operating permits.

**ARC 2216C**

## **HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]**

### **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 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 5, “Fair Information Practices,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and to update the physical address of the Department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 17, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on November 17, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

## HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605](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 chapter 29C.  
The following amendment is proposed.

Amend **605—Chapter 5** as follows:

CHAPTER 5  
FAIR INFORMATION PRACTICES

**605—5.1(17A) Adoption by reference.** The homeland security and emergency management division department hereby adopts the fair information practices segment of the Uniform Rules on Agency Procedure, which are found on the general assembly's Web site at <https://www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf> and which are printed in the first volume of the Iowa Administrative Code, with the following amendments:

1. In lieu of the words “(official or body issuing these rules)” insert “Homeland Security and Emergency Management Division Department”.
2. In lieu of the words “(insert agency head)” insert “administrator director”.
3. In lieu of the words “(insert agency name and address)” insert “Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324”.
4. and 5. No change.
6. In lieu of the words “(designate office)” insert the words “Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324”.
7. and 8. No change.
9. Insert at the end of rule 605—5.7(17A,22) the following new sentence: “For federal records maintained by the homeland security and emergency management division department, a subject will provide a Privacy Act release in accordance with the requirements of Title 5 United States Code, Section 552, in writing, and signed by the subject of the record.”
10. and 11. No change.
12. Insert the following new rule:

**605—5.9(17A,22) Federal records.** Pursuant to Iowa Code section 22.9, the division department finds that maintenance, use, or disclosure of federal records described in this rule, except as allowed by federal law and regulation, would result in denial of United States government funds, services and essential information that would otherwise definitely be available and that have been available to the division department in the past. The division department has authority to enter into agreements and contracts to obtain funds pursuant to Iowa Code chapter 29C. The division department makes such agreements and contracts with the Federal Emergency Management Agency (FEMA) under the authority of Public Law 93-288 (the Robert T. Stafford Disaster Relief and Emergency Assistance Act) and an Emergency Management Performance Grant Agreement which specify categories of records and information that must be kept confidential. In addition, 44 CFR 5.71 specifies categories of records that are exempt from disclosure under 5 U.S.C. 552. These records include those containing personally identifiable information concerning applicants to individual assistance and mitigation assistance programs that are administered by the state under a presidentially declared disaster. Nuclear Regulatory Commission Title 10 CFR 73.21 relates to the physical protection of nuclear power plants and materials. This regulation requires that certain information contained in plans and documents on file with the division department be kept confidential and include information concerning the physical protection at fixed sites; physical protection in transit; inspections, audits and evaluations; and correspondence insofar as it contains safeguards information.

**ARC 2215C****HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]****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 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 6, “Contested Cases,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and to update the physical address of the Department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 17, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on November 17, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendments are proposed.

ITEM 1. Amend rule 605—6.1(17A) as follows:

**605—6.1(17A) Scope and applicability.** This chapter applies to contested case proceedings conducted by the homeland security and emergency management division department.

ITEM 2. Amend rule **605—6.2(17A)**, definition of “Presiding officer,” as follows:

“*Presiding officer*” means the ~~administrator~~ director of the homeland security and emergency management division department or the ~~administrator’s~~ director’s designee.

ITEM 3. Amend subrule 6.12(3) as follows:

**6.12(3) Filing—when required.** After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the presiding officer as identified in the notice of hearing. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the Homeland Security and Emergency Management Division Department, Hoover State Office Building 7900 Hickman Road, Suite 500, Des Moines Windsor Heights, Iowa 50319 50324.

ITEM 4. Amend subrule 6.23(10) as follows:

**6.23(10)** The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or suspension or revocation of the privilege to practice before the agency. Violation of ex parte



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

communication prohibitions by agency personnel shall be reported to the ~~administrator~~ director for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

ITEM 5. Amend rule 605—6.24(17A) as follows:

**605—6.24(17A) Recording costs.** Upon request, the homeland security and emergency management division department shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporters rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

ITEM 6. Amend rule 605—6.25(17A) as follows:

**605—6.25(17A) Interlocutory appeals.** Upon written request of a party or on the ~~administrator's~~ director's own motion, the ~~administrator~~ director may review an interlocutory order of the presiding officer. In determining whether to do so, the ~~administrator~~ director shall weigh the extent to which granting the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the agency at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

ITEM 7. Amend rule 605—6.26(17A) as follows:

**605—6.26(17A) Final decision.**

**6.26(1)** When the ~~emergency management division administrator~~ director presides over the reception of evidence at the hearing, the ~~administrator's~~ director's decision is a final decision.

**6.26(2)** When the ~~emergency management division administrator~~ director does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the ~~emergency management division administrator~~ director within the time provided in rule 605—6.27(17A).

ITEM 8. Amend rule 605—6.27(17A) as follows:

**605—6.27(17A) Appeals and review.**

**6.27(1) Appeal by party.** Any adversely affected party may appeal a proposed decision to the ~~emergency management division administrator~~ director within 30 days after issuance of the proposed decision.

**6.27(2) Review.** The ~~administrator~~ director may initiate review of a proposed decision on the ~~administrator's~~ director's own motion at any time within 30 days following the issuance of such a decision.

**6.27(3) Notice of appeal.** An appeal of a proposed decision is initiated by filing a timely notice of appeal with the ~~emergency management division administrator~~ director. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

*a. to e.* No change.

**6.27(4) Requests to present additional evidence.** A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a nonappealing party, within 14 days of service of the notice of appeal. The ~~administrator~~ director may remand a case to the presiding officer for further hearing, or the ~~administrator~~ director may preside at the taking of additional evidence.

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

**6.27(5) Scheduling.** The ~~emergency management division administrator~~ director shall issue a schedule for consideration of the appeal.

**6.27(6) Briefs and arguments.** Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter, any party may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs.

The ~~administrator~~ director may resolve the appeal on the briefs or provide an opportunity for oral argument. The ~~administrator~~ director may shorten or extend the briefing period as appropriate.

ITEM 9. Amend subrules 6.28(3) and 6.28(4) as follows:

**6.28(3) Time of filing.** The application shall be filed with the ~~emergency management division administrator~~ director within 20 days after issuance of the final decision.

**6.28(4) Notice to other parties.** A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the homeland security and emergency management division department shall serve copies on all parties.

ITEM 10. Amend rule 605—6.29(17A) as follows:

**605—6.29(17A) Stays of agency actions.**

**6.29(1) When available.**

*a.* Any party to a contested case proceeding may petition the ~~emergency management division administrator~~ director for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the agency. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The ~~administrator~~ director may rule on the stay or authorize the presiding officer to do so.

*b.* Any party to a contested case proceeding may petition the ~~emergency management division administrator~~ director for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

**6.29(2) When granted.** In determining whether to grant a stay, the presiding officer or ~~administrator~~ director shall consider the factors listed in Iowa Code section 17A.19(5)“c.”

**6.29(3) Vacation.** A stay may be vacated by the issuing authority upon application of the homeland security and emergency management division department or any other party.

**ARC 2214C**

**HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3, 29C.9(5) and 29C.9(8), the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 7, “Local Emergency Management,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 17, 2015. Such written materials should be sent to the Administrative

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

Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on November 17, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairment, should contact the Homeland Security and Emergency Management Department and advise of specific needs.

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendments are proposed.

ITEM 1. Amend subrule 7.3(1) as follows:

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

*a. to c.* No change.

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

ITEM 2. Amend subrule 7.3(2) as follows:

**7.3(2)** Local commission bylaws. The commission shall develop bylaws to specify, at a minimum, the following information:

*a. to l.* No change.

The bylaws, as adopted, shall be signed by each member of the commission. The commission shall record the signed bylaws with the county recorder and shall forward a copy of the bylaws to the ~~administrator~~ director of the homeland security and emergency management ~~division~~ department.

ITEM 3. Amend subparagraphs **7.3(4)“d”(3)** and **(4)** as follows:

(3) Plans shall be regularly reviewed and amended as appropriate in accordance with a five-year schedule established by the commission, which shall include at a minimum:

1. A complete review, and amendment as appropriate, at a minimum of every five years. However, a review, and amendment as appropriate, of the hazardous materials portion and of a minimum of 20 percent of the remaining annexes or portions of the plan shall be conducted on a yearly basis. The complete operations plan must be reviewed entirely, and amended as appropriate, every five years. A copy of the portions of the plan that are reviewed, regardless of amendment, must be certified and submitted to the ~~division~~ department for approval by August 1 of each year.

2. Recovery and mitigation plans must also be reviewed, and amended as appropriate, certified and submitted to the ~~division~~ department for approval within 180 days of the formal closing of the disaster incident period for a presidential declaration for major disaster.

(4) To be certified, the plan must be adopted by the members of the commission and attested to by the chairperson and the local emergency management coordinator on a signature document as specified by the ~~division~~ department.

ITEM 4. Amend subparagraphs **7.3(4)“d”(9)** to **(11)** as follows:

(9) Within 60 calendar days from the receipt of the plan, the ~~division~~ department shall review plans or portions of plans submitted by a commission for approval. The ~~division~~ department shall notify the local emergency management agency in writing of the approval or nonapproval of the plan. If the plan is not approved, the ~~division~~ department shall state the specific standard or standards that are not being met and offer guidance on how the plan may be brought into compliance.

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

(10) A comprehensive emergency plan shall not be considered approved by the homeland security and emergency management ~~division~~ department as required in ~~2011~~ Iowa Code ~~Supplement~~ subsection 29C.9(8) unless such plan adheres to and meets the minimum standards as established in paragraph 7.3(4)“d.”

(11) ~~2011~~ Iowa Code ~~Supplement~~ section 29C.6 provides that state participation in funding financial assistance in a presidentially declared disaster is contingent upon the commission’s having on file a state-approved, comprehensive emergency plan as provided in ~~2011~~ Iowa Code ~~Supplement~~ subsection 29C.9(8). Plans must be received by the ~~division~~ department within 180 days of the formal closing of the disaster incident period for a presidential declaration for major disaster for the affected jurisdiction and must be approved by the ~~division~~ department within 240 days of the formal closing of the disaster incident period for public or private nonprofit entities within the county to be eligible to receive state financial assistance.

ITEM 5. Amend subparagraph 7.3(4)“f”(2) as follows:

(2) Individuals identified by the commission to perform the function of damage assessment shall be trained through a course of instruction approved by the ~~division~~ department.

ITEM 6. Amend subrule 7.3(5) as follows:

**7.3(5)** Two or more commissions. Two or more commissions may, upon review by the ~~state administrator~~ director and with the approval of their respective boards of supervisors, cities, and sheriffs, enter into agreements pursuant to Iowa Code chapter 28E for the joint coordination and administration of emergency management services throughout the multicounty area.

ITEM 7. Amend subrule 7.4(1) as follows:

**7.4(1)** Each commission shall appoint a local emergency management coordinator who shall serve at the pleasure of the commission. The commission shall delegate to the emergency management coordinator the authority to fulfill the commission’s and coordinator’s duties as provided in ~~2011~~ Iowa Code ~~Supplement~~ sections 29C.9 and 29C.10, as further described in subrule 7.3(4), and as otherwise assigned and authorized by the commission.

ITEM 8. Amend subrule 7.4(4), introductory paragraph, as follows:

**7.4(4)** Local emergency management coordinator continuing education requirements. Each local emergency management coordinator shall meet the following educational development requirements. The ~~administrator~~ director may extend the time frame for meeting these continuing education requirements upon request from the commission.

ITEM 9. Amend paragraph 7.4(4)“e” as follows:

e. The Iowa homeland security and emergency management ~~division~~ department, in conjunction with the Iowa Emergency Management Association, may substitute courses when deemed appropriate.

ITEM 10. Amend rule 605—7.6(29C), introductory paragraph, as follows:

**605—7.6(29C) Damage assessment and financial assistance for disaster recovery.** Disaster-related expenditures and damages incurred by local governments, private nonprofit entities, individuals, and businesses may be reimbursable and covered under certain state and federal disaster assistance programs. Preliminary damage assessments shall be provided to the homeland security and emergency management ~~division~~ department prior to the governor’s making a determination that the magnitude and impact are sufficient to warrant a request for a presidential disaster declaration.

ITEM 11. Amend subrule 7.6(2) as follows:

**7.6(2)** *Damage assessment guidance and forms to be provided.* The homeland security and emergency management ~~division~~ department will provide guidance regarding the methodologies to be used in collecting damage assessment and impact statement information and shall provide the forms and format by which this information shall be recorded.

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

ITEM 12. Amend subrules 7.7(2) and 7.7(3) as follows:

**7.7(2) *Application for funding.*** Commissions may apply for funding under the emergency management performance grant program by entering into an agreement with the ~~division~~ department and by completing the necessary application and forms, as published and distributed yearly to each commission by the ~~division~~ department.

**7.7(3) *Allocation and distribution of funds.***

a. The ~~homeland security and emergency management division~~ department shall allocate funds to eligible commissions within 45 days of receipt of notice from the federal Department of Homeland Security, Preparedness Directorate, Office of Grants and Training, that such funds are available. The ~~division~~ homeland security and emergency management department shall use a formula for the allocation of funds based upon the number of eligible applicants, the part-time or full-time status of the coordinator, 50 percent equal-share base, and 50 percent population base. The total allocation of funds for an applicant may not exceed the lesser of \$39,000 or the amount requested by the applicant.

b. and c. No change.

ITEM 13. Amend subrule 7.7(4) as follows:

**7.7(4) *Compliance.*** The ~~administrator~~ director may withhold or recover emergency management performance grant funds from any commission for its failure or its coordinator's failure to meet any of the following conditions:

a. to f. No change.

g. Enter into and file a cooperative agreement with the ~~division~~ department by the stipulated filing date.

h. to l. No change.

ITEM 14. Amend subrules 7.7(5) to 7.7(7) as follows:

**7.7(5) *Serious nonperformance problems.*** If a commission cannot demonstrate achievement of agreed-upon work products, the ~~division~~ department is empowered to withhold reimbursement or to recover funds from the commission. Corrective action procedures are designed to focus the commission's attention on nonperformance problems and to bring about compliance with the cooperative agreement. Corrective action procedures, which could lead to sanction, may be enacted as soon as the ~~administrator~~ director becomes aware of serious nonperformance or noncompliance. This realization may arise from staff visits or other contacts with the local emergency management agency or commission, from indications in the commission's or coordinator's quarterly report that indicate a significant shortfall from planned accomplishments, or from the commission's or coordinator's failure to report. Financial sanctions are to be applied only after corrective action remedies fail to result in accomplishment of agreed-upon work product.

**7.7(6) *Corrective actions.***

a. *Informal corrective action.* As a first and basic step to correcting nonperformance, a designated member of the homeland security and emergency management ~~division~~ department staff will visit, call or write the local emergency management coordinator to determine the reason for nonperformance and seek an agreeable resolution.

b. *Formal corrective action.* On those occasions when there is considerable discrepancy between agreed-upon and actual performance and response to informal corrective action is not sufficient or agreeable, the ~~division~~ department will take the following steps:

(1) Homeland security and emergency management ~~division~~ department staff will review the scope of work, as agreed to in the cooperative agreement, to determine the extent of nonperformance. To focus attention on the total nonperformance issue, all instances of nonperformance will be addressed together in a single correspondence to the commission.

(2) The ~~administrator~~ director will prepare a letter to the commission which will contain, at a minimum, the following information:

1. The reasons why the ~~division~~ department believes the commission may be in noncompliance, including the specified provisions in question.

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

2. A description of the efforts made by the ~~division~~ department to resolve the matter and the reasons these efforts were unsuccessful.

3. to 5. No change.

**7.7(7) Financial sanctions.** If the corrective actions heretofore described fail to produce a satisfactory resolution to cases of serious nonperformance, the ~~administrator~~ director may invoke the following financial sanction procedures:

a. Send a Notice of Intention to Withhold Payment to the chairperson of the commission. This notice shall also contain notice of a reasonable time and place for a hearing, should the commission request a hearing before the ~~administrator~~ director.

b. Any request by a commission for a hearing must be made in writing, to the ~~division~~ department, within 15 days of receipt of the Notice of Intention to Withhold Payment.

c. Any hearing under the Notice of Intention to Withhold Payment shall be held before the ~~administrator~~ director. However, the ~~administrator~~ director may designate an administrative law judge to take evidence and certify to the ~~administrator~~ director the entire record, including findings and recommended actions.

d. No change.

e. If, after a hearing, the ~~administrator~~ director finds sufficient evidence that the commission has violated established rules and regulations or the terms and conditions of the cooperative agreement, the ~~administrator~~ director may withhold such contributions and payments as may be considered advisable, until the failure to expend funds in accordance with said rules, regulations, terms and conditions has been corrected or the ~~administrator~~ director is satisfied that there will no longer be any such failure.

f. If upon the expiration of the 15-day period stated for a hearing, a hearing has not been requested, the ~~administrator~~ director may issue the findings and take appropriate action as described in paragraph 7.7(7) "e."

g. If the ~~administrator~~ director finds there is serious nonperformance by the commission or its coordinator and issues an order to withhold payments to the commission as described in this rule, the commission shall not receive funds under the emergency management performance grant program for the remainder of the federal fiscal year in which the order is issued and one additional year or until such time that all issues of nonperformance have been agreeably addressed by the ~~division~~ department and the commission.

h. No change.

**ARC 2213C**

**HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]**

**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 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 8, "Criteria for Awards or Grants," Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 17, 2015. Such written materials should be sent to the Administrative

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

Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on November 17, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairment, should contact the Homeland Security and Emergency Management Department and advise of specific needs.

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendment is proposed.

Amend **605—Chapter 8** as follows:

CHAPTER 8  
CRITERIA FOR AWARDS OR GRANTS

**605—8.1(29C,17A) Purpose.** The homeland security and emergency management division ~~department~~ receives and distributes funds to a variety of entities throughout the state for support of emergency management planning, training, and other initiatives. Unless otherwise prohibited by state or federal law, rule or regulation, the ~~administrator~~ director may make such funds subject to competition. Where such funds are designated by the ~~administrator~~ director to be competitive, the ~~division~~ department shall ensure equal access, objective evaluation of applications for these funds, and that grant application material shall contain, at a minimum, specific content.

**605—8.2(29C,17A) Definitions.** For the purpose of these rules, the following definitions shall apply:

*“Administrator Director”* means the ~~administrator~~ director of the homeland security and emergency management division ~~within the Iowa department of public defense~~.

*“Competitive grant”* means the competitive grant application process to determine the grant award for a specified project period.

*“Division Department”* means the homeland security and emergency management division ~~of the Iowa department of public defense~~.

*“Project”* means the activity(ies) or program(s) funded by the ~~division~~ department.

*“Project period”* means the period of time for which the ~~division~~ department intends to support the project without requiring the recompetition of funds.

*“Service delivery area”* means the defined geographic area for delivery of project services.

**605—8.3(29C,17A) Exceptions.** The ~~division~~ department considers funds subject to competition except in those cases where:

1. and 2. No change.
3. There is mutual agreement among the ~~division~~ department and contract organizations.
4. The ~~administrator~~ director designates such funds to be noncompetitive.

**605—8.4(29C,17A) Public notice of available competitive grants.** When making funds available through a competitive grant application process, the ~~division~~ department shall, at least 60 days prior to the application due date, issue a public notice in the Iowa Administrative Bulletin that identifies the availability of funds and states how interested parties may request an application packet. A written request for the packet shall serve as the letter of intent. Services, delivery areas, and eligible applicants shall be described in the public notice.

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

If the receipt of a grantor's official notice of award to the ~~division~~ department precludes a full 60-day notice in the Iowa Administrative Bulletin, the ~~division~~ department shall nonetheless issue the public notice in the Iowa Administrative Bulletin at the earliest publication date.

In the event the publication date would not allow at least 30 days for interested parties to request and submit an application packet, the ~~division~~ department shall notify current contractors and other interested parties of the availability of funds through press releases and other announcements.

**605—8.5(29C,17A) Requirements.** Where funds are designated as competitive, the following shall be included in all grant application materials made available by the ~~division~~ department:

1. to 17. No change.

**605—8.6(29C,17A) Review process (competitive applications only).** The review process to be followed in determining the amount of funds to be approved for award of a contract shall be described in the application material. The review criteria and point allocation for each element shall also be described in the grant application material.

The competitive grant application review committee shall be determined by the ~~division~~ bureau chief administrator administering the grant or award, with oversight from the ~~administrator~~ director. The review committee members shall apply points according to the established review criteria in conducting the review.

In the event competitive applications for a project receive an equal number of points, a second review shall be conducted by the ~~administrator~~ director and the ~~bureau chief~~ division administrator administering the grant or award.

**605—8.7(29C,17A) Opportunity for review and comment.** Program advisory committees or related task forces of the program may be provided with an opportunity to review and comment on the criteria and point allocation prior to implementation. Exceptions may occur when the funding source to the ~~division~~ department has already included such criteria and point allocation within the award or the time frame allowed is insufficient for such review and comment.

**605—8.8(29C,17A) Awards.** Once applications have been scored and ranked, the ~~division~~ department shall award all available funds to eligible applicants based on the ranking of their applications. Should there be more eligible applications than funds available, those remaining eligible applications shall be kept on file by the ~~division~~ department.

In those cases in which applicants have received an award but actual project costs are less than anticipated or established in the application, remaining funds shall become deobligated funds. The ~~division~~ department shall award deobligated funds to remaining eligible applications on file with the ~~division~~ department. Should deobligated funds remain after satisfying all eligible applications, the ~~division~~ department shall republish the availability of funds.

These rules are intended to implement Iowa Code chapter 17A and section 29C.13.



## ARC 2212C

**HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]****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 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 9, “Iowa Comprehensive Plan,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department and to update the physical address of the Department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 17, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on November 17, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairment, should contact the Homeland Security and Emergency Management Department and advise of specific needs.

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendment is proposed.

Amend **605—Chapter 9** as follows:

CHAPTER 9  
IOWA COMPREHENSIVE PLAN

**605—9.1(29C) Description.** Iowa Code section 29C.8 requires the ~~administrator~~ director of the homeland security and emergency management ~~division~~ department to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This comprehensive plan is comprised of the following parts:

Part A: Iowa Emergency Response Plan

Part B: Iowa Hazard Mitigation Plan

Part C: Iowa Disaster Recovery Plan

Part D: Iowa Critical Asset Protection Plan (confidential per Iowa Code section 22.7, Confidential records)

**605—9.2(29C) Part A: Iowa Emergency Response Plan.** The Part A: Iowa Emergency Response Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted, published, and maintained by the ~~division~~ department. Part A details the state government response to a wide range of natural, technological or human-caused disasters.

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

1. No change.
2. Part A shall be distributed to state agencies and departments that have been assigned emergency functions and to all ~~county~~ local emergency management agencies.
3. No change.
4. The ~~division~~ department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the ~~division~~ department distribution list.
5. Part A shall be available for public view at the Homeland Security and Emergency Management ~~Division~~ Department, ~~Hoover State Office Building 7900 Hickman Road, Level A Suite 500, Des Moines Windsor Heights, Iowa.~~

**605—9.3(29C) Part B: Iowa Hazard Mitigation Plan.** The Part B: Iowa Hazard Mitigation Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on September 17, 2013, published, and maintained by the ~~division~~ department. Part B details the state government goals, objectives, and strategies to mitigate a wide range of natural, technological or human-caused disasters in accordance with Section 322 of the Stafford Act, 42 U.S.C. 5165.

1. No change.
2. Part B shall be distributed to state agencies and departments that have participated in the writing of the plan or are assigned hazard mitigation functions and to all ~~county~~ local emergency management agencies.
3. No change.
4. The ~~division~~ department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the ~~division~~ department distribution list. Part B shall be reviewed and amended as appropriate at a minimum of every three years.
5. Part B shall be available for public view at the Homeland Security and Emergency Management ~~Division~~ Department, ~~Hoover State Office Building 7900 Hickman Road, Level A Suite 500, Des Moines Windsor Heights, Iowa.~~

**605—9.4(29C) Part C: Iowa Disaster Recovery Plan.** The Part C: Iowa Disaster Recovery Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on March 20, 2008, published, and maintained by the ~~division~~ department. Part C details the state government goals, objectives, and strategies to recover from a wide range of natural, technological, or human-caused disasters.

1. No change.
2. Part C shall be distributed to state agencies and departments that have been assigned recovery functions and to all ~~county~~ local emergency management agencies.
3. No change.
4. The ~~division~~ department updates the plan by amendments promulgated by rule in accordance with Iowa Code chapter 17A and distributes amendments to all plan holders on the ~~division~~ department distribution list. Part C shall be reviewed and amended as appropriate at a minimum of every three years.
5. Part C shall be available for public view at the Homeland Security and Emergency Management ~~Division~~ Department, ~~Hoover State Office Building 7900 Hickman Road, Level A Suite 500, Des Moines Windsor Heights, Iowa.~~

These rules are intended to implement Iowa Code section 29C.8.

## ARC 2211C

**HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 29C.8(5), the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 11, “Repair, Calibration, and Maintenance of Radiological Monitoring, Detection, and Survey Equipment,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 17, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on November 17, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendment is proposed.

Amend **605—Chapter 11** as follows:

**CHAPTER 11****REPAIR, CALIBRATION, AND MAINTENANCE OF RADIOLOGICAL MONITORING,  
DETECTION, AND SURVEY EQUIPMENT**

The homeland security and emergency management ~~division~~ department operates a licensed radiological maintenance facility for the purpose of calibrating, repairing and performing the routine maintenance of radiological detection equipment. Iowa Code sections 23A.2 and 29C.8 provide that the ~~division~~ department may enter into contracts and charge fees for performance of these services.

**605—11.1(29C) Purpose.** The homeland security and emergency management ~~division~~ department shall establish fees to be charged for the performance of the calibration, repair and maintenance of radiological detection equipment.

**605—11.2(29C)** No change.

**605—11.3(29C)** No change.

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

**605—11.4(29C) Contracts for services.** The ~~division~~ department may enter into contracts with public and private entities for the purposes of providing radiological detection equipment, calibration, repair, and maintenance services. Such contracts will specify, at a minimum:

1. to 5. No change.

**605—11.5(29C) Application of fees.** In instances where the ~~division~~ department has not previously entered into a contract with a public or private entity, the ~~division~~ department will assess a fee for the performance of calibration, repair, and maintenance services it provides for radiological detection equipment and instruments not owned by the ~~division~~ department or owned by the ~~division~~ department but used for other than the ~~division's~~ department's specified purpose.

The ~~division~~ department will not assess a fee for the performance of calibration, repair, and maintenance services for radiological detection equipment and instruments:

1. Used in the administration and operation of the ~~division's~~ department's radiological emergency preparedness program.
2. Used by hazardous materials response teams recognized by the ~~division~~ department.
3. Otherwise owned by the ~~division~~ department and used for its express purposes.

**605—11.6(29C) Fees.** Unless otherwise specified by contract, the ~~division~~ department will charge the following fees for the performance of its services:

Calibration Fees:

One radiation instrument and one radiation detector	\$70
Each additional radiation detector	\$20
Each dosimeter	\$10

Repair Fees:

Hourly rate	\$70
Parts	Cost plus 15 percent

The ~~division~~ department will also assess a fee to recover actual shipping expenses, to include insurance coverage for the equipment being shipped.

Estimates will be given for instruments that are in need of repair. The customer will have the option of having the instrument repaired at the established rates or may have the instrument returned, at which time shipping expenses will be charged.

The ~~division~~ department may offer to replace equipment with like equipment that is fully functional and that has been properly calibrated, in lieu of making calibrations or the necessary repairs. If the customer accepts this offer, the fee charged is the fee that would normally be charged for the calibration or repair of the instrument or dosimeter.

**605—11.7(29C) Returned check and late fees.** Applicable fees are due to the ~~division~~ department within 30 days from the date of invoice. Persons who fail to pay required fees to the ~~division~~ department are subject to the following penalties:

1. Fifteen dollars for each payment received by the ~~division~~ department in accordance with these rules, for which insufficient funds are available to fulfill the obligation of such payment to the ~~division~~ department.
2. Fifteen dollars for each month for which a payment is overdue, or for each additional month for which insufficient funds are available to fulfill the obligation of such payment to the ~~division~~ department.

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

**605—11.8(29C) Records and reports.** The ~~division~~ department will maintain records and file reports regarding the calibration, maintenance, and repair of radiological detection equipment, in accordance with the requirements set forth in 641—Chapter 40.

These rules are intended to implement Iowa Code section 23A.2, subsection 10, and Iowa Code section 29C.8.

**ARC 2210C****HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]****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 17A.3, the Homeland Security and Emergency Management Department hereby gives Notice of Intended Action to amend Chapter 12, “Homeland Security and Emergency Response Teams,” Iowa Administrative Code.

These amendments are intended to implement changes that have been made in Iowa Code chapter 29C that transformed the Homeland Security and Emergency Management Division of the Department of Public Defense to a stand-alone department.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before November 17, 2015. Such written materials should be sent to the Administrative Rules Coordinator, Department of Homeland Security and Emergency Management, 7900 Hickman Road, Suite 500, Windsor Heights, Iowa 50324; fax (515)725-3260; or e-mail to [john.benson@iowa.gov](mailto:john.benson@iowa.gov).

Also, there will be a public hearing on November 17, 2015, at 11 a.m. in the Department of Homeland Security and Emergency Management Cyclones Conference Room at 7900 Hickman Road, Suite 500, Windsor Heights, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairment, should contact the Homeland Security and Emergency Management Department and advise of specific needs.

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

These amendments are intended to implement Iowa Code chapter 29C.

The following amendments are proposed.

ITEM 1. Amend rule 605—12.1(29C) as follows:

**605—12.1(29C) Purpose.** The duties of the ~~administrator~~ director of the homeland security and emergency management ~~division~~ department include the development and ongoing operation of homeland security and emergency response teams to be deployed by the state to supplement and enhance local resources during times of disaster and emergency. These rules are intended to specify how teams and team members will be designated, minimum standards that shall be maintained, and the use of the teams.

ITEM 2. Amend rule **605—12.2(29C)**, definitions of “Administrator” and “First responder advisory committee,” as follows:

“~~Administrator~~ Director” means the ~~administrator~~ director of the homeland security and emergency management ~~division of the department of public defense~~.

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

~~“First responder advisory committee~~ *Homeland security advisory committee*” means the advisory committee created by the ~~administrator~~ director for the purpose of providing advice on public safety response issues within Iowa.

ITEM 3. Amend rules 605—12.3(29C) to 605—12.6(29C) as follows:

**605—12.3(29C) Homeland security and emergency response teams.**

**12.3(1)** The ~~administrator~~ director shall issue requests to create homeland security and emergency response teams based on identified needs, on recommendations from the ~~first responder homeland security~~ advisory committee, and at the request of the governor.

**12.3(2)** Each team shall be designated by the ~~administrator~~ director. To be eligible for designation, a team shall provide a written application to the ~~administrator~~ director that details the following information:

*a. to e.* No change.

*f.* An estimate of the time required to assemble the team members and assets and deploy upon the request of the ~~administrator~~ director or governor.

**12.3(3)** Upon receipt of the written application from the team, the ~~administrator~~ director shall review the application. The ~~administrator~~ director may seek additional information from the team. The team shall provide the requested information in a timely fashion.

**12.3(4)** Following approval of the application, the ~~administrator~~ director shall issue a letter formally designating the team as an “Iowa homeland security and emergency response team” in accordance with Iowa Code section 29C.8. The ~~administrator~~ director may enter into an agreement with the team in accordance with Iowa Code chapter 28E.

**12.3(5)** No change.

**605—12.4(29C) Use of homeland security and emergency response teams.**

**12.4(1)** A designated team shall be deployed as a state asset only by a directive from the ~~administrator~~ director or pursuant to a governor’s disaster proclamation, unless the sponsoring agency’s response team is needed to perform emergency services within its own jurisdiction.

**12.4(2)** No change.

**605—12.5(29C) Homeland security and emergency response team compensation.**

**12.5(1)** A homeland security and emergency response team shall be compensated for its expenses while it is deployed as a state asset in accordance with rule 605—12.4(29C), subject to availability of funds. The application for compensation shall be in a manner as specified by the ~~administrator~~ director. Compensation shall be made to the team or the team’s governing jurisdiction.

**12.5(2)** A member of a homeland security and emergency response team listed on the team roster filed pursuant to subrule 12.3(5), while acting under the directive of the ~~administrator~~ director or pursuant to a governor’s disaster proclamation, shall be considered an employee of the state under Iowa Code section 669.21. Disability, workers’ compensation, and death benefits for designated team members participating in a response or recovery operation initiated by the ~~administrator~~ director or governor pursuant to rule 605—12.4(29C) or participating in a training or exercise activity approved by the ~~administrator~~ director shall be paid by the state in a manner consistent with the provisions of Iowa Code chapter 85, 410, or 411 as appropriate. The department of administrative services shall process claims for compensable losses of deployed team members.

**12.5(3)** No change.

**12.5(4)** The ~~administrator~~ director shall request funds from the executive council to address any obligations under rule 605—12.5(29C).

**605—12.6(29C) Alternate deployment of homeland security and emergency response teams.**

**12.6(1)** At its discretion, a homeland security and emergency response team may deploy at the direct request of a political subdivision of the state without a directive from the ~~administrator~~ director or without a governor’s disaster proclamation.

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

**12.6(2)** No change.

**12.6(3)** If, during a team deployment, a governor's disaster proclamation is issued, the ~~administrator~~ director shall specify the date and time when the team may be deployed under rules 605—12.4(29C) and 605—12.5(29C).

**ARC 2228C**

## **INSURANCE DIVISION[191]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) "b." 177**

**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 505.26 as amended by 2015 Iowa Acts, House File 632, section 9, the Insurance Division hereby gives Notice of Intended Action to adopt new Chapter 79, "Prior Authorization—Prescription Drug Benefits," Iowa Administrative Code.

The rules in proposed Chapter 79 describe the requirements for prior authorization for prescription drug benefits. The Commissioner of Insurance is required to adopt rules to provide for a single prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers.

The Division intends that insurance companies doing business in Iowa must be in compliance with these rules beginning January 27, 2016.

This chapter does not provide for waivers. Persons seeking waivers must petition the Division for a waiver in the manner set forth in 191—Chapter 4.

Any interested person may make written comments on the proposed rules on or before November 18, 2015. Written comments may be sent to Angela Burke Boston, Assistant Commissioner, Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50309-3738. Comments may also be submitted electronically to [angela.burke.boston@iid.iowa.gov](mailto:angela.burke.boston@iid.iowa.gov).

A public hearing will be held at the office of the Insurance Division, at the address noted above, at 10 a.m. on Wednesday, November 18, 2015, 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 rules.

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

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code section 17A.4(4) will be available at <https://www.legis.iowa.gov/publications/fiscal/adminRulesFiscalImpact> or at (515)281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

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

These rules are intended to implement Iowa Code section 505.26 as amended by 2015 Iowa Acts, House File 632, section 9.

The following amendment is proposed.

Adopt the following new 191—Chapter 79:

### **CHAPTER 79**

#### **PRIOR AUTHORIZATION—PRESCRIPTION DRUG BENEFITS**

**191—79.1(505) Purpose.** These rules implement Iowa Code section 505.26 as amended by 2015 Iowa Acts, House File 632, section 9, which requires the commissioner to adopt rules to provide for a single

## INSURANCE DIVISION[191](cont'd)

prior authorization form and prior authorization process for approval of prescription drug benefits by health carriers and pharmacy benefits managers.

**191—79.2(505) Definitions.** For purposes of this chapter, the definitions found in Iowa Code section 505.26 as amended by 2015 Iowa Acts, House File 632, section 9, shall apply. In addition, the following definitions shall apply:

“*Commissioner*” means the Iowa insurance commissioner.

“*Division*” means the Iowa insurance division.

“*Exigent*” means circumstances as defined under federal regulations relating to the Affordable Care Act, as provided in 45 CFR 156.122.

“*Prescription drug prior authorization*” means requests for preapproval from a payor for specified medications or quantities of medications.

“*Qualified health plan*” or “*QHP*” means a health insurance plan under the Affordable Care Act, which is certified by the health insurance marketplace.

“*Urgent*” means any claim for medical care or treatment to which the application of time periods that either could seriously jeopardize the life or health of the patient or the ability of the patient to regain maximum function or, in the opinion of the physician or health care professional, as defined in Iowa Code chapter 514J, with knowledge of the patient’s medical condition, would subject the patient to severe pain that cannot be adequately managed without the care or treatment that is the subject of the claim.

**191—79.3(505) Prior authorization protocols.** All health carriers, health benefit plans and pharmacy benefits managers must accept the approved prior authorization form from health care providers.

**79.3(1) *Duration of approved prior authorization request.*** Health carriers, health benefit plans, and pharmacy benefits managers shall provide that approval of a prior authorization request shall be valid for a minimum of 12 months in accordance with the rules adopted pursuant to Iowa Code section 505.26 as amended by 2015 Iowa Acts, House File 632, section 9. Updates on disease progression must be provided with each renewal request.

**79.3(2) *Posting of prior authorization form.*** The approved prior authorization form shall be made available electronically on the Web site of the division and on the Web site of each health carrier, health benefit plan or pharmacy benefits manager that uses the form. Health carriers, health benefit plans and pharmacy benefits managers shall allow health care providers to submit a prior authorization request electronically.

**79.3(3) *Assignment of identification number.*** The health carrier, health benefit plan or pharmacy benefits manager shall assign to each prior authorization request a unique electronic identification number that a provider may use during the prior authorization process to track the request electronically, through a call center, or by fax. This unique identifier may include a format that consists of a patient’s first name, last name and date of birth.

**79.3(4) *Posting of required information.*** Health carriers, health benefit plans, and pharmacy benefits managers shall make the following available and accessible on their Internet sites:

*a.* Prior authorization requirements and restrictions, including a list of drugs that require prior authorization.

*b.* Clinical criteria that are easily understandable to health care providers, including clinical criteria for reauthorization of a previously approved drug after the prior authorization period has expired.

*c.* Standards for submitting and considering requests, including evidence-based guidelines, when possible, for making prior authorization determinations.

*d.* Health carriers shall provide a process for health care providers to appeal a prior authorization determination as provided in Iowa Code chapter 514J. Pharmacy benefits managers shall provide a process for health care providers to appeal a prior authorization determination that is consistent with the process provided in Iowa Code chapter 514J. Appeal standards as provided in Iowa Code chapter 514J are set out in Appendix A herein.

**79.3(5) *Urgent claims.*** Prior authorization requests for urgent claims shall be approved or denied as soon as possible, but in no case later than 72 hours after receipt of the request.



## INSURANCE DIVISION[191](cont'd)

**79.3(6) *Nonurgent claims.*** Prior authorization requests for nonurgent claims shall be approved or denied as soon as possible, but in no case later than five calendar days after receipt of the request.

**79.3(7) *Incomplete or additional information.*** If a request for a prescription drug prior authorization is incomplete or additional information is required, the health carrier, health benefit plan, or pharmacy benefits manager may request additional information within the applicable time periods provided in this rule. Once the additional information is submitted, the applicable time period for approval or denial shall begin again.

**79.3(8) *Prescription drug benefits provided by a qualified health plan.*** A QHP shall have procedures in place that comply with the health insurance issuer standards related to expedited review based on exigent circumstances and coverage determinations no later than 24 hours after receipt of requests as provided for in 45 CFR 156.122(c).

**79.3(9) *Prior authorization granted.*** If a health carrier, health benefit plan or pharmacy benefits manager does not approve or deny a completed prior authorization request or request additional information from a health care provider within the time limits set forth in this rule, the prior authorization request shall be deemed to have been granted.

**79.3(10) *Denial of prior authorization request.*** In the case of a denial of a prior authorization request, the health carrier, health benefit plan or pharmacy benefits manager shall provide the reason for the denial, information regarding the denial and, if formulary alternatives are available, direction on how to contact the health carrier or health benefit plan.

**191—79.4(505) Filing with the division.**

**79.4(1)** A prior authorization form approved by the commissioner shall meet all of the following requirements:

- a.* Not exceed two pages in length, except that a prior authorization form may exceed that length as determined to be appropriate by the commissioner. Exceptions to the two-page limit shall consider clinical differences and complexity of the requested prescription drugs.
- b.* Be available in electronic format.
- c.* Be transmissible in an electronic format or a fax transmission.

**79.4(2)** The prior authorization form utilized by health carriers, health benefit plans, and pharmacy benefits managers shall first be examined and approved by the commissioner. Health carriers shall submit the form electronically using the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF). Pharmacy benefits managers shall submit the form in writing to the commissioner by regular mail, fax or electronic means.

**79.4(3)** The form submitted for approval shall consider any prior authorization forms developed by the federal Centers for Medicare and Medicaid Services or the U.S. Department of Health and Human Services and any national standards pertaining to electronic prior authorization for prescription drugs, including ASC X12 278 standard transactions and NCPDP SCRIPT Standard ePA transactions.

**191—79.5(505) Violations.** A health carrier, health benefit plan or pharmacy benefits manager found after hearing to have violated a provision of this chapter shall be subject to the penalties set forth in Iowa Code chapter 505.

**191—79.6(505) Applicability.** This chapter shall not apply to Medicare or Medicaid.

These rules are intended to implement Iowa Code section 505.26 as amended by 2015 Iowa Acts, House File 632, section 9.

APPENDIX A  
**Standards Related to Appeals**  
**(as provided in Iowa Code chapter 514J)**

**514J.107 External review — standard.**

## INSURANCE DIVISION[191](cont'd)

1. A covered person or the covered person's authorized representative may file a written request for an external review with the commissioner within four months after any of the following events:

- a. The date of receipt of a final adverse determination.
- b. The failure of a health carrier to issue a written decision within thirty days following the date the covered person or the covered person's authorized representative filed a grievance involving an adverse determination as provided in section 514J.106, subsection 2.
- c. The agreement of the health carrier to waive the requirement that the covered person or the covered person's authorized representative exhaust the health carrier's internal grievance procedures before filing a request for external review of an adverse determination as provided in section 514J.106, subsection 4.

2. Within one business day after the date of receipt of a request for external review, the commissioner shall send a copy of the request to the health carrier.

3. Within five business days following the date of receipt of the external review request from the commissioner, the health carrier shall complete a preliminary review of the request to determine whether:

- a. The individual is or was a covered person under the health benefit plan at the time the health care service was recommended or requested.
- b. The health care service that is the subject of the adverse determination or of the final adverse determination, is a covered service under the covered person's health benefit plan, but for a determination by the health carrier that the health care service is not covered because it does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness.
- c. The covered person or the covered person's authorized representative has exhausted the health carrier's internal grievance process, unless the covered person or the covered person's authorized representative is not required to exhaust the health carrier's internal grievance process pursuant to section 514J.106 or this section.

d. The covered person or the covered person's authorized representative has provided all the information and forms required to process an external review request.

4. Within one business day after completion of a preliminary review pursuant to subsection 3, the health carrier shall notify the commissioner and the covered person or the covered person's authorized representative in writing whether the request is complete and whether the request is eligible for external review.

a. If the health carrier determines that the request is not complete, the health carrier shall notify the covered person or the covered person's authorized representative and the commissioner in writing that the request is not complete and what information or materials are needed to make the request complete.

b. If the health carrier determines that the request is not eligible for external review, the health carrier shall issue a notice of initial determination in writing informing the covered person or the covered person's authorized representative and the commissioner of that determination and the reasons the request is not eligible for review. The health carrier shall also include a statement in the notice informing the covered person or the covered person's authorized representative that the health carrier's initial determination of ineligibility may be appealed to the commissioner.

5. The commissioner may specify by rule the form required for the health carrier's notice of initial determination and any supporting information to be included in the notice.

6. The commissioner may determine that a request is eligible for external review, notwithstanding a health carrier's initial determination that the request is not eligible, and refer the request for external review. In making this determination, the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter.

7. Within one business day after receipt of notice from a health carrier that a request for external review is eligible for external review or upon a determination by the commissioner that a request is eligible for external review, the commissioner shall do all of the following:

- a. Assign an independent review organization from the list of approved independent review organizations maintained by the commissioner and notify the health carrier of the name of the assigned independent review organization. The assignment of an independent review organization shall be done on a random basis among those approved independent review organizations qualified to conduct the

## INSURANCE DIVISION[191](cont'd)

particular external review based on the nature of the health care service that is the subject of the adverse determination or final adverse determination and other circumstances, including conflict of interest concerns.

*b.* Notify the covered person or the covered person's authorized representative in writing that the request is eligible and has been accepted for external review including the name of the assigned independent review organization and that the covered person or the covered person's authorized representative may submit in writing to the independent review organization within five business days following receipt of such notice from the commissioner, additional information that the independent review organization shall consider when conducting the external review. The independent review organization may, in the organization's discretion, accept and consider additional information submitted by the covered person or the covered person's authorized representative after five business days.

8. Within five business days after receipt of notice from the commissioner pursuant to subsection 7, the health carrier shall provide to the independent review organization the documents and any information considered in making the adverse determination or final adverse determination. Failure by the health carrier to provide the documents and information within the time specified shall not delay the conduct of the external review.

9. If the health carrier fails to provide the documents and information within the time specified, the independent review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination. Within one business day after making such a decision, the independent review organization shall notify the covered person or the covered person's authorized representative, the health carrier, and the commissioner of its decision.

10. The independent review organization shall review all of the information and documents received pursuant to subsection 8 and any other information submitted in writing to the independent review organization by the covered person or the covered person's authorized representative pursuant to subsection 7, paragraph "b". Upon receipt of any information submitted by the covered person or the covered person's authorized representative, the independent review organization shall, within one business day, forward the information to the health carrier. In reaching a decision the independent review organization is not bound by any decisions or conclusions reached during the health carrier's internal grievance process.

11. Upon receipt of information forwarded pursuant to subsection 10, a health carrier may reconsider its adverse determination or final adverse determination that is the subject of the external review.

*a.* Reconsideration by the health carrier of its determination shall not delay or terminate the external review. The external review shall only be terminated if the health carrier decides, upon completion of its reconsideration, to reverse its determination and provide coverage or payment for the health care service that is the subject of the adverse determination or final adverse determination.

*b.* Within one business day after making a decision to reverse its adverse determination or final adverse determination, the health carrier shall notify the covered person or the covered person's authorized representative, the independent review organization, and the commissioner in writing of its decision. The independent review organization shall terminate the external review upon receipt of notice of the health carrier's decision to reverse its adverse determination or final adverse determination.

12. In addition to the documents and information provided to the independent review organization pursuant to this section, the independent review organization shall, to the extent the information or documents are available and the independent review organization considers them appropriate, consider the following in reaching a decision:

*a.* The covered person's pertinent medical records.

*b.* The treating health care professional's recommendation.

*c.* Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person, or the covered person's treating physician or other health care professional.

*d.* The terms of coverage under the covered person's health benefit plan with the health carrier, to ensure that the independent review organization's decision is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier.

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*e.* The most appropriate practice guidelines, which shall include applicable evidence-based standards and may include any other practice guidelines developed by the federal government, national or professional medical societies, boards, and associations.

*f.* Any applicable clinical review criteria developed and used by the health carrier.

*g.* The opinion of the independent review organization's clinical reviewer after considering the information or documents described in paragraphs "*a*" through "*f*" to the extent the information or documents are available and the clinical reviewer considers them relevant.

13. *a.* Within forty-five days after the date of receipt of a request for an external review, the independent review organization shall provide written notice of its decision to uphold or reverse the adverse determination or final adverse determination of the health carrier to the covered person or the covered person's authorized representative, the health carrier, and the commissioner.

*b.* The independent review organization shall include in its decision all of the following:

(1) A general description of the reason for the request for external review.

(2) The date the independent review organization received the assignment from the commissioner to conduct the external review.

(3) The date the external review was conducted.

(4) The date of the decision.

(5) The principal reason or reasons for its decision, including what applicable evidence-based standards, if any, were a basis for its decision.

(6) The rationale for its decision.

(7) References to evidence or documentation, including evidence-based standards, considered in reaching its decision.

14. Upon receipt of notice of a decision reversing the adverse determination or final adverse determination of the health carrier, the health carrier shall immediately approve the coverage that was the subject of the determination.

**514J.108 External review — expedited.**

1. Notwithstanding section 514J.107, a covered person or the covered person's authorized representative may make an oral or written request to the commissioner for an expedited external review at the time the covered person or the covered person's authorized representative receives any of the following:

*a.* An adverse determination that involves a medical condition of the covered person for which the time frame for completion of an internal review of a grievance involving an adverse determination would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

*b.* A final adverse determination that involves a medical condition where the time frame for completion of a standard external review would seriously jeopardize the life or health of the covered person or would jeopardize the covered person's ability to regain maximum function.

*c.* A final adverse determination that concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, and the covered person has not been discharged from a facility.

2. *a.* Upon receipt of a request for an expedited external review, the commissioner shall immediately send written notice of the request to the health carrier.

*b.* Immediately upon receipt of notice of a request for expedited external review, the health carrier shall complete a preliminary review of the request to determine whether the request meets the eligibility requirements for external review set forth in section 514J.107, subsection 3, and this section.

*c.* The health carrier shall then immediately issue a notice of initial determination informing the commissioner and the covered person or the covered person's authorized representative of its eligibility determination including a statement informing the covered person or the covered person's authorized representative of the right to appeal that determination to the commissioner.

*d.* The commissioner may specify by rule the form required for the health carrier's notice of initial determination and any supporting information to be included in the notice.

## INSURANCE DIVISION[191](cont'd)

3. The commissioner may determine that a request is eligible for expedited external review, notwithstanding a health carrier's initial determination that the request is not eligible. In making a determination, the commissioner's decision shall be made in accordance with the terms of the covered person's health benefit plan and shall be subject to all applicable provisions of this chapter. The commissioner shall make a determination pursuant to this subsection as expeditiously as possible.

4. *a.* Upon receipt of notice from a health carrier that a request is eligible for expedited external review or upon a determination by the commissioner that a request is eligible for expedited external review, the commissioner shall immediately assign an independent review organization from the list of approved independent review organizations maintained by the commissioner to conduct the expedited external review. The commissioner shall then immediately notify the health carrier and the covered person or the covered person's authorized representative of the name of the assigned independent review organization.

*b.* The assignment of an independent review organization shall be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service that is the subject of the adverse determination or final adverse determination and other circumstances, including conflict of interest concerns.

5. Upon receiving notice of the independent review organization assigned to conduct the expedited external review, the health carrier shall provide or transmit all necessary documents and information considered in making the adverse determination or final adverse determination to the independent review organization electronically or by telephone or facsimile or any other available expeditious method.

6. The independent review organization is not bound by any decisions or conclusions reached during the health carrier's internal grievance process. The independent review organization shall consider the documents and information provided by the health carrier, and to the extent the information or documents are available and the independent review organization considers them appropriate, shall consider the following in reaching a decision:

*a.* The covered person's pertinent medical records.  
*b.* The treating health care professional's recommendation.  
*c.* Consulting reports from appropriate health care professionals and other documents submitted by the health carrier, covered person or the covered person's authorized representative, or the covered person's treating physician or other health care professional.

*d.* The terms of coverage under the covered person's health benefit plan with the health carrier, to ensure that the independent review organization's decision is not contrary to the terms of coverage under the covered person's health benefit plan with the health carrier.

*e.* The most appropriate practice guidelines, which shall include applicable evidence-based standards and may include any other practice guidelines developed by the federal government, national or professional medical societies, boards, and associations.

*f.* Any applicable clinical review criteria developed and used by the health carrier.

*g.* The opinion of the independent review organization's clinical reviewer after considering the information or documents described in paragraphs "*a*" through "*f*" to the extent the information or documents are available and the clinical reviewer considers them relevant.

7. *a.* As expeditiously as the covered person's medical condition or circumstances require, but in no event more than seventy-two hours after the date of receipt of an eligible request for expedited external review, the assigned independent review organization shall do all of the following:

(1) Make a decision to uphold or reverse the adverse determination or final adverse determination of the health carrier.

(2) Notify the covered person or the covered person's authorized representative, the health carrier, and the commissioner of its decision.

*b.* If the notice given by the independent review organization pursuant to paragraph "*a*" was not in writing, within forty-eight hours after providing that notice, the independent review organization shall provide written confirmation of the decision to the covered person or the covered person's authorized representative, the health carrier, and the commissioner that includes the information set forth in section 514J.107, subsection 13, paragraph "*b*".

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c. Upon receipt of the notice of decision by an independent review organization pursuant to paragraph "a" reversing the adverse determination or final adverse determination, the health carrier shall immediately approve the coverage that was the subject of the adverse determination or final adverse determination.

## ARC 2224C

### 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 and 2015 Iowa Acts, House File 203, section 11, the Board of Respiratory Care and Polysomnography hereby gives Notice of Intended Action to amend Chapter 261, "Licensure of Respiratory Care Practitioners," Chapter 262, "Continuing Education for Respiratory Care Practitioners," Chapter 263, "Discipline for Respiratory Care Practitioners," and Chapter 265, "Practice of Respiratory Care Practitioners," Iowa Administrative Code.

These proposed amendments update the Board's administrative rules pursuant to 2015 Iowa Acts, House File 203, which establishes polysomnography as an independent licensed profession within the Board of Respiratory Care and Polysomnography.

The amendments to Chapter 261 change the title of the chapter to include two new licensure types related to polysomnography, set the requirements for obtaining the new license types as outlined in 2015 Iowa Acts, House File 203, set the requirements for reactivation of an expired license, and rescind rule 645—261.4(152B) regarding supervision of respiratory care students and rule 645—261.6(152B) regarding licensure by endorsement. However, the content of rule 645—261.4(152B) is relocated to Chapter 265, and the content of rule 645—261.6(152B) is incorporated in rule 645—261.2(152B).

The amendments to Chapter 262 change the title of the chapter to include polysomnography, set the required hours for renewal for the two new license types (polysomnographic technologist, respiratory care and polysomnography practitioner), update what is not considered to be independent study when continuing education is obtained through electronic means, and clarify the number of hours earned for completion of a new professional certification or recertification.

The amendments to Chapter 263 change the title of the chapter to include polysomnography and add polysomnographic technologists to the types of practitioners covered by the discipline rules.

The amendments to Chapter 265 change the title of the chapter to include polysomnography, add polysomnography licensees under the ethics rule, add a new rule that defines the practice of polysomnography (the wording is taken directly from 2015 Iowa Acts, House File 203), include polysomnographic and electroneurodiagnostic students within the rule related to supervision of students engaged in a training program, and define where polysomnography services can be performed.

Any interested person may submit written comments on the proposed amendments no later than November 17, 2015, addressed to Tony Alden, Professional Licensure Division, 321 E. 12th Street, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail [tony.alden@idph.iowa.gov](mailto:tony.alden@idph.iowa.gov); fax (515)281-3121.

A public hearing will be held on November 17, 2015, from 9 to 9:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Waiver provisions pertaining to these administrative rules are contained in Chapter 18.

After analysis and review of this rule making, no impact on jobs is expected.

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

These amendments are intended to implement Iowa Code sections 147.10, 147.11, 147.49, 147.55, 152B.2, 152B.3, 152B.4, 152B.5, 152B.6, 152B.11, 272C.2, 272C.3, 272C.4, and 272C.10 and 2015 Iowa Acts, House File 203, sections 7 to 9, 11 and 12 [Iowa Code sections 148G.1, 148G.2, 148G.3, 148G.5, and 148G.6].

The following amendments are proposed.

ITEM 1. Amend **645—Chapter 261**, title, as follows:

**LICENSURE OF RESPIRATORY CARE PRACTITIONERS, POLYSOMNOGRAPHIC TECHNOLOGISTS, AND RESPIRATORY CARE AND POLYSOMNOGRAPHY PRACTITIONERS**

ITEM 2. Amend rule 645—261.1(152B) as follows:

**645—261.1(148G,152B) Definitions.** For purposes of these rules, the following definitions shall apply:

*“Active license”* means a license that is current and has not expired.

*“Board”* means the board of respiratory care and polysomnography.

*“BRPT”* means the Board of Registered Polysomnographic Technologists.

*“CAAHEP”* means the Commission on Accreditation of Allied Health Education Programs.

*“CoARC”* means the Commission on Accreditation for Respiratory Care.

*“Grace period”* means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

*“Licensee”* means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

*“License expiration date”* means March 31 of even-numbered years.

*“~~Licensure by endorsement~~”* means ~~the issuance of an Iowa license to practice respiratory care to an applicant who is or has been licensed in another state.~~

*“NBRC”* means the National Board of Respiratory Care.

*“Polysomnographic technologist”* means a person licensed by the board to engage in the practice of polysomnography under the general supervision of a physician or a qualified health care professional prescriber.

*“Reactivate”* or *“reactivation”* means the process as outlined in rule 645—261.14(17A,147,272C) by which an inactive license is restored to active status.

*“Reciprocal license”* means the issuance of an Iowa license to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of respiratory care and polysomnography to license persons who have the same or similar qualifications to those required in Iowa.

*“Reinstatement”* means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

ITEM 3. Amend rule 645—261.2(152B) as follows:

**645—261.2(148G,152B) Requirements General requirements for licensure.**

**261.2(1)** The following general criteria shall apply to all applications for licensure:

a. The applicant shall complete a board-approved application packet. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office or may be submitted electronically at <https://IBPLicense.iowa.gov>. ~~All~~ Paper applications shall be sent to Board of Respiratory Care and Polysomnography, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

b. to d. No change.

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

~~e. The applicant has satisfactorily completed the certification or registration examination for respiratory therapists administered by the NBRC~~ The applicant shall submit a release authorizing the background check.

~~f. No change.~~

~~g. An applicant who has been a licensed respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner under the laws of another jurisdiction shall provide verification of license(s) from every jurisdiction in which the applicant has been licensed. Verification shall be sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction's board office if the verification provides:~~

- ~~(1) Licensee's name;~~
- ~~(2) Date of initial licensure;~~
- ~~(3) Current licensure status; and~~
- ~~(4) All disciplinary action taken against the license.~~

~~261.2(2) No change.~~

ITEM 4. Amend rule 645—261.3(152B) as follows:

**645—261.3(152B) Educational qualifications Additional requirements for respiratory care practitioner licensure.** The following are additional specific criteria for licensure as a respiratory care practitioner:

**261.3(1)** The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, the Commission on Accreditation for Respiratory Care (CoARC) or CAAHEP.

**261.3(2)** No change.

**261.3(3)** The examination required by the board shall be the Therapist Multiple-Choice Examination or the Certified Respiratory Therapist Examination administered by the NBRC. The applicant shall have achieved a score on the examination which meets or exceeds the minimum passing score established by the NBRC.

**261.3(4)** The applicant shall apply directly to the NBRC to attempt the examination.

**261.3(5)** Results of the examination must be received by the board of respiratory care and polysomnography by one of the following methods:

- a. Scores are sent directly from the examination service to the board;
- b. A notarized copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or
- c. A notarized copy of the score report or an electronic Web-based confirmation by the NBRC showing proof of successful completion is submitted to the board.

ITEM 5. Rescind rule 645—261.4(152B) and adopt the following **new** rule in lieu thereof:

**645—261.4(148G,152B) Additional requirements for polysomnographic technologist licensure.** The following are additional specific criteria for licensure as a polysomnographic technologist:

**261.4(1)** Graduation from a polysomnographic educational program accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

**261.4(2)** Graduation from a respiratory care program accredited by CoARC and completion of the sleep add-on program accredited by CoARC. A transcript shall be submitted to the board office directly from the college or university; or

**261.4(3)** Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or

**261.4(4)** Requirements for current Iowa licensees holding a license in a profession other than polysomnography. An individual who holds an active license under Iowa Code section 147.2 in a



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

profession other than polysomnography and whose license is in good standing with the board for that profession may receive licensure upon verification from the medical director of the individual's current employer or the medical director's designee that the individual has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography.

**261.4(5)** Persons practicing sleep medicine on January 1, 2017.

*a.* A person who is working in the field of sleep medicine on January 1, 2017, may receive a license to perform polysomnography upon verification of the following:

(1) Verification that the person has completed 500 hours of clinical polysomnographic work experience within the three years immediately prior to January 1, 2017; and

(2) Verification from the medical director of the person's current employer or the medical director's designee that the person is competent to perform polysomnography.

*b.* A person who is not otherwise eligible to obtain a license pursuant to this subrule shall have until January 1, 2018, to:

(1) Achieve a passing score on the Registered Polysomnographic Technologist Examination administered by the BRPT. The passing score shall be the recommended passing score set by the BRPT; or

(2) Achieve a passing score on the Sleep Disorders Specialist Examination (SDS) administered by the NBRC. The passing score shall be the minimum passing score established by the NBRC.

**261.4(6)** Foreign-trained polysomnographic technologists shall:

*a.* Provide an equivalency evaluation of their educational credentials by either of the following:

(1) International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site [www.ierf.org](http://www.ierf.org) or e-mail at [info@ierf.org](mailto:info@ierf.org); or

(2) International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555.

The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

*b.* Provide a notarized copy of the certificate or diploma awarded to the applicant from a respiratory care program in the country in which the applicant was educated.

*c.* Receive a final determination from the board regarding the application for licensure.

ITEM 6. Rescind rule 645—261.5(152B) and adopt the following **new** rule in lieu thereof:

**645—261.5(148G,152B) Requirements for dual licensure.** The following are additional specific criteria for licensure as a respiratory care and polysomnography practitioner. An applicant for licensure as a respiratory care and polysomnography practitioner shall meet the requirements of 261.5(1) and 261.5(2).

**261.5(1)** The applicant shall have successfully completed a respiratory care education program accredited by, or under a letter of review from, CoARC or CAAHEP.

*a.* Foreign-trained practitioners shall:

(1) Provide an equivalency evaluation of their educational credentials by either of the following:

1. International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site [www.ierf.org](http://www.ierf.org) or e-mail at [info@ierf.org](mailto:info@ierf.org); or

2. International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, FL 33777, telephone (727)549-8555.

The professional curriculum must be equivalent to that stated in these rules. A candidate shall bear the expense of the curriculum evaluation.

(2) Provide a notarized copy of the certificate or diploma awarded to the applicant from the program in the country in which the applicant was educated.

(3) Receive a final determination from the board regarding the application for licensure.

*b.* Examination requirements. The examinations required by the board shall be the Therapist Multiple-Choice Examination administered by the NBRC and either the Sleep Disorders Specialist

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

Examination (SDS) administered by the NBRC or the Registered Polysomnographic Technologist Examination administered by the BRPT. The passing score shall be the minimum passing score established by the NBRC or BRPT.

- (1) The applicant shall apply directly to the examination service to attempt the examination.
- (2) Results of the examinations must be received by the board of respiratory care and polysomnography by one of the following methods:
  1. Scores are sent directly from the examination service to the board;
  2. A notarized copy of a certificate showing proof of the successful achievement of the certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential awarded by the NBRC is submitted to the board; or
  3. A notarized copy of the score report or an electronic Web-based confirmation by the NBRC showing proof of successful completion of the Therapist Multiple-Choice Examination, State Clinical Examination, or Certified Respiratory Therapist Examination administered by the NBRC is submitted to the board.

**261.5(2)** The applicant must also meet one of the following requirements:

- a. Graduation from a polysomnographic educational program accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or
- b. Completion of a sleep add-on program accredited by CoARC. A transcript shall be submitted to the board office directly from the college or university; or
- c. Graduation from an electroneurodiagnostic technologist program with a polysomnographic technology track that is accredited by CAAHEP. A transcript shall be submitted to the board office directly from the college or university; or
- d. Hold an active license under Iowa Code section 147.2 in a profession other than polysomnography that is in good standing with the board for that profession and provide verification from the medical director of the applicant's current employer or the medical director's designee that the applicant has completed on-the-job training in the field of polysomnography and is competent to perform polysomnography; or
- e. Persons practicing sleep medicine on January 1, 2017.

(1) A person who is working in the field of sleep medicine on January 1, 2017, may receive a license upon verification of the following:

1. Verification that the person has completed 500 hours of clinical or nonclinical polysomnographic work experience within the three years immediately prior to January 1, 2017, and
2. Verification from the medical director of the person's current employer or the medical director's designee that the person is competent to perform polysomnography.

(2) A person who is not otherwise eligible to obtain a license pursuant to this subrule shall have until January 1, 2018, to achieve a passing score on the Registered Polysomnographic Technologist Examination administered by the BRPT or achieve a passing score on the Sleep Disorders Specialist Examination (SDS) administered by the NBRC. The passing score for the Registered Polysomnographic Technologist Examination shall be the recommended passing score set by the BRPT. The passing score for the SDS shall be the minimum passing score established by the NBRC.

ITEM 7. Rescind and reserve rule **645—261.6(152B)**.

ITEM 8. Amend rule 645—261.8(152B) as follows:

**645—261.8(148G,152B) License renewal.**

**261.8(1)** The biennial license renewal period for a license ~~to practice respiratory care~~ shall begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive notice does not relieve the licensee of the responsibility for renewing the license.

**261.8(2)** No change.

**261.8(3)** A licensee seeking renewal shall:

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

*a.* Meet the continuing education requirements of rule 645—262.2(148G,152B,272C) and the mandatory reporting requirements of subrule 261.8(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

**261.8(4)** and **261.8(5)** No change.

**261.8(6)** A person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner shall keep the person's license certificate and wallet card displayed in a conspicuous public place at the primary site of practice.

**261.8(7)** and **261.8(8)** No change.

ITEM 9. Amend subrule 261.14(4) as follows:

**261.14(4)** Provide verification of current competence to practice ~~respiratory care~~ by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) No change.

(2) Verification of completion of ~~24 hours~~ of continuing education that conforms to standards defined in 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation.

1. For respiratory care practitioners: 24 hours of continuing education.

2. For polysomnographic technologists: 20 hours of continuing education.

3. For respiratory care and polysomnography practitioners: 30 hours of continuing education of which at least 8 hours but no more than 12 hours shall be on sleep-related topics.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) No change.

(2) Verification of completion of ~~48 hours~~ of continuing education that conforms to standards defined in 645—262.3(148G,152B,272C) within 24 months immediately preceding submission of the application for reactivation.

1. For respiratory care practitioners: 48 hours of continuing education.

2. For polysomnographic technologists: 40 hours of continuing education.

3. For respiratory care and polysomnography practitioners: 60 hours of continuing education of which at least 16 hours but no more than 24 hours shall be on sleep-related topics.

ITEM 10. Amend rule 645—261.15(17A,147,272C) as follows:

**645—261.15(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—261.14(17A,147,272C) prior to practicing ~~respiratory care~~ in this state.

ITEM 11. Amend **645—Chapter 261**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 147, 152B and 272C and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

ITEM 12. Amend **645—Chapter 262**, title, as follows:

CONTINUING EDUCATION FOR RESPIRATORY CARE PRACTITIONERS AND  
POLYSOMNOGRAPHIC TECHNOLOGISTS

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

ITEM 13. Amend rule 645—262.1(152B,272C), parenthetical implementation statute, as follows:

**645—262.1(148G,152B,272C) Definitions.**

ITEM 14. Amend rule **645—262.1(152B,272C)**, definitions of “Board” and “Licensee,” as follows:

“*Board*” means the board of respiratory care and polysomnography.

“*Licensee*” means any person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in the state of Iowa.

ITEM 15. Amend rule 645—262.2(152B,272C) as follows:

**645—262.2(148G,152B,272C) Continuing education requirements.**

**262.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on April 1 of each even-numbered year and ending on March 31 of the next even-numbered year. Each biennium, the licensee shall be required to complete ~~a minimum of 24 hours of~~ continuing education that ~~meet~~ meets the requirements specified in rule 645—262.3(148G,152B,272C).

*a.* For respiratory care practitioner licensees: complete a minimum of 24 hours of continuing education. Fourteen of the 24 hours of continuing education shall be earned by completing a program in which the instructor conducts the class employing in-person or live, real-time interactive media or by employing an archived audio or video presentation which permits the licensee a means to communicate with the presenter in real time by employing an electronic technology that allows for real-time communication between the instructor and licensee.

*b.* For respiratory care and polysomnography practitioner licensees: complete a minimum of 30 hours of continuing education. Eighteen of the 30 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee. At least 8 hours but not more than 12 hours shall be on sleep-related topics.

*c.* For polysomnographic technologist licensees: complete a minimum of 20 hours of continuing education. Fourteen of the 20 hours of continuing education shall be earned by completing a program in which the instructor conducts the class in person or by employing an electronic technology that allows for real-time communication between the instructor and licensee.

**262.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The For each subsequent license renewal, the new licensee will be required to complete a ~~minimum of 24 hours of continuing education per biennium for each subsequent license renewal.~~

**262.2(3) to 262.2(5)** No change.

ITEM 16. Amend rule 645—262.3(152B,272C) as follows:

**645—262.3(148G,152B,272C) Standards.**

**262.3(1)** No change.

**262.3(2) Specific criteria.** Continuing education hours of credit may be obtained by:

*a.* Programs/activities that shall be of a clinical nature related to the practice of respiratory care or polysomnography.

*b.* and *c.* No change.

*d.* ~~All courses offered by the American Association of Respiratory Care (AARC) continuing education programs/activities.~~

*e.* ~~Maximums per biennium are as follows:~~

~~(1) No more than ten hours of approved independent study for continuing education requirements in a given continuing education compliance period.~~

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

(2) d. The following are approved for continuing education credit on a one-time basis per biennium and require a certificate of attendance or verification:

## CERTIFICATIONS :

Advanced Cardiac Life Support	<del>up to</del> 12 hours
Basic Cardiac Life Support—Instructor	<del>up to</del> 8 hours
Basic Cardiac Life Support	<del>up to</del> 6 hours
Neonatal Resuscitation	<del>up to</del> 9 hours
Pediatric Advanced Life Support	<del>up to</del> 14 hours
Mandatory Reporting	<del>up to</del> 4 hours
Certified Pulmonary Function Technologist	<del>up to</del> 8 hours
Registered Pulmonary Function Technologist	<del>up to</del> 12 hours
Neonatal Pediatric Specialist	<del>up to</del> 12 hours
Sleep Disorders Specialist	<del>up to</del> 12 hours
Adult Critical Care Specialist	<del>up to</del> 12 hours

## RECERTIFICATIONS :

Advanced Cardiac Life Support	<del>up to</del> 4 hours
Basic Cardiac Life Support	<del>up to</del> 2 hours
Neonatal Resuscitation	<del>up to</del> 3 hours
Pediatric Advanced Life Support	<del>up to</del> 3 hours
Registered Respiratory Therapist	<del>up to</del> 24 hours
Certified Pulmonary Function Technologist	<del>up to</del> 8 hours
Registered Pulmonary Function Technologist	<del>up to</del> 12 hours
Neonatal Pediatric Specialist	<del>up to</del> 12 hours
Sleep Disorders Specialist	<del>up to</del> 12 hours
Adult Critical Care Specialist	<del>up to</del> 12 hours
Certified Respiratory Therapist	<del>up to</del> 24 hours

f. e. Unacceptable subject matter includes marketing, personal development, time management, human relations, collective bargaining and tours.

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

ITEM 17. Amend rule 645—262.5(152B,272C), parenthetical implementation statute, as follows:

**645—262.5(148G,152B,272C) Automatic exemption.**

ITEM 18. Amend rule 645—262.6(152B,272C), parenthetical implementation statute, as follows:

**645—262.6(148G,152B,272C) Grounds for disciplinary action.**

ITEM 19. Amend rule 645—262.7(152B,272C), parenthetical implementation statute, as follows:

**645—262.7(148G,152B,272C) Continuing education exemption for disability or illness.**

ITEM 20. Amend **645—Chapter 262**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 272C.2 and chapter 152B and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

ITEM 21. Amend **645—Chapter 263**, title, as follows:

**DISCIPLINE FOR RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC TECHNOLOGISTS**

ITEM 22. Amend rule 645—263.1(152B) as follows:

**645—263.1(148G,152B) Definitions.**

*“Board”* means the board of respiratory care and polysomnography.

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

*“Licensee”* means a person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner in Iowa.

ITEM 23. Amend rule 645—263.2(152B,272C) as follows:

**645—263.2(148G,152B,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—263.3(147,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

**263.2(1)** No change.

**263.2(2)** Professional incompetency. Professional incompetency includes, but is not limited to:

*a.* No change.

*b.* A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners or technologists in the state of Iowa acting in the same or similar circumstances.

*c.* A failure to exercise the degree of care which is ordinarily exercised by the average practitioner or technologist acting in the same or similar circumstances.

*d.* Failure to conform to the minimal standard of acceptable and prevailing practice of a respiratory care practitioner or polysomnographic technologist in this state.

*e.* and *f.* No change.

**263.2(3) and 263.2(4)** No change.

**263.2(5)** Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to:

*a.* and *b.* No change.

*c.* Self-laudatory claims that imply that the respiratory care practitioner or polysomnographic technologist is skilled in a field or specialty of practice for which the practitioner or technologist is not qualified.

*d.* Extravagant claims or proclaiming extraordinary skills not recognized by the respiratory care or polysomnography profession.

**263.2(6) to 263.2(24)** No change.

**263.2(25)** Representing oneself as a respiratory care practitioner or polysomnographic technologist when one's license has been suspended or revoked, or when one's license is on inactive status.

**263.2(26) to 263.2(30)** No change.

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

ITEM 24. Amend **645—Chapter 263**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 147, 152B and 272C and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

ITEM 25. Amend **645—Chapter 265**, title, as follows:

**PRACTICE OF RESPIRATORY CARE PRACTITIONERS AND POLYSOMNOGRAPHIC TECHNOLOGISTS**

ITEM 26. Renumber rules **645—265.1(152B,272C)** and **645—265.2(152B,272C)** as **645—265.2(152B,272C)** and **645—265.3(152B,272C)**.

ITEM 27. Adopt the following new rule 645—265.1(148G,152B,272C):

**645—265.1(148G,152B,272C) Definitions.**

*“Board”* means the board of respiratory care and polysomnography.

*“Direct supervision”* means that the respiratory care and polysomnography practitioner or the polysomnographic technologist providing supervision must be present where the polysomnographic procedure is being performed and immediately available to furnish assistance and direction throughout the performance of the procedure.

*“General supervision”* means that the polysomnographic procedure is provided under a physician’s or qualified health care professional prescriber’s overall direction and control, but the physician’s or qualified health care professional prescriber’s presence is not required during the performance of the procedure.

*“Physician”* means a person who is currently licensed in Iowa to practice medicine and surgery or osteopathic medicine and surgery and who is board certified and who is actively involved in the sleep medicine center or laboratory.

*“Polysomnographic student”* means a person who is enrolled in a program approved by the board and who may provide sleep-related services under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist as part of the person’s education program.

*“Polysomnographic technician”* means a person who has graduated from a program approved by the board, but has not yet received an accepted national credential awarded from an examination program approved by the board and who may provide sleep-related services under the direct supervision of a licensed respiratory care and polysomnography practitioner or a licensed polysomnographic technologist for a period of up to 30 days following graduation while awaiting credentialing examination scheduling and results.

ITEM 28. Amend renumbered rule 645—265.2(152B,272C) as follows:

**645—265.2(148G,152B,272C) Code of ethics.**

**265.2(1)** The respiratory care practitioner or polysomnographic technologist shall practice acceptable methods of treatment and shall not practice beyond the competence or exceed the authority vested in the practitioner or technologist by physicians.

**265.2(2)** The respiratory care practitioner or polysomnographic technologist shall continually strive to increase and improve knowledge and skill and shall render to each patient the full measure of the practitioner’s or technologist’s ability. All services shall be provided with respect for the dignity of the patient, regardless of the patient’s social or economic status or personal attributes or the nature of the patient’s health problems.

**265.2(3)** The respiratory care practitioner or polysomnographic technologist shall be responsible for the competent and efficient performance of assigned duties and shall expose incompetent, illegal or unethical conduct of members of the profession.

**265.2(4)** The respiratory care practitioner or polysomnographic technologist shall hold in confidence all privileged information concerning the patient and refer all inquiries regarding the patient to the patient’s physician.

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

**265.2(5)** The respiratory care practitioner or polysomnographic technologist shall not accept gratuities and shall guard against conflict of interest.

**265.2(6)** The respiratory care practitioner or polysomnographic technologist shall uphold the dignity and honor of the profession and abide by its ethical principles.

**265.2(7)** The respiratory care practitioner or polysomnographic technologist shall have knowledge of existing state and federal laws governing the practice of respiratory therapy or polysomnography and shall comply with those laws.

**265.2(8)** The respiratory care practitioner or polysomnographic technologist shall cooperate with other health care professionals and participate in activities to promote community, state, and national efforts to meet the health needs of the public.

ITEM 29. Adopt the following new rules 645—265.6(148G,272C) to 645—265.8(148G,272C):

**645—265.6(148G,272C) Practice of polysomnography.**

**265.6(1)** The practice of polysomnography consists of but is not limited to the following tasks as performed for the purpose of polysomnography, under the general supervision of a licensed physician or qualified health care professional prescriber:

*a.* Monitoring, recording, and evaluating physiologic data during polysomnographic testing and review during the evaluation of sleep-related disorders, including sleep-related respiratory disturbances, by applying any of the following techniques, equipment, or procedures:

(1) Noninvasive continuous, bilevel positive airway pressure, or adaptive servo-ventilation titration on spontaneously breathing patients using a mask or oral appliance; provided, however, that the mask or oral appliance does not extend into the trachea or attach to an artificial airway.

(2) Supplemental low-flow oxygen therapy of less than six liters per minute, utilizing a nasal cannula or incorporated into a positive airway pressure device during a polysomnogram.

(3) Capnography during a polysomnogram.

(4) Cardiopulmonary resuscitation.

(5) Pulse oximetry.

(6) Gastroesophageal pH monitoring.

(7) Esophageal pressure monitoring.

(8) Sleep stage recording using surface electroencephalography, surface electrooculography, and surface submental electromyography.

(9) Surface electromyography.

(10) Electrocardiography.

(11) Respiratory effort monitoring, including thoracic and abdominal movement.

(12) Plethysmography blood flow monitoring.

(13) Snore monitoring.

(14) Audio and video monitoring.

(15) Body movement monitoring.

(16) Nocturnal penile tumescence monitoring.

(17) Nasal and oral airflow monitoring.

(18) Body temperature monitoring.

*b.* Monitoring the effects that a mask or oral appliance used to treat sleep disorders has on sleep patterns; provided, however, that the mask or oral appliance shall not extend into the trachea or attach to an artificial airway.

*c.* Observing and monitoring physical signs and symptoms, general behavior, and general physical response to polysomnographic evaluation and determining whether initiation, modification, or discontinuation of a treatment regimen is warranted.

*d.* Analyzing and scoring data collected during the monitoring described in this subrule for the purpose of assisting a physician in the diagnosis and treatment of sleep and wake disorders that result from developmental defects, the aging process, physical injury, disease, or actual or anticipated somatic dysfunction.



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

*e.* Implementation of a written or verbal order from a physician or qualified health care professional prescriber to perform polysomnography.

*f.* Education of a patient regarding the treatment regimen that assists the patient in improving the patient's sleep.

*g.* Use of any oral appliance used to treat sleep-disordered breathing while under the care of a licensed polysomnographic technologist during the performance of a sleep study, as directed by a licensed dentist.

**265.6(2)** Before providing any sleep-related services, a polysomnographic technician or polysomnographic student who is obtaining clinical experience shall give notice to the board that the person is working under the direct supervision of a respiratory care and polysomnography practitioner or a polysomnographic technologist in order to gain the experience to be eligible to sit for a national certification examination. The person shall wear a badge that appropriately identifies the person while providing such services.

**645—265.7(148G,152B,272C) Students.**

**265.7(1)** A student who is enrolled in an approved respiratory care, sleep add-on, polysomnography training program, or electroneurodiagnostic program and is employed in an organized health care system may render services defined in Iowa Code sections 152B.2 and 152B.3 and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G], under the direct and immediate supervision of a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner for the duration of the program, but not to exceed the duration of the program.

**265.7(2)** Direct and immediate supervision of a respiratory care or polysomnographic student means that the licensed respiratory care practitioner or polysomnographic technologist shall:

- a.* Be continuously on site and present in the department or facility where the student is performing care;
- b.* Be immediately available to assist the person being supervised in the care being performed; and
- c.* Be responsible for care provided by students.

**645—265.8(148G,272C) Location of polysomnography services.** The practice of polysomnography shall take place only in a facility that is accredited by a nationally recognized sleep medicine laboratory or center accrediting agency, in a facility operated by a hospital or a hospital licensed under Iowa Code chapter 135B, or in a patient's home pursuant to rules adopted by the board; provided, however, that the scoring of data and the education of patients may take place in another setting.

ITEM 30. Amend **645—Chapter 265**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 147, 152B, and 272C and 2015 Iowa Acts, House File 203, sections 7 to 14 [Iowa Code chapter 148G].

## TREASURER OF STATE

### Notice—Public Funds Interest Rates

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

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

## TREASURER OF STATE(cont'd)

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

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

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

TIME DEPOSITS		
7-31 days	.....	Minimum .05%
32-89 days	.....	Minimum .05%
90-179 days	.....	Minimum .05%
180-364 days	.....	Minimum .05%
One year to 397 days	.....	Minimum .05%
More than 397 days	.....	Minimum .25%

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

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

## ARC 2206C

## COLLEGE STUDENT AID COMMISSION[283]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 261.62, the Iowa College Student Aid Commission hereby amends Chapter 8, "All Iowa Opportunity Scholarship Program," Iowa Administrative Code.

The amendments to Chapter 8 clarify the reporting requirements for eligible colleges and universities, refine the ranking of applicants for receipt of awards under the program, define maximum award eligibility under the program, and provide an option for eligibility for awards over a one- or two-year period. The amendments to Chapter 8 reflect changes to Iowa Code section 261.87 that were enacted in 2015 Iowa Acts, House File 658, section 47.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 19, 2015, as **ARC 2112C**. The Commission received no public comment on the amendments. These amendments are identical to those published under Notice of Intended Action.

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

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

These amendments are intended to implement Iowa Code chapter 261 as amended by 2015 Iowa Acts, House File 658.

These amendments will become effective December 2, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **283—8.2(261)**, definition of "Eligible college or university," as follows:

*"Eligible college or university"* means an Iowa community college, an institution of higher education governed by the state board of regents, or an accredited private institution located in Iowa that meets all eligibility requirements set forth in Iowa Code section 261.9. All eligible colleges and universities must submit annual reports which include student and faculty information, enrollment and employment information, and other information required by the commission as described in Iowa Code ~~sections~~ section 261.9 through 261.16.

ITEM 2. Amend subrule 8.4(2) as follows:

**8.4(2) Priority for grants.** Only applicants with expected family contributions (EFCs) at or below the average tuition and fees for regent university students for the academic year for which awards are being made will be considered for awards.

a. All eligible renewal applicants will be funded prior to new applicants. Awards to renewal applicants will be made based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first and at increasing EFC levels until the maximum EFC level is reached.

b. If funding remains after all eligible renewal students have been awarded, priority will be given to students who participated in federal TRIO programs, ~~participated in federal GEAR UP programs,~~ participated in alternative programs in high school, or graduated from alternative high schools. Awards will be made to students in this category based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first and at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

c. If funding remains after all priority applicants have been awarded, funding will be given to students who participated in federal GEAR UP programs. Awards will be made to students in this category based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first, followed by awards to students at increasing EFC levels until the maximum EFC level is reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

~~c- d.~~ d. If funding is available, awards to remaining eligible applicants will be made based on EFC levels within the parameters defined by the commission, with students in the lowest EFC levels awarded first ~~and~~, followed by awards to students at increasing EFC levels until the maximum EFC level is

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

reached. If all students in a given EFC level cannot be funded, students will be ranked according to the date the state application was filed.

ITEM 3. Amend subrule 8.4(3) as follows:

**8.4(3) *Maximum award.*** All Iowa opportunity scholarships are provided during the traditional nine-month academic year, which is generally defined as September through May. Students attending eligible colleges and universities may receive no more than four full-time or eight part-time semesters of all Iowa opportunity scholarships.

*a.* The maximum award for full-time students will be the lesser of:

- (1) The amount of financial need demonstrated by the student as calculated by the commission,
- (2) One-half of the average tuition and fees for regent university students for the award year, or
- (3) The tuition and fees paid by the student, whichever is less.

*b.* A student may request that the student's maximum four semesters of award eligibility be provided during the first two semesters of enrollment. A student making this request will be eligible for only two semesters and will be awarded no more than the lesser of:

- (1) The amount of financial need demonstrated by the student as calculated by the commission,
- (2) The annual average tuition and fees at regent universities, or
- (3) An amount equal to double the tuition and fees paid by the student during the first year of eligibility.

*c.* The maximum award for a full-time ~~recipient~~ student will not be affected by the ranking system used to prioritize grants. A part-time ~~recipient~~ student will receive a prorated award, as defined by the commission, based on the number of hours for which the student is enrolled.

ITEM 4. Rescind subrule **8.4(6)**.

ITEM 5. Renumber subrule **8.4(7)** as **8.4(6)**.

[Filed 9/29/15, effective 12/2/15]

[Published 10/28/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2205C**

## **COLLEGE STUDENT AID COMMISSION[283]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby amends Chapter 8, "All Iowa Opportunity Scholarship Program," and Chapter 9, "All Iowa Opportunity Foster Care Grant Program"; adopts new Chapter 10, "Uniform Policies"; and amends Chapter 12, "Iowa Tuition Grant Program," Chapter 13, "Iowa Vocational-Technical Tuition Grant Program," Chapter 17, "Barber and Cosmetology Arts and Sciences Tuition Grant Program," Chapter 18, "Iowa Work-Study Program," Chapter 22, "Iowa Minority Grants for Economic Success (IMAGES)," Chapter 23, "Skilled Workforce Shortage Tuition Grant Program," Chapter 24, "Rural Iowa Primary Care Loan Repayment Program," Chapter 25, "Rural Iowa Advanced Registered Nurse Practitioner and Physician Assistant Loan Repayment Program," Chapter 32, "Chiropractic Graduate Student Forgivable Loan Program," and Chapter 36, "Governor Terry E. Branstad Iowa State Fair Scholarship Program," Iowa Administrative Code.

New Chapter 10 provides a uniform policy for determining eligibility of applicants to receive funding under programs administered by the College Student Aid Commission. Other amendments update pertinent references to reflect new Chapter 10.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 24, 2015, as **ARC 2037C**. One change has been made to the amendments that were published under Notice of Intended Action. The proposed amendment to subrule 27.1(2) was not adopted because the subrule

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

addresses the Iowa Grant Program, which was rescinded as a result of changes to the Iowa Code that were enacted in 2015 Iowa Acts, House File 658, section 18.

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

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

These amendments are intended to implement Iowa Code chapter 261.

These amendments will become effective on December 2, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **283—8.2(261)**, definition of “Iowa resident,” as follows:

*“Iowa resident”* means a person who meets the ~~criteria used by the state board of regents to determine residency for tuition purposes as described in 681—1.4(262) or a person who meets the criteria defined by the Iowa department of education’s “Iowa community college uniform policy on student residency status.”~~ residency requirements established in 283—Chapter 10.

ITEM 2. Amend rule **283—9.2(261)**, definition of “Iowa resident,” as follows:

*“Iowa resident”* means an individual who meets the ~~criteria used by the state board of regents to determine residency for tuition purposes as described in 681—1.4(262) or an individual for whom the Iowa department of human services had placement and care responsibilities as mandated by the Iowa juvenile court system~~ residency requirements established in 283—Chapter 10.

ITEM 3. Adopt the following **new** 283—Chapter 10:

## CHAPTER 10 UNIFORM POLICIES

**283—10.1(261) Purpose.** This chapter describes criteria for determining whether a student is considered a resident of Iowa for the purposes of gaining eligibility for funding under programs administered by the college student aid commission.

**283—10.2(261) Definition.** “Iowa resident” means a person who:

**10.2(1)** If attending an Iowa regent university, Iowa private college or university, or Iowa barber or cosmetology college, meets the criteria used by the state board of regents to determine residency for tuition purposes as described in 681—1.4(262) and, if the person qualifies for residency only as described in 681—paragraph 1.4(2) “b,” meets the following additional criteria:

*a.* Is a veteran or qualifying military person domiciled in the state of Iowa who is not dependent upon a parent for financial support;

*b.* Is a dependent veteran or qualifying military person whose parent is domiciled in the state of Iowa; or

*c.* Is the spouse, domestic partner, or dependent child of a veteran or qualifying military person who is domiciled in the state of Iowa; or

**10.2(2)** If attending an Iowa community college, meets the criteria defined by the Iowa department of education to determine residency for community college tuition purposes as defined in 281—subrule 21.2(11) and, if the person qualifies for residency only as described in 281—subparagraph 21.2(11) “b”(5), meets the following additional criteria:

*a.* Is a veteran of uniformed service or a national guard member domiciled in the state of Iowa who is not dependent upon a parent for financial support;

*b.* Is a dependent veteran of uniformed service or a national guard member whose parent is domiciled in the state of Iowa; or

*c.* Is the spouse, domestic partner, or dependent child of a veteran of uniformed service or a national guard member who is domiciled in the state of Iowa.

These rules are intended to implement Iowa Code chapter 261.

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

ITEM 4. Amend subrule 12.1(3), introductory paragraph, as follows:

**12.1(3) Student eligibility.** A recipient must be an Iowa resident enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program leading to a degree from an eligible Iowa college or university. ~~The criteria used by the state board of regents to determine residency for tuition purposes, 681—1.4(262), are adopted for this program.~~ “Iowa resident” means an individual who meets the residency requirements established in 283—Chapter 10.

ITEM 5. Amend paragraph **13.1(2)“a”** as follows:

a. A recipient must be an Iowa resident as defined ~~by the Iowa department of education’s “Iowa community college uniform policy on student residency status.”~~ in 283—Chapter 10.

ITEM 6. Amend paragraph **17.1(2)“a”** as follows:

a. A recipient must be an Iowa resident as defined ~~by the Iowa department of education’s “Iowa community college uniform policy on student residency status.”~~ in 283—Chapter 10.

ITEM 7. Amend rule 283—18.2(261) as follows:

**283—18.2(261) Student eligibility.** A recipient must be an Iowa resident enrolled for at least three semester hours, or the trimester or quarter equivalent, in a program leading to a degree from an eligible Iowa college or university. ~~The criteria used by the state board of regents to determine residency for tuition purposes, 681—1.4(262), and the Iowa department of education’s “Iowa community college uniform policy on student residency status” are adopted for this program.~~ “Iowa resident” means an individual who meets the residency requirements established in 283—Chapter 10.

Funds may be used to provide part-time or full-time work opportunities to students registered for classes at the college or university for the academic year. For this program, academic year is defined as July 1 through June 30. Work opportunities may be provided during the summer to students who are enrolled for the upcoming fall term.

ITEM 8. Amend subrule **22.1(1)**, definition of “Iowa resident,” as follows:

“Iowa resident” means an individual who meets the residency requirements as established by the Iowa board of regents in 283—Chapter 10.

ITEM 9. Amend paragraph **23.1(2)“a”** as follows:

a. A recipient must be an Iowa resident as defined ~~by the Iowa department of education’s Iowa community college uniform policy on student residency status~~ in 283—Chapter 10.

ITEM 10. Amend subrule 24.3(1), introductory paragraph, as follows:

**24.3(1)** An eligible university will recommend up to ten applicants to the commission for loan repayment benefits. Priority will be given to students who are Iowa residents upon enrolling in the eligible university. ~~The criteria used by the state board of regents to determine residency for tuition purposes, Iowa Administrative Code rule 681—1.4(262), are adopted for this program.~~ “Iowa resident” means an individual who meets the residency requirements established in 283—Chapter 10. The percentage of the agreements to be entered into by students attending each eligible university shall be evenly divided.

ITEM 11. Amend subrule 25.3(1) as follows:

**25.3(1)** The commission will annually determine and communicate the number of physician assistant and advanced registered nurse practitioner recommendations that can be funded at each eligible university. The intent of this determination will be to ensure that an equal number of students in each program at eligible universities are able to enter into an agreement. Priority will be given to applicants who are Iowa residents upon enrolling in the eligible university. ~~The criteria used by the state board of regents to determine residency for tuition purposes, Iowa Administrative Code rule 681—1.4(262), are adopted for this program.~~ “Iowa resident” means an individual who meets the residency requirements established in 283—Chapter 10. If fewer than the maximum number of physician assistants or advanced registered nurse practitioners are recommended at an eligible university, the commission may obtain additional recommendations from the other eligible universities to award the remaining agreements.

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

ITEM 12. Amend subrule **32.1(1)**, definition of “Iowa resident student,” as follows:

*“Iowa resident student”* means an individual who meets the criteria ~~used by the state board of regents to determine residency for tuition purposes, 681 IAC 1.4(262)~~ established in 283—Chapter 10.

ITEM 13. Amend paragraph **32.1(2)“a”** as follows:

a. Graduate students who are enrolled at the college on or after July 1, 1999, who meet the Iowa residency ~~criteria as defined requirements established in 681 IAC 1.4(262)~~ 283—Chapter 10 and agree to practice chiropractic in underserved areas in Iowa are eligible to apply for program benefits.

ITEM 14. Amend subrule **36.1(1)**, definition of “Iowa resident student,” as follows:

*“Iowa resident student”* means an individual who meets the criteria ~~used by the state board of regents to determine residency for tuition purposes, 681—1.4(262)~~ established in 283—Chapter 10.

[Filed 9/29/15, effective 12/2/15]

[Published 10/28/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2207C**

**COLLEGE STUDENT AID COMMISSION[283]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.86, the Iowa College Student Aid Commission hereby amends Chapter 20, “Iowa National Guard Educational Assistance Program,” Iowa Administrative Code.

The amendment to Chapter 20 revises the maximum benefit a National Guard member may receive under the program from eight semesters of study to a maximum of 120 credit hours of study. The amendment to Chapter 20 reflects changes to Iowa Code section 261.86 that were enacted in 2015 Iowa Acts, Senate File 130, section 1.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 19, 2015, as **ARC 2111C**. The Commission received no public comment on the amendment. This amendment is identical to that published under Notice of Intended Action.

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

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

This amendment is intended to implement Iowa Code section 261.86 as amended by 2015 Iowa Acts, Senate File 130, section 1.

This amendment will become effective on December 2, 2015.

The following amendment is adopted.

Amend paragraph **20.1(6)“c”** as follows:

c. A qualified ~~full-time~~ student may receive benefits for no more than ~~8 semesters~~ 120 credit hours of undergraduate study ~~or the quarter or trimester equivalent. A qualified part-time student may receive benefits for no more than 16 semesters of undergraduate study or the quarter or trimester equivalent. All credit hours within a term of enrollment to which educational assistance was applied must be reported to the commission within the state-defined payment period.~~

[Filed 9/29/15, effective 12/2/15]

[Published 10/28/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2209C****COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.62, the Iowa College Student Aid Commission hereby amends Chapter 28, "Teach Iowa Scholar Program," Iowa Administrative Code.

The amendment to Chapter 28 changes the order of selection criteria under the program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 19, 2015, as **ARC 2110C**. The Commission received no public comment on the amendment. This amendment is identical to that published under Notice of Intended Action.

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

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

This amendment is intended to implement Iowa Code chapter 261.

This amendment will become effective on December 2, 2015.

The following amendment is adopted.

Amend subrule 28.4(1) as follows:

**28.4(1) Selection criteria.** All applicants meeting the eligibility requirements will be considered for funding. In the event that all on-time applicants cannot be funded with the available appropriation, criteria for selection of recipients will be prioritized as follows:

- a.* Award renewal status;
- b.* ~~Iowa resident status;~~
- c.* ~~*b.*~~ Graduation date, grouped by academic year, with the most recent academic year graduates given priority;
- d.* ~~*c.*~~ Prioritized annual ranking of eligible teaching fields by the department, with the highest ranking fields being served first, if information is available;
- e.* ~~*d.*~~ Prioritized annual ranking of regional need within eligible teaching fields by the department, with the highest ranking regions being served first within each ranked eligible teaching field, if information is available;
- f.* ~~*e.*~~ Iowa resident status;
- g.* ~~*f.*~~ Date of application.

[Filed 9/29/15, effective 12/2/15]

[Published 10/28/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2208C****COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.62, the Iowa College Student Aid Commission hereby amends Chapter 36, "Governor Terry E. Branstad Iowa State Fair Scholarship Program," Iowa Administrative Code.

The amendment to Chapter 36 provides an increase in the number of awards that can be made under the program and increases the maximum amounts of awards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 19, 2015, as **ARC 2101C**. The Commission received no public comment on the amendment. This amendment is identical to that published under Notice of Intended Action.

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

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

This amendment is intended to implement Iowa Code chapter 261.



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

This amendment will become effective on December 2, 2015.

The following amendment is adopted.

Amend subrule 36.1(4) as follows:

**36.1(4) Monetary award.**

- a. Up to ~~four~~ ten awards ~~ranging from \$500 to \$1,000~~, not to exceed \$5,000 per award, will be awarded annually. No student shall receive more than the student's established financial need.
- b. A scholarship of up to ~~\$2,000~~ \$5,000 will be awarded each year to the Iowa state fair queen.
- c. The Governor Terry E. Branstad Iowa state fair scholarship fund will be established in the office of the state treasurer.

[Filed 9/29/15, effective 12/2/15]

[Published 10/28/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2220C**

**HOMELAND SECURITY AND EMERGENCY  
MANAGEMENT DEPARTMENT[605]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 418.7, the Department of Homeland Security and Emergency Management hereby amends Chapter 14, "Flood Mitigation Program," Iowa Administrative Code.

These amendments implement 2015 Iowa Acts, House Files 616 and 655. These amendments expand the definition of "governmental entity" and add the Director of the Iowa Department of Revenue or the Director's designee as an ex officio nonvoting member of the Flood Mitigation Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 2, 2015, as **ARC 2119C**. A public hearing was held on September 22, 2015. No public comment was received during the comment period or during the public hearing. These amendments are identical to those published under Notice of Intended Action.

The Department of Homeland Security and Emergency Management adopted these amendments on October 7, 2015.

After analysis and review of this rule making, it has been determined that new jobs are likely to be created.

These amendments are intended to implement Iowa Code chapter 418 as amended by 2015 Iowa Acts, House File 616 and House File 655.

These amendments will become effective on December 2, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **605—14.2(418)**, definition of "Governmental entity," as follows:

"Governmental entity" means any of the following:

1. A county.
2. A city.
3. A joint board or other legal or administrative entity established or designated in an agreement pursuant to Iowa Code chapter 28E or 28F between any of the following:
  - Two or more cities located in whole or in part within the same county.
  - A county and one or more cities that are located in whole or in part within the county.
  - A county, one or more cities that are located in whole or in part within the county, and a drainage district formed by mutual agreement under Iowa Code section 468.142 located in whole or in part within the county.
  - One or more counties, one or more cities that are located in whole or in part within those counties, and one or more sanitary districts established under Iowa Code chapter 358 or a combined

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

water and sanitary district as provided for in Iowa Code sections 357.1B and 358.1B, located in whole or in part within those counties.

ITEM 2. Amend subrule 14.3(2) as follows:

**14.3(2)** The board shall be comprised of nine voting members and ~~four~~ five ex-officio nonvoting members.

a. The voting members shall include all of the following:

(1) Four members of the general public appointed by the governor and confirmed by the senate in accordance with Iowa Code sections 69.16 and 69.16A. These members shall be appointed to three-year staggered terms, and the terms shall commence and end as provided in Iowa Code section 69.19.

1. Two members of the general public shall have demonstrable experience or expertise in the field of natural disaster recovery.

2. Two members of the general public shall have demonstrable experience or expertise in the field of flood mitigation.

(2) The director of the department of natural resources or the director's designee.

(3) The secretary of agriculture or the secretary's designee.

(4) The director of the department or the director's designee.

(5) The treasurer of state or the treasurer's designee.

(6) The executive director of the Iowa finance authority or the executive director's designee.

b. The ex-officio nonvoting members shall include ~~four members of the general assembly with one each appointed by~~ the following:

(1) The A member of the general assembly appointed by the majority leader of the senate.

(2) The A member of the general assembly appointed by the minority leader of the senate.

(3) The A member of the general assembly appointed by the speaker of the house of representatives.

(4) The A member of the general assembly appointed by the minority leader of the house of representatives.

(5) The director of the department of revenue or the director's designee.

[Filed 10/7/15, effective 12/2/15]

[Published 10/28/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2221C**

## **INSPECTIONS AND APPEALS DEPARTMENT[481]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 10A.104(8), the Department of Inspections and Appeals hereby amends Chapter 25, "Iowa Targeted Small Business Certification Program," Iowa Administrative Code.

The amendments implement changes to Iowa Code chapter 73, "Preferences," resulting from legislation in 2015 Iowa Acts, Senate File 499. The legislation adds "service-disabled veteran" to the categories of persons who may seek targeted small business certification.

The Department does not believe that the amendments pose a financial hardship on any regulated entity or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 2, 2015, as **ARC 2122C**. The Department received no comments during the public comment period. These amendments are identical to those published under Notice of Intended Action.

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

These amendments are intended to implement Iowa Code section 10A.104(8) and Iowa Code chapter 73 as amended by 2015 Iowa Acts, Senate File 499.

These amendments will become effective December 2, 2015.

The following amendments are adopted.

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

ITEM 1. Adopt the following **new** definition of “Service-disabled veteran” in rule **481—25.1(73)**:  
*“Service-disabled veteran”* means the same as defined in 15 U.S.C. Section 632.

ITEM 2. Amend rule **481—25.1(73)**, definitions of “Targeted group persons (TGP)” and “Targeted small business owner,” as follows:

*“Targeted group persons (TGP)”* means minorities, women, and persons with disabilities, and service-disabled veterans. ~~In order to be considered a person with a disability for the purpose of the TSB program, the person must qualify and receive certification as having a disability from a licensed medical physician or must have been found eligible for vocational rehabilitation services by the Department of Education, Division of Vocational Rehabilitation services, or by the department for the blind.~~

*“Targeted small business owner”* means one or more women, minorities, persons with disabilities, service-disabled veterans, or a combination thereof, owning at least 51 percent of a business.

ITEM 3. Adopt the following **new** subrule 25.2(8):

**25.2(8)** Disability determinations.

*a. Person with a disability.* In order to be considered a person with a disability for the purpose of the TSB program, the person must qualify and receive certification as having a disability from a licensed medical physician or must have been found eligible for vocational rehabilitation services by the department of education, division of vocational rehabilitation services, or by the department for the blind.

*b. Service-disabled veteran.* In order to be considered a service-disabled veteran for the purpose of the TSB program, the person must provide written verification from the Veterans Administration or the United States Department of Defense of a service-connected disability, as defined in 38 U.S.C. Section 101(16).

ITEM 4. Amend paragraph **25.4(1)“e”** as follows:

*e.* The targeted group person owner(s) shall have independent authority and ability to incur liability and to decide financial and policy questions. The business arrangements of owners, directors, officers or key employees with businesses which are not minority-, woman-, or persons with disabilities-~~2~~ or service-disabled veteran-owned shall not vary from common industry practice. Each industry has practices which differ from other industries.

[Filed 10/7/15, effective 12/2/15]

[Published 10/28/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2227C**

## **INSURANCE DIVISION[191]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 515F.15, the Insurance Division hereby amends Chapter 20, “Property and Casualty Insurance,” Iowa Administrative Code.

Iowa Code chapter 515F, among other things, regulates insurance rates and authorizes the Iowa Insurance Commissioner to adopt rules related to the filing and reporting of rates.

The amendment to Chapter 20 changes the deadline for crop-hail insurance rate filings from March 15 to January 31 of each year to better coordinate with filing deadlines for federal crop-hail insurance. In addition, a parenthetical implementation citation and a grammatical error are corrected.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 19, 2015, as **ARC 2103C**. Written comments were accepted through September 8, 2015, and a public hearing was held on September 8, 2015, at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa. The Division received one comment in writing related to the proposed amendment. The comment was a request that a different new deadline be used instead of the

INSURANCE DIVISION[191](cont'd)

one proposed in the Notice. After consideration, the Division did not make that change. This amendment is identical to the one published under Notice of Intended Action.

The Insurance Division's general waiver provisions at 191—Chapter 4 apply to these rules.

This amendment imposes no fiscal impact on the State.

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

This amendment is intended to implement Iowa Code chapter 515F.

This amendment shall become effective on December 2, 2015.

The following amendment is adopted.

Amend rule 191—20.8(515A) as follows:

**191—20.8(515A 515F) Rate filings for crop-hail insurance.** Rate filings for crop-hail insurance shall be submitted on or before ~~March 15~~ January 31 of each calendar year. Each company may file one set of rates per policy plan per calendar year which shall remain in effect throughout the current crop year. In the absence of a new filing, rates on file from the previous year will remain in effect. Each filing shall be accompanied by a cover letter, synopsis sheet and supporting data which ~~justifies~~ justify the filed rate.

[Filed 10/9/15, effective 12/2/15]

[Published 10/28/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2225C**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 16.5(1)“r,” 16.35 and 17A.3(1)“b,” the Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments adopt an updated 2016 9% Qualified Allocation Plan (QAP) for the Low-Income Housing Tax Credit Program, which is incorporated by reference in rule 265—12.1(16), amend the implementation sentence at the end of the chapter, and update certain references to the Iowa Code to reflect revisions to the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2077C**. The Authority received public comment on the QAP and made certain changes to the QAP based on those comments. The only changes to the amendments published under Notice were in rules 265—12.1(16) and 265—12.2(16) and reflect the change in the date subsequent to which no amendments or additions to the QAPs are included. The date proposed in the Notice was July 1, 2015, and that date has been changed to October 7, 2015.

The Iowa Finance Authority adopted these amendments on October 7, 2015.

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit Program has a substantial positive impact on job creation in Iowa with many jobs created annually in the construction, finance, and property management fields, among others.

These amendments are intended to implement Iowa Code sections 16.5(1)“r,” 16.52, 17A.12, and 17A.16 and Internal Revenue Code Section 42.

These amendments will become effective on December 2, 2015.

The following amendments are adopted.

ITEM 1. Amend rule 265—12.1(16) as follows:

### **265—12.1(16) Qualified allocation plans.**

**12.1(1) Four percent qualified allocation plan.** The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 4% Qualified Allocation Plan (“4% QAP”) shall be the qualified allocation plan for the allocation of 4 percent low-income housing tax credits consistent

## IOWA FINANCE AUTHORITY[265](cont'd)

with IRC Section 42 and the applicable Treasury regulations and Iowa Code section ~~46.52~~ 16.35. The 4% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 4% QAP does not include any amendments or editions created subsequent to October 8, 2014.

**12.1(2) *Nine percent qualified allocation plan.*** The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2015~~ 2016 Qualified Allocation Plan (“9% QAP”) shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section ~~46.52~~ 16.35. The 9% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~October 8, 2014~~ October 7, 2015.

ITEM 2. Amend rule 265—12.2(16) as follows:

**265—12.2(16) Location of copies of the plans.**

**12.2(1) *4% QAP.*** The 4% QAP can be reviewed and copied in its entirety on the authority’s Web site at <http://www.iowafinanceauthority.gov>. Copies of the 4% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s Web site. The 4% QAP incorporates by reference IRC Section 42 and the regulations in effect as of October 8, 2014. Additionally, the 4% QAP incorporates by reference Iowa Code section ~~46.52~~ 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s Web site.

**12.2(2) *9% QAP.*** The 9% QAP can be reviewed and copied in its entirety on the authority’s Web site at <http://www.iowafinanceauthority.gov>. Copies of the 9% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority’s Web site. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~October 8, 2014~~ October 7, 2015. Additionally, the 9% QAP incorporates by reference Iowa Code section ~~46.52~~ 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s Web site.

ITEM 3. Amend **265—Chapter 12**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~46.52~~ 16.35.

[Filed 10/8/15, effective 12/2/15]

[Published 10/28/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2226C**

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 16.5(1)“r,” 16.52 and 17A.3(1)“b,” the Iowa Finance Authority hereby amends Chapter 44, “Iowa Agricultural Development Division,” Iowa Administrative Code.

These amendments clarify the rules and simplify and streamline the processes addressed therein.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 2, 2015, as **ARC 2127C**. The Authority received no public comment on the amendments and made no changes to the amendments published under Notice.

The Iowa Finance Authority adopted these amendments on October 7, 2015.

After analysis and review of this rule making, no impact on jobs is expected.

These amendments are intended to implement Iowa Code sections 16.5D, 16.75, 16.78, 16.81, and 16.83.

## IOWA FINANCE AUTHORITY[265](cont'd)

These amendments will become effective on December 2, 2015.

The following amendments are adopted.

ITEM 1. Amend the following definitions in rule ~~265—44.2(16)~~:

*“BFCF eligible applicant”* means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 16.79 and 16.81 and the provisions of these rules relating to recipient eligibility ~~as they relate to who operates or will operate a farm.~~

*“BFLP eligible applicant”* means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must also be a beginning farmer, as defined in Iowa Code section 16.75, who satisfies all of the criteria contained in the Act and provisions of these rules relating to recipient eligibility ~~as they relate to who operates or will operate a farm.~~

*“BFTC eligible applicant”* means an individual, partnership, family farm corporation or family farm limited liability company that has a net worth of not more than the maximum allowable net worth. The applicant must also satisfy all of the criteria contained in Iowa Code sections 16.79 and 16.80 and the provisions of these rules relating to recipient eligibility ~~as they relate to who operates or will operate a farm.~~

*“Commodity share basis”* means an agreement whereby operation of the agricultural asset is transferred via a risk-sharing mechanism, whereby the agricultural asset owner receives a portion of the production ~~and~~ as payment for use of the agricultural asset.

*“Custom farming contract”* means any commonly accepted written contract which specifies the terms of the work to be performed by the beginning farmer for an Iowa landowner or tenant or livestock owner. The contract must provide for the production of crops or livestock located on agricultural land. The taxpayer will pay the BFCF eligible applicant on a cash basis, and the total amount paid for each tax year that the tax credit is claimed must equal at least \$1,000. The contract must be in writing for a term of not more than ~~12~~ 24 months. A contract is not allowed if the taxpayer and BFCF eligible applicant are: persons who hold a legal or equitable interest in the same agricultural land or livestock; related family members, such as spouse, child, stepchild, brother, or sister; or partners in the same partnership which holds a legal or equitable interest.

*“LPP eligible applicant”* means an individual who has a net worth of not more than the maximum allowable net worth. The applicant must be a low-income farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan and who satisfies all of the criteria contained in the Act and the provisions of these rules relating to recipient eligibility ~~as they relate to who operates or will operate a farm.~~

*“Projected gross income”* ~~means the total of all nonfarm income plus gross farm revenues which include revenue from cash sales, inventory and receivable charges, crops, livestock products, government program payments, and other farm income received by the borrower during the next calendar year.~~

*“Term debt coverage ratio”* ~~means the total of net farm income from operations plus total nonfarm income plus depreciation/amortization expense plus interest on term debt plus interest on capital leases minus total income tax expense minus withdrawals for family living multiplied by 100 and divided by the sum of annual scheduled principal and interest payments on term debt and the annual scheduled principal and interest payments on capital leases. The ratio provides a measure of the ability of the borrower to cover all term debt and capital lease payments. The greater the ratio over 100 percent, the greater the margin to cover the payments.~~

ITEM 2. Amend subrule 44.4(2) as follows:

**44.4(2) Application procedures.** The BFLP eligible applicant may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of the Act and the rules of the authority.

a. to d. No change.

## IOWA FINANCE AUTHORITY[265](cont'd)

~~e. Following approval and issuance of the bond, the authority will enter into a loan agreement with the BFLP eligible applicant and then assign the BFLP loan without recourse to the bond purchaser. The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.~~

ITEM 3. Amend subrule 44.4(6) as follows:

**44.4(6) Assignment of BFLP loans by bond purchasers.** A bond purchaser may assign a BFLP loan in whole or in part to any person, as defined in Iowa Code section 4.1(20). Serving ~~Servicing~~ of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

ITEM 4. Amend subrule 44.5(3) as follows:

**44.5(3) Eligible projects and activities.**

a. to e. No change.

f. *Interim financing by lender.* Interim financing by the lender ~~may be done~~ is allowed.

ITEM 5. Amend subrule 44.5(5) as follows:

**44.5(5) Program parameters.**

a. *Purchase price impact.* Maximum LPP loan amount ~~is the lesser of:~~ and loan terms will be determined by the IADD board.

~~(1) Thirty percent of the purchase price; or~~

~~(2) \$150,000.~~

b. *LPP loan terms.* The authority has established the following with respect to LPP loan terms:

~~(1) The maximum amortization period for the LPP loan is 7 years for depreciable agricultural property. When a participated loan is made for livestock, the length of the LPP loan is restricted to the expected useful life of the animal being purchased.~~

~~(2) LPP loan payments on participated real estate loans will be equally amortized for the term of the LPP loan, but shall not exceed a 20-year amortization, including a 10-year term with balloon payment and the balance of the LPP loan paid in full by the end of the tenth year. If utilized in conjunction with federal programs, the amortization will be consistent with federal rules.~~

~~(3) b.~~ *LPP interest rate.* The IADD board will set the interest rate on the LPP loan.

c. *LPP loans outstanding.* Loans under the program may be issued more than once, provided that the outstanding LPP loan totals do not exceed \$150,000 ~~to any single borrower~~ the maximum amount set by the IADD board.

ITEM 6. Amend subrule 44.5(6) as follows:

**44.5(6) LPP loan application procedures.**

a. *Financial statement.* Lenders may use their own form of financial statement ~~and.~~ The authority may require other forms deemed necessary and appropriate to document the eligibility of the borrower and the borrower's ability to make principal and interest payments. ~~A copy of the borrower's most current financial statement (generally prepared one month preceding application submission), the prior two years' financial statements, and a projected after-closing financial statement must be submitted with the application.~~

If the borrower or the borrower's spouse is involved in a business, partnership, limited liability company, or corporation, either related or unrelated to the borrower's farming operation, a financial statement from this entity must also be submitted with the application.

b. and c. No change.

d. *Credit evaluation.* The lender will submit a credit evaluation of the project for which an LPP loan is sought. The lender will evaluate the borrower's net worth and ability to pay principal and interest and certify the sufficiency of security for the participated loan. The authority will review the application and make its own credit evaluation prior to issuance of an LPP loan. ~~Such evaluation will center on whether:~~

~~(1) The borrower adequately demonstrates the ability to service the debt requirements of the participated loan based on cash flow, net worth, down payment, and collateral pledged for the participated loan.~~

## IOWA FINANCE AUTHORITY[265](cont'd)

~~(2) The borrower provides sufficient collateral to adequately secure the participated loan and keep the participated loan collateralized throughout its term.~~

~~(3) The lender certifies that all of the borrower's debts will be current at the time the participated loan is closed.~~

~~(4) The applicant is a low income farmer who cannot obtain financing to purchase agricultural property without the assistance of an LPP loan with the authority.~~

~~(5) The lender certifies that no other private or state credit is available or can be obtained in a timely manner.~~

e. to g. No change.

ITEM 7. Amend subrule 44.6(2) as follows:

**44.6(2) Application procedures.**

a. No change.

b. Each application shall include, but not be limited to, the following:

(1) Taxpayer information: name and address, e-mail address if available, social security number, length of the lease, type of lease, and location of the agricultural asset to be leased. In addition, the application shall have attached to it a copy of the lease agreement between the parties.

(2) BFTC eligible applicant information: name and address, e-mail address if available, ~~social security number~~, and location of the asset to be leased. In addition, the application shall have attached to it a copy of the BFTC eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFTC eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital. This letter may be submitted by one or more of the following: the BFTC eligible applicant, the taxpayer or another third party.

c. Complete applications shall be processed in the order they are received by the authority.

ITEM 8. Amend subrule 44.6(3) as follows:

**44.6(3) Execution of an agricultural assets transfer agreement.** In addition to the requirements of rule 265—44.6(16), both the taxpayer and the BFTC eligible applicant shall execute an agricultural assets transfer agreement. ~~This form shall be in a format The form used by the Iowa State Bar Association or other shall be a~~ commonly accepted form and signed by all parties.

ITEM 9. Amend subrule 44.6(4) as follows:

**44.6(4) Procedures following tax credit approval.** Either the BFTC eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. Written approval from the authority is required if the change impacts the amount of the tax credit awarded. The authority shall act upon these changes pursuant to Iowa Code section 16.80. ~~Material changes cannot result in an increase in the original tax credit amount approved.~~

ITEM 10. Amend rule 265—44.7(16) as follows:

**265—44.7(16) Beginning farmer custom farming tax credit program.**

**44.7(1) General provisions.**

a. *Term.* The term of the credit shall not exceed ~~one year~~ the term of the contract, except that any unused credit may be carried forward for a period of ten years if unused in the tax year the credits are earned. Credits may not be carried back to past tax years.

b. *Fees.* The authority may charge reasonable and necessary fees to defray the costs of this program.

c. *Expiration of custom hire contract.* The BFCF eligible applicant will continue to be eligible during the ~~year~~ years of the custom farming contract. Upon expiration of the contract, both the taxpayer and BFCF eligible applicant must reapply to qualify for subsequent tax credits.

**44.7(2) Application procedures.**

a. The authority shall prepare and make available appropriate forms to be used in making application for the tax credit, including forms for both the taxpayer and the BFCF eligible applicant.

b. Each application shall include, but not be limited to, the following:



## IOWA FINANCE AUTHORITY[265](cont'd)

(1) Taxpayer information: name and address, e-mail address if available, social security number, and description ~~and location~~ of the custom hire work completed. In addition, the application shall have attached to it a copy of the custom hire contract between the parties.

(2) BFCF eligible applicant information: name and address, e-mail address if available, ~~social security number, and location of where~~ description of the custom hire work ~~was~~ completed. In addition, the application shall have attached to it a copy of the BFCF eligible applicant's most recent financial statement (generally prepared one month preceding application submission). The application will also include a background letter on the BFCF eligible applicant documenting to the satisfaction of the authority sufficient training, experience and access to capital. This letter may be submitted by one or more of the following: the BFCF eligible applicant, the taxpayer or another third party.

c. No change.

**44.7(3)** *Execution of custom farming contract.* In addition to the requirements set forth in rule 265—44.7(16), both the taxpayer and the BFCF eligible applicant shall execute a custom farming contract. ~~This form shall be in a format provided by the authority or other~~ The form used shall be a commonly accepted forms form and signed by all parties.

**44.7(4)** No change.

**44.7(5)** *Procedures following tax credit approval.* Either the BFCF eligible applicant or the taxpayer shall immediately notify the authority of any material changes in the custom hire contract. Written approval from the authority is required if the change impacts the amount of the tax credit awarded. The authority shall act upon these changes pursuant to Iowa Code section 16.81. ~~Material changes cannot result in an increase in the original tax credit amount approved. Death of a party to the contract, divorce, or sale of the property will be considered eligible material changes.~~

ITEM 11. Amend **265—Chapter 44**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 16.4A, 16.4B, 16.5D, and 16.75 to 16.84.

[Filed 10/8/15, effective 12/2/15]

[Published 10/28/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/28/15.

**ARC 2204C**

## **NURSING BOARD[655]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby adopts new Chapter 19, "Iowa Nurse Assistance Program," Iowa Administrative Code.

Chapter 19 is adopted to provide a program to support the evaluation and monitoring of licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, while protecting the health, safety and welfare of the public.

Notice of Intended Action for these rules was published in the Iowa Administrative Bulletin on August 5, 2015, as **ARC 2085C**. No written or oral comments were received. These rules are identical to those published under Notice of Intended Action.

These rules were adopted by the Board on September 22, 2015.

After analysis and review of this rule making, a fiscal impact has been found. The fiscal impact would include the cost of one new full-time employee and the costs to recruit and hire this individual, along with the costs of new equipment for this individual's working environment; the cost for committee member expenses, including electronic equipment, pay, and travel expenses; and miscellaneous travel and marketing expenses to educate nurses on the availability of this new program.

After analysis and review of this rule making, there may be an impact on jobs because the Iowa Nurse Assistance Program Committee (INAPC) may impose restrictions on the license to practice as a term of the initial agreement or contract until such time as the INAPC receives a report from an approved evaluator and the INAPC determines, based on all relevant information, that the participant is capable

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of practicing with reasonable skill and safety. As a condition of participation in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the initial agreement or contract.

These rules are intended to implement Iowa Code sections 272C.3(1)“k,” 272C.6(4) and 28E.4.

These rules will become effective December 2, 2015.

The following amendment is adopted.

Adopt the following new 655—Chapter 19:

## CHAPTER 19 IOWA NURSE ASSISTANCE PROGRAM

**655—19.1(272C) Iowa nurse assistance program committee.** Pursuant to the authority of Iowa Code section 272C.3(1)“k,” the board establishes the Iowa nurse assistance program committee (INAPC), formerly known as the licensee review committee, to implement the Iowa nurse assistance program (INAP). The purpose of the INAPC is to provide a program to support the evaluation and monitoring of licensees who are impaired as a result of alcohol or drug abuse, dependency, or addiction, or by any mental or physical disorder or disability, while protecting the health, safety and welfare of the public.

### **655—19.2(272C) Definitions.**

*“Approved treatment provider”* means a licensed health care provider with board-approved expertise in substance use disorder or mental or physical health conditions.

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

*“Contract”* means the written document executed by an applicant or licensee and the INAPC after the INAPC receives a report from an approved treatment provider, which establishes the terms for participation in the INAP.

*“Impairment”* means an inability, or significant potential for inability, to practice with reasonable safety and skill as a result of a diagnosed substance use disorder or any diagnosed mental or physical health condition.

*“INAP”* or *“program”* means the Iowa nurse assistance program.

*“INAPC”* or *“committee”* means the Iowa nurse assistance program committee.

*“Initial agreement”* means the written document establishing the initial terms for participation in the INAP.

*“Participant”* means an applicant or licensee who does any of the following: self-reports an impairment to the program, is referred to the program by the board, signs an initial agreement with the committee, or signs a contract with the committee.

*“Referral by the board”* means the board has determined, with or without having taken disciplinary action, that the applicant or licensee is an appropriate candidate for participation in the program.

*“Self-report”* means an applicant or licensee provides written notification to the committee that the applicant or licensee has been, is, or may be impaired. Information related to impairment or a potential impairment which is provided on a license application or renewal form may be considered a self-report.

**655—19.3(272C) Organization of the committee.** The board shall appoint the members of the INAPC.

**19.3(1) Membership.** The membership of the INAPC includes, but is not limited to:

- a. The executive director of the board or the director’s designee from the board’s staff;
- b. One board of nursing licensee who has maintained sobriety for a period of no less than two years following successful completion of a recovery program;
- c. One licensed health care provider with expertise in substance use disorders;
- d. One licensed provider with expertise in mental health; and
- e. One public member.

**19.3(2) Officers.** At the last meeting of each calendar year, the INAPC shall elect a chairperson and a vice chairperson, each of whom will begin serving a one-year term on January 1.

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*a.* The chairperson is responsible for offering guidance and direction to staff between regularly scheduled committee meetings, including guidance and direction concerning negotiation and execution of initial agreements, contracts, and program descriptions and interim restrictions on practice, on behalf of the committee. The INAPC retains authority to review all interim decisions at its discretion.

*b.* The vice chairperson is responsible for providing guidance and direction to staff between regularly scheduled committee meetings if the chairperson is unavailable or unable to assist in a particular matter.

**19.3(3) Terms.** Committee members, except the executive director or designee, shall be appointed for three-year terms and shall serve for a maximum of three terms. Each term shall expire on December 31 of the third year of the term.

**655—19.4(272C) Eligibility.**

**19.4(1) Self-report.** An applicant or a licensee shall self-report an impairment or potential impairment directly to the program.

**19.4(2) Board referral.** The board may refer an applicant or licensee to the program if a complaint or investigation reveals an impairment or potential impairment and the board determines that the individual is an appropriate candidate for review by the INAPC. The board may refer a licensee to the program in a public disciplinary order or other public order.

**19.4(3) Review by the INAPC.** The INAPC will determine on a case-by-case basis whether an applicant or licensee who self-reports or is referred by the board is an appropriate candidate for participation in the program. Several factors may lead to the INAPC's determination that an applicant or licensee is ineligible to participate in the program, including but not limited to if the committee finds sufficient evidence that the applicant or licensee:

- a.* Diverted drugs for distribution to third parties or for personal profit;
- b.* Adulterated, misbranded, or otherwise tampered with drugs intended for a patient;
- c.* Provided inaccurate, misleading, or fraudulent information or failed to fully cooperate with the INAPC;
- d.* Participated in the program, or similar programs offered by other states, without success; or
- e.* Fails to sign a contract when recommended by the INAPC.

**19.4(4) Discretion.** Eligibility to participate in the program is at the sole discretion of the INAPC. No person is entitled to participate in the program.

**19.4(5) Authority and jurisdiction.** Participation in the program does not divest the board of its authority or jurisdiction over the participant. A participant with an impairment or potential impairment may be eligible to participate in the program while being subject to investigation or discipline by the board for matters other than the alleged impairment.

**655—19.5(272C) Terms of participation.** A participant shall agree to comply with the INAP terms of participation established in the initial agreement and contract. Participants will be responsible for all expenses incurred to comply with the terms imposed by the program. Terms of participation specified in the contract shall include, but not be limited to:

**19.5(1) Duration.** The length of time a participant may participate in the program shall be determined by the INAPC in accordance with the following:

*a.* Participation in the program for participants impaired as a result of a substance use disorder is set at a minimum of three years. The INAPC may offer a contract with a shorter duration to a participant who can demonstrate successful participation in another state's nurse assistance program, who can document similar experience, or who, as a board referral, has successfully completed a portion of the monitoring period established in the board order.

*b.* Length of participation in the program for participants with impairments resulting from mental or physical conditions will vary depending upon the recommendations provided by an approved licensed health care professional and the determination of the INAPC following review of all relevant information.

**19.5(2) Requirements.** The INAPC shall establish terms designed to meet the specific needs of the participant. The committee shall determine the type of recovery, rehabilitation, or maintenance program

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required to treat the participant's impairment. The contract shall provide a detailed description of the goals of the program, the requirements for successful participation, and the participant's obligations therein. The committee may establish terms specific to a participant's impairment including, but not limited to: treatment, aftercare, worksite monitoring, chemical screening, further evaluations, structured recovery meetings, therapy, and medication management.

**19.5(3) Practice restrictions.** The INAPC may impose restrictions on the license to practice as a term of the initial agreement or contract until such time as the INAPC receives a report from an approved evaluator and the INAPC determines, based on all relevant information, that the participant is capable of practicing with reasonable skill and safety. As a condition of participation in the program, a licensee is required to agree to restricted practice in accordance with the terms specified in the initial agreement or contract. In the event the licensee refuses to agree to or comply with the practice restrictions, the committee shall refer the licensee to the board for appropriate action.

**19.5(4) Noncompliance.** Noncompliance is the failure to adhere to the terms of the initial agreement or contract. Participants shall promptly notify the INAPC of any instances of noncompliance, including relapse. Instances of noncompliance shall initially be reviewed by the INAP program coordinator. The INAP program coordinator may refer instances of noncompliance to the INAPC for further review of continued participation in the program. The INAPC may refer instances of noncompliance to the board for possible disciplinary action.

**655—19.6(272C) Limitations.** Participation in the INAP shall not relieve the board of any duties and shall not divest the board of any authority or jurisdiction otherwise provided. A participant who violates a statute or board administrative rule which is unrelated to impairment shall be referred to the board for appropriate action.

**655—19.7(272C) Confidentiality.** Information in the possession of the board or the committee shall be subject to the confidentiality requirements of Iowa Code section 272C.6. Information about participants in the program shall not be disclosed except as provided in this rule.

**19.7(1)** The INAPC is authorized, pursuant to Iowa Code section 272C.6(4), to communicate information about a current or former INAP participant to the applicable regulatory authorities or impaired licensee programs in the state of Iowa and in any jurisdiction of the United States or foreign nations in which the participant is currently licensed or in which the participant seeks licensure. INAP participants must report their participation to the applicable nurse assistance program or licensing authority in any state in which the participant is currently licensed or in which the participant seeks licensure.

**19.7(2)** The INAPC is authorized to communicate information about an INAP participant to any person assisting in the participant's treatment, recovery, rehabilitation, monitoring, or maintenance for the duration of the contract.

**19.7(3)** The INAPC is authorized to communicate information about an INAP participant to the board in the event a participant does not comply with the terms of the contract as set forth in rule 655—19.5(272C). The INAPC may provide the board with a participant's INAP file in the event the participant does not comply with the terms of the contract and the INAPC refers the case to the board for the filing of formal disciplinary charges or other appropriate action. If the board initiates disciplinary action against a licensee for noncompliance with the terms of the contract, the board may include information about a licensee's participation in the INAP in the public disciplinary documents. The INAPC is also authorized to communicate information about a participant to the board in the event the participant is under investigation by the board.

**19.7(4)** The INAPC is authorized to communicate information about a current or former INAP participant to the board if reliable information held by the INAPC reasonably indicates a significant risk to the public exists. If the board initiates disciplinary action based upon this information, the board may include in the public disciplinary documents information about a licensee's participation if necessary to address impairment issues related to the violations which are the subject of the disciplinary action.

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**655—19.8(28E) Authority for 28E agreements.** The INAPC may enter into 28E agreements with other health professional licensing boards to evaluate, assist, and monitor impaired licensees from other health professions who self-report and to report to those professional licensing boards regarding the compliance of individual licensees. In the event of noncompliance, the licensee may be referred to the appropriate licensing board for appropriate disciplinary action.

These rules are intended to implement Iowa Code sections 272C.3(1) “k,” 272C.6(4) and 28E.4.

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