



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1361 to 1502

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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.

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### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2014

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Wednesday, December 18, 2013	January 8, 2014
15	Friday, January 3, 2014	January 22, 2014
16	Friday, January 17, 2014	February 5, 2014

**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\*\*\***

**EDUCATIONAL EXAMINERS BOARD[282]**

School counselors—licensure and practice, 13.15, 13.28, 27.3 IAB 12/11/13 <b>ARC 1236C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.
Family and consumer sciences endorsements, 13.28(9), 17.1 IAB 12/11/13 <b>ARC 1235C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.
Initial administrator license, 18.4 IAB 12/11/13 <b>ARC 1234C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.
Paraeducators—competencies for generalists and special needs concentration, 24.3, 24.4(2) IAB 12/11/13 <b>ARC 1233C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 8, 2014 1 p.m.

**EDUCATION DEPARTMENT[281]**

Student member of state board of education, 1.2 IAB 12/11/13 <b>ARC 1244C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 3, 2014 1 to 2 p.m.
State standards for progression in reading, ch 62 IAB 12/11/13 <b>ARC 1245C</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 3, 2014 2 to 3 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Storm water permits—notice of intent, transfer agreements, 64.6, 64.15 IAB 11/13/13 <b>ARC 1176C</b>	5E Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 12, 2013 9 a.m.
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**PHARMACY BOARD[657]**

Drug product selection, 6.9(8)“b,” 6.11 IAB 11/13/13 <b>ARC 1165C</b> [See <b>ARC 1041C</b> , IAB 10/2/13]	Conference Room, Suite E 400 SW 8th St. Des Moines, Iowa	December 17, 2013 1 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Continuing education for podiatrists, 222.3(2) IAB 11/27/13 <b>ARC 1199C</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	December 17, 2013 9 to 9:30 a.m.
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**PUBLIC SAFETY DEPARTMENT[661]**

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Continuing education for manufactured home installers, 374.7(1) IAB 12/11/13 <b>ARC 1239C</b>	First Floor Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	January 21, 2014 10 a.m.

**REVENUE DEPARTMENT[701]**

Business property tax credit,  
80.30  
IAB 11/27/13 **ARC 1200C**

First Floor Auditorium  
Wallace State Office Bldg.  
Des Moines, Iowa

December 17, 2013  
10 to 11:30 a.m.

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Board Hearing Room  
1375 E. Court Ave.  
Des Moines, Iowa

December 18, 2013  
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.

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## ARC 1236C

## EDUCATIONAL EXAMINERS BOARD[282]

## 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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

Under the new American School Counseling Association national model, the term “guidance counselor” has been replaced with “professional school counselor.” The proposed amendments address both the name change and a move in the model from individual and small group counseling to classroom and large group counseling.

The proposed amendments correct a misstatement in Chapter 13 regarding Class G licenses. Current rules require that the individual be in an approved program for a Class G license. Only programs within the state are approved. In practice, Board staff issues Class G licenses to individuals in out-of-state counseling programs.

The amendments also correct an error in paragraphs 13.28(26)“a” and 13.28(27)“a” which states that the holder of the endorsement has not completed the professional education core. Endorsements under Chapter 13 are issued to teachers who have completed the professional education core.

The proposed amendments also incorporate cross references to eliminate unnecessary repetition of text in the rules.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, January 8, 2014, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, January 10, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

The amendments are subject to waiver pursuant to 282—Chapter 6.

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

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Amend rule 282—13.15(272) as follows:

**282—13.15(272) Specific requirements for a Class G license.** A nonrenewable Class G license valid for one year may be issued to an individual who must complete a school ~~guidance~~ counseling practicum or internship in an approved program in preparation for the professional school ~~guidance~~ counselor endorsement. The Class G license may be issued under the following limited conditions:

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

1. Verification of a baccalaureate degree from a regionally accredited institution.
2. Verification from the institution that the individual is admitted and enrolled in an ~~approved~~ a school guidance counseling program.
3. Verification that the individual has completed the coursework and competencies required prior to the practicum or internship.
4. Written documentation of the requirements listed in “1” to “3” above, provided by the official at the institution where the individual is completing the approved school ~~guidance~~ counseling program and forwarded to the Iowa board of educational examiners with the application form for licensure.

ITEM 2. Amend subrule 13.28(26) as follows:

**13.28(26) Elementary professional school counselor.**

a. *Authorization.* The holder of this endorsement ~~has not completed the professional education core (subrule 13.18(4)) but~~ is authorized to serve as a professional school ~~guidance~~ counselor in kindergarten and grades one through eight.

b. *Program requirements.*

(1) Master's degree from an accredited institution of higher education.

~~(2) Completion of an approved human relations component.~~

~~(3) Completion of an approved exceptional learner component.~~

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include the following:

(1) to (6) No change.

(7) Professional orientation.

1. Apply knowledge of history, roles, organizational structures, ethics, standards, and credentialing.

2. Maintain a high level of professional knowledge and skills.

3. Apply knowledge of professional and ethical standards to the practice of school counseling.

4. Articulate the professional school counselor role to school personnel, parents, community, and students.

(8) School counseling skills.

1. Design, implement, and evaluate a comprehensive, developmental school ~~guidance~~ counseling program.

2. Implement and evaluate specific strategies designed to meet program goals and objectives.

3. Consult and coordinate efforts with resource persons, specialists, businesses, and agencies outside the school to promote program objectives.

4. Provide information appropriate to the particular educational transition and assist students in understanding the relationship that their curricular experiences and academic achievements will have on subsequent educational opportunities.

5. Assist parents and families in order to provide a supportive environment in which students can become effective learners and achieve success in pursuit of appropriate educational goals.

6. Provide training, orientation, and consultation assistance to faculty, administrators, staff, and school officials to assist them in responding to the social, emotional, and educational development of all students.

7. Collaborate with teachers, administrators, and other educators in ensuring that appropriate educational experiences are provided that allow all students to achieve success.

8. Assist in the process of identifying and addressing the needs of the exceptional student.

9. Apply knowledge of legal and ethical issues related to child abuse and mandatory reporting.

10. Advocate for the educational needs of students and work to ensure that these needs are addressed at every level of the school experience.

11. Promote use of school counseling and ~~guidance~~ educational and career planning activities and programs involving the total school community to provide a positive school climate.

(9) Classroom management.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

1. Apply effective classroom management strategies as demonstrated in delivery of classroom guidance and large group guidance lessons school counseling curriculum.

2. Consult with teachers and parents about effective classroom management and behavior management strategies.

(10) to (12) No change.

ITEM 3. Amend subrule 13.28(27), catchwords, as follows:

**13.28(27)** *Secondary professional school counselor.*

ITEM 4. Amend paragraphs **13.28(27)“a”** and **“b”** as follows:

a. *Authorization.* The holder of this endorsement ~~has not completed the professional education core (subrule 13.18(4))~~ but is authorized to serve as a professional school guidance counselor in grades five through twelve.

b. *Program requirements.*

(1) Master’s degree from an accredited institution of higher education.

(2) ~~Completion of an approved human relations component.~~

(3) ~~Completion of an approved exceptional learner component.~~

ITEM 5. Rescind paragraph **13.28(27)“c”** and adopt the following new paragraph in lieu thereof:

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

(1) The competencies listed in subparagraphs 13.28(26)“c”(1) to (11).

(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance, and consultation.

ITEM 6. Amend subrule 27.3(1), catchwords, as follows:

**27.3(1)** *Elementary professional school counselor.*

ITEM 7. Amend paragraph **27.3(1)“a”** as follows:

a. *Authorization.* The holder of this endorsement has not completed the professional education core (282—subrule 13.18(4)) but is authorized to serve as a professional school guidance counselor in kindergarten and grades one through eight.

ITEM 8. Rescind paragraph **27.3(1)“c”** and adopt the following new paragraph in lieu thereof:

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

(1) The competencies listed in 282—subparagraphs 13.28(26)“c”(1) to (11).

(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with elementary and middle school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group counseling, developmental classroom guidance, and consultation.

ITEM 9. Amend subrule **27.3(2)**, catchwords, as follows:

**27.3(2)** *Secondary professional school counselor.*

ITEM 10. Amend paragraph **27.3(2)“a”** as follows:

a. *Authorization.* The holder of this endorsement has not completed the professional education core (282—subrule 13.18(4)) but is authorized to serve as a professional school guidance counselor in grades five through twelve.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

ITEM 11. Rescind paragraph 27.3(2)“c” and adopt the following **new** paragraph in lieu thereof:

c. *Content.* Completion of a sequence of courses and experiences which may have been a part of, or in addition to, the degree requirements to include:

(1) The competencies listed in 282—subparagraphs 13.28(26)“c”(1) to (11).

(2) The teaching and counseling practicum. The school counselor demonstrates competency in conducting classroom sessions with middle and secondary school students. The practicum consisting of a minimum of 500 contact hours provides opportunities for the prospective counselor, under the supervision of a licensed professional school counselor, to engage in a variety of activities in which a regularly employed school counselor would be expected to participate including, but not limited to, individual counseling, group work, developmental classroom guidance, and consultation.

**ARC 1235C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” and Chapter 17, “Career and Technical Endorsements and Licenses,” Iowa Administrative Code.

The proposed amendments update the current family and consumer sciences language to reflect 21st century skills and capacities. The proposed amendments also reflect updated career pathways and national standards for family and consumer sciences in career and technical education. The primary family and consumer sciences endorsement already carries the instructional authority of the related endorsements in Chapter 17; thus, the Board proposes to eliminate those endorsements.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, January 8, 2014, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, January 10, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

The amendments are subject to waiver pursuant to 282—Chapter 6.

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

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Amend subrule 13.28(9) as follows:

**13.28(9) Family and consumer sciences—general.** 5-12. Completion of 24 semester hours in family and consumer sciences to include coursework in ~~human~~ lifespan development, ~~parenthood~~ parenting and

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

child development education, family studies, consumer resource management, textiles ~~and~~ or apparel design and merchandising, housing, ~~and~~ foods and nutrition, and foundations of career and technical education as related to family and consumer sciences.

ITEM 2. Amend rule 282—17.1(272) as follows:

**282—17.1(272) Requirements for secondary level (grades 7-12) license.** The initial license with the appropriate endorsement will be issued if the requirements of rules 282—13.6(272) and 282—13.18(272) for initial licensing have been met.

**17.1(1) Secondary level career and technical endorsements.** The following are required for adding secondary level career and technical endorsements to an initial, standard, master educator, or permanent professional teaching license.

*a. to c.* No change.

*d.—Consumer and homemaking education.* Completion of 24 semester hours in food and nutrition, consumer education, family living and parenthood education, child development, housing, home and resource management, and clothing and textiles. Four hundred hours of work experience in one or more homemaking or consumer-related occupations. Coursework in consumer and homemaking education to include methods and techniques of instruction, foundations of career and technical education, course and curriculum development, and evaluation of programs and students.

*e.—Career and technical home economics.*

~~(1) Option 1. Completion of the requirements for consumer and homemaking education (see 17.1(1) “d”) and special preparation in the career and technical area or 400 hours of employment related specifically to the career and technical area.~~

~~(2) Option 2. Completion of a baccalaureate degree with a major in the career and technical area, coursework in methods and techniques of teaching, course and curriculum development, evaluation of programs and students, foundations of career and technical education, coordination of cooperative programs and a teaching practicum (supervised or assessment of other teaching experience), and 400 hours of employment related specifically to the career and technical area.~~

**17.1(2) and 17.1(3)** No change.

**ARC 1234C**

## EDUCATIONAL EXAMINERS BOARD[282]

### 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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Iowa Administrative Code.

Current rules provide for issuing an initial administrator license only to an applicant who is assuming an administrative position. The Board proposes to eliminate this requirement. This change would allow an applicant to obtain a license right after completing an administrative program, regardless of whether the applicant has found an administrative position. If the applicant waits to obtain licensure until a significant amount of time has passed since completion of the administrative program, it is possible that licensure requirements could have changed and the applicant would then have to complete additional coursework.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, January 8, 2014, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, January 10, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

The amendment is subject to waiver pursuant to 282—Chapter 6.

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

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Amend rule 282—18.4(272) as follows:

**282—18.4(272) General requirements for an administrator license.**

**18.4(1)** No change.

**18.4(2)** *Specific requirements for an initial administrator license for applicants who have completed a teacher preparation program.* An initial administrator license valid for one year may be issued to an applicant who:

- a. Is the holder of or is eligible for a standard license; and
- b. Has three years of teaching experience; and
- c. Has completed a state-approved PK-12 principal and PK-12 supervisor of special education program (see subrule 18.9(1)); and
- ~~d. —Is assuming a position as a PK-12 principal and PK-12 supervisor of special education (see subrule 18.9(1)) for the first time or has one year of out-of-state or nonpublic administrative experience; and~~

~~e. d.~~ Has completed an approved human relations component; and

~~f. e.~~ Has completed an exceptional learner component; and

~~g. f.~~ Has completed an evaluator approval program.

**18.4(3) and 18.4(4)** No change.

**ARC 1233C**

**EDUCATIONAL EXAMINERS BOARD[282]**

**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 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 24, “Paraeducator Certificates,” Iowa Administrative Code.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

The proposed amendments are based on a review of current national standards and expectations in the field. Changes are based on input from Iowa's paraeducator preparation programs, Iowa Department of Education staff, teachers, administrators, and practicing paraeducators. In addition to updating the paraeducator rules to reflect current needs in the field, the proposed amendments strike redundant language regarding reasons for which applicants may be disqualified. These disqualifiers are found elsewhere in the Board's rules.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, January 8, 2014, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, January 10, 2014. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by e-mail to [kim.cunningham@iowa.gov](mailto:kim.cunningham@iowa.gov), or by fax to (515)281-7669.

The amendments are subject to waiver pursuant to 282—Chapter 6.

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

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Amend rule 282—24.3(272) as follows:

**282—24.3(272) Prekindergarten through grade 12 paraeducator generalist certificate.**

**24.3(1)** Applicants must possess a minimum of a high school diploma or a graduate equivalent diploma.

~~24.3(2)~~ Applicants shall be disqualified for any of the following reasons:

~~a.—The applicant is less than 18 years of age.~~

~~b.—The applicant has been convicted of child abuse or sexual abuse of a child.~~

~~c.—The applicant has been convicted of a felony.~~

~~d.—The applicant's application is fraudulent.~~

~~e.—The applicant's certification from another state is suspended or revoked.~~

~~f.—The applicant fails to meet board standards for application for an initial or renewed certificate.~~

~~24.3(3)~~ **24.3(2)** Qualifications or criteria for the granting or revocation of a certificate or the determination of an individual's professional standing shall not include membership or nonmembership in any teacher or paraeducator organization.

~~24.3(4)~~ **24.3(3)** Applicants shall have successfully completed at least 90 clock hours of training in the areas of behavior management, exceptional child and at-risk child behavior, collaboration skills, interpersonal relations skills, child and youth development, technology, and ethical responsibilities and behavior.

~~24.3(5)~~ **24.3(4)** Applicants shall have successfully completed the following list of competencies, so that, under the direction and supervision of a qualified classroom teacher, the paraeducator will be able to:

~~a. Foundations. Support a safe, positive teaching and learning environment including the following competencies:~~ Under the supervision of a licensed education professional, the paraeducator will:

~~(1) Follow prescribed health, safety, and emergency school and classroom policy and procedures.~~ Recognize the different developmental stages of students.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~(2) As directed, prepare and organize materials to support teaching and learning. Believe every student can learn.~~

~~(3) Use strategies and techniques for facilitating the integration of individuals with diverse learning needs in various settings. Recognize that each learner has unique learning needs that may require accommodations.~~

~~(4) Assist with special health services. Demonstrate knowledge of the common core, including competence in reading, writing and math.~~

~~(5) Assist in adapting instructional strategies and materials according to the needs of the learner in content areas including, but not limited to, reading, writing and mathematics. Function in a manner that demonstrates a positive regard for the distinction between roles and responsibilities of paraeducators and other professionals, including respecting the teacher as supervisor and seeing the teacher as ultimately responsible for the education and behavior of the students.~~

~~(6) Assist in gathering and recording data about the performance and behavior of individuals.~~

~~(7) Assist in maintaining a motivational environment.~~

~~(8) Assist in various instructional arrangements (e.g., large group, small group, tutoring).~~

~~(9) Demonstrate knowledge in the content areas of reading, writing and mathematics.~~

~~b. Learning environment. Assist in the development of physical and intellectual development including the following competencies: Under the supervision of a licensed education professional, the paraeducator will:~~

~~(1) Assist with the activities and opportunities that encourage curiosity, exploration, and problem solving that are appropriate to the development levels and needs of all children. Follow the prescribed health, safety, and emergency school and classroom policy and procedures.~~

~~(2) Actively communicate with children and provide opportunities and support for children to understand, acquire, and use verbal and nonverbal means of communicating thoughts and feelings. Organize materials to support teaching and learning.~~

~~(3) Actively communicate and support high expectations that are shared, clearly defined and appropriate. Facilitate the integration of students with diverse needs in various settings.~~

~~(4) Make and document observations appropriate to the individual with specific learning needs. Assist with special health services.~~

~~(5) Use strategies that promote the learner's independence. Promote a safe and positive learning environment.~~

~~(6) Assist in monitoring progress and providing feedback to the appropriate person. Function in various instructional settings (e.g., large group, small group, tutoring).~~

~~c. Content and instruction. Support social, emotional, and behavioral development including the following competencies: Under the supervision of a licensed education professional, the paraeducator will:~~

~~(1) Provide a supportive environment in which all children, including children with disabilities and children at risk of school failure, can begin to learn and practice appropriate and acceptable behaviors as individuals and groups. Assist with learning activities and opportunities to accomplish instructional objectives.~~

~~(2) Assist in developing and teaching specific behaviors and procedures that facilitate safety and learning in each unique school setting. Support high expectations that are shared, clearly defined and appropriate.~~

~~(3) Assist in the implementation of individualized behavior management plans, including behavior intervention plans for students with disabilities. Monitor progress and document and report objective observations that inform instructional decisions.~~

~~(4) Model and assist in teaching appropriate behaviors as a response to inappropriate behaviors. Effectively use verbal and nonverbal forms of communication with students.~~

~~(5) Use appropriate strategies and techniques in a variety of settings to assist in the development of social skills. Assist with the implementation and use of instructional and assistive technology.~~

~~(6) Assist in modifying the learning environment to manage behavior.~~

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

*d. Emotional and behavioral.* ~~Establish positive and productive relations including the following competencies:~~ Under the supervision of a licensed education professional, the paraeducator will:

~~(1) Demonstrate a commitment to a team approach to interventions. Assist in modeling and teaching specific appropriate behaviors, social skills, and procedures that facilitate safety and learning in various environments.~~

~~(2) Maintain an open, friendly, and cooperative relationship with each child's family, sharing information in a positive and productive manner. Assist in the implementation of individualized behavior management plans.~~

~~(3) Communicate with colleagues, follow instructions and use problem-solving skills that will facilitate working as an effective member of the school team. Document and report objective observations on student behaviors.~~

~~(4) Foster respectful and beneficial relationships between families and other school and community personnel. Assist in modifying the learning environment to manage behavior and social skills.~~

~~(5) Function in a manner that demonstrates a positive regard for the distinctions among roles and responsibilities of paraprofessionals, professionals, and other support personnel. Recognize that there is a cause or reason for misbehavior and assist in determining the cause or reason.~~

~~(6) Recognize, address, and report bullying.~~

~~(7) Recognize and report atypical emotional behavior.~~

*e. Professional relationships.* ~~Integrate effectively the technology to support student learning including the following competencies:~~ Under the supervision of a licensed education professional, the paraeducator will:

~~(1) Establish an environment for the successful use of educational technology. Demonstrate a commitment to work as an effective team member.~~

~~(2) Support and strengthen technology planning and integration. Foster a professional and caring relationship with each student's family.~~

~~(3) Improve support systems for technical integration. Develop and maintain positive and professional relationships with students.~~

~~(4) Operate computers and use technology effectively.~~

*f. Ethical and professional practice.* ~~Practice ethical and professional standards of conduct on an ongoing basis including the following competencies:~~ Under the supervision of a licensed education professional, the paraeducator will:

~~(1) Demonstrate a commitment to share information in a confidential manner. Follow ethical practices for confidential information.~~

~~(2) Demonstrate a willingness to participate in ongoing staff development and self-evaluation, and apply constructive feedback. Participate in ongoing professional development.~~

~~(3) Abide by the criteria of professional practice and rules of the board of educational examiners. Accept and apply constructive feedback.~~

~~(4) Abide by the Iowa code of ethics and professional practice rules of the board of educational examiners and rules of the Iowa department of education.~~

~~(5) Demonstrate the ability to separate personal issues from one's responsibilities in the workplace.~~

~~(6) Maintain a high level of competency and integrity.~~

~~(7) Share information regarding students' performance, behavior, or program with students' parents or guardians only as directed by the supervising teacher or educator.~~

~~(8) Be aware of personal biases and beliefs and refrain from discriminatory practices based on a student's disability, race, creed, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.~~

~~(9) Demonstrate ethical behavior when supporting students with graded activities, quizzes, and tests.~~

~~(10) Abide by Iowa law regarding the use of restraint and seclusion.~~

~~(11) Recognize that the paraeducator may not be given primary responsibility for the education of an individual student(s).~~

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(12) Recognize that instructional decisions are made by the individualized education program (IEP) team for students with disabilities and that any changes to instruction, accommodations, supports, and services cannot be made outside the IEP team.

~~24.3(6)~~ **24.3(5)** An applicant for a certificate under these rules shall demonstrate that the requirements of the certificate have been met, and the burden of proof shall be on the applicant.

ITEM 2. Amend subrule 24.4(2) as follows:

**24.4(2)** *Special needs—prekindergarten through grade 12.* The paraeducator shall successfully complete the following list of competencies so that, ~~under the direction and supervision of a qualified classroom teacher,~~ the paraeducator will be able to:

~~a. *Foundations.* Understand and implement the goals and objectives in an individualized education plan (IEP). Under the supervision of a licensed education professional, the paraeducator will demonstrate an understanding of an IEP.~~

~~b. *Learning environment.* Demonstrate an understanding of the value of serving children and youth with disabilities and special needs in inclusive settings. Under the supervision of a licensed education professional, the paraeducator will demonstrate an understanding of the value of serving children and youth with disabilities and special needs in inclusive settings.~~

~~c. *Content and instruction.* Assist in academic subjects using lesson plans and instructional strategies developed by teachers and other professional support staff. Under the supervision of a licensed education professional, the paraeducator will:~~

~~(1) Implement the activities assigned by a teacher to meet the goals and objectives in an IEP.~~

~~(2) Assist in academic subjects through use of lesson plans and instructional strategies developed by teachers and other professional support staff.~~

~~(3) Gather and maintain data about the performance of individual students and confer with special and general education practitioners about student schedules, instructional goals, progress, and performance.~~

~~(4) Operate computers and use assistive technology and adaptive equipment that will enable students with special needs to participate more fully in general education.~~

~~d. *Emotional and behavioral.* Gather and maintain data about the performance and behavior of individual students and confer with special and general education practitioners about student schedules, instructional goals, progress, and performance. Under the supervision of a licensed education professional, the paraeducator will:~~

~~(1) Gather and maintain data about the behavior of individual students and confer with special and general education practitioners about student schedules, instructional goals, progress, and performance.~~

~~(2) Use appropriate instructional procedures and reinforcement techniques as specified in the IEP or by the behavior team.~~

~~e. *Professional relationships.* Use appropriate instructional procedures and reinforcement techniques. Under the supervision of a licensed education professional, the paraeducator will, if asked, participate as a member of the IEP team responsible for developing service plans and educational objectives.~~

~~f. —Operate computers and use assistive technology and adaptive equipment that will enable students with special needs to participate more fully in general education.~~

## ARC 1244C

## EDUCATION DEPARTMENT[281]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 1, “Organization and Operation,” Iowa Administrative Code.

These proposed amendments align the rules with 2013 Iowa Acts, House File 454 (the Department of Education Code correction bill), which included an expansion of the length of service of the student member of the State Board of Education for a term of one or two years. In addition, these amendments make minor adjustments to the review process for student applicants by reducing paperwork and eliminating a submission step.

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

Interested individuals may make written comments on the proposed amendments on or before January 3, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; or e-mail [mike.cormack@iowa.gov](mailto:mike.cormack@iowa.gov).

A public hearing will be held on January 3, 2014, from 1 to 2 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

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

These amendments are intended to implement 2013 Iowa Acts, House File 454, section 1.

The following amendments are proposed.

ITEM 1. Amend subrule 1.2(1) as follows:

**1.2(1) Term.** The nonvoting student member shall serve a ~~one-year~~ term, from May 1 to April 30. ~~The student may apply for and serve a second term if the student will not graduate from high school prior to the end of the second term.~~ The student member may serve a second year as the nonvoting student member without having to reapply for the position if the student has another year of high school eligibility remaining before graduation. A vacancy in the membership of the nonvoting student member shall not be filled until the expiration of the term.

ITEM 2. Amend subrule 1.2(3) as follows:

**1.2(3) Application process.** The application process for the nonvoting student member is as follows:

*a.* The department shall, on behalf of the state board, prepare and disseminate application forms to all school districts in Iowa. In addition to the application itself, the student shall submit all of the following:

- (1) A consent form signed by the student’s parent or guardian.
- (2) An approval of the application signed by the superintendent of the student’s district of enrollment or the superintendent’s designee.
- (3) A letter of recommendation from a high school teacher from whom the student received instruction.
- (4) A letter of recommendation from a person in the community familiar with the student’s community activities.

~~(5) A letter of recommendation from any third person.~~

*b. to d.* No change.

EDUCATION DEPARTMENT[281](cont'd)

*e.* The applications of the semifinalists shall be reviewed by a committee appointed by the president of the state board. The committee shall submit a list of two to five finalists to ~~the state board for approval and submission to~~ the governor, who shall appoint the student member from the list submitted by the committee on behalf of the state board of education.

**ARC 1245C****EDUCATION DEPARTMENT[281]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to adopt new Chapter 62, “State Standards for Progression in Reading,” Iowa Administrative Code.

The purpose of this proposed new chapter is to implement Iowa Code section 279.68. All rules in this chapter shall be construed and applied to meet the following standard: all actions under this chapter must provide reasonable expectation that a student’s progress toward reading proficiency is sufficient to master appropriate grade four level reading skills prior to the student’s promotion to grade four. Enactment of funding for reading programs by the General Assembly in 2013 Iowa Acts, House File 604, triggered the provisions of the law, requiring the need for rules on this subject.

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

Interested individuals may make written comments on the proposed rules on or before January 3, 2014, at 4:30 p.m. Comments on the proposed rules should be directed to Mike Cormack, Rules Coordinator, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-3399; or e-mail [mike.cormack@iowa.gov](mailto:mike.cormack@iowa.gov).

A public hearing will be held on January 3, 2014, from 2 to 3 p.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

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

These rules are intended to implement Iowa Code sections 256.7, 256.9, and 279.68.

The following amendment is proposed.

Adopt the following **new** 281—Chapter 62:

**CHAPTER 62****STATE STANDARDS FOR PROGRESSION IN READING**

**281—62.1(256,279) Purpose.** The purpose of this chapter is to implement Iowa Code section 279.68. All rules in this chapter shall be construed and applied to meet the following standard: all actions under this chapter must provide reasonable expectation that a student’s progress toward reading proficiency is sufficient to master appropriate grade four level reading skills prior to the student’s promotion to grade four.

**281—62.2(256,279) Assessment of reading proficiency.** All school districts shall assess reading proficiency of all students, as required by this rule.

## EDUCATION DEPARTMENT[281](cont'd)

**62.2(1) *Assessment at beginning of school year.*** A school district shall assess all students enrolled in kindergarten through grade three at the beginning of each school year for the students' level of reading or reading readiness.

**62.2(2) *Subsequent assessments throughout school year.*** A school district shall provide to all students additional, brief assessments of reading achievement in a manner required by the department, using assessments that meet the standards described in subrule 62.2(5).

**62.2(3) *Progress-monitoring instruments.*** For students identified as having a substantial deficiency in reading, as well as students who are at risk of a substantial deficiency in reading, a school district shall monitor the students' progress in reading with instruments that meet the standards in subrule 62.2(5), in at least a frequency required by the department.

**62.2(4) *Statewide or locally determined assessments.*** Assessments may be locally determined or statewide, provided that all assessments for purposes of implementing this chapter meet the standards described in subrule 62.2(5).

**62.2(5) *Standards for approval for assessments.*** Any assessment of reading or reading readiness required by this rule and used to implement this chapter shall meet the following minimum standards before use by a school district.

*a. Standards for all assessments.* Any assessment used under this chapter, including instruments described in paragraphs 62.2(5) "b" and "c," shall meet department-adopted minimum standards for reliability and validity, at the appropriate grade level and for the skills assessed. In addition, all assessments must have information available concerning administration time per student, access to student data after completion, and amount of teacher training required.

*b. Standards for universal-screening instruments.* Any assessment used for universal-screening purposes under this chapter shall meet department-adopted minimum standards for the following statistical measures: area under the curve and specificity/sensitivity.

*c. Standards for progress-monitoring instruments.* Any assessment used for progress-monitoring purposes under this chapter shall meet department-adopted standards for number of forms of demonstrated equivalence and for the following statistical measure: reliability of slope.

*d. Department publication of approved assessments.* The department shall annually publish or update a list of assessments approved pursuant to this subrule. Approved assessments will have a demonstrated ability to predict future reading performance.

**62.2(6) *Basic levels of reading proficiency on approved assessments.*** The department shall determine benchmarks for basic levels of reading proficiency to be used with approved assessments based on the ability to predict meaningful future outcomes of a student's reading performance that is sufficient to master appropriate grade four reading skills prior to the student's promotion to grade four.

**62.2(7) *Assessment measures.*** Assessments administered to implement this chapter, when taken as a whole, shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

**62.2(8) *Noncompliant assessments.*** Assessments that do not meet the requirements of this rule shall not be used by any school district to implement this chapter.

**281—62.3(256,279) *Tools for evaluating and reevaluating reading proficiency.*** The department identifies the following attributes of tools that may be used in evaluating and reevaluating reading proficiency.

**62.3(1) *Locally determined or statewide assessments.*** In evaluating and reevaluating students who are or may be deficient in reading, school districts shall use assessments that meet the standards referenced in subrule 62.2(5).

**62.3(2) *Alternative assessments.*** If a school district determines, based on the clear and unique facts of a particular student's case, that a particular student requires an alternative assessment to determine proficiency in reading, in addition to the assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1), the alternative assessment shall be founded on scientifically based research and shall be reasonably calculated to provide equivalent information about the student's reading, in addition to information provided by the assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1).

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**62.3(3) *Portfolio reviews.*** School districts may review a portfolio of a student's work to determine reading proficiency. Portfolio reviews must be conducted using standard review criteria that are founded on scientifically based research. A portfolio review may be used along with assessments required in rule 281—62.2(256,279) and subrule 62.3(1) but shall not be used in lieu of such assessments. The department shall maintain a list of portfolio review criteria that are adequate under this subrule.

**62.3(4) *Teacher observation.*** A student may initially be identified as having a substantial deficiency in reading proficiency based on teacher observation. A teacher observation under this subrule shall be based on department-approved observation criteria. Teacher observation shall not be used to determine that a student continues to have a substantial deficiency in reading.

**62.3(5) *Other tools.*** The department may identify additional tools for use in evaluating and reevaluating reading proficiency, so long as those tools are founded on scientifically based research.

**62.3(6) *Alternate assessment.*** If an individual with a disability has been determined to require an alternate assessment aligned to alternate academic achievement standards in reading, pursuant to rule 281—41.320(256B,34CFR300), that individual shall receive such alternate assessment.

**62.3(7) *Noncompliant tools.*** Tools that do not meet the requirements of this rule shall not be used by any school district to implement this chapter.

**281—62.4(256,279) Identification of a student as having a substantial deficiency in reading.** A school district shall follow this rule in determining whether a student in kindergarten through grade three has a substantial deficiency in reading.

**62.4(1) *Definition of "substantial deficiency in reading."*** A school district shall determine that a student has a "substantial deficiency in reading" if, based on the requirements of this chapter, the student's reading is below a standard set on an approved assessment pursuant to subrule 62.2(6) and the student's progress on a measure that meets the requirements of this chapter is minimal.

**62.4(2) *Determination of a substantial deficiency in reading.***

*a.* In initially determining whether a student has a substantial deficiency in reading as defined in subrule 62.4(1), the school district shall consider assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1) or teacher observations that meet the criteria referenced in subrule 62.3(4).

*b.* In determining whether a student continues to have a substantial deficiency in reading, a school district shall consider assessments referred to in rule 281—62.2(256,279) and subrule 62.3(1), with specific attention given to progress-monitoring results under subrule 62.2(3).

**62.4(3) *Services offered to all students with a substantial deficiency in reading.*** A school district shall provide intensive reading instruction to any student who exhibits a substantial deficiency in reading, as defined in subrule 62.4(1). A school district shall continue to provide the student with intensive reading instruction until the reading deficiency is remediated. All services provided under this subrule shall comply with rule 281—62.6(256,279).

**62.4(4) *Notice to parents.*** The parent or guardian of any student in kindergarten through grade three identified as having a substantial deficiency in reading, as defined in subrule 62.4(1), shall be notified at least annually in writing of the following:

- a.* That the child has been identified as having a substantial deficiency in reading;
- b.* A description of the services currently provided to the child;
- c.* A description of the proposed supplemental instructional services and supports that the school district will provide to the child that are designed to remediate the identified area of reading deficiency; and
- d.* Strategies for parents and guardians to use in helping the child succeed in reading proficiency, including but not limited to the promotion of parent-guided home reading.

**281—62.5(256,279) Intensive summer reading program.**

**62.5(1) *General.*** Beginning May 1, 2017, unless the school district is granted a waiver pursuant to subrule 62.5(5), if a student's reading deficiency is not remediated by the end of grade three, as demonstrated by scores on a locally determined or statewide assessment as provided in subrule 62.4(2),

## EDUCATION DEPARTMENT[281](cont'd)

the school district shall notify the student's parent or guardian that the parent or guardian may enroll the student in an intensive summer reading program offered in accordance with this rule.

**62.5(2)** *Parent or guardian does not enroll child in intensive summer reading program.* If the parent or guardian does not enroll the student in the intensive summer reading program and the student is ineligible for the good-cause exemption under rule 281—62.8(256,279), the student shall be retained in grade three pursuant to rule 281—62.7(256,279).

**62.5(3)** *Student exempt from or completes program and is not reading proficient.* If the student is exempt from participating in an intensive summer reading program for good cause pursuant to rule 281—62.8(256,279) or completes the intensive summer reading program but is not reading proficient upon completion of the program as determined under subrule 62.4(2), the student may be promoted to grade four, but the school district shall continue to provide the student with intensive reading instruction pursuant to subrule 62.4(3) until the student is proficient in reading as demonstrated by scores on locally determined or statewide assessments pursuant to subrule 62.4(2).

**62.5(4)** *Nature of intensive summer reading program.* The intensive summer reading program offered by a school district shall comply with the program criteria and guidelines for implementation contained in 281—Chapter 61.

**62.5(5)** *Waiver of intensive summer reading program.* The department may grant a school district a waiver of the requirement to offer an intensive summer reading program for the summer of 2017 only. A school district must demonstrate good cause and that the requested waiver is in keeping with the objectives of Iowa Code section 279.68 and these rules.

**281—62.6(256,279) Successful progression for early readers.** Each school district shall provide the following.

**62.6(1)** *Intensive instructional services.* A school district shall provide students who are identified as having a substantial deficiency in reading under subrule 62.4(2) with intensive instructional services and supports, free of charge, to remediate the identified areas of reading deficiency. The intensive instructional services are further described in subrule 62.6(2).

*a.* Intensive instructional services under this subrule shall include a minimum of 90 minutes daily of scientific research-based reading instruction.

*b.* In addition to the instruction described in paragraph 62.6(1) "a," a school district shall prescribe other strategies, which may include but are not limited to the following:

- (1) Small group instruction.
- (2) Reduced teacher-student ratios.
- (3) More frequent progress monitoring.
- (4) Tutoring or mentoring.
- (5) Extended school day, week, or year.
- (6) Summer reading programs.

**62.6(2)** *Reading enhancement and acceleration development initiative.* The intensive instructional services described in subrule 62.6(1) shall be provided to all students in kindergarten through grade three who are identified as having a substantial deficiency in reading, as determined pursuant to subrule 62.4(2). The services shall meet the following requirements:

*a.* A school district shall provide intensive instructional services during regular school hours, in addition to the regular reading instruction.

*b.* A school district shall provide a reading curriculum that meets the standards of subrule 62.6(3).

**62.6(3)** *Reading curriculum for students with substantial deficiencies in reading.* A curriculum that does not meet the standards of this subrule shall not be used to implement this chapter. To implement this subrule, a school district shall provide a curriculum that meets the following guidelines and specifications:

*a.* Assists students assessed as exhibiting a substantial deficiency in reading to develop the skills to read at grade level.

*b.* Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

## EDUCATION DEPARTMENT[281](cont'd)

- c. Is supported by scientifically based research in reading.
- d. Is implemented by certified instructional staff with appropriate training and professional development, which at a minimum shall be the training and professional development described by the developer of the curriculum as necessary for its successful implementation.
- e. Is implemented by certified instructional staff with fidelity, which at a minimum shall be the training and professional development described by the developer of the curriculum as necessary for its successful implementation.
- f. Includes a scientifically based and reliable assessment, which shall meet the requirements of rule 281—62.1(256,279).
- g. Provides initial and ongoing analysis of each student's reading progress, which shall meet the requirements of rule 281—62.1(256,279), with notice provided to parents pursuant to subrule 62.6(4).
- h. Is implemented during regular school hours.
- i. Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.
- j. Complies with any other standards established by the department, including but not limited to standards established under 281—Chapter 61.

**62.6(4) Parent notice, involvement and support.** At a minimum and in addition to other requirements of this chapter, school districts shall provide the following to all parents or guardians of students who have been identified as having a substantial deficiency in reading:

- a. At regular intervals, a school district shall apprise the parent or guardian of academic and other progress being made by the student and give the parent or guardian other useful information.
- b. In addition to required reading enhancement and acceleration strategies provided to students, a school district shall provide parents or guardians of students who are identified as having a substantial deficiency in reading under subrule 62.4(2) with a plan outlined in a parental contract, including participation in regular parent-guided home reading.

**62.6(5) Report to the department.** Each school district shall report to the department the specific intensive reading interventions and supports implemented by the school district pursuant to this chapter. The department shall annually prescribe the components of required or requested reports.

**281—62.7(256,279) Promotion to grade four.**

**62.7(1) General.** In determining whether to promote a student in grade three to grade four, a school district shall place significant weight on any reading deficiency identified pursuant to subrule 62.4(2) that is not yet remediated.

**62.7(2) Mandatory retention.** A student described in subrule 62.5(2) shall be retained pursuant to this rule.

**62.7(3) Additional factors.** In addition to the significant weight required by subrule 62.7(1), the school district shall also weigh the student's progress in other subject areas, as well as the student's overall intellectual, physical, emotional, and social development.

**62.7(4) Consultation with parent or guardian.** A decision to retain a student in grade three shall be made only after direct personal consultation with the student's parent or guardian.

**62.7(5) Plan of action required.** A decision to retain a student in grade three shall be made only after the formulation of a specific plan of action to remedy the student's reading deficiency.

**281—62.8(256,279) Good-cause exemption.** A school district shall exempt students from the retention requirements of rule 281—62.7(256,279) and intensive summer reading program requirements of rule 281—62.5(256,279) for good cause.

**62.8(1) "Good cause" defined.** Good-cause exemptions shall be limited to the following:

- a. Limited English proficient students who have had less than two years of instruction in an English language learners program.
- b. Students requiring special education whose individualized education program indicates that participation in a locally determined or statewide assessment required by this chapter is not appropriate,

## EDUCATION DEPARTMENT[281](cont'd)

consistent with the requirements of rules adopted by the state board of education for the administration of Iowa Code chapter 256B.

*c.* Students who demonstrate an acceptable level of performance on an alternative performance measure approved pursuant to subrule 62.3(2).

*d.* Students who demonstrate mastery through a student portfolio under alternative performance measures approved pursuant to subrule 62.3(3).

*e.* Students who have received intensive remediation in reading for two or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade one, grade two, or grade three. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist attendance centers and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

**62.8(2) *Additional documentation required.*** Requests for good-cause exemptions from the retention requirement of subrule 62.5(2) and rule 281—62.7(256,279) for a student described in paragraphs 62.8(1) “*c*” and “*d*” shall include documentation from the student’s teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student’s academic record. Such documentation shall include but not be limited to the individualized education program, if applicable, report card, or student portfolio.

**281—62.9(256,279) Ensuring continuous improvement in reading proficiency.**

**62.9(1) *Reading proficiency addressed in comprehensive school improvement plan.*** To ensure all children are reading proficiently by the end of third grade, each school district shall address reading proficiency as part of its comprehensive school improvement plan, drawing upon information about children from assessments conducted pursuant to this chapter and the prevalence of deficiencies identified by classroom, elementary school, and other student characteristics.

**62.9(2) *Review of chronic early absenteeism.*** As part of its comprehensive school improvement plan, each school district shall review chronic early elementary absenteeism for its impact on literacy development.

**62.9(3) *Attendance centers with lower levels of reading proficiency.*** If more than 15 percent of an attendance center’s students are not proficient in reading by the end of third grade, the comprehensive school improvement plan shall include strategies to reduce that percentage, including school and community strategies to raise the percentage of students who are proficient in reading. Strategies adopted under this subrule shall meet the requirements of this chapter.

**62.9(4) *Professional development.*** Each school district, subject to an appropriation of funds by the general assembly, shall provide professional development services to enhance the skills of elementary teachers in responding to children’s unique reading issues and needs and to increase the use of evidence-based strategies.

**62.9(5) *Relationship between this chapter and the department’s general accreditation standards.*** In addition to the requirement in subrule 62.9(1), the department shall consider compliance with and performance under this chapter in its enforcement of the general accreditation standards and school improvement process described in 281—Chapter 12.

**281—62.10(256,279) Miscellaneous provisions.**

**62.10(1) *Services beyond third grade.*** Students who are identified as having a substantial deficiency in reading that is not remediated at the end of third grade remain entitled to intensive reading instruction. Nothing in this chapter shall be construed to prevent a school district from offering scientific research-based instruction in reading to students above third grade. Nothing in this chapter shall be construed to prohibit a school district from determining a student above third grade as having a substantial deficiency in reading or from providing services to a student so identified.

**62.10(2) *Database.*** In implementing subrule 62.6(5), the department may require school districts to enter assessment and progress monitoring data into a statewide database.

EDUCATION DEPARTMENT[281](cont'd)

**62.10(3) Accredited nonpublic schools.** Nothing in this chapter shall be construed to prevent an accredited nonpublic school from voluntarily complying with this chapter. Nothing in this chapter shall be construed to prevent the department from offering universal screening or progress monitoring instruments to accredited nonpublic school students or to prevent the department from allowing inclusion of those students' data in the database described in subrule 62.10(2).

These rules are intended to implement Iowa Code section 279.68.

## ARC 1213C

### HUMAN SERVICES DEPARTMENT[441]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 185, the Department of Human Services proposes to amend Chapter 74, “Iowa Health and Wellness Plan,” Iowa Administrative Code.

This amendment adds a new rule to Chapter 74 based on a waiver of 1902(e)(14)(A) of the Social Security Act (42 U.S.C. § 1396a(e)(14)(A)) approved by the Centers for Medicare and Medicaid Services (CMS). This waiver allows Iowa to process eligibility determinations for current IowaCare members based on income verified via food assistance applications, income verified on Medicaid cases associated with the IowaCare member, Iowa Workforce Development (IWD) wage and unemployment insurance benefits, and income data received from the Income and Eligibility Verification System (IEVS) from the federal government.

All individuals who were IowaCare members on October 1, 2013, will be evaluated for eligibility for the Iowa Health and Wellness Plan (IHAWP). The members who meet the eligibility requirements, including family income of no more than 138 percent of the federal poverty level (FPL), will be notified that they will be enrolled in the Iowa Health and Wellness Plan effective January 1, 2014. This will allow an estimated 55,000 members to transition directly from IowaCare to IHAWP. Those members who are not eligible for IHAWP or the Family Medical Assistance Program (FMAP) with children will be informed that they will need to apply for new health assistance.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 1214C**. The purpose of this Notice is to solicit comments on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before December 31, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does not provide for waivers in specified situations because the legislation does not specifically allow for waivers. Requests for waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 185.

**ARC 1211C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 7(6), the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments are due to a mitigation strategy approved by the Centers for Medicare and Medicaid Services (CMS) to allow Iowa to keep the current family planning eligibility system until June 30, 2014. Iowa requested to keep the family planning system separate from the new Medicaid eligibility system due to the time constraints of developing a new medical assistance eligibility system to process applications as required under the Patient Protection and Affordable Care Act. The family planning system will continue to process applications under non-modified adjusted gross income (MAGI) determinations.

CMS waived requirements of 42 U.S.C. § 1396a(e)(14) to allow Iowa to use non-MAGI determinations on a time-limited basis.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 1212C**. The purpose of this Notice is to solicit comments on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before December 31, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

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

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

These amendments are intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 7(6).

**ARC 1228C****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 217.6, 252B.3(3), and 252H.4(4), the Department of Human Services proposes to amend Chapter 95, “Collections,” and Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The Federal Family Support Act of 1988 requires each state to maintain uniform child support guidelines and criteria and to review the guidelines and criteria at least once every four years. The Iowa General Assembly has entrusted the Iowa Supreme Court with this responsibility (see Iowa Code section 598.21B). These amendments update rule 441—95.1(252B) and Chapter 99, Divisions I, II (Part B), III, and V, to conform to Iowa Supreme Court Guidelines changes, to conform to a statutory change regarding administrative paternity adopted in 2012, and other technical changes related to the establishment and modification of child support.

Any interested person may make written comments on the proposed amendments on or before December 31, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because the amendments are technical changes to conform the rules to the Iowa Supreme Court Guidelines and a statutory change adopted in 2012. The rules and Iowa Code chapters 252A, 252C, 252F and 252H provide for parties' rights to challenge an action to establish or modify a support order or present the information to a judge if the parties disagree with the support order. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code sections 217.6, 252B.3(3), and 252H.4(4). The following amendments are proposed.

ITEM 1. Amend rule **441—95.1(252B)**, definition of “Responsible person,” as follows:

“*Responsible person*” shall mean a parent, relative or guardian, or any other designated person who is or may be declared to be legally liable for the support of a child or a child’s caretaker. For the purposes of calculating a support obligation pursuant to the mandatory child support guidelines prescribed by the Iowa Supreme Court in accordance with Iowa Code section 598.21B, ~~subsection 4~~, this shall mean the person from whom support is sought.

ITEM 2. Amend subrule 99.2(2) as follows:

**99.2(2)** Social security and Medicare tax deductions, mandatory pensions, and union dues as specified in the Iowa Supreme Court guidelines.

ITEM 3. Amend subrule 99.2(3) as follows:

**99.2(3)** ~~Full cost of health insurance premiums either deducted from wages or paid by a parent or a stepparent, provided the health insurance coverage includes the dependents for whom support is being sought. The parent claiming the deduction shall verify the health insurance premium before the deduction is allowed. Any expected health insurance premiums shall be allowed as a deduction if the parent provides verification of this anticipated expense.~~ Mandatory occupational license fees as specified in the Iowa Supreme Court guidelines.

ITEM 4. Amend subrule 99.2(5) as follows:

**99.2(5)** ~~Actual payments of medical support paid pursuant to a court order or administrative order in another order for other children, not the pending matter.~~ All medical support payments shall be verified before being allowed as a deduction and shall be calculated in the same manner as the deductions for support in subrule 99.2(4).

ITEM 5. Rescind subrule **99.2(6)**.

ITEM 6. Renumber subrules **99.2(7)** and **99.2(8)** as **99.2(6)** and **99.2(7)**.

ITEM 7. Amend renumbered subparagraph **99.2(6)“d”(3)** as follows:

(3) Subtract the amount the parent may claim as “credit for child and dependent care expenses” for federal income tax from the amount of child care expenses reported on the financial statement. The difference, ~~rounded to the nearest dollar~~, is the amount allowed for a deduction in determining income for child support.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 8. Adopt the following **new** subrule 99.2(8):

**99.2(8)** Cash medical support as specified in the Iowa Supreme Court guidelines.

ITEM 9. Amend rule 441—99.3(234,252B) as follows:

**441—99.3(234,252B) Determining net income.** Unless otherwise specified in these rules, the child support recovery unit shall determine net income as prescribed by the Iowa Supreme Court guidelines.

**99.3(1) Calculating net income.** All includable income and allowable deductions shall be expressed in monthly amounts. Income and corresponding deductions received at a frequency other than monthly shall be converted to equivalent monthly amounts by multiplying the income and corresponding deductions received on a weekly basis by 4.33, on a biweekly basis by 2.17, and on a semimonthly basis by 2. ~~All converted figures shall be rounded to the nearest dollar.~~

**99.3(2)** No change.

ITEM 10. Amend subrule 99.4(1) as follows:

**99.4(1) ~~Selecting guidelines chart~~ Applying the guidelines.** The child support recovery unit shall use the child support guidelines chart schedule as prescribed by the Iowa Supreme Court only for the number of children for whom support is being sought sharing the same two legal parents.

EXCEPTION: For foster care recovery cases, the guidelines chart schedule shall be used as set forth in paragraph 99.5(4)“e.” subrule 99.5(4).

ITEM 11. Amend paragraph **99.4(2)“a”** as follows:

*a. Calculation.* The child support recovery unit shall calculate the amount of support ~~required under as prescribed by the Iowa Supreme Court guidelines as follows:~~

~~(1) Determine the net monthly income of the custodial parent.~~

~~(2) Determine the net monthly income of the noncustodial parent.~~

~~(3) Use the chart for the appropriate number of children and the respective incomes of the parents to determine the appropriate percentage to apply.~~

~~(4) Multiply the noncustodial parent’s net monthly income by the percentage determined appropriate. Round this the amount of support to the nearest whole dollar.~~

ITEM 12. Amend subparagraph **99.4(2)“b”(2)** as follows:

(2) In foster care cases, CSRU may establish current support payable in monthly or weekly frequencies. To establish a weekly amount, CSRU shall divide the figure in ~~subparagraph 99.4(2)“a”(4) paragraph 99.4(2)“a”~~ by 4.33 and round to the nearest whole dollar.

ITEM 13. Amend subrule 99.4(5) as follows:

**99.4(5) Extraordinary visitation adjustment.** The extraordinary visitation adjustment is a credit ~~to the guideline amount of child support~~ as specified in the supreme court guidelines. The credit shall not reduce the child support amount below the ~~minimum support~~ amount required by the supreme court guidelines.

The extraordinary visitation adjustment credit shall be given if all of the following apply:

*a. to c.* No change.

ITEM 14. Adopt the following **new** subrule 99.4(6):

**99.4(6) Establishing medical support.** The child support recovery unit shall calculate medical support as required by Iowa Code chapter 252E and the Iowa Supreme Court guidelines. The cost of the health insurance premium for the child is added to the basic support obligation and prorated between the parents as provided in the Iowa Supreme Court guidelines, and the parent ordered to provide health insurance must provide verification of this expense or anticipated expense.

ITEM 15. Amend subrule 99.5(1) as follows:

**99.5(1) Criteria for deviation.** The court shall not vary from the amount of child support that would result from application of the guidelines without a written finding as required by the Iowa Supreme Court guidelines. Variation from the child support guidelines shall not be considered without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate under the following criteria:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- ~~a. Substantial injustice would result to the obligor, the obligee, or the child.~~
- ~~b. Adjustments are necessary to provide for the needs of the child and to do justice between the parties under the special circumstances of the case.~~
- ~~c. In certain foster care cases, adjustments are necessary due to expenses related to the goals and objectives of the case permanency plan or other circumstances contemplated in Iowa Code section 234.39.~~

ITEM 16. Amend subrule 99.5(4) as follows:

**99.5(4) Foster care case.** In a foster care case, the child support recovery unit may deviate from the guidelines by applying a 30 percent flat rate deduction for parents who provide financial documentation. The flat rate deduction represents expenses under the case permanency plan and financial hardship allowances or other circumstances contemplated in Iowa Code section 234.39.

~~a. and b. Rescinded IAB 5/5/99, effective 7/1/99.~~

~~c.~~ CSRU shall calculate the support obligation of the parents of children in foster care when the parents have a legal obligation for additional dependents in the home, as follows: The support obligation of each parent shall be calculated by allowing all deductions the parent is eligible for under the child support guidelines as provided in rule 441—99.2(234,252B) and by using the guidelines ~~chart~~ schedule corresponding to the sum of the children in the home for whom the parent has a legal obligation and the children in foster care. The calculated support amount shall be divided by the total number of children in foster care and in the home to compute the support obligation of the parent for each child in foster care.

ITEM 17. Amend rule 441—99.22(252F) as follows:

**441—99.22(252F) Mother's certified statement.** Before initiating an action under Iowa Code chapter 252F, the unit may obtain a signed ~~Paternity Questionnaire, Form 470-0172~~ Child Support Information, Form 470-3877, or Establishment Questionnaire, Form 470-3929, or a similar document from the child's caretaker. The unit shall obtain the Mother's Written Statement Alleging Paternity, Form 470-3293, from the child's mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child's biological father. ~~A similar document~~ Government records, including but not limited to an application for public assistance, which substantially ~~meets~~ meet the requirements of Iowa Code section 622.1 may also be used. In signing Form 470-3293 ~~or similar document,~~ the mother acknowledges that the unit may initiate a paternity action against the alleged father, and she agrees to accept service of all notices and other documents related to that action by first-class mail. The mother shall sign and return Form 470-3293 ~~or a similar document~~ to the unit within ten days of the date of the unit's request.

ITEM 18. Amend rule 441—99.23(252F) as follows:

**441—99.23(252F) Notice of alleged paternity and support debt.** Following receipt of the Mother's Written Statement Alleging Paternity, Form 470-3293, ~~or a similar document~~ government records, including but not limited to an application for public assistance, which substantially ~~meets~~ meet the requirements of Iowa Code section 622.1, the unit shall serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

ITEM 19. Amend rule 441—99.29(252F) as follows:

**441—99.29(252F) Agreement to entry of paternity and support order.** If the alleged father admits paternity and reaches agreement with the unit on the entry of an order for support, the father ~~shall~~ may acknowledge his consent on the ~~Administrative Paternity Order, Form 470-3294~~ Child Support Declaration, Form 470-4084. If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, the unit ~~shall~~ may file the Child Support Declaration, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

ITEM 20. Amend subrule 99.41(1) as follows:

**99.41(1) When order may be established.** The bureau chief may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude the

## HUMAN SERVICES DEPARTMENT[441](cont'd)

child support recovery unit from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, the unit may obtain a signed ~~Form 470-3929~~, Child Support Information, Form 470-3877, or Establishment Questionnaire, Form 470-3929, or a similar document from the child's caretaker.

~~a. to d. Rescinded IAB 11/6/96, effective 1/1/97.~~

ITEM 21. Amend subrule 99.41(3) as follows:

**99.41(3) Notice to responsible person.** When the bureau chief establishes a support debt against a responsible person, a notice of child support debt shall be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26. The notice shall include all of the rights and responsibilities shown in Iowa Code section 252C.3. The notice shall also inform the responsible person which of these rights may be waived pursuant to Iowa Code section 252C.12, and the procedures for and effect of waiving these rights. The notice shall include a statement that failure to respond within the time limits given and to provide information and verification of financial circumstances shall result in the entry of a default judgment for support.

ITEM 22. Amend paragraph **99.41(9)“b”** as follows:

~~b. The bureau chief shall file a copy of the approved order with the clerk of the district court, as stated in 441—paragraph 95.11(7)“b.”.~~

ITEM 23. Amend paragraph **99.83(2)“a”** as follows:

~~a. A parent requests, in writing, or the unit determines that it is appropriate to add an additional child to the support order and modify the obligation amount according to the guidelines pursuant to Iowa Code section 598.21(4) 598.21B and Iowa Code section 252B.7A; and~~

**ARC 1230C****INSPECTIONS AND APPEALS DEPARTMENT[481]****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 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, “Hospitals,” Iowa Administrative Code.

The purpose of the proposed amendments is to add the Center for Improvement in Healthcare Quality (CIHQ) to the list of hospital accreditation organizations. Current rules specify three accreditation organizations: The Joint Commission, the American Osteopathic Association, and Det Norske Veritas. The CIHQ was recently approved by the federal Centers for Medicare & Medicaid Services (CMS) as a hospital accreditation organization.

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity. Rather, adoption of the proposed amendments simply adds CIHQ to the existing list of hospital accreditation organizations.

The proposed amendments were presented to the Hospital Licensing Board at its October 24, 2013, meeting, at which time the Board approved them.

The State Board of Health initially reviewed the proposed amendments at its November 13, 2013, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 31, 2013. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

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

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7.

The following amendments are proposed.

ITEM 1. Amend subrules 51.2(5) and 51.2(6) as follows:

**51.2(5)** The department shall recognize, in lieu of its own licensure inspection, the comparable inspections and inspection findings of The Joint Commission (JC), the American Osteopathic Association (AOA), ~~or~~ Det Norske Veritas (DNV), or the Center for Improvement in Healthcare Quality (CIHQ), if the department is provided with copies of all requested materials relating to the inspection process. In cases of the initial licensure, the department may require its own inspection when needed in addition to comparable accreditations to allow the hospital to begin operations. The department may also initiate its own inspection when it is determined that the inspection findings of the JC, AOA, ~~or~~ DNV, or CIHQ are insufficient to address concerns identified as possible licensure issues.

**51.2(6)** Hospitals not accredited by the JC, AOA, ~~or~~ DNV, or CIHQ shall be inspected by the department utilizing the current Medicare conditions of participation found in Title XVIII of the federal Social Security Act and 42 CFR Part 482, Subparts A, B, C, D, and E, or 42 CFR Part 485, Subpart F, as of October 1, 2006. Licensed-only hospitals shall be inspected utilizing the requirements of this chapter. The department may promulgate additional standards. The department may recognize, in lieu of its own licensure inspection, the comparable inspection and inspection findings of a Medicare conditions of participation survey.

ITEM 2. Amend rule 481—51.6(135B), introductory paragraph, as follows:

**481—51.6(135B) Patient rights and responsibilities.** The hospital governing board shall adopt a statement of principles relating to patient rights and responsibilities. In developing a statement of principles, the hospital may use reference statements of patient rights and responsibilities developed by the American Hospital Association, The Joint Commission (JC), the American Osteopathic Association (AOA), Det Norske Veritas (DNV), the Center for Improvement in Healthcare Quality (CIHQ), and other appropriate sources.

ITEM 3. Amend subrule 51.53(7) as follows:

**51.53(7)** The department shall recognize, in lieu of its own inspection, the comparable inspections and inspections findings of The Joint Commission (JC), the American Osteopathic Association (AOA), ~~or~~ Det Norske Veritas (DNV), or the Center for Improvement in Healthcare Quality (CIHQ) if the department is provided with copies of all requested materials relating to the inspections and the inspection process.

**ARC 1242C**

## INSPECTIONS AND APPEALS DEPARTMENT[481]

### 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 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, “Hospitals,” Iowa Administrative Code.

This rule implements Iowa Code section 135B.34, which requires hospitals to conduct criminal record checks and child abuse and dependent adult abuse record checks of prospective employees and includes changes made during the 2013 legislative session. Specific changes contained in the rule deal with

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

conditional employment and the transfer of employees from one facility to another facility owned by the same business entity.

The Department does not believe that the proposed rule imposes any financial hardship on any regulated entity, body, or individual.

The Hospital Licensing Board approved the proposed rule at its October 24, 2013, meeting.

The State Board of Health initially reviewed the proposed rule at its November 13, 2013, meeting.

Any interested person may make written suggestions or comments on the proposed rule on or before December 31, 2013. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

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

This rule is intended to implement Iowa Code sections 135B.7 and 135B.34 and 2013 Iowa Acts, Senate File 347.

The following amendment is proposed.

Adopt the following **new** rule 481—51.41(135B):

**481—51.41(135B) Criminal, dependent adult abuse, and child abuse record checks.**

**51.41(1) Definitions.** The following definitions apply for the purposes of this rule.

*“Background check”* or *“record check”* means criminal history, child abuse and dependent adult abuse record checks.

*“Direct services”* means services provided through person-to-person contact. “Direct services” excludes services provided by individuals such as building contractors, repair workers, or others who are in a hospital for a very limited purpose, who are not in the hospital on a regular basis, and who do not provide any treatment or services for the patients of the hospital.

*“Employee”* means any individual who is paid, either by the hospital or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors).

*“Evaluation”* means review by the department of human services to determine whether a founded child abuse, dependent adult abuse or criminal conviction warrants the person’s being prohibited from employment in a hospital.

*“Indirect services”* means services provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.

**51.41(2) Requirements for employer prior to employing an individual.** Prior to employment of a person in a hospital, the hospital shall request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks of the person in this state.

*a. Informing the prospective employee.* A hospital shall ask each person seeking employment by the hospital, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime in this state or any other state?” The person shall also be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted.

*b. Conducting a background check.* The hospital may access the single contact repository (SING) to perform the required background check. If the SING is used, the hospital shall submit the person’s maiden name, if applicable, with the background check request. If SING is not used, the hospital must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.

*c. If a person considered for employment has been convicted of a crime.* If a person being considered for employment in a hospital has been convicted of a crime under a law of any state, the department of public safety shall notify the hospital that upon the request of the hospital the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person’s employment in the hospital.

*d. If a person considered for employment has a record of founded child abuse or dependent adult abuse.* If a department of human services child or dependent adult abuse record check shows that a

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

person being considered for employment in a hospital has a record of founded child or dependent adult abuse, the department of human services shall notify the hospital that upon the request of the hospital the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the hospital.

*e. Employment pending evaluation.* The hospital may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person's employment.

(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;

(2) The person does not have a record of founded child or dependent adult abuse;

(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or Iowa Code chapter 321 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and

(4) The hospital has requested an evaluation to determine whether the crime warrants prohibition of the person's employment.

*f. Validity of background check results.* The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the hospital.

**51.41(3) Employment prohibition.** A person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a hospital unless an evaluation has been performed by the department of human services.

**51.41(4) Transfer of an employee to another hospital owned or operated by the same person.** If an employee transfers from one hospital to another hospital owned or operated by the same person, without a lapse in employment, the hospital is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

**51.41(5) Transfer of ownership of a hospital.** If the ownership of a hospital is transferred, at the time of transfer the background check required by this rule shall be performed for each employee for whom there is no documentation that such background check has been performed. The hospital may continue to employ such employee pending the performance of the background check and any related evaluation.

**51.41(6) Change of employment—person with criminal or abuse record—exception to record check evaluation requirements.** A person with a criminal or abuse record who is or was employed by a certified hospital and is hired by another certified hospital shall be subject to the background check.

*a.* A reevaluation of the latest record check is not required, and the person may commence employment with the other hospital if the following requirements are met:

(1) The department of human services previously performed an evaluation concerning the person's criminal or abuse record and concluded the record did not warrant prohibition of the person's employment;

(2) The latest background check does not indicate a crime was committed or founded abuse record was entered subsequent to the prior evaluation;

(3) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed;

(4) Any restrictions placed on the person's employment in the previous evaluation by the department of human services and still applicable shall remain applicable in the person's subsequent employment; and

(5) The person subject to the background check has maintained a copy of the previous evaluation and provided it to the subsequent employer, or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, a current record check evaluation shall be performed.

*b.* For purposes of this subrule, a position is "substantially the same or has the same job responsibilities" if the position requires the same certification, licensure, or advanced training. For example, a licensed nurse has substantially the same or the same job responsibilities as a director of

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

nursing; a certified nurse aide does not have substantially the same or the same job responsibilities as a licensed nurse.

*c.* The subsequent employer must maintain the previous evaluation in the employee's personnel file for verification of the exception to the requirement for a record check evaluation.

*d.* The subsequent employer may request a reevaluation of the background check and may employ the person while the reevaluation is being performed, even though an exemption under paragraph 51.41(6) "a" may be authorized.

**51.41(7)** *Employee notification of criminal convictions or founded abuse after employment.* If a person employed by an employer that is subject to this rule is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the employer of such information within 48 hours of the criminal conviction or entry of the record of founded child or dependent adult abuse.

*a.* The employer shall act to verify the information within 48 hours of notification. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

*b.* If the information is verified, the hospital shall follow the requirements of paragraphs 51.41(2) "c" and "d."

*c.* The employer may continue to employ the person pending the performance of an evaluation by the department of human services.

*d.* A person who is required by this subrule to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor under Iowa Code section 135C.33.

*e.* The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under this subrule.

**51.41(8)** *Hospital receipt of credible information that an employee has been convicted of a crime or founded for abuse.* If the hospital receives credible information, as determined by the hospital, from someone other than the employee, that the employee has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment, and the employee has not informed the employer of the information within the time required by subrule 51.41(7), the hospital shall take the following actions:

*a.* The hospital shall act to verify credible information within 48 hours of receipt. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

*b.* If the information is verified, the hospital shall follow the requirements of paragraphs 51.41(2) "c" and "d."

**51.41(9)** *Proof of background checks for temporary employment agencies and contractors.* Proof of background checks may be kept in the files maintained by temporary employment agencies and contractors. Facilities may require temporary employment agencies and contractors to provide a copy of the result of the background checks. Copies of such results shall be made available to the department upon request.

This rule is intended to implement Iowa Code sections 135B.7 and 135B.34 and 2013 Iowa Acts, Senate File 347.

## ARC 1237C

## PHARMACY BOARD[657]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 4, “Pharmacist-Interns,” Iowa Administrative Code.

The amendments were approved at the November 6, 2013, regular meeting of the Board of Pharmacy.

The proposed amendments revise the requirements for pharmacist-intern registration, the number of hours required, and reporting of completed internship training. The Board has determined that the college-based training included in the college curriculum provides adequate prelicensure training and that requiring a pharmacist-intern to obtain additional training and credit outside the school year is not necessary. A student, prior to commencing internship training and experience, is required to register as a pharmacist-intern, and the Board and the Iowa colleges of pharmacy have agreed that, to ensure timely registration, a student must register at the beginning of the first professional year in the college of pharmacy. The proposed amendments eliminate the requirements for completion and submission of the “internship booklet” certifying the competencies of the pharmacist-intern under the supervision of each pharmacist and, except for specific circumstances, eliminate the requirements relating to affidavits of internship training. The proposed amendments also reorganize and clarify the internship requirements for foreign pharmacy graduate licensure candidates.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on December 31, 2013. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by e-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

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

These amendments are intended to implement Iowa Code section 155A.6.

The following amendments are proposed.

ITEM 1. Amend rule 657—4.1(155A) as follows:

**657—4.1(155A) Definitions.**

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

~~“*Internship booklet*” means a set of documents and forms to be completed by one or more pharmacist preceptors during the course of an individual pharmacist-intern’s internship training. The booklet includes the intern’s registration certificate, instructions for the intern and the preceptor, the competencies to be attained by the intern and certified by each preceptor, and one or more affidavits on which each preceptor shall certify the hours of nonconcurrent internship completed under that preceptor’s supervision.~~

~~“*Nontraditional internship booklet*” means that internship booklet comprised of competencies and affidavits relating exclusively to that nontraditional internship segment and approved by the board for the individual pharmacist-intern pursuant to subrule 4.6(6).~~

“*Pharmacist-intern*” or “*intern*” means a person enrolled in a college of pharmacy or actively pursuing a pharmacy degree, or as otherwise provided by the board, who is registered with the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor pursuant to Iowa Code section 155A.6. “Pharmacist-intern” includes a graduate of an approved college of pharmacy, or

## PHARMACY BOARD[657](cont'd)

a foreign graduate who has established educational equivalency pursuant to the requirements of rule 657—4.7(155A), who is registered with the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist in Iowa. “Pharmacist-intern” may include an individual participating in a residency or fellowship program in Iowa, whether or not the individual is licensed as a pharmacist in another state.

“*Pharmacist preceptor*” or “*preceptor*” means a pharmacist licensed to practice pharmacy whose license is current and in good standing. Preceptors shall meet the conditions and requirements of rule 657—4.9(155A). No pharmacist shall serve as a preceptor while the pharmacist’s license to practice pharmacy is the subject of disciplinary sanction by a pharmacist licensing authority.

ITEM 2. Amend rule 657—4.3(155A) as follows:

**657—4.3(155A) 1500-hour requirements.** Internship credit may be obtained only after internship registration with the board and ~~successful completion of one semester~~ commencement of the first professional year in a college of pharmacy. Internship shall consist of a minimum of 1500 hours, ~~1250 hours~~ all of which may be a college-based clinical program approved or accepted by the board. Programs shall be structured to provide experience in community, institutional, and clinical pharmacy practices. ~~The remaining 250~~ A pharmacist-intern may acquire additional hours shall be acquired under the supervision of one or more preceptors in a traditional licensed general or hospital pharmacy, at a rate of no more than 48 hours per week, where the goal and objectives of internship in rule 657—4.2(155A) apply. Credit toward ~~the 250~~ any additional hours will be allowed, at a rate not to exceed 10 hours per week, for an internship served concurrent with academic training and ~~outside a college-based clinical program.~~ “Concurrent time” means internship experience acquired while the person is a full-time student carrying, in a given school term, at least 75 percent of the average number of credit hours per term needed to graduate and receive an entry-level degree in pharmacy. Recognized academic holiday periods, such as spring break and Christmas break, shall not be considered “concurrent time.” The competencies in subrule 4.2(2) and the concurrent time limitations of this rule shall not apply to college-based clinical programs.

ITEM 3. Amend rule 657—4.6(155A) as follows:

**657—4.6(155A) Registration, reporting, and authorized functions.** Every person shall register with the board before beginning the person’s internship experience, whether or not for the purpose of fulfilling the requirements of rule 657—4.3(155A). Registration is required of all students enrolled in Iowa colleges of pharmacy ~~after they have successfully completed one semester~~ upon commencement of the first professional year in the college of pharmacy. Colleges of pharmacy located in Iowa shall, ~~at least annually,~~ certify to the board the names of students who have successfully completed one semester are enrolled in the first professional year in the college of pharmacy. ~~or Colleges of pharmacy located in Iowa shall, within two weeks of any change, certify to the board the names of students who have withdrawn from the college of pharmacy.~~

**4.6(1)** No change.

**4.6(2) Supervision and authorized functions.** A licensed pharmacist shall be on duty in the pharmacy and shall be responsible for the actions of a pharmacist-intern during all periods of internship training. ~~The~~ At the discretion of the supervising pharmacist, the following judgmental functions, usually restricted to a pharmacist, may be delegated to pharmacist-interns registered by the board:

*a. to c.* No change.

**4.6(3) Term of registration.** Registration shall remain in effect as long as the board is satisfied that the intern is pursuing a degree in pharmacy in good faith and with reasonable diligence. A pharmacist-intern may request that the intern’s registration be extended beyond the automatic termination of the registration pursuant to the procedures and requirements of 657—Chapter 34. Except as provided by the definition of pharmacist-intern in rule 657—4.1(155A), registration shall automatically terminate upon the earliest of any of the following:

*a.* No change.

## PHARMACY BOARD[657](cont'd)

- b. Lapse, ~~exceeding one year~~, in the pursuit of a degree in pharmacy; or
- c. No change.

**4.6(4) Identification, reports, and notifications.** Credit for internship time will not be granted unless registration and other required records ~~and~~ or affidavits are completed.

- a. and b. No change.

- c. Notarized affidavits of experience in non-college-sponsored programs shall be filed with the board office after the successful completion of the ~~appropriate internship booklet and completion of all required internships~~ internship. These affidavits shall ~~include certification of competencies and shall~~ certify only the number of hours and dates of training obtained outside a college-based clinical program as provided in rule 657—4.3(155A). An individual registered as a pharmacist-intern while participating in an Iowa residency or fellowship program shall not be required to file affidavits of experience ~~or to submit certification of competencies~~.

**4.6(5) No credit prior to registration.** Credit will not be given for internship experience obtained prior to the individual's registration as a pharmacist-intern. Credit for Iowa college-based clinical programs (~~1250 hours~~) will not be granted unless registration is issued before the student begins the program.

- 4.6(6)** No change.

ITEM 4. Amend rule 657—4.7(155A) as follows:

**657—4.7(155A) Foreign pharmacy graduates.** Foreign pharmacy graduates who are candidates for licensure in Iowa will be required to obtain a minimum of 1500 hours of internship in a licensed pharmacy or other board-approved location.

**4.7(1) Registration.** ~~These candidates~~ Candidates shall register with the board as provided in rule 657—4.6(155A). Internship credit will not be granted until the candidate has been issued an intern registration. Applications for registration shall be accompanied by certification from the Foreign Pharmacy Graduate Examination Committee (FPGEC) as provided in 657—subrule 2.10(1).

**4.7(2) Certification of hours.** Following completion of any period of internship, internship hours shall be certified to the board by submission of notarized affidavits of experience as provided in paragraph 4.6(4) "c."

**4.7(3) Credit for foreign pharmacy practice.** The board may grant credit to a foreign pharmacy graduate, based on the candidate's experience in the practice of pharmacy, for all or any portion of the required 1500 hours of internship training. The candidate shall provide detailed information regarding the candidate's experience in the practice of pharmacy. The board shall determine, on a case-by-case basis, whether and to what extent the candidate's experience meets the goals and objectives established in rule 657—4.2(155A).

ITEM 5. Amend subrule 4.9(2) as follows:

**4.9(2) ~~Competencies and affidavits~~ Affidavits.** A preceptor shall be responsible for ~~initialing and dating those competencies the intern attained under the supervision of the preceptor and for completing the affidavit certifying the number of hours and the dates of each internship training period under the supervision of the preceptor~~ for any period of internship completed outside a college-based clinical program.

## ARC 1229C

## PUBLIC HEALTH DEPARTMENT[641]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 7, “Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers or Institutions of Higher Education,” Iowa Administrative Code.

These proposed amendments are necessary to implement 2013 Iowa Acts, Senate File 419, to modify the Iowa Immunization Registry (hereinafter referred to as the registry) to capture “health screening records” to include vision screening records specified in 2013 Iowa Acts, Senate File 419. The proposed amendments will also change the type of medical provider that will have access to the registry for the purpose of health screenings as well as how records are to be shared between agencies.

Any interested person may make written comments or suggestions on the proposed amendments on or before December 31, 2013. Such written comments should be directed to Bridget Konz, Bureau of Immunization and TB, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [bridget.konz@idph.iowa.gov](mailto:bridget.konz@idph.iowa.gov).

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

These amendments are intended to implement 2013 Iowa Acts, Senate File 419.

The following amendments are proposed.

ITEM 1. Amend rule **641—7.1(139A)**, definition of “Immunization registry,” as follows:

“*Immunization registry*” or “*registry*” means the database and file server maintained by the department as well as the software application that allows enrolled users to exchange immunization or health screening records.

ITEM 2. Adopt the following **new** definitions in rule **641—7.1(139A)**:

“*Health screening*” means a vision screen, dental screen or other public health screening.

“*Screening provider*” means an ophthalmologist, optometrist, pediatrician, family practice physician, free clinic, child care center, local public health department, public or accredited nonpublic school, community-based organization, advanced registered nurse practitioner (ARNP), physician assistant, dentist or dental hygienist.

ITEM 3. Amend rule 641—7.11(22) as follows:

**641—7.11(22) Iowa’s immunization Statewide registry.**

**7.11(1) Statewide registry.** The department shall maintain a statewide immunization and health screening registry. Enrolled users are responsible for purchasing and maintaining all computer hardware related to use of the registry and for providing an Internet connection to transfer information between the user’s computer and the registry.

**7.11(2) Purpose and permitted uses of registry.**

*a.* The registry shall ~~consist of~~ contain immunization and health screening information, including identifying and demographic data, to allow enrolled users to maintain and access a database of immunization and health screening histories for purposes of ensuring that patients are fully immunized and screened.

*b.* and *c.* No change.

*d.* The registry shall contain health screening data, including screening results and follow-up information.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**7.11(3) Release of information to the registry.** Enrolled users shall provide immunization and health screening information, including identifying and demographic data, to the registry. Information provided may include, but is not limited to, the following:

- a. to m. No change.
- n. Date of health screening;
- o. Health screening results;
- p. Source of health screening;
- q. Health screening follow-up information;
- ~~r.~~ Patient comments;
- ~~s.~~ Provider name, license, and business address; and
- ~~t.~~ Patient history, including previously unreported doses.

**7.11(4) Confidentiality of registry information.** Immunization and health screening information, including identifying and demographic data maintained on the registry, is confidential and may not be disclosed except under the following limited circumstances:

- a. The department may release information from the registry to the following:
  - (1) The person immunized or the parent or legal guardian of the person immunized; or screened.
  - (2) No change.
  - (3) Persons or entities requesting immunization or health screening data in an aggregate form that does not identify an individual either directly or indirectly.
  - (4) to (6) No change.
  - (7) Enrolled users from other states or jurisdictions who have signed and completed enrollment in the state's or jurisdiction's immunization registry.

b. Enrolled users shall not release ~~immunization~~ data obtained from the registry except to the person ~~immunized~~, or the parent or legal guardian of the person immunized or screened, admitting officials of licensed child care centers and schools, medical or health care providers providing continuity of care, and other enrolled users of the registry.

ITEM 4. Amend rule 641—7.12(22) as follows:

**641—7.12(22) Release of immunization and health screening information.**

**7.12(1)** *Between a physician, physician assistant, nurse, ~~or certified medical assistant, or screening provider~~ and the elementary, secondary, or postsecondary school or licensed child care center that the student attends.* A physician, a physician assistant, a nurse, ~~or a certified medical assistant,~~ or a screening provider shall disclose a student's or patient's immunization or health screening information, including the ~~student's~~ name, date of birth, and demographic information, the month, day, year and vaccine(s) administered, health screening results and clinic source and location, to an elementary, secondary, or postsecondary school or a licensed child care center upon written or verbal request from the elementary, secondary, or postsecondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary, secondary, or postsecondary school or licensed child care center that the student attends.

**7.12(2)** *Among physicians, physician assistants, nurses, ~~or certified medical assistants, or screening providers.~~* Immunization or health screening information, including the student's or patient's last name, first name, date of birth, and demographic information, the month, day, year and vaccine(s) administered, health screening results and clinic source and location, shall be provided by a physician, physician assistant, nurse, ~~or certified medical assistant, or screening provider~~ to another health care provider without written or verbal permission from the student, parent, ~~or guardian~~ or patient.

**7.12(3)** *Among an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.* An elementary school, secondary school, postsecondary school, and licensed child care center shall disclose a student's immunization or health screening information, including the student's last name, first name, date of birth, and demographic information, the month, day, and year of vaccine(s) administered, health screening results and clinic source and location, to another elementary school, secondary school, postsecondary school, and licensed child care center that the student attends. Written or verbal permission from a student, or if the student is a minor, the student's

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

parent or guardian, is not required to release this information to an elementary school, secondary school, postsecondary school, and licensed child care center that the student attends.

**7.12(4)** *Between the department and a physician, physician assistant, nurse, certified medical assistant, screening provider, elementary school, secondary school, postsecondary school, and licensed child care center. A* The department, a physician, physician assistant, nurse, certified medical assistant, screening provider, elementary school, secondary school, postsecondary school, and licensed child care center shall disclose a student's or patient's immunization or health screening information in the format specified by the department, including the student's name, date of birth, grade, and demographic information, the month, day, year and vaccine(s) administered, health screening results and clinic source and location to the department or a physician, physician assistant, nurse, certified medical assistant, screening provider, elementary school, secondary school, postsecondary school, or licensed child care center upon written or verbal request from the department. Written or verbal permission from a student, or parent, guardian or patient is not required to release this information ~~to the department.~~

ARC 1239C

**PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 103A.7 and 103A.56, the Building Code Commissioner in the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 374, “Manufactured Housing Installer Certification,” Iowa Administrative Code.

The Building Code Commissioner in the Department of Public Safety is authorized to adopt administrative rules, according to Iowa Code section 103A.56. The proposed amendment is designed to bring continuing education requirements for manufactured home installers in line with federal continuing education requirements.

Certification for manufactured home installation is addressed in both federal and state regulations. Generally, an installer who complies with state requirements that meet the federal standards can be exempt from federal regulation. Training standards have been set by the U.S. Department of Housing and Urban Development, and the Iowa administrative rules recognize federally certified training. Federal requirements provide for 8 hours of continuing education during a three-year certification period, according to 24 CFR 3286.205(b)(2). The current state administrative rule requires 12 hours of continuing education during the three-year certification period, rather than the 8 hours of continuing education required for federal certification. Requiring an additional 4 hours of continuing education can create an unnecessary regulatory burden for Iowa licensees. Not all training can be offered within the state of Iowa, and because the federal standards require only 8 hours of continuing education, many training programs held outside of the state are only 8 hours in length. The state requirement to complete 12 hours may require Iowa licensees to pay for two separate training programs or to attend two out-of-state programs in order to meet the higher standard set by the state. This adds unnecessary time and expense for certified installers. The proposed amendment brings the Iowa regulation in line with the federal regulation.

A public hearing on this proposed amendment will be held on January 21, 2014, at 10 a.m. in the First Floor Public Conference Room (Room 125) of the Oran Pape Building, 215 East 7th Street, Des Moines, Iowa. Persons may present their views orally or in writing at the public hearing.

Any written comments or information regarding the proposed amendment may be directed to the Agency Rules Administrator by mail to Agency Rules Administrator, Iowa Department of Public Safety,

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) by 4:30 p.m. on January 20, 2014.

Rules regarding manufactured housing are subject to the waiver provisions of rule 661—10.222(17A). The Commissioner does not have authority to waive requirements established by statute, according to Iowa Code section 103A.7.

After analysis and review of this rule making, there should be a positive impact on jobs. Increased opportunities for building in Iowa has a positive impact on manufactured housing installers. A reduction in training expenses can encourage growth in the industry because it reduces overall costs and allows installers more time to do their work. The Board will continue to work with stakeholders to maximize this rule making's positive impact on jobs.

This amendment is intended to implement Iowa Code section 103A.59.

The following amendment is proposed.

Amend subrule 374.7(1) as follows:

**374.7(1)** A certification may be renewed if the installer applying for recertification has completed ~~42~~ eight hours of continuing education, approved by the commissioner, during the three-year certification period. Such training shall be submitted to the commissioner for review and approval prior to the date the training is received. Requests for approval shall be submitted on a form supplied by the commissioner, with supporting documentation.

## REVENUE DEPARTMENT

### Notice of Electric and Natural Gas Delivery Tax Rates and Municipal Electric and Natural Gas Transfer Replacement Tax Rates for Each Competitive Service Area

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the electric delivery tax rate, the municipal electric transfer replacement tax rate, the natural gas delivery tax rate, and the municipal natural gas transfer replacement tax rate for each competitive service area in the state. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2013 by each taxpayer to determine the tax due for each taxpayer in the 2014-2015 fiscal year.

#### 2013 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3226	Akron Municipal Utilities	0.00005587
3201	Algona Municipal Utilities	0.00025235
3205	Alta Municipal Power Plant	0.00008290
3069	Alta Vista Municipal Utilities	0.00000000
3070	Alton Municipal Light & Power	0.00000000
3207	Ames Municipal Electric System	0.00000094
3071	Anita Municipal Utilities	0.00000000
3227	Anthon Municipal Electric Utility	0.00011365
3209	Atlantic Municipal Utilities	0.00024840
3073	Auburn Municipal Utility	0.00000000
3074	Aurelia Mun. Electric Utility	0.00007585
3211	Bancroft Municipal Utilities	0.00087760
3213	Bellevue Municipal Utilities	0.00009353
3228	Bigelow Municipal Electric Utility	0.00169211
3229	Bloomfield Municipal Electric Utility	0.00003481

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00162223
3216	Buffalo Municipal Electric System	0.00000215
3217	Burt Municipal Electric Utility	0.00000190
3077	Callender Electric	0.00000000
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00139918
3221	Cedar Falls Municipal Elec. Utility	0.00030357
3068	City of Afton	0.00000000
3072	City of Aplington	0.00000000
3082	City of Dike	0.00000000
3088	City of Estherville	0.00000000
3089	City of Fairbank	0.00000000
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	0.00000507
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00000000
3108	City of Lehigh	0.00000000
3113	City of Marathon	0.00000000
3311	City of Pella	0.00007414
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00000000
3139	City of Westfield	0.00000000
3143	City of Woolstock	0.00000000
3236	Coggon Municipal Light Plant	0.00004637
3237	Coon Rapids Municipal Utilities	0.00042603
3242	Corning Municipal Utilities	0.00029978
3080	Corwith Municipal Utilities	0.00000000
3243	Danville Municipal Electric Utility	0.00000384
3081	Dayton Light & Power	0.00000000
3244	Denison Municipal Utilities	0.00001027
3245	Denver Municipal Electric Utility	0.00006206
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00000000
3085	Earlville Municipal Utilities	0.00114964
3087	Ellsworth Municipal Utilities	0.00000000
3091	Fonda Municipal Electric	0.00000000
3252	Fontanelle Municipal Utilities	0.00033407
3092	Forest City Municipal Utilities	0.00000000
3231	Glidden Municipal Electric Utility	0.00000195
3093	Gowrie Municipal Utilities	0.00148389
3256	Graettinger Municipal Light Plant	0.00028010
3094	Grafton Municipal Utilities	0.00000000
3258	Grand Junction Municipal Utilities	0.00000456

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3095	Greenfield Municipal Utilities	0.00114896
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00137185
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00006822
3267	Hopkinton Municipal Utilities	0.00000714
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00000000
3271	Indianola Municipal Utilities	0.00000742
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	0.00000000
3104	Lake Mills Municipal Utilities	0.00000000
3105	Lake Park Municipal Utilities	0.00000000
3233	Lake View Municipal Utilities	0.00015764
3274	Lamoni Municipal Utilities	0.00135315
3276	LaPorte City Utilities	0.00000913
3277	Laurens Municipal Utilities	0.00027651
3109	Lenox Mun. Light & Power	0.00045704
3110	Livermore Municipal Utilities	0.00000000
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	0.00011564
3112	Manning Municipal Electric	0.00022981
3284	Mapleton Municipal Utilities	0.00008732
3285	Maquoketa Municipal Electric	0.00004721
3288	McGregor Municipal Utilities	0.00000695
3291	Milford Municipal Utilities	0.00018240
3114	Montezuma Municipal Light & Power	0.00000000
3115	Mount Pleasant Municipal Utilities	0.00000000
3293	Muscatine Municipal Utilities	0.00009555
3116	Neola Light & Water System	0.00000000
3297	New Hampton Municipal Light Plant	0.00009962
3298	New London Municipal Utility	0.00052973
3304	Ogden Municipal Utilities	0.00006019
3234	Onawa Municipal Utilities	0.00009815
3117	Orange City Municipal Utilities	0.00000000
3118	Orient Municipal Utilities	0.00000000
3307	Osage Municipal Utilities	0.00004946
3309	Panora Municipal Electric Utility	0.00006632
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL ELECTRICS</b>	<b>DELIVERY TAX RATE</b>
3315	Pringhar Municipal Light Plant	0.00001643
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00000000
3318	Rock Rapids Municipal Utilities	0.00000479
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.00000000
3128	Sanborn Municipal Light & Plant	0.00000000
3130	Shelby Municipal Utilities	0.00000000
3131	Sibley Municipal Utilities	0.00000000
3321	Sioux Center Municipal Utilities	0.00000087
3323	Southern Minnesota Mun. Power	0.00000000
3324	Spencer Municipal Utilities	0.00010954
3132	Stanhope Municipal Utilities	0.00000000
3360	Stanton Municipal Utilities	0.00000000
3326	State Center Municipal Light Plant	0.00031087
3327	Story City Municipal Electric Utility	0.00011022
3134	Stratford Municipal Utilities	0.00000000
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00128625
3328	Sumner Municipal Light Plant	0.00020443
3330	Tipton Municipal Utilities	0.00143611
3332	Traer Municipal Utilities	0.00066520
3337	Villisca Municipal Power Plant	0.00022186
3137	Vinton Municipal Utilities	0.00000000
3138	Wall Lake Municipal Utilities	0.00000000
3338	Waverly Light & Power	0.00072786
3342	Webster City Municipal Utilities	0.00043854
3345	West Bend Municipal Power Plant	0.00086892
3346	West Liberty Municipal Electric Util.	0.00000641
3347	West Point Municipal Utility System	0.00009639
3140	Whittemore Municipal Utilities	0.00000000
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00133211
3142	Woodbine Municipal Utilities	0.00000000

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>IOU's — ELECTRIC</b>	<b>DELIVERY TAX RATE</b>
7206	Amana Society Service Co.	0.00056524
7248	Eldridge Electric & Water Utilities	0.00054889
7354	Geneseo Municipal Utilities	0.00000000
7270	IES Utilities	0.00237888
7272	Interstate Power	0.00103630
7289	MidAmerican Energy	0.00264702
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00130319
7334	Union Electric	0.00000000

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4319	Access Energy Coop	0.00075412
4203	Allamakee Clayton Electric Coop	0.00093586
4208	Atchison-Holt Electric Coop	0.00093279
4214	Boone Valley Electric Coop	0.00090381
4218	Butler County REC	0.00071872
4219	Calhoun County Electric Coop	0.00124147
4220	Cass Electric Coop	0.00004365
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00267985
4287	Consumers Energy	0.00209921
4240	Corn Belt Power Coop	0.00000000
4246	East-Central Iowa REC	0.00194547
4247	Eastern Iowa Light & Power	0.00068026
4250	Farmers Electric Coop - Greenfield	0.00237767
4249	Farmers Electric Coop - Kalona	0.00040105
4251	Federated Rural Electric Association	0.00040981
4253	Franklin Rural Electric Coop	0.00082787
4254	Freeborn-Mower Cooperative	0.00109255
4255	Glidden Rural Electric Coop	0.00055807
4259	Grundy County REC	0.00097665
4260	Grundy Electric Cooperative	0.00056379
4261	Guthrie County REC	0.00121224
4262	Hancock Co. REC	0.00103968
4265	Harrison County REC	0.00078253
4266	Hawkeye Tri-County Electric Coop	0.00053339
4223	Heartland Power Coop	0.00036539
4268	Humboldt County REC	0.00099957
4273	Iowa Lakes Electric Coop	0.00061700
4279	Linn County REC	0.00145026

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>REC's</b>	<b>DELIVERY TAX RATE</b>
4280	Lyon Rural Electric Coop	0.00059264
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00116065
4299	Nishnabotna Valley REC	0.00064658
4300	North West Rural Electric Coop	0.00036191
4301	Northwest Iowa Power Coop	0.00000000
4308	Osceola Electric Coop	0.00034241
4310	Pella Cooperative Electric	0.00194961
4313	Pleasant Hill Community Line	0.00022255
4316	Rideta Electric Coop	0.00274284
4320	Sac County Rural Electric Coop	0.00078707
4322	Southern Iowa Electric Coop	0.00134566
4379	Southwest Iowa Service Coop	0.00284449
4329	T.I.P. Rural Electric Coop	0.00207423
4333	Tri County Electric Coop	0.00125083
4336	United Electric Coop	0.00112324
4348	Western Iowa Power Coop	0.00093220
4352	Woodbury County REC	0.00110627
4353	Wright County REC	0.00053840

**2013 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA**

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00822169
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.00000000
5022	City of Bloomfield	0.00000000
5026	City of Clearfield	0.00000000
5028	City of Everly	0.00000000
5029	City of Fairbank	0.00000000
5238	Coon Rapids Municipal Gas	0.00004230
5241	Corning Municipal Gas	0.00000689
5027	Emmetsburg Municipal Gas	0.00000000
5030	Gilmore City Municipal Gas	0.00000000
5031	Graettinger Municipal Gas	0.00000000
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	0.00000000
5034	Hartley Municipal Gas	0.00000000
5035	Hawarden Municipal Gas	0.00000000
5036	Lake Park Municipal Gas	0.00000000

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>MUNICIPAL GAS</b>	<b>DELIVERY TAX RATE</b>
5275	Lamoni Municipal Gas	0.00104176
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00050492
5283	Manning Municipal Gas	0.00015233
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00004572
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
5317	Rock Rapids Municipal Gas	0.00010746
5056	Rolfe Municipal Gas	0.00000000
5057	Sabula Municipal Gas	0.00000000
5058	Sac City Municipal Gas	0.00000000
5059	Sanborn Municipal Gas	0.00000000
5060	Sioux Center Municipal Gas	0.00000000
5061	Tipton Municipal Gas	0.00000000
5063	Waukee Municipal Gas	0.00000000
5340	Wayland Municipal Gas	0.00030291
5064	Wellman Municipal Gas	0.00000000
5344	West Bend Municipal Gas	0.00002083
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00054523
5066	Woodbine Gas	0.00000000

<b>CO. #</b>	<b>IOU's — GAS</b>	<b>DELIVERY TAX RATE</b>
5204	Allerton Gas	0.02530723
5270	IES Utilities	0.00778056
5272	Interstate Power	0.00252602
5289	MidAmerican Energy	0.01057313
5312	Peoples Natural Gas	0.00752829
5335	United Cities Gas	0.01371598

## REVENUE DEPARTMENT(cont'd)

**2013 MUNICIPAL ELECTRIC TRANSFER REPLACEMENT TAX RATES**

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3226	Akron Municipal Utilities	*
3201	Algona Municipal Utilities	0.00361260
3205	Alta Municipal Power Plant	0.00297555
3069	Alta Vista Municipal Utilities	*
3070	Alton Municipal Light & Power	0.00199932
3207	Ames Municipal Electric System	*
3071	Anita Municipal Utilities	0.00548752
3227	Anthon Municipal Electric Utility	0.00227605
3209	Atlantic Municipal Utilities	0.00327471
3073	Auburn Municipal Utility	0.00653638
3074	Aurelia Municipal Electric Utility	0.00125398
3211	Bancroft Municipal Utilities	*
3213	Bellevue Municipal Utilities	0.00920189
3229	Bloomfield Municipal Electric Utility	0.02786489
3075	Breda Municipal Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00000000
3216	Buffalo Municipal Electric System	0.00000000
3217	Burt Municipal Electric Utility	0.00158015
3077	Callender Electric	*
3078	Carlisle Municipal Utilities	0.00000000
3079	Cascade Municipal Utilities	0.00000000
3221	Cedar Falls Mun. Electric Utility	0.00272866
3068	City of Afton	0.00518195
3072	City of Aplington	*
3082	City of Dike	0.00000000
3088	City of Estherville	0.01754929
3089	City of Fairbank	*
3090	City of Farnhamville	0.00000000
3230	City of Fredericksburg	*
3106	City of Larchwood	0.00000000
3107	City of Lawler	0.00463105
3108	City of Lehigh	*
3113	City of Marathon	0.00182973
3311	City of Pella	0.00296820
3125	City of Renwick	0.00000000
3129	City of Sergeant Bluff	0.00582586
3139	City of Westfield	*
3143	City of Woolstock	*
3236	Coggon Municipal Light Plant	*
3237	Coon Rapids Municipal Utilities	0.00447689
3242	Corning Municipal Utilities	0.00000000
3080	Corwith Municipal Utilities	0.00000000

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3243	Danville Municipal Electric Utility	0.00489874
3081	Dayton Light & Power	0.00216246
3244	Denison Municipal Utilities	0.00213055
3245	Denver Municipal Electric Utility	*
3083	Durant Municipal Electric Plant	0.00000000
3084	Dysart Municipal Utilities	0.00159403
3085	Earlville Municipal Utilities	0.00000000
3086	Eldridge Electric & Water Utility	*
3087	Ellsworth Municipal Utilities	0.00785697
3091	Fonda Municipal Electric	0.01459153
3252	Fontanelle Municipal Utilities	0.00000000
3092	Forest City Municipal Utilities	0.00439737
3231	Glidden Municipal Electric Utility	0.01061494
3093	Gowrie Municipal Utilities	*
3256	Graettinger Municipal Light Plant	*
3094	Grafton Municipal Utilities	0.00931375
3258	Grand Junction Municipal Utilities	*
3095	Greenfield Municipal Utilities	0.00277213
3096	Grundy Center Light & Power	0.00144615
3232	Guttenberg Municipal Electric	0.01028256
3263	Harlan Municipal Utilities	0.00252708
3097	Hartley Municipal Utilities	0.00204103
3098	Hawarden Municipal Utility	0.00832721
3099	Hinton Municipal Electric/Water	0.00112544
3267	Hopkinton Municipal Utilities	*
3100	Hudson Municipal Utilities	0.00000000
3101	Independence Light & Power	0.00252399
3271	Indianola Municipal Utilities	0.00390756
3102	Keosauqua Light & Power	0.00000000
3103	Kimballton Municipal Utilities	*
3104	Lake Mills Municipal Utilities	0.00582929
3105	Lake Park Municipal Utilities	0.00312458
3233	Lake View Municipal Utilities	0.00881726
3274	Lamoni Municipal Utilities	0.00226276
3276	LaPorte City Utilities	0.00321300
3277	Laurens Municipal Utilities	0.00435734
3109	Lenox Municipal Light & Power	0.00003922
3110	Livermore Municipal Utilities	*
3111	Long Grove Mun. Elec./Water	0.00000000
3282	Manilla Municipal Elec. Utilities	*
3112	Manning Municipal Electric	*
3284	Mapleton Municipal Utilities	0.00614783
3285	Maquoketa Municipal Electric	0.00241103
3288	McGregor Municipal Utilities	0.00197481

## REVENUE DEPARTMENT(cont'd)

<b>CO. #</b>	<b>COMPANY</b>	<b>REPLACEMENT TAX RATE</b>
3291	Milford Municipal Utilities	0.00000000
3114	Montezuma Municipal Light & Power	0.00202748
3115	Mount Pleasant Municipal Utilities	0.00141747
3293	Muscatine Municipal Utilities	0.00000000
3116	Neola Light & Water System	*
3297	New Hampton Municipal Light Plant	0.00259515
3298	New London Municipal Utility	0.00428044
3304	Ogden Municipal Utilities	0.00243679
3234	Onawa Municipal Utilities	0.00299984
3117	Orange City Municipal Utilities	0.00251990
3118	Orient Municipal Utilities	0.00594223
3307	Osage Municipal Utilities	0.00155860
3309	Panora Municipal Electric Utility	0.00069322
3119	Paton Municipal Utilities	0.07959136
3120	Paullina Municipal Utilities	0.01040905
3121	Pocahontas Municipal Utilities	0.00764227
3122	Preston Municipal Utilities	0.00537817
3315	Primghar Municipal Light Plant	*
3123	Readlyn Municipal Utilities	0.00000000
3124	Remsen Municipal Utilities	0.00159726
3318	Rock Rapids Municipal Utilities	0.00409113
3126	Rockford Municipal Light Plant	0.00000000
3127	Sabula Municipal Utilities	0.01196427
3128	Sanborn Municipal Light & Plant	0.00185936
3130	Shelby Municipal Utilities	*
3131	Sibley Municipal Utilities	0.00120539
3321	Sioux Center Municipal Utilities	0.00335951
3324	Spencer Municipal Utilities	0.00535672
3132	Stanhope Municipal Utilities	0.00982652
3360	Stanton Municipal Utilities	0.00360735
3326	State Center Municipal Light Plant	0.00815150
3327	Story City Municipal Electric Utility	*
3134	Stratford Municipal Utilities	0.01549958
3135	Strawberry Point Electric Utility	0.00000000
3136	Stuart Municipal Utilities	0.00455239
3328	Sumner Municipal Light Plant	0.00177259
3330	Tipton Municipal Utilities	*
3332	Traer Municipal Utilities	0.00735997
3337	Villisca Municipal Power Plant	*
3137	Vinton Municipal Utilities	0.00317028
3138	Wall Lake Municipal Utilities	0.00794091
3338	Waverly Light & Power	0.00643778
3342	Webster City Municipal Utilities	0.00669762
3345	West Bend Municipal Power Plant	0.00197608

## REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
3346	West Liberty Municipal Electric Util.	0.00499166
3347	West Point Municipal Utility System	*
3140	Whittemore Municipal Utilities	*
3141	Wilton Municipal Light & Power	0.00000000
3351	Winterset Municipal Utilities	0.00463247
3142	Woodbine Municipal Utilities	0.00265482
3143	Woolstock Municipal Utilities	0.00000000

\*No rate provided to the Department by the Municipal

## 2013 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
5401	Alton Municipal Gas	*
5021	Bedford Municipal Gas	0.15032945
5215	Brighton Gas	0.02037656
5023	Brooklyn Municipal Gas	0.00000000
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01367619
5022	City of Bloomfield	0.15757028
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	*
5238	Coon Rapids Municipal Gas	0.00666124
5241	Corning Municipal Gas	0.00000000
5027	Emmetsburg Municipal Gas	0.03934409
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	*
5032	Guthrie Center Municipal Gas	0.00000000
5033	Harlan Municipal Gas	1.20070050
5034	Hartley Municipal Gas	0.04803888
5035	Hawarden Municipal Gas	0.84000050
5036	Lake Park Municipal Gas	0.00895005
5275	Lamoni Municipal Gas	0.01039521
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	*
5281	Manilla Municipal Gas	0.11374496
5283	Manning Municipal Gas	0.03150180
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	*

## REVENUE DEPARTMENT(cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
5369	Orange City Municipal Gas	0.00881371
5306	Osage Municipal Gas	0.03061633
5043	Prescott Municipal Gas	*
5044	Preston Municipal Gas	1.15984248
5055	Remsen Municipal Gas	0.39042662
5317	Rock Rapids Municipal Gas	0.02570640
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	0.06521596
5058	Sac City Municipal Gas	0.04342417
5059	Sanborn Municipal Gas	0.09494520
5060	Sioux Center Municipal Gas	0.01470708
5061	Tipton Municipal Gas	0.11517319
5067	Wall Lake Municipal Gas	*
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.01439004
5064	Wellman Municipal Gas	0.04188989
5344	West Bend Municipal Gas	0.02318279
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	0.00000000
5066	Woodbine Gas	0.70961892

\*No rate provided to the Department by the Municipal

**ARC 1231C****REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 3, “Voluntary Disclosure Program,” Chapter 6, “Organization, Public Inspection,” Chapter 7, “Practice and Procedure Before the Department of Revenue,” Chapter 8, “Forms and Communications,” Chapter 10, “Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments,” Chapter 38, “Administration,” Chapter 39, “Filing Return and Payment of Tax,” Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” Chapter 42, “Adjustments to Computed Tax and Tax Credits,” Chapter 43, “Assessments and Refunds,” Chapter 46, “Withholding,” Chapter 48, “Composite Returns,” Chapter 52, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 53, “Determination of Net Income,” Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 59, “Determination of Net Income,” Iowa Administrative Code.

These amendments clarify existing rules and provisions related to various Department rules regarding administration, individual income tax, corporation income tax and franchise tax.

Item 1 amends paragraph 3.1(4)“a” to specify that tax must be due in order for a taxpayer to be eligible for the voluntary disclosure program.

## REVENUE DEPARTMENT[701](cont'd)

Item 2 amends subrule 6.1(2) to reflect recent changes to divisions within the Department.

Item 3 amends rule 701—7.8(17A) to correct a reference to a post office box for the Hearings Section of the Department.

Item 4 amends paragraph 7.17(8)“d” to clarify that the 30-day period to appeal a decision of a presiding officer to the Director of Revenue includes Saturdays, Sundays and legal holidays.

Item 5 amends subrule 8.2(2) to update mailing addresses to be used for sending correspondence to the Department.

Item 6 amends paragraph 8.5(2)“b” to provide that an electronic return originator, which is an authorized IRS e-file provider, is not required to provide a copy of the actual forms filed to the taxpayer and that this information can be provided in an alternative format.

Item 7 amends rule 701—10.72(452A) to remove obsolete language regarding the calculation of interest for assessments and refunds of motor fuel tax for periods prior to July 1, 1997.

Item 8 amends rule 701—38.10(422) to remove a reference to the inflation adjustment related to the civil service annuity exclusion for individual income tax since this exclusion was stricken by the Legislature in 1989.

Item 9 amends rule 701—38.15(422) to reference updated changes made to the innocent spouse provisions by the Internal Revenue Service for individual income tax, which Iowa adopts in accordance with Iowa Code section 422.21, subsection 7.

Item 10 amends subrule 38.17(3) to provide that the provisions of the Servicemembers Civil Relief Act, Public Law 108-189, for individual income tax only applies to nonresidents of Iowa who are in an active duty status under Title 10 of the United States Code.

Item 11 amends subrule 39.1(7) to update the list of refundable tax credits for individual income tax purposes.

Items 12 and 13 amend subrules 39.5(10) and 39.5(11) to specify that the filing threshold for individual income tax must reflect an adjustment for the pension exclusion and phase-out exclusion for social security benefits.

Items 14, 15 and 16 amend paragraphs 39.7(1)“a,” “b” and “c” to correct references to Iowa Code sections.

Items 17, 18 and 19 amend paragraph 40.38(1)“b” and the introductory paragraph and subparagraphs (7) and (9) of paragraph 40.38(1)“f” regarding the Iowa capital gains exclusion for individual income tax to clarify provisions regarding material participation for work done as an investor, work done involving rental activities, and record-keeping requirements.

Items 20 and 21 amend subrule 41.3(1) to provide that the federal net investment income tax, also known as the unearned income Medicare contribution tax, is considered to be federal income tax that can be deducted for individual income tax.

Item 22 amends rule 701—42.44(422) to update the sequence of tax credits allowed to be claimed for individual income tax.

Item 23 amends subrule 42.48(2) regarding the solar energy system tax credit for individual income tax, which is based on a percentage of the federal credit, to use the term “placed in service,” which is the term used in determining when the federal credit can be claimed.

Item 24 amends subrule 43.3(1) to correct a reference to an Iowa Code section.

Item 25 amends subrule 46.1(2) to remove obsolete provisions regarding Iowa withholding tax for periods prior to January 1, 2001.

Item 26 amends subrule 48.7(2) to reference the new amount of the personal exemption credit for individual income tax for years beginning on or after January 1, 1998.

Items 27 and 28 amend paragraph 52.1(1)“d” and subrule 52.1(4) to reference a 2010 Iowa Supreme Court decision regarding the definition of intangible property which may require the filing of corporation income tax returns.

Item 29 amends rule 701—52.12(422) to update the sequence of tax credits allowed to be claimed for corporation income tax.

Item 30 amends subrule 52.44(2) regarding the solar energy system tax credit for corporation income tax, which is based on a percentage of the federal credit, to use the term “placed in service,” which is

## REVENUE DEPARTMENT[701](cont'd)

the term used in determining when the federal credit can be claimed. This amendment is similar to the one in Item 23.

Item 31 amends rule 701—53.8(422) by adding new subrules 53.8(3), 53.8(4), 53.8(5) and 53.8(6) to provide that deductions for charitable contributions for corporation income tax will not be allowed if the taxpayer claimed a charitable conservation tax credit, school tuition organization tax credit, endow Iowa tax credit, or from farm to food donation tax credit for the same contribution.

Item 32 amends the implementation sentence for rule 701—53.8(422).

Item 33 amends subrule 58.5(4) to remove obsolete language regarding the alternative minimum tax credit for franchise tax for periods beginning prior to January 1, 1990, and to add new examples regarding the calculation of the alternative minimum tax credit.

Item 34 adopts new rule 701—59.17(15E,422) to specify that the deduction for charitable contributions for franchise tax will not be allowed if the taxpayer claimed an endow Iowa tax credit for the same contribution.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than January 13, 2014, to the Policy Section, Tax Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before December 31, 2013. Such written comments should be directed to the Policy Section, Tax Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by December 31, 2013.

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

These amendments are intended to implement Iowa Code chapter 422 and Executive Order Number 8.

The following amendments are proposed.

ITEM 1. Amend paragraph **3.1(4)“a”** as follows:

*a.* The person must be subject to Iowa tax on Iowa source income or have Iowa tax collection responsibilities and must have tax due;

ITEM 2. Amend subrule 6.1(2) as follows:

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

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

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

## REVENUE DEPARTMENT[701](cont'd)

- (2) Strategic planning and coordination of the future operations and goals of the department.
- (3) Providing financial checks and balances within the department.
- ~~(4) The clerk of the hearing section receives all protests, tracks protests and coordinates protest processing.~~

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

*b. Divisions.*

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

(2) ~~Compliance Tax management~~ division. The ~~compliance tax management~~ division includes the ~~examination section, investigative audit section, in-state field offices and out-of-state field offices processing services section, the compliance services section and the collection services section.~~ The essential functions of the ~~compliance tax management~~ division include:

1. ~~Examination, which includes office examination of returns, assessment, and review and approval of refund claims, and which identifies nonfilers and those that underreport income~~ Functions performed by the processing services section, including registration of taxpayers, deposit of tax revenue, processing of tax returns, records management and mail services;

2. ~~Investigative audit, which is responsible for audits for criminal prosecution, reviews cases for potential prosecution and represents the department in criminal proceedings and depositions~~ Functions performed by the compliance services section, including office examination of returns, identification of nonfilers and underreporters of income, assessment, and review and approval of refund claims. The compliance services section also performs field audits and is responsible for audits for criminal prosecution; and

3. ~~In-state field offices, which provide assistance to taxpayers concerning procedure and perform audits; and~~ Functions performed by the collection services section, which is responsible for the timely collection of past-due tax liabilities, as well as collection activities for the judicial branch of state government and for other state agencies and local governments.

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

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

1. ~~Audit~~ Functions performed by the ~~audit services section, which includes the development and review of~~ develops and reviews audit programs and completed audits, manuals, and guidelines for auditors, and which coordinates the administrative process of protests and protest resolution and includes the clerk of the hearings section;

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

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

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

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

1. ~~Central~~ Functions performed by the ~~central accounting team, which includes operating budget development, maintenance and reporting; and~~

## REVENUE DEPARTMENT[701](cont'd)

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

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

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

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

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

1. Functions performed by the research and program analysis section, which provides research on tax issues, compiles statistical tax data, undertakes tax credit tracking and analysis, projects state receipts and refunds, and evaluates the fiscal impact of tax legislation and policies on the state budget; and

2. Functions performed by the performance analysis section, which develops and maintains performance measures for the department to align the department's resources, systems, and employees to meet strategic goals and priorities.

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

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

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

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

1. Functions performed by the application development section, including system analysis, programming, database administration and support, in coordination with the information technology enterprise of the department of administrative services;

2. Functions performed by the technical planning and support section, including providing technical support to the department on software and hardware issues, in coordination with the information technology enterprise of the department of administrative services; and

3. Functions performed by the process improvement section, including identifying, analyzing, and improving existing processes within the department.

ITEM 3. Amend rule 701—7.8(17A), introductory paragraph, as follows:

**701—7.8(17A) Protest.** Any person wishing to contest an assessment, denial of refund claim, or any other department action, except licensing, which may culminate in a contested case proceeding shall file a protest, in writing, with the department within the time prescribed by the applicable statute or rule for filing notice of application to the director for a hearing. The protest must either be delivered to the department by electronic means or by United States Postal Service or a common carrier, by ordinary, certified, or registered mail, directed to the attention of the clerk of the hearings section at P.O. Box 10472 14457, Des Moines, Iowa 50306, or be personally delivered to the clerk of the hearings section or served on the clerk of the hearings section by personal service during business hours. For the purpose of mailing, a protest is considered filed on the date of the postmark. If a postmark date is not present on the mailed article, then the date of receipt of protest will be considered the date of mailing. Any document, including a protest, is considered filed on the date personal service or personal delivery to the office of

## REVENUE DEPARTMENT[701](cont'd)

the clerk of the hearings section for the department is made. See Iowa Code section 622.105 for the evidence necessary to establish proof of mailing.

ITEM 4. Amend paragraph 7.17(8)“d” as follows:

d. When the director initially presides at a hearing or considers decisions on appeal from or review of a proposed decision by the presiding officer other than the director, the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to or review on motion of a second agency within the time provided by statute or rule. When a presiding officer other than the director presides at the hearing, the order becomes the final order of the department for purposes of judicial review or rehearing unless there is an appeal to or review on motion of the director within 30 days of the date of the order, including Saturdays, Sundays, and legal holidays, or 10 days, excluding Saturdays, Sundays, and legal holidays, for a revocation order pursuant to rule 701—7.23(17A). However, if the contested case proceeding involves a question of an award of reasonable litigation costs, the proposed order on the substantive issues shall not be appealable to or reviewable by the director on the director’s motion until the issuance of a proposed order on the reasonable litigation costs. If there is no such appeal or review within 30 days or 10 days, whichever is applicable, from the date of the proposed order on reasonable litigation costs, both the proposed order on the substantive issues and the proposed order on the reasonable litigation costs become the final orders of the department for purposes of judicial review or rehearing. On an appeal from, review of, or application for rehearing concerning the presiding officer’s order, the director has all the power which the director would initially have had in making the decision; however, the director will consider only those issues or selected issues presented at the hearing before the presiding officer or any issues of fact or law raised independently by the presiding officer, including the propriety of and the authority for raising issues. The parties will be notified of those issues which will be considered by the director.

ITEM 5. Amend subrule 8.2(2) as follows:

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

Box Number	Addressee
1792	<del>Individual Income Tax Returns</del> <u>Motor Vehicle Fuel Tax Returns</u>
9187	<del>Motor Vehicle Fuel Tax Returns</del> <u>Individual Income Tax Returns</u>
40306	<del>Deposit Unit</del>
10330	Central Collections Unit
10411	<del>Withholding Tax Returns</del> <u>Payments</u> <u>Verified Summary of Payments</u>
10412	Sales and Use Tax Returns <u>and Payments</u>
10413	Franchise Tax Returns and Estimated Payments <del>Field Services</del>
10455	Insurance Premiums Tax Household Hazardous Materials Environmental Protection Charge

## REVENUE DEPARTMENT[701](cont'd)

Box Number	Addressee
10456	<del>Compliance Tax Management Division, Compliance Services Income Tax Examination Section</del>
10457	Policy and Communications Division
10459	Property Tax Rent Reimbursement Claims
10460	Internal Services Division <del>Technology and Information Management Division Process Improvement and Innovation Division</del>
10465	<del>Revenue Operations Division</del> <u>Tax Management Division,</u> <u>Business and Excise Tax</u> <del>Customer Accounts</del> <del>Registration Services</del>
10466	<u>Individual and Corporation Income Tax</u> Estimated Payments
10467	Fiduciary and Inheritance Tax
10468	Corporation Income Tax Returns <del>and Estimated Payments</del>
10469	Property Tax
10470	<del>Withholding—Verified Summary of Payments Report</del> <u>Registration Services</u>
10471	Accounts Receivable
10472	<del>Hearings Section</del> <u>Cigarette and Tobacco Tax</u>
10486	Property Assessment Appeal Board
<u>14454</u>	<u>Tax Management Division, Field Audit</u>
<u>14457</u>	<u>Audit Services Section</u> <u>Hearings Section</u>
<u>14461</u>	<u>Research and Analysis Division</u>

ITEM 6. Amend paragraph **8.5(2)“b”** as follows:

*b.* The ERO must provide the taxpayer a copy of all ~~forms and~~ information to be filed. The taxpayer and ERO must retain all tax documentation for three years. The Declaration for e-File Return form and accompanying schedules are to be furnished to the department only when specifically requested.

ITEM 7. Amend rule 701—10.72(452A) as follows:

**701—10.72(452A) Interest.** Interest ~~at the rate of three-fourths of one percent per month,~~ based on the tax due, shall be assessed against the taxpayer for each month such tax remains unpaid ~~prior to January 1, 1982.~~ The interest shall accrue from the date the return was required to be filed. ~~Interest shall not apply~~

## REVENUE DEPARTMENT[701](cont'd)

~~to penalty.~~ Each fraction of a month shall be considered a full month for the computation of interest. See rule 701—10.2(421) for the statutory interest rate commencing on or after January 1, 1982.

~~Refunds on reports or returns filed on or after July 1, 1986, but before July 1, 1997, will accrue interest beginning on the first day of the third calendar month following the date of payment or the date the return was filed or due to be filed, whichever is later, at the rate in effect under Iowa Code section 421.7, counting each fraction of a month as an entire month.~~ Refunds on reports or returns filed on or after July 1, 1997, will accrue interest beginning on the first day of the second calendar month following the date of payment or the date the return was filed or due to be filed, whichever is later, at the rate in effect under Iowa Code section 421.7, counting each fraction of a month as an entire month. Claims for refund filed under Iowa Code sections 452A.17 and 452A.21 will accrue interest beginning with the first day of the second calendar month following the date the refund claim is received by the department. See rule 701—10.3(422,450,452A).

~~This rule is intended to implement Iowa Code section 452A.65 as amended by 1997 Iowa Acts, House File 266.~~

ITEM 8. Amend rule 701—38.10(422), introductory paragraph, as follows:

~~**701—38.10(422) Indexation.** Acts of the Sixty-ninth General Assembly, 1981 Regular Session, chapter 132, and Iowa Code section 422.5 provide provides for the adjustment of the tax brackets and civil service annuity exclusion by a cumulative inflation factor to be determined by the director. The requirement that provided that the state general fund balance on June 30 of the prior calendar year had to be \$60 million or more before there was indexation of the tax rate brackets for the current year was repealed for tax years beginning on or after January 1, 1996.~~

ITEM 9. Amend rule **701—38.15(422)**, numbered paragraphs “4” and “5,” as follows:

4. Whether or not it would be equitable to hold the innocent spouse for the substantial understatement. Innocent spouse relief applies only if, taking into account all facts and circumstances, it would be inequitable to hold the claimed innocent spouse liable for the deficiency in tax for the taxable year attributable to the substantial understatement. Factors taken into account in determining whether it is inequitable to hold a spouse liable for a tax deficiency include whether the spouse seeking relief has been deserted, divorced, separated, or widowed or has been the subject of abuse or financial control by the other spouse. See Internal Revenue Service Notice 2012-8.

Another important factor in determining equitable treatment for the person claiming innocent spouse relief is whether the person received a benefit attributable to the substantial understatement of taxes. The fact that the spouse received a benefit in the nature of “ordinary support” does not support a finding of significant benefit to deny the spouse relief. In addition, ordinary family support may include maintaining an affluent lifestyle if the standard of living is not enhanced by the tax understatement.

Where the taxpayer participated in the financial affairs of the other spouse and enjoyed the benefits from the activities of the other spouse, innocent spouse relief will not be granted.

5. Time period for requesting innocent spouse relief. For tax periods beginning on or after January 1, 2004, innocent spouse relief must be requested within two years after the date the department initiates collection action on an income tax deficiency or assessment against the person claiming innocent spouse relief. However, an extended time period to request innocent spouse relief can be granted under the provisions of Internal Revenue Service Notice 2011-70, which became effective July 25, 2011.

ITEM 10. Amend subrule **38.17(3)**, fourth unnumbered paragraph, as follows:

Since military nonresidents of Iowa cannot be taxed on their military pay while they are stationed in Iowa, the military pay cannot be considered for purposes of Iowa’s taxation of nonresidents in accordance with the Servicemembers Civil Relief Act, Public Law 108-189. The military pay of the nonresident of Iowa must be excluded from the computation of the nonresident credit set forth in rule 701—42.5(422). This exclusion from the computation of the nonresident credit applies to military pay of nonresident servicemembers who are in an active duty status as defined under Title 10 of the United States Code.

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ITEM 11. Amend subrule 39.1(7) as follows:

**39.1(7) Returns filed for refund.** A taxpayer whose Iowa source net income or all source net income is less than the amount for which the filing of an Iowa individual income tax return is required must file a return to receive a refund of Iowa income tax withheld or Iowa estimated tax paid in the tax year or to receive a refund from an Iowa refundable tax credit. Refundable tax credits include the child and dependent care credit, the early childhood development tax credit, the research activities credit, the motor vehicle fuel tax credit, the claim of right credit (if elected in accordance with rule 701—38.18(422)), the assistive device credit, the historic preservation and cultural and entertainment district tax credit, the ethanol blended gasoline tax credit, the investment tax credit for value-added agricultural products or biotechnology-related processes, the soy-based cutting tool oil tax credit, the wage-benefit tax credit, the soy-based transformer fluid tax credit, the E-85 gasoline promotion tax credit, ~~and the biodiesel blended fuel tax credit, the ethanol promotion tax credit, and the E-15 plus gasoline promotion tax credit.~~

ITEM 12. Amend subrule 39.5(10), introductory paragraph, as follows:

**39.5(10) Thirteen thousand five hundred dollar exemption.** For tax years beginning on or after January 1, 1993, all taxpayers, except single taxpayers described in subrule 39.4(1), whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—40.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 40.23(3), is \$13,500 or less are exempt from paying Iowa individual income tax subject to the following conditions:

ITEM 13. Amend subrule 39.5(11), introductory paragraph, as follows:

**39.5(11) Nine thousand dollar exemption.** For tax years beginning on or after January 1, 1993, single taxpayers described in subrule 39.4(1); whose net income as computed under Iowa Code section 422.7, plus the amount of a lump-sum distribution for which the taxpayer has elected to be separately taxed for federal income tax purposes, the partial exclusion of pension and other retirement benefits described in rule 701—40.47(422), and the phase-out exclusion for social security benefits described in 701—subrule 40.23(3), is \$9,000 or less; are exempt from paying Iowa individual income tax subject to the following conditions:

ITEM 14. Amend paragraph **39.7(1)“a,”** introductory paragraph, as follows:

*a. An exemption of \$9,000 for single taxpayers and an exemption of \$13,500 for all other taxpayers.* To be eligible for the \$9,000 or less exemption for single taxpayers and the \$13,500 or less exemption for all other taxpayers as provided in Iowa Code section 422.5, subsection ~~2~~ 3, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than \$9,000 for single taxpayers and less than \$13,500 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds \$9,000 for single taxpayers and \$13,500 for all other taxpayers (including the lump-sum distribution income).

ITEM 15. Amend paragraph **39.7(1)“b,”** introductory paragraph, as follows:

*b. An exemption of \$18,000 for single taxpayers and an exemption of \$24,000 for other taxpayers who are 65 years of age or older.* These exemption amounts apply for tax years beginning on or after January 1, 2007, but before January 1, 2009. To be eligible for the \$18,000 or less exemption for single taxpayers and the \$24,000 or less exemption for all other taxpayers as provided in 2007 Iowa Code section 422.5, subsection ~~2A~~ 3A, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than \$18,000 for single taxpayers and less than \$24,000 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds \$18,000 for single taxpayers and \$24,000 for all other taxpayers (including the lump-sum distribution income).

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ITEM 16. Amend paragraph **39.7(1)“c,”** introductory paragraph, as follows:

*c.* An exemption of \$24,000 for single taxpayers and an exemption of \$32,000 for all other taxpayers who are 65 years of age or older. These exemption amounts apply for tax years beginning on or after January 1, 2009. To be eligible for the \$24,000 or less exemption for single taxpayers and the \$32,000 or less exemption for all other taxpayers as provided in Iowa Code section 422.5, subsection ~~2B~~ **3B**, the total amount of a lump-sum distribution subject to the separate federal tax must be included in the net income. If this net income (including the lump-sum distribution income) is less than \$24,000 for single taxpayers and less than \$32,000 for all other taxpayers, then no tax (other than Iowa minimum tax) is due. The Iowa tax on lump-sum distributions and the computed tax may be limited to the amount of income tax that exceeds \$24,000 for single taxpayers and \$32,000 for all other taxpayers (including the lump-sum distribution income).

ITEM 17. Amend paragraph **40.38(1)“b”** as follows:

*b.* Work done in an activity by an individual in the individual's capacity as an investor is not considered to be material participation in the business or activity unless the investor is directly involved in the day-to-day management or operations of the activity or business. Investor-type activities include the study and review of financial statements or reports on operations of the activity, preparing or compiling summaries or analyses of finances or operations of the activity for the individual's own use, and monitoring the finances or operations of the activity in a nonmanagerial capacity.

ITEM 18. Amend paragraph **40.38(1)“f,”** introductory paragraph, as follows:

*f.* The following paragraphs provide clarification regarding ~~the facts and circumstances test in subparagraph 40.38(1)“e”(7)~~ material participation:

ITEM 19. Amend subparagraphs **40.38(1)“f”(7)** and **(9)** as follows:

(7) Rental activities or businesses. For purposes of subrules 40.38(1) and 40.38(2), the general rule is that a taxpayer may have material participation in the rental activity unless covered by a specific exception in this subrule (for example, the exceptions for farm rental activities in subparagraphs 40.38(1)“f”(4), (5) and (6)). Rental activity or rental business is as the term is used in Section 469(c) of the Internal Revenue Code. Rental activity or rental business does not typically involve day-to-day involvement since gross income from this activity represents amounts paid mainly for the use of the property. Examples of qualifying involvement in operations of the property that are considered material participation activities if performed on a regular, continuous and substantial basis include advertising, interviewing potential tenants, preparing leases, collecting rent, handling security deposits, receiving questions and complaints from tenants, and performing routine maintenance.

EXAMPLE. Ryan Stanley is an attorney who has owned two duplex units since 1998 and has received rental income from these duplexes since 1998. Mr. Stanley is responsible for the maintenance of the duplexes and may hire other individuals to perform repairs and other upkeep on the duplexes. However, no person spends more time in operating, managing and maintaining the duplexes than Mr. Stanley, and Mr. Stanley spends more than 100 hours per year in operating, managing and maintaining the duplexes. The duplexes are sold in 2011, resulting in a capital gain. Mr. Stanley can claim the capital gain deduction on the 2011 Iowa return since he met the material participation requirements for this rental activity.

(9) Record-keeping requirements. Taxpayers are required to provide proof of services performed and the hours attributable to those services. Detailed records should be kept maintained by the taxpayer, on as close to a daily basis as possible at or near the time of the performance of the activity, to verify that the material participation test has been met ~~because the burden is on the taxpayer to demonstrate that the material participation test has been met.~~ However, material participation can be established by any other reasonable means, such as approximating the number of hours based on appointment books, calendars, or narrative summaries. Records prepared long after the activity, in preparation of an audit or proceeding, are insufficient to establish participation in an activity.

ITEM 20. Amend paragraphs **41.3(1)“b”** and **“c”** as follows:

*b.* Tax paid at any time during the taxable year on a filing of federal estimated tax or on any amendment to such filing. Where a husband and wife file separate Iowa returns or separately on a

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combined Iowa return, the federal estimated tax payments made in the tax year shall be prorated between the spouses by the ratio of each spouse's income not subject to withholding to the total income not subject to withholding of both spouses, including the federal estimated tax payment made in January of the tax year which was made for the prior tax year. If an estimated tax payment or portion of the payment is made for self-employment tax, then the spouse who has earned the self-employment income shall report the amount of estimated tax designated as self-employment tax. The federal tax deduction for the tax year does not include the self-employment tax paid through the federal estimated payments made in the tax year. However, one-half of the self-employment tax paid in the tax year is deductible in computing federal adjusted gross income pursuant to Section 164(f) of the Internal Revenue Code so this self-employment tax is also deductible in computing net income. If an estimated tax payment or portion of the payment is made for the federal net investment income tax computed under Section 1411 of the Internal Revenue Code for tax years beginning on or after January 1, 2013, see paragraph 41.3(1) "f" on how the federal net income tax should be prorated between spouses.

c. Any additional federal tax on a prior federal return paid during the taxable year. Where a husband and wife file separately or separately on a combined Iowa return, additional federal tax paid shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which the additional federal tax was paid. If additional federal tax paid includes federal self-employment tax, then that amount of self-employment tax shall be deducted by the spouse who earned the self-employment income. Any federal tax paid for a tax year in which an Iowa individual income tax return was not required to be filed is not allowed as a deduction in the year the federal taxes were paid. If additional federal tax paid includes the federal net investment income tax computed under Section 1411 of the Internal Revenue Code for tax years beginning on or after January 1, 2013, see paragraph 41.3(1) "f" on how the federal net income tax should be prorated between spouses.

EXAMPLE 1. Individual A earned \$8,500 in income for the 2004 tax year and paid \$200 in federal tax with the filing of the federal return in 2005. Individual A was not required to file an Iowa return for 2004 because the Iowa net income was under \$9,000. Individual A cannot claim a deduction for the \$200 in federal tax paid on the 2005 Iowa return because an Iowa return was not required to be filed for the 2004 tax year.

EXAMPLE 2. Individual B moved into Iowa on January 1, 2005, and filed an initial Iowa individual income tax return for the 2005 tax year. Individual B paid \$1,000 in additional federal income tax with the filing of the 2004 federal income tax return in 2005. Individual B cannot claim a deduction for the \$1,000 in federal tax paid on the 2005 Iowa return because an Iowa return was not filed for the 2004 tax year.

ITEM 21. Adopt the following new paragraph **41.3(1)“f”**:

f. For tax years beginning on or after January 1, 2013, the federal net investment income tax, also known as the unearned income Medicare contribution tax, computed under Section 1411 of the Internal Revenue Code. The federal net investment income tax is computed on the lesser of net investment income for the tax year or the excess of the modified adjusted gross income for the tax year over a threshold amount.

Where a married couple file separate returns or separately on a combined Iowa return, the federal net investment income tax, if computed on net investment income, shall be prorated between the spouses by the ratio of net investment income reported by each spouse to total net investment income of both spouses in the year for which the federal net investment income tax was paid. Where a married couple file separate returns or separately on a combined Iowa return, the federal net investment income tax, if computed on the excess of modified adjusted gross income over a threshold amount, shall be prorated between the spouses by the ratio of net income reported by each spouse to total net income of both spouses in the year for which the federal net investment income tax was paid.

ITEM 22. Amend rule 701—42.44(422) as follows:

**701—42.44(422) Deduction of credits.** The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, and 422.110 shall be ~~deducted~~ claimed in the following sequence:

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1. Personal exemption credit.
2. Tuition and textbook credit.
3. Volunteer fire fighter and volunteer emergency medical services personnel tax credit.
4. Nonresident and part-year resident credit.
5. Franchise tax credit.
6. S corporation apportionment credit.
7. Disaster recovery housing project tax credit.
8. School tuition organization tax credit.
9. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
10. Endow Iowa tax credit.
11. Agricultural assets transfer tax credit.
12. ~~Film qualified expenditure tax credit.~~ Custom farming contract tax credit.
13. ~~Film investment tax credit.~~ Film qualified expenditure tax credit.
14. ~~Redevelopment tax credit.~~ Film investment tax credit.
15. ~~Investment tax credit.~~ Redevelopment tax credit.
16. ~~Wind energy production tax credit.~~ From farm to food donation tax credit.
17. ~~Renewable energy tax credit.~~ Investment tax credit.
18. ~~Redeemed Iowa fund of funds tax credit.~~ Wind energy production tax credit.
19. ~~New jobs tax credit.~~ Renewable energy tax credit.
20. ~~Economic development region revolving fund tax credit.~~ Redeemed Iowa fund of funds tax credit.
21. ~~Geothermal heat pump tax credit.~~ New jobs tax credit.
22. ~~Solar energy system tax credit.~~ Economic development region revolving fund tax credit.
23. ~~Charitable conservation contribution tax credit.~~ Geothermal heat pump tax credit.
24. ~~Alternative minimum tax credit.~~ Solar energy system tax credit.
25. ~~Historic preservation and cultural and entertainment district tax credit.~~ Charitable conservation contribution tax credit.
26. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit.~~ Alternative minimum tax credit.
27. ~~Research activities credit.~~ Historic preservation and cultural and entertainment district tax credit.
28. ~~Out-of-state tax credit.~~ Ethanol promotion tax credit.
29. ~~Child and dependent care credit or early childhood development tax credit.~~ Research activities credit.
30. ~~Motor fuel credit.~~ Out-of-state tax credit.
31. ~~Claim of right credit (if elected in accordance with rule 701—38.18(422)).~~ Child and dependent care tax credit or early childhood development tax credit.
32. ~~Wage benefits tax credit.~~ Motor fuel tax credit.
33. ~~Refundable portion of investment tax credit, as provided in subrule 42.14(2).~~ Claim of right credit (if elected in accordance with rule 701—38.18(422)).
34. ~~E-85 gasoline promotion tax credit.~~ Wage-benefits tax credit.
35. ~~Biodiesel blended fuel tax credit.~~ Refundable portion of investment tax credit, as provided in subrule 42.14(2).
36. ~~E-15 plus gasoline promotion tax credit.~~ E-85 gasoline promotion tax credit.
37. ~~Earned income tax credit.~~ Biodiesel blended fuel tax credit.
38. ~~Estimated payments, payment with vouchers, and withholding tax.~~ E-15 plus gasoline promotion tax credit.
39. Earned income tax credit.
40. Iowa taxpayers trust fund tax credit.
41. Estimated payments, payment with vouchers, and withholding tax.

This rule is intended to implement Iowa Code sections 422.5, 422.8, 422.10, 422.11, 422.11A, 422.11B, 422.11D, 422.11F, 422.11H, 422.11I, 422.11J, 422.11L, 422.11M, 422.11N, 422.11O, 422.11P,

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422.11Q, 422.11S, 422.11W, 422.11X, 422.12, 422.12B, 422.12C and 422.110 and ~~2012~~ 2013 Iowa Acts, House File ~~2337~~ 599, ~~sections 38 to 40~~ and 2013 Iowa Acts, Senate Files 295 and 452.

ITEM 23. Amend subrule **42.48(2)**, second and third unnumbered paragraphs, as follows:

The federal residential energy efficient tax credits and the federal energy tax credits for solar energy systems are currently allowed for installations that are ~~completed~~ placed in service on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for systems placed in service on or before December 31, 2016. The solar energy system must be installed on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 residential energy efficient tax credit on the 2011 federal return due to an installation of a solar energy system that was ~~completed~~ placed in service in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was ~~completed~~ placed in service before January 1, 2012.

ITEM 24. Amend subrule **43.3(1)**, first unnumbered paragraph, as follows:

In addition, the claim for refund must be filed within one of the time periods specified in Iowa Code section ~~422.73(2)~~ 422.73(1) in order for the refund claim to be timely so that the claim may be considered on its merits by the department.

ITEM 25. Amend subrule 46.1(2) as follows:

**46.1(2)** *Withholding on pensions, annuities and other nonwage payments to Iowa residents.* State income tax is required to be withheld from payments of pensions, annuities, supplemental unemployment benefits and sick pay benefits and other nonwage income payments made to Iowa residents in those circumstances mentioned in the following paragraphs. This subrule covers those nonwage payments described in Sections 3402(o), 3402(p), 3402(s), 3405(a), 3405(b), and 3405(c) of the Internal Revenue Code. This includes, but is not limited to, payments from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts, lump-sum distributions from qualified retirement plans, other retirement plans, and annuities, endowments and life insurance contracts issued by life insurance companies. These payments are subject to Iowa withholding tax if they are also subject to federal withholding tax. However, no state income tax withholding is required from nonwage payments to residents to the extent those payments are not subject to state income tax. ~~Generally, no state income tax is required to be withheld from nonwage payments to residents in circumstances where the payment amounts are less than \$250 or the taxable portions of the payments are less than \$250 in situations where the payers know the taxable amounts. In instances where a payment amount or taxable amount is \$250 or more but the payment amount or the taxable amount for the year is less than \$3,000, no state income tax is required to be withheld. See paragraph 46.1(2) "h" for threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001.~~ In the case of some nonwage payments to residents, such as payments of pensions and annuities, no state income tax is required to be withheld if no federal income tax is being withheld from the payments of the pensions and annuities. The rate of withholding on the nonwage payments described in this subrule is 5 percent of the payment amounts or 5 percent of the taxable amounts unless specified otherwise.

For purposes of this subrule, an individual receiving nonwage payments will be considered to be an Iowa resident and subject to this subrule if the individual's permanent residence is in Iowa. The fact that a nonwage payment is deposited in a recipient's account in a financial institution located outside Iowa does not mean that the recipient's permanent residence is established in the place where the financial institution is situated.

Payers of pension and annuity benefits and other nonwage payments have the option of either withholding Iowa income tax from these payments on the basis of tables and formulas included in the Iowa withholding tax guide of the department of revenue or withholding Iowa income tax from these

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payments at the rate of 5 percent. State income tax is required to be withheld by payers in situations when federal income tax is being withheld from the nonwage payments.

*a. Withholding from pension and annuity payments to residents.* Withholding of state income tax is required from payments of pensions and annuities to Iowa residents to the extent that the recipients of the payments have not filed with the payers of the benefits election forms which specify that no federal income tax is to be withheld. Therefore, state income tax is to be withheld when federal income tax is being withheld from the pensions or annuities. See paragraph 46.1(2)“h” for threshold amounts for withholding from payments of pensions, annuities, and other retirement incomes which are made on or after January 1, 2001.

However, although Iowa income tax is ordinarily required to be withheld from pension and annuity payments made to Iowa residents if federal income tax is being withheld from the payments, no state income tax is required to be withheld if pension and annuity payments are not subject to Iowa income tax, as in the case of railroad retirement benefits which are exempt from Iowa income tax by a provision of federal law. ~~In addition, no Iowa income tax is required from a pension or annuity payment made to an Iowa resident to the extent that the payment amounts are less than \$250 or the taxable amounts of the payments are less than \$250 in instances where the payers know the taxable amounts of the payments.~~

*b. Withholding from payments to residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and from annuities, endowments and life insurance contracts issued by life insurance companies.* Payments to Iowa residents from profit-sharing plans, stock bonus plans, deferred compensation plans, individual retirement accounts and payments from life insurance companies for contracts for annuities, endowments or life insurance benefits are subject to withholding of state income tax if federal income tax is withheld from the benefits. However, no state income tax is to be withheld from the income tax payments described above to the extent those income tax payments are exempt from Iowa income tax. See paragraph 46.1(2)“h” for thresholds for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001. ~~In addition, no state income tax is to be withheld in circumstances where payment amounts are less than \$250 or the taxable portions of the payments are less than \$250 in cases when the payer knows the taxable amount of the payment. There is also no state income tax withholding in situations where the payment amount or the taxable amount is \$250 or more but the payment amount or the taxable amount for the year is less than \$3,000.~~

In cases where the recipients elect withholding of state income tax from the income payments, the payers are to withhold from the payments at a rate of 5 percent on the taxable portion of the payment, if that can be determined by the payer or on the entire income payment if the payer does not know how much of the payment is taxable. Once a recipient makes an election for state income tax withholding, that election will remain in effect until a later election is made.

*c. Withholding from payments to residents for supplemental unemployment compensation benefits and sick pay benefits.* Income payments made for supplemental unemployment compensation benefits described in Section 3402(o)(2)(a) of the Internal Revenue Code and for sick pay benefits are subject to withholding of state income tax. In the case of supplemental unemployment compensation benefits, those benefits are treated as wages for purposes of state income tax withholding. Therefore, state income tax should be withheld from these payments when federal income tax is withheld. The amount of state income tax withholding should be determined by the withholding tables provided in the Iowa employers' "Withholding Tax Guide."

In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with Section 3402(o)(1) of the Internal Revenue Code, state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the benefits. However, payees of sick pay benefits should probably not request withholding from the benefits if the payees are eligible for the disability income exclusion authorized in Iowa Code section 422.7 and described in rule 701—40.22(422). If withholding is requested by the payee, the withholding should be done at a 5 percent rate on the sick pay benefits. ~~However, no withholding of state income tax should be made if the benefit payment is less than \$250.~~ Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid

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by third-party payers, state income tax is required to be withheld since federal income tax is required to be withheld.

*d. Voluntary state income tax withholding from unemployment benefit payments.* Recipients of unemployment benefit payments described in Section 3402(p)(2) of the Internal Revenue Code may elect to have state income tax withheld from the benefit payments at a rate of 5 percent. An individual's election to have state income tax withheld from unemployment benefits is separate from any election to have federal income tax withheld from the benefits.

*e. Withholding on lump-sum distributions from qualified retirement plans.* For lump-sum distribution payments from qualified retirement plans made to Iowa residents, state income tax is required to be withheld under the conditions described in this paragraph. No state income tax is required to be withheld from a lump-sum distribution payment to an Iowa resident in a situation where the payment is not subject to Iowa income tax. See paragraph 46.1(2) "h" for thresholds for withholding on lump-sum distributions issued on or after January 1, 2001. ~~In addition, Iowa income tax is not required to be withheld on the distribution to the extent that the amount of the distribution or the taxable amount, if known by the payer, is less than \$3,000.~~ Iowa income tax is to be withheld from a lump-sum distribution made to an Iowa resident to the extent that federal income tax is being withheld from the distribution. The rate of withholding of state income tax from the lump-sum distribution is 5 percent from the total distribution or 5 percent from the taxable amount if that amount is known by the payer. Note that in the case of a lump-sum distribution, the Iowa income tax imposed on the taxable amount of the distribution is 25 percent of the federal income tax on the distribution.

*f. Withholding of state income tax from nonwage payments to residents on the basis of tax tables and tax formulas.* State income tax from the nonwage payments made to Iowa residents may be withheld on the basis of formulas and tables included in the Iowa withholding tax guide of the department of revenue. See paragraph 46.1(2) "h" for threshold amounts for withholding from payments of pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement incomes which are made on or after January 1, 2001. When state income tax is being withheld based upon the formulas or tables in the withholding guide, the amounts of the nonwage payments are treated as wage payments for purposes of the tables or the formulas.

The frequency of the nonwage payments determines which of the withholding tables to use or the number of pay periods in the calendar year to use in the formula. For example, if the nonwage payment is made on a monthly basis, the monthly wage bracket withholding table should be utilized for withholding or 12 should be utilized in the formula to indicate that there will be 12 nonwage payments in the year.

The payers of nonwage payments should withhold state income tax from the nonwage payments to Iowa residents when federal income tax is being withheld from the nonwage payments. The payers should withhold from the nonwage payments to Iowa residents from tables or the formulas in the Iowa withholding guide on the basis of the number of withholding exemptions claimed on Form IA W-4 which has been completed by the payees of the payments. However, if a payee of a nonwage payment has not completed an IA W-4 form (Iowa employee's withholding allowance certificate) by the time a nonwage payment is to be made by the payer of the nonwage payment, the payer is to withhold state income tax on the basis that the payee has claimed one withholding allowance or exemption.

In a situation when a payee of a nonwage payment completes Form IA W-4 and claims exemption from state income tax withholding when federal income tax is being withheld from the nonwage payment, the payer of the nonwage payment should withhold state income tax using one withholding allowance or exemption unless the payee has verified exemption from state income tax.

*g. Withholding on distributions from qualified retirement plans that are not directly rolled over.* State income tax is to be withheld at a rate of 5 percent from the gross amount or taxable amount if known by the payer of the distribution made to Iowa residents if the distributions are not transferred directly to an IRA, Section 403(a) annuity or another qualified retirement plan. The distributions that are subject to state income tax withholding are those distributions that are subject to 20 percent withholding for federal income tax purposes. ~~However, if the gross amount or taxable amount of a distribution is less than \$3,000, state income tax withholding is not required.~~ See paragraph 46.1(2) "h" for thresholds for withholding from payments of pensions, annuities, individual retirement accounts,

## REVENUE DEPARTMENT[701](cont'd)

deferred compensation plans, and other retirement plans which are made on or after January 1, ~~1999~~ 2001.

*h. Withholding from distributions made on or after January 1, 2001, from pensions, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans.* Effective for distributions made on or after January 1, 2001, from pension plans, annuities, individual retirement accounts, deferred compensation plans, and other retirement plans, state income tax is generally required to be withheld from the distributions when federal income tax is being withheld from the distributions, unless one of the exceptions for withholding in this paragraph applies. For purposes of this paragraph, the term “pensions and other retirement plans” includes all distributions of retirement benefits covered by the partial exemption described in rule 701—40.47(422).

State income tax is not required to be withheld from a distribution from a pension or other retirement plan if the distribution is an income which is not subject to Iowa income tax, such as a distribution of railroad retirement benefits. State income tax is also not required to be withheld from a pension plan or other retirement plan if the amount of the distribution is \$500 per month or less or if the taxable amount is \$500 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—40.47(422), if the state taxable amount can be determined by the payee of the distribution. There is also no requirement for withholding state income tax from a pension or other retirement plan if the distribution is \$1,000 per month or less or if the taxable amount is \$1,000 or less and the person receiving the distribution is eligible for the partial exemption of retirement benefits described in rule 701—40.47(422) and that person has indicated an intention to file a joint state income tax return for the year in which the distribution is made. In instances where the distribution amount or the taxable amount is more than \$500 per month but less than \$6,000 for the year, no state income tax will be required to be withheld, if the person receiving the distribution is eligible for the partial exemption of retirement benefits.

Finally, there is no requirement for withholding from a lump-sum payment from a qualified retirement plan if the lump-sum payment is \$6,000 or less, the recipient is eligible for the partial exemption of distributions from pensions and other retirement plans, and the lump-sum payment is the only distribution from the retirement plan in the year.

ITEM 26. Amend subrule 48.7(2), introductory paragraph, as follows:

**48.7(2)** Deduct from the computed tax one personal exemption credit of \$20 (\$40 for tax years beginning on or after January 1, 1998) for each nonresident partner, shareholder, employee, or beneficiary included in the composite return.

ITEM 27. Amend paragraph **52.1(1)“d,”** introductory paragraph, as follows:

*d. Intangible property located or having a situs within Iowa.* Intangible property does not have a situs in the physical sense in any particular place. *Wheeling Steel Corporation v. Fox*, 298 U.S. 193, 80 L.Ed. 1143, 56 S.Ct. 773 (1936); *McNamara v. George Engine Company, Inc.*, 519 So.2d 217 (La. App. 1988). The term “intangible property located or having a situs within Iowa” means generally that the intangible property belongs to a corporation with its commercial domicile in Iowa or, regardless of where the corporation which owns the intangible property has its commercial domicile, the intangible property has become an integral part of some business activity occurring regularly in Iowa. *Beidler v. South Carolina Tax Commission*, 282 U.S. 1, 75 L.Ed. 131, 51 S.Ct. 54 (1930); *Geoffrey, Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993); *Kmart Properties, Inc. v. Taxation & Revenue Department of New Mexico*, 131 P. 3d 27 (N.M. Ct. App. 2001), rev'd on other issues, 131 P. 3d 22 (N.M. 2005); *Secretary, Department of Revenue v. Gap (Apparel), Inc.*, 886 So. 2d 459 (La.Ct.App. 2004); *A & F Trademark v. Tolson*, 605 S.E. 2d 187 (N.C.App. 2004), cert. denied 126 S.Ct. 353 (2005); *Lanco, Inc. v. Director, Division of Taxation*, 879 A.2d 1234 (N.J.Super.A.D. 2005), aff'd, 908 A.2d 176 (N.J. 2006) (per curiam), cert. denied 127 S.Ct. 2974 (June 18, 2007); *Geoffrey, Inc. v. Oklahoma Tax Commission*, 132 P. 3d 632 (Okla. Ct. Civ. App. 2005), cert. denied (Mar. 20, 2006), as corrected (Apr. 12, 2006); *FIA Card Services, Inc. v. Tax Comm'r*, 640 S.E.2d 226 (W. Va. 2006), cert. denied, 127 S.Ct. 2997 (June 18, 2007); *Capital One Bank v. Commissioner of Revenue*, 899 N.E.2d 76 (Mass. 2009); *Geoffrey, Inc. v. Commissioner of Revenue*,

## REVENUE DEPARTMENT[701](cont'd)

899 N.E.2d 87 (Mass. 2009); *KFC Corporation v. Iowa Department of Revenue*, 792 N.W. 2d 308 (Iowa 2010), cert. denied 132 S. Ct. 97 (October 3, 2011). The following is a noninclusive list of types of intangible property: copyrights, patents, processes, trademarks, trade names, franchises, contracts, bank deposits including certificates of deposit, repurchase agreements, mortgage loans, consumer loans, business loans, shares of stocks, bonds, licenses, partnership interests including limited partnership interests, leaseholds, money, evidences of an interest in property, evidences of debts such as credit card debt, leases, an undivided interest in a loan, rights-of-way, and interests in trusts.

ITEM 28. Amend subrule 52.1(4), introductory paragraph, as follows:

**52.1(4)** *Taxation of corporations having only intangible property located or having a situs in Iowa.* For tax years beginning on or after January 1, 1995, corporations whose only connection with Iowa is their ownership of intangible property located or having a situs in Iowa are subject to Iowa income tax and must file an Iowa income tax return. Intangible property is located or has a situs in Iowa if the corporation's commercial domicile is in Iowa and the intangible property has not become an integral part of some business activity occurring regularly within or without Iowa. Regardless whether the corporation's commercial domicile is in or out of Iowa, intangible property is located or has a situs in Iowa if the intangible property has become an integral part of some business activity occurring regularly in Iowa. *Geoffrey, Inc. v. South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993), cert. denied, 114 S.Ct. 550 (1993); *Arizona Tractor Company v. Arizona State Tax Commission*, 115 Ariz. 602, 566 P.2d 1348 (Ariz. App. 1977); *KFC Corporation v. Iowa Department of Revenue*, 792 N.W. 2d 308 (Iowa 2010), cert. denied 132 S. Ct. 97 (October 3, 2011). In the event that the intangible property interest is a general or limited partnership interest, the location or situs of that partnership interest is the place(s) where the partnership conducts business. *Arizona Tractor Company v. Arizona State Tax Commission*, supra.

ITEM 29. Amend rule 701—52.12(422) as follows:

**701—52.12(422) Deduction of credits.** The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be ~~deducted~~ claimed in the following sequence.

1. Franchise tax credit.
2. Disaster recovery housing project tax credit.
3. School tuition organization tax credit.
4. Venture capital tax credits (excluding redeemed Iowa fund of funds tax credit).
5. Endow Iowa tax credit.
6. Agricultural assets transfer tax credit.
7. ~~Film-qualified expenditure tax credit.~~ Custom farming contract tax credit.
8. ~~Film investment tax credit.~~ Film qualified expenditure tax credit.
9. ~~Redevelopment tax credit.~~ Film investment tax credit.
10. ~~Investment tax credit.~~ Redevelopment tax credit.
11. ~~Wind energy production tax credit.~~ From farm to food donation tax credit.
12. ~~Renewable energy tax credit.~~ Investment tax credit.
13. ~~Redeemed Iowa fund of funds tax credit.~~ Wind energy production tax credit.
14. ~~New jobs tax credit.~~ Renewable energy tax credit.
15. ~~Economic development region revolving fund tax credit.~~ Redeemed Iowa fund of funds tax credit.
16. ~~Solar energy system tax credit.~~ New jobs tax credit.
17. ~~Charitable conservation contribution tax credit.~~ Economic development region revolving fund tax credit.
18. ~~Alternative minimum tax credit.~~ Solar energy system tax credit.
19. ~~Historic preservation and cultural and entertainment district tax credit.~~ Charitable conservation contribution tax credit.
20. ~~Corporate tax credit for certain sales tax paid by developer.~~ Alternative minimum tax credit.

## REVENUE DEPARTMENT[701](cont'd)

21. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit.~~ Historic preservation and cultural and entertainment district tax credit.
22. ~~Research activities tax credit.~~ Corporate tax credit for certain sales tax paid by developer.
23. ~~Assistive device tax credit.~~ Ethanol promotion tax credit.
24. ~~Motor fuel credit.~~ Research activities credit.
25. ~~Wage benefits tax credit.~~ Assistive device tax credit.
26. ~~Refundable portion of investment tax credit, as provided in subrule 52.10(4).~~ Motor fuel tax credit.
27. ~~E-85 gasoline promotion tax credit.~~ Wage-benefits tax credit.
28. ~~Biodiesel blended fuel tax credit.~~ Refundable portion of investment tax credit, as provided in subrule 52.10(4).
29. ~~E-15 plus gasoline promotion tax credit.~~ E-85 gasoline promotion tax credit.
30. ~~Estimated tax and payment with vouchers.~~ Biodiesel blended fuel tax credit.
31. E-15 plus gasoline promotion tax credit.
32. Estimated tax and payment with vouchers.

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

ITEM 30. Amend subrule **52.44(2)**, second and third unnumbered paragraphs, as follows:

The federal energy tax credit for solar energy systems is currently allowed for installations that are ~~completed~~ placed in service on or before December 31, 2016. Therefore, the Iowa tax credit will be available for the 2012 to 2016 tax years for ~~installations completed~~ systems placed in service on or before December 31, 2016. The solar energy system must be ~~installed~~ placed in service on or after January 1, 2012, to qualify for the Iowa credit. If the taxpayer installed a solar energy system and initially reported the federal tax credit for a tax year beginning prior to January 1, 2012, no Iowa credit will be allowed.

EXAMPLE: A taxpayer reported a \$9,000 energy credit on the 2011 federal return due to an installation of a solar energy system that was ~~completed~~ placed in service in 2011. The taxpayer applied \$4,000 of the credit on the taxpayer's 2011 federal return since the federal tax liability was \$4,000. The remaining \$5,000 of federal credit was applied on the 2012 federal return. No credit will be allowed on the 2012 Iowa return since the installation was ~~completed~~ placed in service before January 1, 2012.

ITEM 31. Adopt the following **new** subrules 53.8(3) to 53.8(6):

**53.8(3)** *Charitable contributions relating to the charitable conservation contribution tax credit.* For tax years beginning on or after January 1, 2008, a taxpayer who claims a charitable conservation contribution tax credit in accordance with rule 701—52.37(422) cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes.

**53.8(4)** *Charitable contributions relating to school tuition organizations.* For tax years beginning on or after July 1, 2009, a taxpayer who claims a school tuition organization tax credit in accordance with rule 701—52.38(422) cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution to the school tuition organization for which the tax credit is claimed for Iowa tax purposes.

**53.8(5)** *Charitable contributions relating to the endow Iowa tax credit.* For tax years beginning on or after January 1, 2010, a taxpayer who claims an endow Iowa tax credit in accordance with rule 701—52.23(15E,422) cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes.

**53.8(6)** *Charitable contributions related to the from farm to food donation tax credit.* For tax years beginning on or after January 1, 2014, a taxpayer who claims a from farm to food donation tax credit in accordance with rule 701—52.45(422,85GA,SF452) cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes.

REVENUE DEPARTMENT[701](cont'd)

ITEM 32. Amend rule ~~701—53.8(422)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.35 as amended by and 1994 2013 Iowa Acts, Senate File 2215 452.

ITEM 33. Amend subrule 58.5(4) as follows:

**58.5(4)** Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available for use and the credit is based on the minimum tax paid by the taxpayer for 1987. ~~However, only the portion of the minimum tax which is attributable to those adjustments and tax preferences which are "deferral items" qualifies for the minimum tax credit for tax years beginning prior to January 1, 1990. "Deferral items" are those tax preferences and adjustments which result in a temporary change in a taxpayer's tax liability. An example of a "deferral item" is the tax preference for accelerated depreciation of real property placed in service before 1987. On the other hand, the portion of the minimum tax which is attributable to the "exclusion item" for appreciated property charitable deduction does not qualify for the minimum tax credit. The appreciated property charitable deduction tax preference is the only state "exclusion item," although there are several "exclusion items" which are used to compute federal minimum tax. For tax years beginning on or after January 1, 1990, the entire amount of minimum tax paid qualifies for the minimum tax credit, and there is no longer any distinction between "deferral items" and "exclusion items."~~ The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the tentative minimum tax for the tax year. If the minimum tax credit is not used up against the regular tax for a tax year, the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

*a. Computation of minimum tax credit on Form Schedule IA 8801C 8827F.* The minimum tax credit is computed on Form Schedule IA 8801C 8827F from information on Form Schedule IA 4626 4626F for the prior tax year years, Form IA 1120 1120F and Form Schedule IA 4626 4626F for the current year and from Form Schedule IA 8801C 8827F for the prior tax year years (applies in 1989 and in subsequent tax years).

Form IA 8801C is in three parts. In the first part, a calculation is made to determine the portion of the minimum tax paid in the prior year, if any, which is attributable to the exclusion item for appreciated property charitable deduction. In the second portion of Form IA 8801C, the minimum tax attributable to the appreciated property charitable deduction from Part I is subtracted from the total minimum tax paid for the prior year. The remaining amount of minimum tax is attributable to the deferral tax preference items and adjustment items. This remaining amount, if any, is added to the minimum tax carryover credit from Form IA 8801C for the prior tax year, if any. This total is compared to the regular income tax liability less nonrefundable credits, less the tentative minimum tax for the current year and the lesser amount is the allowable minimum tax credit for the current year.

The final part of Form IA 8801C is used to compute the minimum tax credit, if any, which will be carried over to the next tax year. The carryover credit is computed by subtracting the allowable credit for the current tax year from the total of the minimum tax credit attributable to deferral items and the carryover credit from the prior tax years.

*b. Example. Examples of computation of the minimum tax credit and carryover of the credit.* The taxpayer had a 1989 taxable income of \$450,000 and an accelerated depreciation tax preference of \$280,000. In 1988 the taxpayer had taxable income of \$500,000 and tax preferences of \$370,000 which consisted of \$320,000 of accelerated property charitable deduction and \$50,000 of appreciated property charitable deduction. The minimum tax credit for 1989 was computed on Form IA 8801C using data from Form IA 4626F for 1988 and from Form IA 4626F for 1989 and Form IA 1120 for 1989.

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## Form IA 8801C

<b>Part I. Computation of Minimum Tax on Exclusion Items</b>		
Line 11	- Gross tax on exclusion items	-0-
Line 12	- Less regular tax minus credits	\$33,900
Line 13	- Net minimum tax on exclusion items	-0-
<b>Part II. Computation of Allowable Credit for 1989</b>		
Line 14	- Enter amount from line 18 IA 4626F for 1988	\$ 1,100
Line 15	- Enter amount from line 13 part I	-0-
Line 16	- Subtract line 15 from line 14	\$ 1,100
Line 17	- Enter credit carryforward from 1987	-0-
Line 18	- Add lines 16 and 17	\$ 1,100
Line 19	- Enter 1989 regular tax liability	\$22,500
Line 20	- Enter 1989 tentative minimum tax	\$21,600
Line 21	- Subtract line 20 from line 19	\$ 900
Line 22	- Allowable minimum tax credit for 1989. Enter smaller of line 18 or line 21	\$ 900
<b>Part III. Computation of Minimum Tax Credit Carryovers</b>		
Line 23	- Enter amount from line 18 part II	\$ 1,100
Line 24	- Enter amount from line 22 part II	900
Line 25	- Carryforward of minimum tax credit to 1990. Subtract line 24 from line 23	<u>\$ 200</u>

EXAMPLE 1. Taxpayer reported \$5,000 of minimum tax for 2011. For 2012, taxpayer reported regular tax less credits of \$8,000, and the minimum tax liability is \$6,000. The minimum tax credit is \$2,000 for 2012 because, although the taxpayer had an \$8,000 regular tax liability, the credit is allowed only to the extent that the regular tax exceeds the minimum tax. Since only \$2,000 of the carryover credit from 2011 was used, there is a \$2,000 minimum tax carryover credit to 2013.

EXAMPLE 2. Taxpayer reported \$2,500 of minimum tax for 2011. For 2012, taxpayer reported regular tax less credits of \$8,000, and the minimum tax liability is \$5,000. The minimum tax credit is \$2,500 for 2012 because, although the regular tax less credits exceeded the minimum tax by \$3,000, the credit is allowed only to the extent of minimum tax paid for prior tax years. There is no minimum tax carryover credit to 2013.

*c. Minimum tax credit after merger.* When two or more financial institutions merge or consolidate into one financial organization, the minimum tax credit of the merged or consolidated operation is available for use by the survivor of the merger or consolidation.

ITEM 34. Adopt the following **new** rule 701—59.17(15E,422):

**701—59.17(15E,422) Charitable contributions relating to the endow Iowa tax credit.** For tax years beginning on or after January 1, 2010, a taxpayer who claims an endow Iowa tax credit in accordance with rule 701—58.13(15E,422) cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes.

This rule is intended to implement Iowa Code section 15E.305.

**ARC 1238C****REVENUE DEPARTMENT[701]****Notice of Intended Action**

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

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

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

The amendment to rule 701—71.21(421,17A) provides for corrections to subrules to bring them into compliance with 2013 Iowa Acts, Senate File 295, division VI, and makes other identified changes.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 6, 2014. Such written comments should be directed to the Property Assessment Appeal Board, PO Box 10486, Des Moines, Iowa 50306.

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

Requests for a public hearing must be received by January 6, 2014.

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

This amendment is intended to implement Iowa Code sections 421.1A and 441.37A as amended by 2013 Iowa Acts, Senate File 295, division VI, and chapter 17A.

The following amendment is proposed.

Amend rule 701—71.21(421,17A) as follows:

**701—71.21(421,17A) Property assessment appeal board.**

**71.21(1) Establishment, membership, and location of the property assessment appeal board.**

*a.* No change.

*b.* The property assessment appeal board shall consist of three members appointed by the governor and subject to confirmation by the senate. The members shall be appointed to staggered six-year terms beginning initially on January 1, 2007, and ending as provided in Iowa Code section 69.19. Members’ subsequent terms shall begin and end as provided in Iowa Code section 69.19. The governor shall appoint from the members a chairperson, subject to confirmation by the senate, of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made.

Each member of the property assessment appeal board shall be qualified by virtue of at least two years’ experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. ~~One member~~ Two members of the board shall be a certified real estate appraiser or hold a professional appraisal designation; property appraisers and one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals; ~~and one member shall be a professional with experience in the field of accounting or finance and with experience in state and local taxation matters.~~ No more than two members of the board may be from the same political party as that term is defined in Iowa Code section 43.2.

## REVENUE DEPARTMENT[701](cont'd)

c. No change.

**71.21(2)** and **71.21(3)** No change.

**71.21(4) Compensation.** The members of the property assessment appeal board shall receive ~~compensation from the state commensurate with the salary of a district judge~~ a salary set by the governor within a range established by the general assembly. The members of the board shall be considered state employees for purposes of salary and benefits and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV. Members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of their duties.

~~**71.21(5) Appeal board review committee.** Effective January 1, 2012, a property assessment appeal board review committee is established. Staffing assistance to the committee shall be provided by the department of revenue. The committee shall consist of six members of the general assembly, two appointed by the majority leader of the senate, one appointed by the minority leader of the senate, two appointed by the speaker of the house of representatives, and one appointed by the minority leader of the house of representatives; the director of revenue or the director's designee; a county assessor appointed by the Iowa state association of counties; and a city assessor appointed by the Iowa league of cities.~~

~~The property assessment appeal board review committee shall review the activities of the property assessment appeal board since its inception. The review committee may recommend the revision of any rules, regulations, directives, or forms relating to the activities of the property assessment appeal board.~~

~~The review committee shall report to the general assembly by January 15, 2013. The report shall include any recommended changes in laws relating to the property assessment appeal board, the reasons for the committee's recommendations, and any other information the committee deems advisable.~~

~~**71.21(6) 71.21(5) Applicability and scope.** These subrules set forth herein govern the proceedings for all cases in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review. For the purpose of these subrules, the following definitions shall apply:~~

~~"Appellant" means the party filing the notice of appeal with the secretary of the property assessment appeal board.~~

~~"Board" means the property assessment appeal board as created by ~~chapter 150 of the Acts of the Eighty-first General Assembly~~ Iowa Code section 421.1A and governed by Iowa Code chapter 17A and sections 421.1A and section 441.37A.~~

~~"Department" means the Iowa department of revenue.~~

~~"Local board of review" means the board of review as defined by Iowa Code section 441.31.~~

~~"Party" means a property owner, an aggrieved taxpayer, an assessor, an appellant or an appellee in an appeals process before the board each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.~~

~~"Presiding officer" means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the property assessment appeal board.~~

~~"Secretary" means the secretary for the property assessment appeal board.~~

~~**71.21(7) 71.21(6) Appeal and jurisdiction.** Notice of appeal confers jurisdiction for the board. The procedure for appeals and parameters for jurisdiction are as follows:~~

~~a. Jurisdiction is conferred upon the board by written notice of appeal given to the secretary. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. The written notice of appeal shall be filed with the secretary within 20 calendar days after the ~~postmarked date of the disposition of the protest by adjournment of the local board of review.~~ Appeals postmarked within 20 days after the postmarked date of the disposition of the protest by the local board of review this time period shall also be considered to have been timely filed. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. A party may request to participate by telephone in any hearing before the board. No new grounds in addition to those set out in the protest to the local board of review can be pleaded, but additional evidence to sustain those grounds may be introduced. The appeal is a contested case.~~

REVENUE DEPARTMENT[701](cont'd)

~~b. The notice of appeal must be proper in format and content as set forth in subrule 71.21(9), which governs the notice of appeal. Notice of appeal may be delivered in person, mailed by first-class mail, or delivered to an established courier service for immediate delivery to the secretary of the board, or e-mailed to the board at paab@iowa.gov.~~

~~c. For an appeal filed by e-mail to be timely, it must be received by the board by 11:59 p.m. on the last day for filing as established within the time period set forth in paragraph 71.21(6) "a."~~

~~71.21(7) Form of appeal. The notice of appeal shall include:~~

~~a. The appellant's name, mailing address, e-mail address, and telephone number;~~

~~b. The address of the property being appealed and its parcel number;~~

~~c. A copy of the letter of disposition by the local board of review;~~

~~d. A short and plain statement of the claim showing that the appellant is entitled to relief;~~

~~e. The relief sought; and~~

~~f. If the party is represented by an attorney or designated representative, the attorney or designated representative's name, mailing address, e-mail address, and telephone number.~~

~~71.21(8) Scope of review. The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. The board will consider only those grounds set out in the protest to the local board of review. However, additional evidence may be introduced in the board proceedings relevant to the grounds set out in the protest. The board shall afford each party an opportunity to present briefs and oral arguments. There shall be no presumption as to the correctness of the valuation of the assessment appealed from. The burden of proof is on the appellant; however, when the appellant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the party seeking to uphold the valuation.~~

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

THE PROPERTY ASSESSMENT APPEAL BOARD

(Appellant's name and address)

v.

(Board of Review)



NOTICE OF APPEAL and PETITION

DOCKET NO. \_\_\_\_\_

(Docket No. assigned by board)

The notice of appeal shall include:

~~a. The appellant's name and mailing address;~~

~~b. A copy of the petition to the local board of review;~~

~~c. Copies of all evidence submitted to the local board of review in support of the petition to the local board of review;~~

~~d. A copy of the postmarked envelope and a copy of the letter of disposition by the local board of review;~~

~~e. A short and plain statement of the claim showing that the appellant is entitled to relief;~~

~~f. The relief sought; and~~

~~g. The signature of the appealing party or the party's legal representative.~~

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

~~71.21(10) 71.21(9) Notice to local board of review. The secretary shall mail a copy of the appellant's written notice of appeal and petition to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review.~~

~~71.21(11) 71.21(10) Certification by local board of review.~~

~~a. Initial certification. Within 14 21 days after notice of appeal is given, the local board of review shall certify to the board all records, documents, or reports, or disposition order or directive from which an appeal is taken, the complete property record card for the subject property, the protest hearing minutes of the local board of review kept pursuant to Iowa Code chapter 21, and all other pertinent information~~

## REVENUE DEPARTMENT[701](cont'd)

the original notice of assessment if any, the petition to the board of review, and a copy of the board of review's letter of disposition.

The local board of review shall also submit to the board in writing the name, address, ~~and~~ telephone number, and e-mail address of the attorney representing the local board of review before the board. The local board of review may ~~make a written request for~~ additional time to certify a copy of its record to the board by submitting a request in writing or by e-mail to the board at paab@iowa.gov.

*b. Full record certification prior to hearing.* At least 21 calendar days prior to the contested case hearing, the local board of review shall certify to the board the complete property record card for the subject property, the protest hearing minutes of the local board of review kept pursuant to Iowa Code chapter 21, and any information provided to or considered by the local board of review as part of the protest. The local board of review shall also send a copy of the full record to the opposing party.

~~71.21(12)~~ **71.21(11)** *Docketing.* Appeals shall be assigned consecutive docket numbers. Records consisting of the case name and the corresponding docket number assigned to the case ~~must~~ shall be maintained by the secretary. The records of each case shall also include each action and each act done, with the proper dates as follows:

*a.* to *g.* No change.

~~71.21(13)~~ **71.21(12)** *Appearances.* A party may appear in person, by legal representative or through an attorney. In order to be considered the legal representative before the board, a valid power of attorney form as provided by the board or in compliance with the power of attorney form provided by the board must be properly completed and filed with the board. An attorney shall file an appearance. All orders, correspondence, or other documents shall be served on the designated individual. Any party may appear and be heard on its own behalf, or by its designated representative. A designated representative shall file a notice of appearance with the board for each case in which the representative appears for a party. Filing a motion or pleadings on behalf of a party shall be equivalent to filing a notice of appearance. A designated representative who is not an attorney shall also file a power of attorney. When acting as a designated representative on behalf of a party, the designated representative acknowledges that the representative has read and will abide by the board's rules.

~~71.21(14)~~ **71.21(13)** *Filing Service and filing of papers.* After the notice of appeal and petition have been filed, ~~either in person, mailed by first-class mail, or delivered to an established courier service for immediate delivery,~~ all motions, pleadings, briefs, and other papers to be filed shall be filed with the secretary of the board served upon each of the parties of record contemporaneously with their filing with the board. ~~Motions, pleadings, briefs, and other papers to be filed with the board shall be delivered in person, mailed by first-class mail, or delivered to an established courier service. Parties shall also send copies to all other parties of record, unless represented by counsel of record, and then to such counsel.~~

*a. Service on a party—how and when made.* The parties may agree to exchange the certified record, motions, pleadings, briefs, exhibits, and any other papers with each other electronically or via any other means. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent electronically if the parties have agreed to service by such means.

*b. Filing with the board—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent by e-mail as permitted by the applicable subrules of this rule.

*a.* (1) For most filings in a docket made with the board, only an original is required.

*b.* (2) For exhibits and other documents to be introduced at hearing, ~~an original plus two~~ three copies are required. For a nonoral submission, only one copy is required.

*e.* (3) The board or presiding officer may request additional copies.

*c. Proof of mailing.* Proof of mailing includes: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

## REVENUE DEPARTMENT[701](cont'd)

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Property Assessment Appeal Board and to the names and addresses of the parties listed below by depositing the same in a (United States post office mailbox with correct postage properly affixed).

(Date)

(Signature)

**71.21(15) 71.21(14) Motions.** No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the secretary and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than 10 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

a. Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least 10 days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the board or presiding officer.

b. Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served no later than 90 days after service of the notice of appeal, unless good cause is shown for a later filing. Good cause may include, but is not limited to, information the moving party obtains through discovery. Any party resisting the motion shall file and serve a resistance within 20 days, unless otherwise ordered by the board or presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 30 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to subrule 71.21(34).

**71.21(16) 71.21(15) Authority of board to issue procedural orders.** The board may issue preliminary orders regarding procedural matters. The secretary shall mail copies of all procedural orders to the parties.

**71.21(17) 71.21(16) Members participating.** Each appeal may be reviewed and considered by less than a majority of the one or more members of the board, and the chairperson of the board may assign members to consider appeals. Orders and decisions shall be signed by one member of the board and shall name participating members. If the appeal is considered by less than the full membership of the board, the determination made by such members shall be forwarded to the full board for approval, rejection, or modification. Decisions shall affirm, modify, or reverse the decision, order, or directive from which an appeal was made. In order for the decision to be valid, a majority of the board must concur on the decision on appeal.

**71.21(18) 71.21(17) Notice of hearing.** Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. If a hearing is requested, the secretary shall mail a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule 71.21(18). The notice of hearing shall contain the following information:

a. to j. No change.

**71.21(18) Waiver of 30-day notice.** The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing. The waiver must be in writing or by e-mail to paab@iowa.gov and signed by the parties or their designated representatives. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.

## REVENUE DEPARTMENT[701](cont'd)

**71.21(19)** No change.

**71.21(20)** *Continuance.* Any hearing may be continued for “good cause.” Requests for continuance prior to the hearing shall be in writing or by e-mail to [paab@iowa.gov](mailto:paab@iowa.gov) and promptly filed with the secretary of the board immediately upon “the cause” becoming known. An emergency oral continuance may be obtained from the board or presiding officer based on “good cause” and at the discretion of the board or presiding officer. In determining whether to grant a continuance, the board or presiding officer may consider:

*a.* to *h.* No change.

*i.* Other relevant factors, including the existence of a scheduling order.

**71.21(21)** *Telephone proceedings.* ~~The board, at its discretion and based on “good cause,” or presiding officer~~ may conduct a telephone conference in which all parties have an opportunity to participate to resolve preliminary procedural motions. Other proceedings, including contested case hearings, may be held by telephone. The board will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

**71.21(22)** No change.

**71.21(23)** *Consolidation and severance.* ~~A majority of the board may determine, in its discretion,~~ The board or presiding officer may determine if consolidation or severance of issues or proceedings should be performed in order to efficiently resolve matters on appeal before the board.

*a.* and *b.* No change.

**71.21(24)** *Withdrawal.* An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing or by e-mail to [paab@iowa.gov](mailto:paab@iowa.gov) and signed by the appellant or the appellant’s legal designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board granting a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

**71.21(25)** No change.

**71.21(26)** *Scheduling orders.*

*a.* When required. For appeals involving properties classified commercial or industrial and assessed at \$2 million or more, a scheduling order shall be sent to the parties to set dates for discovery, designation of witnesses, filing of motions, exchange of evidence, and a contested case hearing. In any other appeal, the parties may jointly enter a scheduling order or the board may, on its own motion, issue a scheduling order. The dates established in a scheduling order under this subrule shall supersede any dates set forth in other subrules of this rule.

*b.* Prehearing conference. A party may request a prehearing conference to resolve scheduling issues.

*c.* Modification. The parties may jointly agree to modify a scheduling order. If one party seeks to modify a scheduling order, the party must show good cause for the modification.

*d.* Failure to comply. A party that fails to comply with a scheduling order shall be required to show good cause for failing to comply with the order and that the other party is not substantially prejudiced. Failing to comply with a scheduling order may result in sanctions including, but not limited to, the exclusion of evidence or dismissal of the appeal.

~~**71.21(26)**~~ **71.21(27)** *Hearing procedures.* A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

*a.* No change.

*b.* *Representation.* Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or ~~another person authorized by law by a designated representative.~~ To have legal representation before the board, a party must complete a power of attorney form as provided by the board or in compliance with the power of attorney form provided by the board.

*c.* to *e.* No change.

## REVENUE DEPARTMENT[701](cont'd)

**~~71.21(27)~~ 71.21(28)** *Discovery.*

*a. Discovery procedure.* Discovery procedures applicable in civil actions under the Iowa Rules of Civil Procedure are available to parties in cases before the board. Unless lengthened or shortened by these rules, the board or presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

*b. and c.* No change.

**~~71.21(28)~~ 71.21(29)** *Subpoenas.*

*a. and b.* No change.

*c. Motion to quash or modify.* Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason in accordance with the Iowa Rules of Civil Procedure.

**~~71.21(29)~~ 71.21(30)** *Evidence.*

*a. to c.* No change.

*d. Exhibits, exhibit and witness lists, and briefs.* The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be provided to served on the opposing party at least 10 21 calendar days prior to the hearing, unless the time period is extended or shortened by the board or presiding officer or the parties have entered a scheduling order under subrule 71.21(26). All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record. The appellant shall mark exhibits with consecutive numbers. The appellee shall mark exhibits with consecutive letters.

*e. and f.* No change.

**~~71.21(30)~~ 71.21(31)** *Settlements.* Parties to a case may propose to settle all or some of the issues in the case at any time prior to the issuance of a final decision. A settlement of an appeal shall be jointly signed by the parties, or their designated representatives, and filed in writing or by an electronic copy e-mailed to paab@iowa.gov. The board ~~or presiding officer~~ will not approve settlements unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

**~~71.21(31)~~ 71.21(32)** *Appeals records Records access.* ~~The record of the appeal is maintained at the office of the board. Unless the record is held confidential, parties and members of the public may examine the record and obtain copies of documents.~~

*a. Location of record.* A request for access to a record should be directed to the custodian.

*b. Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. Monday through Friday excluding holidays.

*c. Request for access.* Requests for access to open records may be made in writing, in person, by e-mail, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, e-mail, and telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

*d. Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian of a record may deny access by members of the public to the record only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court or board order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the applicable provisions of law.

*e. Security of record.* No person may, without permission from the secretary, search or remove any record from board files. Examination and copying of board records shall be supervised by the secretary. Records shall be protected from damage and disorganization.

## REVENUE DEPARTMENT[701](cont'd)

f. Copying. A reasonable number of copies of an open record may be made in the board's office. If photocopy equipment is not available, the custodian shall permit examination of the record and shall arrange to have copies promptly made elsewhere.

g. Fees.

(1) When charged. The board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

(2) Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the board are available from the custodian. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined and made available by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

(3) Supervisory fee. An hourly fee may be charged for actual board expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall provide the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a board clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

(4) Advance deposits.

1. When the estimated total fee chargeable under this paragraph exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

2. When a requester has previously failed to pay a fee chargeable under this paragraph, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

~~71.21(32)~~ **71.21(33)** *Motion to reopen records.* The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. A motion to reopen the record may be made anytime prior to the issuance of a final decision.

~~71.21(33)~~ **71.21(34)** *Rehearing Rehearing and reconsideration.*

a. to e. No change.

~~71.21(34)~~ **71.21(35)** *Dismissal.* If a party fails to appear or participate in an appeal hearing after proper service of notice, the presiding officer may dismiss the appeal unless a continuance is granted for good cause. If an appeal is dismissed for failure to appear, the board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

~~71.21(35)~~ **71.21(36)** *Waivers.*

a. to c. No change.

~~71.21(36)~~ **71.21(37)** *Appeals of board decisions.* A party may seek judicial review of a decision rendered by the board by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the letter of disposition of the appeal by the board is mailed to the appellant. Iowa Code chapter 17A applies to judicial review of the board's final decision. The filing of the petition does not itself stay execution or enforcement of the board's final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

**71.21(38)** *Stays of agency actions.* Any party to a contested case proceeding may petition the board 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. In determining whether to grant a stay, the board or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5) "c." A stay may be vacated by the board upon application of any other party.

~~71.21(37)~~ **71.21(39)** *Time requirements.* Time shall be computed as provided in Iowa Code section 4.1(34).

REVENUE DEPARTMENT[701](cont'd)

~~71.21(38)~~ **71.21(40)** *Judgment of the board.* Nothing ~~stated~~ in this rule should be construed as prohibiting the exercise of honest judgment, as provided by law, by the board in matters pertaining to valuation and assessment of individual properties.

This rule is intended to implement Iowa Code sections 421.1, 421.1A as amended by 2013 Iowa Acts, Senate File 295, division VI, 421.2, 441.37A as amended by 2013 Iowa Acts, Senate File 295, division VI, 441.38 and 441.49 and chapter 17A.

## USURY

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

December 1, 2012 — December 31, 2012	3.75%
January 1, 2013 — January 31, 2013	3.75%
February 1, 2013 — February 28, 2013	3.75%
March 1, 2013 — March 31, 2013	4.00%
April 1, 2013 — April 30, 2013	4.00%
May 1, 2013 — May 31, 2013	4.00%
June 1, 2013 — June 30, 2013	3.75%
July 1, 2013 — July 31, 2013	4.00%
August 1, 2013 — August 31, 2013	4.25%
September 1, 2013 — September 30, 2013	4.50%
October 1, 2013 — October 31, 2013	4.75%
November 1, 2013 — November 30, 2013	4.75%
December 1, 2013 — December 31, 2013	4.50%

## ARC 1214C

## HUMAN SERVICES DEPARTMENT[441]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 74, "Iowa Health and Wellness Plan," Iowa Administrative Code.

This amendment adds a new rule to Chapter 74 based on a waiver of 1902(e)(14)(A) of the Social Security Act (42 U.S.C. § 1396a(e)(14)(A)) approved by the Centers for Medicare and Medicaid Services (CMS). This waiver allows Iowa to process eligibility determinations for current IowaCare members based on income verified via food assistance applications, income verified on Medicaid cases associated with the IowaCare member, Iowa Workforce Development (IWD) wage and unemployment insurance benefits, and income data received from the Income and Eligibility Verification System (IEVS) from the federal government.

All individuals who were IowaCare members on October 1, 2013, will be evaluated for eligibility for the Iowa Health and Wellness Plan (IHAWP). The members who meet the eligibility requirements, including family income of no more than 138 percent of the federal poverty level (FPL), will be notified that they will be enrolled in the Iowa Health and Wellness Plan effective January 1, 2014. This will allow an estimated 55,000 members to transition directly from IowaCare to IHAWP. Those members who are not eligible for IHAWP or the Family Medical Assistance Program (FMAP) with children will be informed that they will need to apply for new health assistance.

The Council on Human Services adopted this amendment on November 13, 2013.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the Legislature authorized emergency rules to implement IHAWP in accordance with 2013 Iowa Acts, Senate File 446, section 185.

Pursuant to Iowa Code section 17A.5(2)"b"(1), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective November 13, 2013. The implementation period can be waived because of legislative action and because the amendment will confer a benefit on the public as the amendment allows for a seamless transition of IowaCare recipients to IHAWP without an application.

This amendment is also published herein under Notice of Intended Action as **ARC 1213C** to allow for public comment.

This amendment does not provide for waivers in specified situations because the legislation does not specifically allow for waivers. Requests for waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

This amendment is intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 185.

This amendment became effective November 13, 2013.

The following amendment is adopted.

Adopt the following **new** rule 441—74.15(249A,85GA,SF446):

**441—74.15(249A,85GA,SF446) Enrollment for IowaCare members.**

**74.15(1)** Subject to a waiver of the eligibility requirements of 42 U.S.C. § 1396a(e)(14)(A) by the federal Centers for Medicare and Medicaid Services, and notwithstanding any other provision of this chapter, an individual who is enrolled in the IowaCare program under 441—Chapter 92 on October 1, 2013, shall be enrolled without an application in the Iowa Health and Wellness Plan effective January 1, 2014, if department records show:

*a.* That the income of all household members considered in determining the individual's eligibility for IowaCare (other than child support income) does not exceed 138 percent of the federal poverty level for a household of that size, based on the following sources of income information, in the following order of priority:

## HUMAN SERVICES DEPARTMENT[441](cont'd)

- (1) Income used to determine eligibility for food assistance for the individual and other IowaCare household members, pursuant to 441—Chapter 92;
  - (2) Income used to determine eligibility for medical assistance for other IowaCare household members, pursuant to 441—Chapter 75;
  - (3) Iowa workforce development unemployment insurance benefit data available to the department pursuant to 441—paragraph 9.10(4)“c”;
  - (4) Iowa workforce development wage data available to the department pursuant to 441—paragraph 9.10(4)“c”;
  - (5) Income and eligibility verification system data available to the department pursuant to 441—paragraph 9.10(4)“c”; and
- b. That the individual meets all eligibility requirements of the Iowa Health and Wellness Plan, pursuant to this chapter, other than income.

**74.15(2)** Individuals enrolled pursuant to this rule will thereafter be subject to all the provisions of this chapter, with no further application of this rule.

[Filed Emergency 11/13/13, effective 11/13/13]

[Published 12/11/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1212C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 7(6), the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments are due to a mitigation strategy approved by the Centers for Medicare and Medicaid Services (CMS) to allow Iowa to keep the current family planning eligibility system until June 30, 2014. Iowa requested to keep the family planning system separate from the new Medicaid eligibility system due to the time constraints of developing a new medical assistance eligibility system to process applications as required under the Patient Protection and Affordable Care Act. The family planning system will continue to process applications under non-modified adjusted gross income (MAGI) determinations.

CMS waived requirements of 42 U.S.C. § 1396a(e)(14) to allow Iowa to use non-MAGI determinations on a time-limited basis.

The Council on Human Services adopted these amendments on November 13, 2013.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary. Notice and public participation can be waived because legislation permits emergency rule making pursuant to 2013 Iowa Acts, Senate File 446, section 7(6). These amendments allow Iowa Medicaid to be in compliance with federal guidance for a time-limited period.

Pursuant to Iowa Code section 17A.5(2)“b”(1), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2014. The implementation period can be waived because legislation permits emergency rule making pursuant to 2013 Iowa Code, Senate File 446, section 7(6).

These amendments are also published herein under Notice of Intended Action as **ARC 1211C** to allow for public comment.

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

These amendments are intended to implement Iowa Code section 249A.4 and 2013 Iowa Acts, Senate File 446, section 7(6).

These amendments will become effective January 1, 2014.

The following amendments are adopted.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend rule 441—75.70(249A) as follows:

**441—75.70(249A) Financial eligibility based on modified adjusted gross income (MAGI).** Notwithstanding any other provision of this chapter, effective January 1, 2014, financial eligibility for medical assistance shall be determined using “modified adjusted gross income” (MAGI) and “household income” pursuant to 42 U.S.C. § 1396a(e)(14), to the extent required by that section as a condition of federal funding under Title XIX of the Social Security Act. For this purpose, financial eligibility for medical assistance includes any applicable purpose for which a determination of income is required, including the imposition of any premiums or cost sharing. From January 1, 2014, through June 30, 2014, subject to a waiver of the requirements of 42 U.S.C. § 1396a(e)(14) by the federal Centers for Medicare and Medicaid Services, use of MAGI and “household income” shall not be considered to be required by that section for persons otherwise eligible for family planning services under subrule 75.1(41).

ITEM 2. Amend rule 441—75.71(249A) as follows:

**441—75.71(249A) Income limits.** Notwithstanding any other provision of this chapter, effective January 1, 2014, the following income limits apply to the following coverage groups, as identified by the legal references provided:

Coverage Group	Legal Reference	Household Size (persons)	Income Limit (per month)
Family Medical Assistance Program and Child Medical Assistance Program	441—subrule 75.1(14) and 441—subrule 75.1(15); 42 CFR Part 435.110; Title XIX of the Social Security Act, Section 1931	1	\$447
		2	\$716
		3	\$872
		4	\$1,033
		5	\$1,177
		6	\$1,330
		7	\$1,481
		8	\$1,633
		9	\$1,784
		10	\$1,950
		over 10	\$1,950 plus \$178 for each additional person
Mothers and Children, for pregnant women and for infants under one year of age	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		375% of the federal poverty level for the household

## HUMAN SERVICES DEPARTMENT[441](cont'd)

<b>Coverage Group</b>	<b>Legal Reference</b>	<b>Household Size (persons)</b>	<b>Income Limit (per month)</b>
Mothers and Children, for children aged 1 through 18 years	441—subrule 75.1(28); 42 CFR Part 435.116; Title XIX of the Social Security Act, Section 1902		167% of the federal poverty level for the household
Medicaid for Independent Young Adults	441—subrule 75.1(42); Title XIX of the Social Security Act, Section 1902(a)(10)(A)(ii)(VII)		254% of the federal poverty level for the household
Family Planning Services	441—subrule 75.1(41)		<del>369% of the federal poverty level for the household</del>

[Filed Emergency 11/13/13, effective 1/1/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1210C**

**ARCHITECTURAL EXAMINING BOARD[193B]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 2, "Registration," Iowa Administrative Code.

These amendments allow for a grace period of 30 days to renew certificates of registration for architects who do not renew by June 30. It has been Board policy to allow for this practice for many years. The amendments implement Board policy and bring this Board into alignment with other boards within the Professional Licensing Bureau.

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0978C**. The adopted amendments are identical to those published under Notice.

These amendments were approved during the November 12, 2013, meeting of the Architectural Examining Board.

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

These amendments are intended to implement Iowa Code section 544A.10.

These amendments will become effective January 15, 2014.

The following amendments are adopted.

ITEM 1. Amend paragraph **2.5(1)“c”** as follows:

*c.* Upon the board's receipt of a timely and sufficient renewal application as provided in 193—subrule 7.40(3), the board's executive secretary shall issue a new certificate of registration reflecting the next expiration date, unless grounds exist for denial of the application. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

ITEM 2. Amend paragraph **2.5(2)“b”** as follows:

*b. Renewal.* A person registered as inactive may renew the person's certificate of registration on the biennial schedule described in 193B—2.5(17A,272C,544A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in 193B—2.11(544A,17A). An inactive certificate of registration shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

ITEM 3. Adopt the following **new** paragraphs **2.5(3)“a”** and **“b”**:

*a. Affirmation.* The renewal application form shall contain a statement in which the applicant affirms that the applicant will not engage in any of the practices in Iowa that are listed in Iowa Code section 544A.16 without first complying with all rules governing reinstatement to active status. A person in retired status may reinstate to active status at any time pursuant to rule 193B—2.8(544A).

*b. Renewal.* A person registered as retired may renew the person's certificate of registration on the biennial schedule described in rule 193B—2.5(17A,272C,544A). This person shall be exempt from the continuing education requirements and will be charged a reduced renewal fee as provided in rule 193B—2.11(544A,17A). A retired certificate of registration shall lapse if not timely renewed. However, the board will accept an otherwise sufficient renewal application that is untimely if the board receives the application and late fee within 30 days of the date of expiration.

ITEM 4. Amend rule 193B—2.11(544A,17A) as follows:

**193B—2.11(544A,17A) Fee schedule.** Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

## ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

## Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB

Initial registration fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration fee	\$200
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Biennial renewal fee (retired)	\$ 50
Reinstatement of lapsed individual registration (per month)	\$ 25
Duplicate wall certificate fee	\$ 50
<u>Late renewal fee</u>	<u>\$ 25</u>
<u>(for renewals postmarked on or after July 1 and before July 31)</u>	

[Filed 11/13/13, effective 1/15/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1216C****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 21, "Approval of Postsecondary Schools," Iowa Administrative Code.

The rules in Chapter 21 describe the administration of registration of postsecondary schools in Iowa. This amendment eliminates references to the Advisory Committee on Postsecondary Registration, which was eliminated from the Iowa Code; updates procedures and processes which have been instituted over the past several years; and includes lists of Iowa colleges and universities that are exempt from the registration process.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0946C** on August 21, 2013. Comments were received from one postsecondary institution and from Commission staff. The following changes have been made from the amendment published under Notice:

- The language throughout the chapter has been modified to ensure the consistent use of the term "applicant school."
- The language in subrule 21.2(2) has been changed to more specifically describe adverse conditions that would cause denial of an applicant school's registration.
- The language in subrule 21.2(11) has been changed to clarify that a school's licensure program must fully prepare a student to qualify for licensure without the need for a student to do additional work.
- The language in subrule 21.2(14) has been changed to make it consistent with the changes made to subrule 21.2(2).
- In rule 283—21.4(261B), subrules 21.4(1) and 21.4(2) have been reordered, putting the criteria a school must meet before the definition of "nontraditional" program.
- Proposed paragraph 21.5(1)"c" was not adopted because the topic of recruiting is addressed in rule 283—21.6(261B).

This amendment was approved during the November 15, 2013, meeting of the Iowa College Student Aid Commission.

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 chapters 261 and 261B.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

This amendment will become effective on January 15, 2014.  
The following amendment is adopted.

Amend **283—Chapter 21** as follows:

CHAPTER 21  
APPROVAL OF POSTSECONDARY SCHOOLS

~~**283—21.1(261B) Advisory committee on postsecondary registration.** The advisory committee on postsecondary registration examines out-of-state college and university applications for operation in Iowa and makes recommendations to the commission.~~

~~**21.1(1)** The six-member committee is appointed annually by the Iowa college student aid commission and includes one representative from each of the following:~~

~~a. The state board of regents.~~

~~b. The department of education.~~

~~c. The office of the secretary of state.~~

~~d. The office of the attorney general.~~

~~e. A community college located in this state.~~

~~f. An accredited private postsecondary institution as defined in Iowa Code section 261.9, subsection 1, incorporated or otherwise organized under the laws of this state.~~

~~**21.1(2)** The committee shall meet as needed. Meetings may be called by commission staff or upon request of a majority of committee members. A nonvoting staff member shall preside as chairperson at the meetings.~~

~~**21.1(3)** The commission shall give advance public notice of the time and place of each meeting by posting the notice to the commission's Web site. The notice will include the specific date, time, and place of the meeting and the proposed agenda.~~

~~**21.1(4)** A quorum shall consist of two-thirds of the voting members of the committee. When a quorum is present, a position is carried by an affirmative vote of the majority of committee members eligible to vote.~~

~~**21.1(5)** The committee may consider comments of the Iowa coordinating council for post-high school education that are received by the commission within 90 days of the filing of the application.~~

~~**21.1(6)** A specific time is set aside at each meeting for the public to address the committee. As a general guideline, a limit of five minutes will be allocated for each of these presentations. If a large group seeks to address a specific issue, the chairperson may limit the number of speakers. Members of the public who wish to address the committee during this portion of the meeting are required to submit a request to the executive director prior to the meeting. The person's name and the subject of the person's remarks must be noted. To accommodate maximum public participation, members of the public are encouraged to submit the request at least 72 hours in advance of the meeting. Members of the public who fail to submit a request may be recognized at the discretion of the presiding chairperson.~~

~~**21.1(7)** A report of all committee meetings will be provided to the commission at its next regularly scheduled meeting.~~

~~**283—21.1(261B) Postsecondary registration.** The college student aid commission examines college and university applications for operation in Iowa and monitors schools approved by the commission to operate in the state.~~

~~**283—21.2(261B) Approval criteria.** The college student aid commission shall approve approves an applicant schools school that meets all of the following criteria:~~

~~1. **21.2(1)** Are The applicant school is accredited by an agency recognized by the United States Department of Education Aacrediting Agency Evaluation Unit or its successor agency. The applicant school shall certify to the commission the school's status with the accrediting agency at the time of the application and provide information about any pending or final action that may affect the school's status with its accrediting agency.~~

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

~~2. **21.2(2)** Are approved for operation by the appropriate state agencies in all other states in which the schools operate or maintain a presence. The applicant school certifies to the commission that the applicant school's approval to operate in a state has not been revoked by the state, the school has not been sanctioned by a state within a year prior to the date of its application, and the school is not under investigation or bound by the terms of a judgment issued by a state's attorney general or other enforcement authority.~~

~~3. **21.2(3)** Are The applicant school certifies that it is not subject to a limitation, suspension or termination order issued by the United States Department of Education or its successor agency. The applicant school shall provide the commission with a copy of the school's current program participation agreement with the United States Department of Education.~~

~~4. Are free of sanctions from the schools' accrediting agencies and appropriate state agencies in all other states in which the schools operate or maintain a presence.~~

~~5. Enroll students who attend classes in Iowa and employ at least one full-time Iowa faculty member or program coordinator devoted to Iowa students who has graduate degrees, special training, experience, creative production or other accomplishments or distinctions that qualify them for their specific assignments.~~

~~6. **21.2(4)** Comply The applicant school complies with Iowa Code section 261B.7 limiting the use of references to the secretary of state, state of Iowa, or college student aid commission in promotional material, which prohibits a school from advertising that the school is approved or accredited by the commission or the state of Iowa. However, an applicant school must demonstrate the method by which it will disclose that the school is registered with the commission and provide the commission's contact information for students who wish to inquire about the school or file a complaint.~~

~~7. **21.2(5)** Comply The applicant school provides the commission with institutional policies adopted by the school that comply with the requirements of Iowa Code section 261.9(1) "e" to "h."~~

~~8. **21.2(6)** File If required by the commission, the applicant school files annual reports that the commission also requires from all Iowa colleges and universities.~~

~~9. **21.2(7)** Demonstrate The applicant school demonstrates financial viability by providing a copy of the institution's most recent audit that was prepared by a certified public accounting firm no more than 12 months prior to the application and that provides an unqualified opinion. An applicant school must provide the auditor's report as an attachment to the registration application, which is posted on the commission's Internet site. However, the school may provide financial statements associated with the audit in a separate electronic file that is marked "confidential." Financial statements that a school identifies as "confidential" will not be treated as public records under Iowa Code chapter 22.~~

~~10. **21.2(8)** Provide The applicant school provides a description of the learning resources it offers to students with access to learning resources, including appropriate library and other support services requisite for the schools' degree school's programs.~~

~~11. **21.2(9)** Provide The applicant school provides evidence that faculty within an appropriate discipline are involved in developing and evaluating curriculum for the program(s) being registered in Iowa.~~

~~12. Demonstrate that the schools have adequate physical facilities that are appropriate for the program(s) being offered and are located in Iowa.~~

~~**21.2(10)** The applicant school provides résumés, other documentation, or information posted on its Internet site that describes the educational and experiential qualifications of all faculty or instructors who teach the courses offered to Iowans and the general subject matter in which faculty members or instructors teach. The applicant school shall also provide the number of full-time and part-time faculty and instructors who will teach the courses offered to Iowans.~~

~~**21.2(11)** The applicant school provides documentation demonstrating that a program which prepares a student for an occupation that requires professional licensure in Iowa:~~

~~a. Has been approved by the appropriate state of Iowa licensing agency and accrediting agency, if such approval is required, or~~

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

*b.* Meets curriculum standards of the appropriate state of Iowa licensing agency such that the state of Iowa licensing agency does not require the student to complete additional coursework or practicum hours that the school did not offer in its professional licensure preparation program.

**21.2(12)** The school submits a request for amendment of its registration subject to commission approval in the event the school makes a substantive change in location, program offering, or accreditation during its registration term. A substantive change in program offering occurs when a school proposes to initiate or modify a program that requires the approval of the state board of education or any Iowa state agency authorized to approve the school or its program in this state.

**21.2(13)** During its registration term, the school notifies the commission within 90 days after adding a program that does not require the approval of another Iowa state agency.

**21.2(14)** The applicant school certifies that it will immediately notify the commission of any pending or final sanction issued by the school's accrediting agency, another state agency that registers or licenses the school during its registration term, or a state attorney general's office or other enforcement authority. The commission may take action that includes, but is not limited to, reducing the school's registration term or limiting its enrollment of Iowans as the result of a final sanction issued by the school's accrediting agency, another state agency, or a state attorney general's office or other enforcement authority.

~~13.~~ **21.2(15)** include ~~The applicant school provides a statement, signed by the its chief executive officer of the applicant school, demonstrating the institution's applicant school's commitment to the delivery of programs located offered in Iowa, and agreeing to provide alternatives for students to complete their programs at the same or other institutions schools if the applicant school closes the discontinues a program, the applicant school closes, or the applicant school closes an Iowa site before students have completed their courses of study.~~

**283—21.3(261B) Additional approval criteria for an applicant school that applies for registration to maintain a fixed location in Iowa.** In addition to the approval criteria in rule 283—21.2(261B), a school that applies for registration to operate a campus, branch campus, student services center, or administrative office at a fixed location in Iowa shall meet all of the following additional criteria:

1. The applicant school employs at least one full-time Iowa faculty member or one program or student services coordinator devoted to Iowa students.

2. The applicant school provides to the commission the name and business contact information for a contact person in Iowa.

3. The applicant school demonstrates that it has adequate physical facilities located in Iowa appropriate for the programs and services offered in Iowa.

**283—21.4(261B) Additional criteria for an out-of-state applicant school that applies for registration to offer programs via in-person instruction but in a nontraditional format.**

**21.4(1)** In addition to the approval criteria in rule 283—21.2(261B), an out-of-state school that applies for registration to offer programs via in-person instruction but in a nontraditional format shall notify the commission in writing within 90 days of the date that the school establishes a new Iowa location at which Iowa students will receive instruction in the school's nontraditional program. Notification to the commission via electronic mail is acceptable. If the school's accrediting agency requires preapproval of the new Iowa location, the school's notice to the commission must include a copy of that accrediting agency's approval. If the school's accrediting agency does not require preapproval of the new Iowa location, the school must certify that preapproval is not required.

**21.4(2)** For the purposes of this rule, "nontraditional format" includes, but is not limited to, the following:

*a.* A program offered partially via distance education and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the applicant school.

*b.* A program offered partially at the applicant school's out-of-state campus and partially via in-person instruction at a location in Iowa by faculty or instructors compensated by the applicant school.

*c.* A program offered at a location in Iowa through compressed courses scheduled on Saturday or Sunday.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

d. A program offered only during the summer months.

**283—21.5(261B) Additional approval criteria and exception for an out-of-state applicant school that applies for registration to offer distance education programs.**

21.5(1) In addition to the approval criteria in rule 283—21.2(261B), an out-of-state school that applies for registration to offer distance education programs shall meet all of the following additional criteria:

a. The applicant school discloses the name and business contact information of any person compensated by the school (including by honorarium) to remotely provide instruction or academic supervision in the school's distance education courses from any Iowa location.

b. The applicant school discloses the name, business contact information, and duties of any person the applicant school compensates to remotely perform operational activities from any Iowa location.

21.5(2) Exception. If a school applies for registration solely to offer distance education programs that include a structured field experience in which the student will participate at an Iowa location and the applicant school maintains no other presence in Iowa as defined in Iowa Code section 261B.2, the school is not required to implement a policy that complies with Iowa Code section 261.9(1) "h."

21.5(3) A registered school must notify the commission within 90 days of the date that the school establishes an Iowa location at which a student will participate in any structured activity (e.g., field experience) related to the school's distance education course of instruction. Notification to the commission via electronic mail is acceptable.

**283—21.6(261B) Recruiting for an out-of-state applicant school's residential programs from an Iowa location.**

21.6(1) An out-of-state applicant school that compensates a party to recruit Iowans for its campus-based, residential programs shall apply for registration if the recruiter maintains an Iowa address. In addition to meeting all of the criteria in rule 283—21.2(261B), the applicant school shall disclose the name and business contact information for its Iowa-based recruiter.

21.6(2) An out-of-state applicant school that compensates a person to recruit students for its campus-based, residential programs is not required to apply for registration if the school's recruitment activities at a location in Iowa are occasional and short-term; for example, at a college fair or conference.

**283—21.7(261B) Provisional registration.**

21.7(1) The commission may grant provisional registration only under the following conditions:

a. An out-of-state applicant school is accredited by an entity or organization recognized by the United States Department of Education or its successor agency at the time the school submits its registration application; and

b. The applicant school must obtain the commission's approval before the school's accrediting agency will consider approving the applicant school to operate at a physical location in Iowa.

21.7(2) The commission may prohibit the school from initiating instruction at a location in Iowa until the school obtains its accrediting agency's approval to operate at an Iowa location.

**283—21.8(261B) School, Iowa site, or program closure.**

21.8(1) Before a registered school takes action to discontinue a program in which an Iowan is enrolled, close an Iowa site, or close the school, the school must notify the commission in writing.

21.8(2) The school's notice to the commission shall include the name, contact information, and anticipated graduation date of affected Iowans, documentation of the school's proposed notice to students, the school's specific plan to provide alternatives for Iowa students to complete the program, and specific information about how the school will provide transitional support to affected students.

21.8(3) The commission may require a registered school that has a continuous corporate surety bond in effect pursuant to Iowa Code section 714.18 to maintain the bond, at minimum, for one year after the school ceases operation in Iowa, closes an Iowa site, or ceases new enrollment in programs previously offered to Iowans.

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

21.8(4) If the commission takes action to discontinue a school's program, close a school's Iowa site, or terminate a school's operation in Iowa, the school shall provide to the commission the information in subrule 21.8(2) and shall be subject to the requirements of subrule 21.8(3).

**283—21.9(261B) Registration fees.**

21.9(1) A school that applies for registration in Iowa shall remit to the commission a \$1,000 registration application fee payable to the state of Iowa. This fee is nonrefundable regardless of the commission's decision with respect to the school's eligibility for registration in Iowa. The commission assesses this fee at the time the school initially applies for registration and at the time of each subsequent registration renewal application. A school that fails to pay the registration application fee shall be denied registration consideration.

21.9(2) A school that is approved for registration in Iowa shall remit to the commission a \$1,000 registration fee payable to the state of Iowa. The commission assesses the \$1,000 registration fee at the time the commission initially approves the school's registration and at the time the commission approves each subsequent registration renewal.

21.9(3) A school that makes substantive changes in location, program offerings, or accreditation during its registration term must request that the commission approve a registration amendment. The school shall submit its amendment request in a format acceptable to the commission. The school's amendment request shall be accompanied by a \$1,000 amendment fee payable to the state of Iowa. This fee is nonrefundable regardless of the commission's decision with respect to the school's registration amendment request.

**283—21.10(261B) Authorization to operate in Iowa for certain private, nonprofit colleges and universities exempt from registration.**

21.10(1) The state of Iowa considers a private, nonprofit institution located in Iowa, which is exempt from registration under Iowa Code section 261B.11(1) "j" and "l," to be authorized to lawfully operate in Iowa as a postsecondary educational institution that grants a degree, diploma, or certificate for the purpose of state authorization regulations established by the United States Department of Education, provided the institution meets the following conditions:

a. The institution is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code on or after July 1, 2013; and

b. The institution originated in this state and has undergone no change in ownership or control since July 1, 2011.

21.10(2) The following Iowa colleges and universities are authorized under subrule 21.10(1):

a. AIB College of Business;

b. Allen College;

c. Briar Cliff University;

d. Buena Vista University;

e. Central College;

f. Clarke University;

g. Coe College;

h. Cornell College;

i. Des Moines University;

j. Divine Word College;

k. Dordt College;

l. Drake University;

m. Emmaus Bible College;

n. Faith Baptist Bible College and Theological Seminary;

o. Graceland University;

p. Grand View University;

q. Grinnell College;

r. Iowa Wesleyan College;

## COLLEGE STUDENT AID COMMISSION[283](cont'd)

- s. Loras College;
- t. Luther College;
- u. Maharishi University of Management;
- v. Mercy College of Health Sciences;
- w. Mercy St. Luke's School of Radiologic Technology;
- x. Morningside College;
- y. Mount Mercy College;
- z. Northwestern College;
- aa. Palmer College of Chiropractic;
- ab. Simpson College;
- ac. St. Ambrose University;
- ad. St. Luke's College;
- ae. University of Dubuque;
- af. Upper Iowa University;
- ag. Wartburg College;
- ah. Wartburg Theological Seminary; and
- ai. William Penn University.

These rules are intended to implement Iowa Code chapters 261 and 261B.

[Filed 11/18/13, effective 1/15/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1246C**

## **EDUCATION DEPARTMENT[281]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 299A.10 and 2013 Iowa Acts, House File 215 and House File 454, the State Board of Education hereby amends Chapter 31, "Competent Private Instruction, Independent Private Instruction, and Dual Enrollment," Iowa Administrative Code.

In 2013, the enacted education reform bill included provisions to allow parents choosing private instruction to enroll their child in competent private instruction, independent private instruction, or private instruction by a non-licensed person (also deemed a form of competent private instruction for certain purposes). New legislation also provided changes in the access to and to the costs of annual achievement evaluations for students under private instruction. The Department is adopting changes to these rules to reflect the newly enacted provisions of private instruction. In addition, the Department adopts changes to align this chapter with the requirements of special education law and to make a technical correction concerning blood lead testing.

Notice of Intended Action was published in the October 16, 2013, Iowa Administrative Bulletin as **ARC 1126C**. Public comments were allowed until 4:30 p.m. on November 5, 2013. A public hearing was held on that date, with two persons in attendance and no public comment given by those in attendance. One written comment was received that indicated that the commenter did not like the underlying law but was fine with the rules as written to comply with the law change.

These amendments are identical to those published under Notice.

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

After analysis and review of this rule making, there is no job impact anticipated from these amendments.

These amendments are intended to implement Iowa Code chapters 299 and 299A as amended by 2013 Iowa Acts, House File 215 and House File 454.

EDUCATION DEPARTMENT[281](cont'd)

These amendments shall become effective on January 15, 2014.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 31] is being omitted. These amendments are identical to those published under Notice as **ARC 1126C**, IAB 10/16/13.

[Filed 11/20/13, effective 1/15/14]

[Published 12/11/13]

[For replacement pages for IAC, see IAC Supplement 12/11/13.]

## **ARC 1227C**

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

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby amends Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 22, "Controlling Pollution," Chapter 31, "Nonattainment Areas," and Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality," Iowa Administrative Code.

The purpose of the rule making is to adopt regulations from 40 CFR 51.165 to incorporate federal review and permitting procedures that allow facilities to construct or modify existing sources in areas that are not in attainment with the National Ambient Air Quality Standards (NAAQS). The construction of new major sources of air pollution (or major modifications of existing sources of air pollution) in areas that are not in attainment with the NAAQS is governed by federal Clean Air Act Nonattainment New Source Review (NSR) regulations. By adopting these regulations, the Department of Natural Resources (Department) will be able to issue permits in the nonattainment areas.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 18, 2013, as **ARC 1016C**, and a public hearing was held on October 21, 2013. The Department received no comments at the public hearing or during the public comment period. However, the Department has updated the reference dates in Items 9, 11, and 13 (paragraph 31.3(2)"a") to reflect the most recent date for the list of attainment or unclassifiable areas in the state.

Item 1 amends rule 567—20.1(455B,17A) to update information about the content of Chapters 22 and 31. Dates are added to the descriptions of Chapters 22 and 31. Rules for areas designated nonattainment are in Chapter 31.

Item 2 amends rule 567—20.2(455B) to revise the definition of "excess emissions" to update the references to the nonattainment major NSR and prevention of significant deterioration (PSD) rules.

Item 3 amends the introductory paragraph of subrule 22.1(1) to update the references to the nonattainment major NSR and PSD rules.

Item 4 amends subrule 22.1(2) to update the reference to the nonattainment major NSR rules.

Item 5 amends subparagraph 22.1(3)"b"(7) to update the references to the nonattainment major NSR and PSD rules.

Item 6 amends subrule 22.1(4) to update the references to the nonattainment major NSR and PSD rules.

Item 7 rescinds rule 567—22.5(455B) and replaces it with a new rule that requires applicable owners or operators of a stationary source to comply with the nonattainment major NSR program rules in 567—31.20 (455B). The content of existing rule 567—22.5(455B) is moved to rule 567—31.20(455B).

Item 8 rescinds and reserves rule 567—22.6(455B), including a reference to an outdated EPA guidance document that is no longer used by the Department or the Commission.

Item 9 amends subrule 22.7(1) to update the list of attainment or unclassifiable areas in the state.

Item 10 amends subparagraph 22.105(1)"a"(3) to update the references to the nonattainment major NSR and PSD rules.

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

Item 11 amends rule 567—31.1(455B) to revise the introductory paragraph.

Item 12 amends rule 567—31.2(455B) to update the federal regulations relating to conformity of general federal actions to Iowa's SIP. The adoption-by-reference date is updated, and redundant language is removed.

Item 13 adopts new rules 567—31.3(455B) to 567—31.20(455B) as the nonattainment major NSR rules. The federal regulations include many instructions to the states that could be confusing for businesses if the federal regulations were adopted by directly referencing the federal regulations. The Department is adopting the bulk of EPA's nonattainment rules in 40 CFR 51.165 into Chapter 31 and referring to actual plantwide applicability limits (40 CFR 51.165(f)) by reference. The content of existing rule 567—22.5(455B) is transferred to 567—31.20(455B) to streamline administrative rules and make them more user-friendly.

Item 14 amends rule 567—33.1(455B) to include a reference to Chapter 31 in the introductory paragraph.

#### Jobs Impact Statement

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request. After analysis and review of this rule making, the Department has determined that jobs could be impacted. However, these amendments are implementing federally mandated regulations. This rule making does not impose on Iowa businesses any regulations not required by federal law.

The Department is minimizing the impact of the federal regulations to the greatest extent possible by directly referencing federal regulations where possible. Further, nonattainment major NSR rules that apply to nonattainment areas designated before May 18, 1998, are being combined in the same rule chapter as the nonattainment NSR rule provisions for new nonattainment areas. This action streamlines the nonattainment NSR rules and makes them more user-friendly.

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

These amendments shall become effective on January 15, 2014.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 20, 22, 31, 33] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 1016C**, IAB 9/18/13.

[Filed 11/19/13, effective 1/15/14]

[Published 12/11/13]

[For replacement pages for IAC, see IAC Supplement 12/11/13.]

## ARC 1241C

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

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3 and 29C.8, the Department of Homeland Security and Emergency Management hereby amends Chapter 9, "Iowa Comprehensive Plan," Iowa Administrative Code.

Iowa Code section 29C.8(3) requires the Director of the Department of Homeland Security and Emergency Management to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigation, and emergency resource management for the state. This amendment formally adopts the updated and federally approved Part B: Iowa Hazard Mitigation Plan, which is part of the Iowa Comprehensive Plan.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 16, 2013, as **ARC 1093C**. No public comment was made regarding the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

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

After analysis and review of this rule making, it has been determined that no adverse impact to jobs is expected as a result of this rule making.

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

This amendment will become effective January 15, 2014.

The following amendment is adopted.

Amend rule 605—9.3(29C), introductory paragraph, as follows:

**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, ~~2010~~ 2013, published, and maintained by the division. 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.

[Filed 11/20/13, effective 1/15/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1206C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 17A and section 234.6, the Department of Human Services amends Chapter 7, "Appeals and Hearings," Iowa Administrative Code.

These amendments provide for the use of contested case proceedings for bidders that appeal the Department's notice of disqualification or decision on a contract award through a competitive procurement bid process. These amendments move appeals for decisions in competitive procurement bid processes from an "other agency action" into the contested case process, which is consistent with how other state agencies handle these types of appeals.

When bidders appeal an award based on the competitive procurement bid process, the case will be reviewed by an administrative law judge rather than through the Department. The Department will be represented in these appeals by the Attorney General's office.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1000C** on September 4, 2013.

The Department received comments from one respondent from the Department of Inspections and Appeals. The respondent recommended two technical changes to the language.

The respondent recommended that the Department modify Item 6, specifically, paragraph 7.43(8)"a." This statement should be simplified in accordance with Iowa Code section 17A.12(4), which states: "Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved and to be represented by counsel at their own expense." The Department agreed with this comment and modified the proposed language accordingly.

The respondent also requested that the term "hearing officer" as found in the proposed language in subrule 7.47(2) be changed to "administrative law judge." The respondent explained that "hearing officer" is an old term and should be changed in order to be current. The Department also agreed with this comment and modified the proposed language accordingly.

The Council on Human Services adopted these amendments on November 12, 2013.

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

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

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

These amendments will become effective January 15, 2014.

The following amendments are adopted.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 1. Amend **441—Chapter 7**, preamble, as follows:

This chapter applies to contested case proceedings conducted by or on behalf of the department. The definitions in rule 441—7.1(17A) apply to the rules in both Division I and Division II of Chapter 7.

ITEM 2. Adopt the following **new** definitions in rule **441—7.1(17A)**:

“*Bidder*” means an individual or entity that submits a proposal in response to a competitive procurement issued by the department.

“*Director*” means the director of the department of human services or the director’s designee.

“*Party*” means a party as defined in Iowa Code subsection 17A.2(8).

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, and decision and order in contested cases where the department did not preside.

ITEM 3. Amend rule **441—7.1(17A)**, definitions of “Aggrieved person” and “Reconsideration,” as follows:

“*Aggrieved person*” means a person against whom the department has taken an adverse action. This includes a person who meets any of the following conditions:

1. to 11. No change.

12. Bidders that have participated in a competitive procurement bid process. Appeals resulting from a competitive procurement bid process will be handled pursuant to Chapter 7, Division II.

~~12.~~ 13. Individuals and providers that are not listed in paragraphs “1” to “11” “12” may meet the definition of an aggrieved person if the department has taken an adverse action against that individual or provider.

“*Reconsideration*” means a review process that must be exhausted before an appeal hearing is granted. Such review processes include, but are not limited to, a reconsideration request through: ~~the Iowa Medicaid enterprise or its subcontractors, Magellan Behavioral Health Care, a health maintenance organization, a prepaid health plan, medical assistance patient management services, the managed health care review committee, a division or bureau within the department, the mental health and developmental disabilities commission, or a licensed health care professional as specified in 441—paragraph 9.9(1)“i.”~~

1. The Iowa Medicaid enterprise (IME) or its subcontractors,

2. The managed health care review committee,

3. A division or bureau within the department,

4. The mental health and disability services commission,

5. A licensed health care professional as specified in 441—paragraph 9.9(1)“i,” or

6. Any division or bureau within the department, from a bidder in a competitive procurement bid process.

Once the reconsideration process is complete, a notice of decision will be issued with appeal rights.

ITEM 4. Adopt the following **new** Division I heading before rule **441—7.3(17A)**:

DIVISION I

ITEM 5. Reserve rules **441—7.25** to **441—7.40**.

ITEM 6. Adopt the following **new** Division II in **441—Chapter 7**:

DIVISION II

APPEALS BASED ON THE COMPETITIVE PROCUREMENT BID PROCESS

**441—7.41(17A) Scope and applicability.** The rules in Division II apply to appeals based on the department’s competitive procurement bid process.

**441—7.42(17A) Requests for timely filing of an appeal.** Any bidder that receives either a notice of disqualification or a notice of award, and has first exhausted the reconsideration process, is considered an aggrieved party and may file a written appeal with the department.

**7.42(1)** An aggrieved party in a competitive procurement must seek reconsideration of a disqualification or a notice of award prior to filing any appeal. The request for reconsideration must be received by the department within five days of the date of either a disqualification notice or notice of

## HUMAN SERVICES DEPARTMENT[441](cont'd)

award. The department will expeditiously address the request for reconsideration and issue a decision on the reconsideration. If the party seeking reconsideration continues to be an aggrieved party following receipt of the decision on reconsideration, the aggrieved party may file an appeal within five days of the date of the department's decision on reconsideration.

**7.42(2)** The written appeal shall state the grounds upon which the appellant challenges the department's decision.

**7.42(3)** The day after the department's decision on reconsideration is issued is the first day of the period in which the appeal may be filed. The mailing address is: Department of Human Services, Appeals Section, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Appeals may also be sent by fax, e-mail, or in-person delivery.

**441—7.43(17A) Bidder appeals.** The bidder appeal shall be a contested case proceeding and shall be conducted in accordance with the provisions of Division II. Division I of this chapter does not apply to competitive procurement bid appeals, unless otherwise noted.

**7.43(1) Hearing time frame.** The presiding officer shall hold a hearing on the bidder appeal within 60 days of the date the notice of appeal was received by the department.

**7.43(2) Registration.** Upon receipt of the notice of appeal, the department shall register the appeal.

**7.43(3) Acknowledgment.** Upon receipt of the notice of appeal, the department shall send a written acknowledgment of receipt of the appeal to the appellant, representative, or both. The appropriate department staff will be notified of the appeal.

**7.43(4) Granting a hearing.** The department shall determine whether an appellant may be granted a hearing and the issues to be discussed at the hearing in accordance with the applicable rules, statutes or federal regulations or request for proposal.

*a.* The appeals of those appellants who are granted a hearing shall be certified to the department of inspections and appeals for the hearing to be conducted. The department shall indicate at the time of certification the issues to be discussed at the hearing.

*b.* Appeals of those appellants that are denied a hearing shall not be closed until a letter is sent to the appellant and the appellant's representative advising of the denial of the hearing and the basis upon which that denial is made. Any appellant that disagrees with a denial may present additional information relative to the reason for denial and request reconsideration by the department over the denial.

**7.43(5) Hearing scheduled.** For those records certified for hearing, the department of inspections and appeals shall establish the date, time, method and place of the hearing, with due regard for the convenience of the appellant as set forth in the department of inspections and appeals rules in 481—Chapter 10 unless otherwise designated by federal or state statute or regulation.

**7.43(6) Method of hearing.** The department of inspections and appeals shall determine whether the appeal hearing is to be conducted in person, by videoconference or by teleconference call. The parties to the appeal may participate from multiple sites for videoconference or teleconference hearings. Any appellant is entitled to an in-person hearing if the appellant requests one. All parties shall be granted the same rights during a teleconference hearing as specified in rule 441—7.13(17A).

**7.43(7) Reschedule requests.** Requests made by the appellant or the department to set another date, time, method or place of hearing shall be made to the department of inspections and appeals, except as otherwise noted. The granting of the requests will be at the discretion of the department of inspections and appeals. All requests concerning the scheduling of a hearing shall be made to the department of inspections and appeals directly.

**7.43(8) Notification.** For those appeals certified for hearing, the department of inspections and appeals shall send a notice to the appellant at least ten calendar days in advance of the hearing date.

*a.* The notice shall comply with Iowa Code section 17A.12(2), and include a statement that opportunity shall be afforded to all parties to respond and present evidence on all issues involved and to be represented by counsel at their own expense.

*b.* A copy of this notice shall be made available to the department employee who took the action and to any other parties to the appeal.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—7.44(17A) Procedures for bidder appeal.**

**7.44(1)** Discovery. The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

**7.44(2)** Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the date set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

**7.44(3)** Amendments to notice of appeal. The aggrieved bidder may amend the grounds upon which the bidder challenges the department's award no later than 15 days prior to the date set for the hearing.

**7.44(4)** If the hearing is not conducted in person, the parties must deliver all exhibits to the office of the presiding officer at least three days prior to the time the hearing is conducted.

**7.44(5)** The presiding officer shall issue a proposed decision in writing that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the contested case and shall conform to Iowa Code chapter 17A. The presiding officer shall send the proposed decision to the appellant and representative by mail.

**7.44(6)** The record of the contested case shall include all materials specified in Iowa Code subsection 17A.12(6).

**441—7.45(17A) Stay of agency action for bidder appeal.**

**7.45(1)** *When a stay may be requested.*

*a.* Any party appealing the issuance of a notice of disqualification or notice of award may petition for stay of the decision pending its review. The petition for stay shall be filed with the notice of appeal, shall state the reasons justifying a stay, and shall be accompanied by an appeal bond equal to 120 percent of the contract value.

*b.* Any party adversely affected by a final decision and order may petition the department for a stay of that decision and order pending judicial review. The petition for stay shall be filed with the director within five days of receipt of the final decision and order and shall state the reasons justifying a stay.

**7.45(2)** *When a stay is granted.* In determining whether to grant a stay, the director shall consider the factors listed in Iowa Code section 17A.19(5)“c.”

**7.45(3)** *Vacation.* A stay may be vacated by the issuing authority upon application of the department or any other party.

**441—7.46(17A) Request for review of the proposed decision.** A request for review of the proposed decision shall follow the provisions outlined in subrules 7.16(5) to 7.16(7).

**441—7.47(17A) Other procedural considerations.**

**7.47(1)** *Consolidation—severance.*

*a. Consolidation.* The presiding officer may, upon motion by any party or the presiding officer's own motion, consolidate any or all matters at issue in two or more contested case proceedings where:

- (1) The matters at issue involve common parties or common questions of fact or law;
- (2) Consolidation would expedite and simplify consideration of the issues; and
- (3) Consolidation would not adversely affect the rights of parties to those proceedings.

At any time prior to the hearing, any party may on motion request that the matters not be consolidated, and the motion shall be granted for good cause shown.

*b. Severance.* The presiding officer may, upon motion by any party or upon the presiding officer's own motion, for good cause shown, order any proceeding or portion thereof severed.

**7.47(2)** *Presiding officer.* Appeal hearings shall be conducted by an administrative law judge appointed by the department of inspections and appeals pursuant to rule 441—7.3(17A).

**7.47(3)** *Rights of appellants during hearings.* All rights afforded appellants at rule 441—7.13(17A) shall apply.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**441—7.48(17A) Appeal record.**

**7.48(1)** The appeal record shall consist of all items specified in subrule 7.16(1).

**7.48(2)** The party that requests a transcription of the proceedings shall bear the cost.

**441—7.49(17A) Pleadings.**

**7.49(1)** Pleadings may be required by rule, by the notice of hearing or by order of the presiding officer.

**7.49(2)** Petition. When an action of the department is appealed and pleadings are required under subrule 7.49(1), the aggrieved party shall file the petition.

*a.* Any required petition shall be filed within 20 days of delivery of the notice of hearing, unless otherwise ordered.

*b.* The petition shall state in separately numbered paragraphs the following:

(1) On whose behalf the petition is filed;

(2) The particular provisions of the statutes and rules involved;

(3) The relief demanded and the facts and law relied upon for relief; and

(4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

**7.49(3)** Answer. If pleadings are required, the answer shall be filed within 20 days of service of the petition or notice of hearing, unless otherwise ordered.

*a.* Any party may move to dismiss or apply for a more definite, detailed statement when appropriate.

*b.* The answer shall show on whose behalf it is filed and specifically admit, deny or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and may contain as many defenses as the pleader may claim.

*c.* The answer shall state the name, address and telephone number of the person filing the answer and of the attorney representing that person, if any.

*d.* Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

**7.49(4)** Amendment. Any notice of hearing, petition or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

**441—7.50(17A) Ex parte communications.** The rules regarding ex parte communications listed at 441—7.18(17A) apply.

**441—7.51(17A) Right of judicial review.** The rules regarding right of judicial review listed at 441—7.20(17A) apply.

[Filed 11/13/13, effective 1/15/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1208C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 239B.4, the Department of Human Services amends Chapter 41, "Granting Assistance," and Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments remove the provision that allows participants to reverse an imposed subsequent limited benefit plan (LBP) once hours of employment or activity participation are verified. With these amendments, consequences for noncompliance with subsequent LBPs are made uniform.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0999C** on September 4, 2013.

The Department received comments from one respondent. The respondent was concerned that the Department proposal does not allow a Family Investment Program (FIP) recipient to end an LBP if the recipient does not provide verification of hours of employment or participation by the due date, but does subsequently submit that verification.

The Department's response is that data analysis of LBP submissions has shown that this policy has dramatically reduced the amount of time case management staff are able to spend providing supports to PROMISE JOBS families. This current policy added 1,657 hours of noncontact workload to field staff during SFY 2012 processing "repeat" LBP reviews. That is 1,657 fewer hours that field staff can spend with program participants providing direct services and assisting them with addressing barriers to self-sufficiency.

Also, the LBP submission data used in analysis does not include those situations where the participant had "good cause" or had additional identified barriers that interfered with submission. The 815 cases identified as "repeat submitters" are situations in which participants are choosing repeatedly not to adhere to program deadlines.

The respondent also had a concern that this policy contradicts the development of the business-identified skill needs of dependability and time management.

The Department's response is that this policy encourages participants to disregard deadlines. This behavior is in direct conflict with the needs of businesses and the curriculum being offered in soft-skill workshops, thus adding additional barriers to participants who are to be focused on moving toward self-sufficiency. These job readiness classes teach the necessity of timeliness and adhering to deadlines, yet this policy allows participants to repeatedly submit late reports with no consequences.

Finally, the respondent stated that it is confusing for both the participant and the case manager as to what is the actual issue.

The Department's response is that one of the purposes of this policy was to give a different consequence for failure to submit time and attendance and nonparticipation, but if no time and attendance is submitted, the case manager cannot know if the person did not participate or did participate and just not turn in the person's time.

The Department made no changes to the proposed amendments as the result of the comments from the respondent. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on November 13, 2013.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 239B.4.

These amendments will become effective on February 1, 2014.

The following amendments are adopted.

ITEM 1. Amend paragraph **41.24(8)“e”** as follows:

*e.* Reconsideration of a subsequent limited benefit plan. A person who chooses a subsequent limited benefit plan may reconsider that choice at any time following the required six-month period of ineligibility.

(1) A subsequent limited benefit plan is considered imposed as of the date that a timely and adequate notice is issued to establish the limited benefit plan. Therefore, once timely and adequate notice is issued, the person who chose the limited benefit plan cannot end it by complying with the issue that resulted in its imposition ~~except when the participant has failed to provide verification of hours of employment or participation as described in paragraph “h.”.~~

(2) to (4) No change.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Rescind paragraph **41.24(8)“h.”**

ITEM 3. Amend subrule 93.13(1) as follows:

**93.13(1) Notification of participation issue.** When participants appear to be choosing a limited benefit plan by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall send one written reminder or letter as specified in subrule 93.10(1) ~~except when the participant has failed to verify hours of employment or participation as described in 441—paragraph 93.13(2)“m.”~~. The reminder or letter shall:

- a. Clearly identify the participation issue and the specific action needed to resolve it,
- b. Clarify expectations,
- c. Attempt to identify barriers to participation that should be addressed in the FIA,
- d. Explain the consequences of the limited benefit plan, and
- e. Offer supervisory intervention.

ITEM 4. Rescind paragraph **93.13(2)“m.”**

ITEM 5. Reletter paragraph **93.13(2)“n”** as **93.13(2)“m.”**

[Filed 11/13/13, effective 2/1/14]

[Published 12/11/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1207C**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 239B.4(6), the Department of Human Services amends Chapter 41, “Granting Assistance,” Chapter 46, “Overpayment Recovery,” and Chapter 60, “Refugee Cash Assistance,” Iowa Administrative Code.

These amendments limit the types of businesses at which the electronic access card (EAC) can be used. Recipient households will not be allowed to use their EACs to access benefits at any of the following prohibited locations: a liquor store, a casino, a gambling casino, a gaming establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. A recipient that is proved to have used the recipient’s EAC at one of the above locations is considered to have committed a fraudulent act, must repay the amount accessed at the location, and is subject to a household ineligibility period.

These amendments also remove an obsolete reference to intentional program violations.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1001C** on September 4, 2013.

The Department received comments from one respondent on these amendments. The respondent’s first comment was a concern that a penalty could follow both parents if the parents separate during an ineligibility period (paragraph 41.25(11)“c”). This provision is especially harsh, considering that there must be a finding by the Department of Inspections and Appeals (DIA) that a “recipient” has used the EBT at a prohibited location. The penalty should be attached to that recipient. If that recipient leaves the household, then the penalty should not be imposed on the remaining members of the household. Neither the federal law nor the Iowa Code requires that both parents be penalized if they separate. In fact, Iowa Code sections 239B.14(1)(b) and (2) both refer to individuals accessing benefits and individuals being liable. The respondent requested that the Department remove that portion of the proposed regulation that imposes the penalty on both parents of a two-parent household when they separate.

The Department’s response is that only one EAC is issued to a household. The EAC is issued to the person chosen by the family to be the head of household (case name). In a two-parent household, both adults can use the EAC. Since both parents in a two-parent family use the same card, there is no systematic way to identify which parent used the card. DIA will be able to subpoena EAC transaction

## HUMAN SERVICES DEPARTMENT[441](cont'd)

records to verify that the EAC was used at a prohibited location. However, those records will not indicate which parent in a two-parent household made the transaction. In some instances, but not all, DIA will be able to identify through video surveillance from the location, a statement from the individual, or other means which parent used the EAC at a prohibited location.

As a result of this comment by the respondent, the Department revised paragraph 41.25(11)“c” to account for instances in which DIA has identified the parent who used the EAC at a prohibited location. The proposed language in 41.25(11)“c” relating to the application of the ineligibility period when parents from a two-parent household separate has been revised and reorganized as paragraph 41.25(11)“d” and now reads as follows:

“d. When parents from a two-parent family separate during an ineligibility period, if:

“(1) The department of inspections and appeals investigation identifies the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow that recipient.

“(2) The department of inspections and appeals investigation does not identify the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow the recipient who is the case name when the violation occurred.”

The respondent’s second comment was that the proposed amendments did not include any action to be taken by the Department, such as providing information to Family Investment Program (FIP) recipients about the new regulations or posting signs at the businesses where FIP recipients are forbidden from using their EAC cards. The respondent requested that the Department propose regulations that will address the need to inform FIP recipients about the restrictions found in Iowa Code sections 239B.5(4) and 239B.14(1)(b).

The Department’s response is that the Department’s implementation plan includes informing recipients of the new eligibility requirement and the consequences for failing to comply. The Department will send all FIP recipients an informational letter and issue a press release in January 2014. The Department will also be adding information regarding this requirement to the application, review form, brochures, Notices of Decision, and the card carrier to which the EAC is attached when the card is issued. The Department did not make any revisions to the Notice of Intended Action with regard to the respondent’s second comment.

The Council on Human Services adopted these amendments on November 13, 2013.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217). After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 239B.4(6).

These amendments will become effective February 1, 2014.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 41.25(11):

**41.25(11) Access to benefits.**

a. A recipient shall not use the recipient’s electronic access card issued pursuant to 441—subrule 45.21(1) to access benefits at any of the following prohibited locations as defined by federal statute or regulation applicable to this prohibition:

- (1) A liquor store,
- (2) A casino, gambling casino or gaming establishment, or
- (3) A retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

b. When the department receives a detailed complaint or suspects that a recipient has used the recipient’s electronic access card at a prohibited location, the case shall be referred to the department of inspections and appeals for further investigation.

c. When the department of inspections and appeals finds that a recipient has used the recipient’s electronic access card at a prohibited location, the household that includes the recipient is:

- (1) Considered to have committed a fraudulent act;

## HUMAN SERVICES DEPARTMENT[441](cont'd)

(2) Liable for any amounts accessed at a prohibited location and required to repay such amount in accordance with 441—Chapter 46;

(3) Ineligible for FIP for a three-month period after the first report by the department of inspections and appeals which includes a finding of misuse;

(4) Ineligible for FIP for a six-month period after each subsequent report by the department of inspections and appeals which includes a finding of misuse.

*d.* When parents from a two-parent family separate during an ineligibility period, if:

(1) The department of inspections and appeals investigation identifies the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow that recipient.

(2) The department of inspections and appeals investigation does not identify the recipient who used the electronic access card at a prohibited location, the ineligibility period will follow the recipient who is the case name when the violation occurred.

ITEM 2. Amend rule **441—46.21(239B)**, definitions of “Client error” and “Overpayment,” as follows:

“*Client error*” means and may result from:

1. False or misleading statements, oral or written, regarding the client’s income, resources, or other circumstances which may affect eligibility or the amount of assistance received;

2. Failure to timely report changes in income, resources, or other circumstances as required by rule 441—40.27(239B); ~~or~~

3. Failure to refund to the child support recovery unit any nonexempt payment from the absent parent received after the date the decision on eligibility was made; or

4. Access of benefits issued via the electronic access card at a prohibited location pursuant to 441—subrule 41.25(11).

“*Overpayment*” means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive or the amount of any payment accessed at a prohibited location pursuant to 441—subrule 41.25(11).

ITEM 3. Amend subrule 46.24(3) as follows:

**46.24(3)** *Client error*:

*a.* An overpayment due to client error shall be computed as if the information had been reported and acted upon timely.

*b.* Overpayments due to failure to refund payments received from the absent parent shall be the total nonexempt support payment made for members of the eligible group at the time the support payment was received. In addition, assistance payments made to meet the needs of the eligible group may also be subject to recoupment under provisions in 441—subrule 41.22(6).

*c.* An overpayment due to a recipient’s accessing benefits via the electronic access card at a prohibited location shall be the total of the transactions at prohibited locations pursuant to 441—subrule 41.25(11).

ITEM 4. Adopt the following new subrule 60.10(4):

**60.10(4)** Restrictions found in 441—subrule 41.25(11) apply to benefits issued under this chapter.

ITEM 5. Amend rule 441—60.16(217) as follows:

**441—60.16(217) Overpayment recovery.** Recovery of overpayments ~~and intentional program violation~~ shall be determined as defined in 441—Chapter 46, Division II, except that refugee cash assistance shall be substituted for the family investment program whenever it appears.

[Filed 11/13/13, effective 2/1/14]

[Published 12/11/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1209C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 237A.2, 237A.5(2)“k,” 237A.8, and 237A.12, the Department of Human Services amends Chapter 109, “Child Care Centers,” and Chapter 110, “Child Development Homes,” Iowa Administrative Code.

These amendments provide clear regulatory guidance for licensed child care centers regarding the requirement to post a provisional license status in a conspicuous place within the center. Additionally, the amendments provide clear regulatory guidance for licensed child care center staff regarding the requirement to notify parents, guardians, and legal custodians immediately following an incident of inappropriate, sexually acting-out behavior in the center.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 1007C** on September 4, 2013. The Department received no comments on these amendments. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on November 12, 2013.

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

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

These amendments are intended to implement Iowa Code section 237A.12.

These amendments will become effective on February 1, 2014.

The following amendments are adopted.

ITEM 1. Amend paragraph **109.2(6)“d”** as follows:

*d.* If the center’s license is denied, suspended or revoked, the administrator of the department shall notify the parent, guardian, or legal custodian of each child for whom the facility provides child care. The center shall cooperate with the department in providing the names and address of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

ITEM 2. Amend paragraph **109.4(3)“a”** as follows:

*a.* Postings are required for the certificate of license, notice of exposure of children to a communicable disease, and notice of ~~actions~~ action to deny, suspend, or revoke the center’s license or reduce the center’s license to a provisional status. The center’s license, reflecting current regulatory status, and all other required postings shall be conspicuously placed at the main entrance to the center. If the center is located in a building used for additional purposes and shares the main entrance to the building, the required postings shall be conspicuously placed in the center in an area that is frequented daily by parents or the public.

ITEM 3. Amend paragraph **109.6(6)“i”** as follows:

*i.* Notice to parents. The administrator of the department shall notify the ~~parent, guardian, or legal custodian~~ parents, guardians, and legal custodians of each child for whom the person provides child care if there has been founded child abuse committed by an owner, director, or staff member of the child care center. The center shall cooperate with the department in providing the names and addresses of the ~~parent, guardian, or legal custodian~~ parents, guardians, and legal custodians of each child for whom the facility provides child care.

ITEM 4. Amend subrule 109.10(10) as follows:

**109.10(10) Recording incidents**. Incidents involving a child, including minor injuries, minor changes in health status, or other minor behavioral concerns, shall be reported to the ~~parent~~ parents, guardians, and legal custodians on the day of the incident. Incidents resulting in an injury to a child shall be reported to the parent on the day of the incident. Incidents resulting in a serious injury to a child or incidents resulting in a significant change in the health status of a child shall be verbally reported immediately to the ~~parent~~ parents, guardians, and legal custodians immediately. The parents, guardians, and legal custodians of any child included in incidents involving inappropriate, sexually acting-out

## HUMAN SERVICES DEPARTMENT[441](cont'd)

behavior shall be notified immediately after the incident. A written report, fully documenting every incident, shall be provided to the parent or person authorized to remove the child from the center. The written report shall be prepared by the staff member who observed the incident and a copy shall be retained in the child's file.

ITEM 5. Amend paragraph **110.7(3)“i”** as follows:

*i. Notice to parents of abuse in care.* If there has been founded child abuse committed by an owner, director, or staff member of the child care facility or child care home, the department's administrator shall notify the ~~parent, guardian, or custodian~~ parents, guardians, and legal custodians of each child for whom the facility or child care home provides care. The child care facility or child care home shall cooperate with the department in providing the names and addresses of the parents, guardians, and legal custodians of each child for whom the facility provides child care.

(1) to (3) No change.

ITEM 6. Adopt the following **new** subrule 110.7(6):

**110.7(6)** Required notifications. If a certificate of registration is revoked, the administrator of the department shall notify the parent, guardian, or legal custodian of each child for whom the facility provides care. The provider shall cooperate with the department in providing the names and address of the parent, guardian, or legal custodian of each child for whom the facility provides child care.

[Filed 11/13/13, effective 2/1/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

## ARC 1205C

### INSPECTIONS AND APPEALS DEPARTMENT[481]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 54, "Governor's Award for Quality Care," Chapter 57, "Residential Care Facilities," Chapter 58, "Nursing Facilities," Chapter 62, "Residential Care Facilities for Persons with Mental Illness (RCF/PMI)," Chapter 63, "Residential Care Facilities for the Intellectually Disabled," Chapter 64, "Intermediate Care Facilities for the Intellectually Disabled," and Chapter 65, "Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI)," Iowa Administrative Code.

The amendments, which are technical, delete references to the resident advocate committee of a health care facility. Resident advocate committees with oversight by the state office of the long-term care ombudsman are no longer in existence, having been repealed by 2013 Iowa Acts, Senate File 184, and replaced with the certified volunteer long-term care ombudsman program established in Iowa Code section 231.45 as amended by 2013 Iowa Acts, Senate File 184. In addition, the technical amendments remove references to resident advocate committees and the state office of the long-term care ombudsman from Chapters 62, 63, 64 and 65 of the Department's rules. These chapters regulate facilities primarily serving persons with mental illness or intellectual disabilities, which, pursuant to Iowa Code section 231.42(2)(a), the state office of the long-term care ombudsman does not serve.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 2, 2013, as **ARC 1082C**. No comments were received. The adopted amendments are identical to those published under Notice of Intended Action.

The Department does not believe that the amendments impose any financial hardship on any regulated entity, body, or individual.

The State Board of Health initially reviewed the amendments at its September 11, 2013, meeting and approved them at the Board's November 13, 2013, meeting.

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

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

These amendments are intended to implement Iowa Code section 135C.14 and 2013 Iowa Acts, Senate File 184.

These amendments shall become effective January 15, 2014.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 54, 57, 58, 62 to 65] is being omitted. These amendments are identical to those published under Notice as **ARC 1082C**, IAB 10/2/13.

[Filed 11/13/13, effective 1/15/14]

[Published 12/11/13]

[For replacement pages for IAC, see IAC Supplement 12/11/13.]

**ARC 1204C****INSPECTIONS AND APPEALS DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 57, "Residential Care Facilities," Chapter 58, "Nursing Facilities," Chapter 62, "Residential Care Facilities for Persons with Mental Illness (RCF/PMI)," Chapter 63, "Residential Care Facilities for the Intellectually Disabled," Chapter 64, "Intermediate Care Facilities for the Intellectually Disabled," and Chapter 65, "Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI)," Iowa Administrative Code.

The adopted amendments make technical changes by removing references to Iowa Code chapter 235B, "Dependent Adult Abuse Services — Information Registry," and replacing them with references to Iowa Code chapter 235E, "Dependent Adult Abuse in Facilities and Programs," and to 481—Chapter 52, "Dependent Adult Abuse in Facilities and Programs." Iowa Code chapter 235E specifically addresses dependent adult abuse in facilities and programs regulated by the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 2, 2013, as **ARC 1083C**. No comments were received on the proposed amendments. The adopted amendments are identical to those published under Notice of Intended Action.

The Department does not believe that the amendments impose any financial hardship on any regulated entity, body, or individual.

The State Board of Health initially reviewed the amendments at its September 11, 2013, meeting and approved the amendments at the Board's November 13, 2013, meeting.

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

These amendments are intended to implement Iowa Code section 135C.14 and Iowa Code chapter 235E.

These amendments shall become effective January 15, 2014.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 57, 58, 62 to 65] is being omitted. These amendments are identical to those published under Notice as **ARC 1083C**, IAB 10/2/13.

[Filed 11/13/13, effective 1/15/14]

[Published 12/11/13]

[For replacement pages for IAC, see IAC Supplement 12/11/13.]

**ARC 1232C****LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby amends Chapter 72, "Conveyances Installed On or After January 1, 1975," Iowa Administrative Code.

This amendment adopts by reference relevant portions of the most recent version of the American Society of Mechanical Engineers A18.1, "Safety Standard for Platform Lifts and Stairway Chairlifts." Adoption of the most recent national code helps Iowa building owners by allowing them to install the most current technologies available on the national market, and helps elevator users by making the most current safety code applicable on new installations.

The purposes of this amendment are to make the rule current, protect the health and safety of the public and implement legislative intent.

Notice of Intended Action was published in the October 16, 2013, Iowa Administrative Bulletin as **ARC 1108C**. No public comment was received on the proposed amendment. This amendment is identical to the amendment published under Notice of Intended Action.

No variance procedures are included in this rule making. Applicable variance procedures are set forth in 875—Chapter 66.

After analysis and review of this rule making, no impact on jobs will occur.

This amendment is intended to implement Iowa Code chapter 89A.

This amendment shall become effective on January 31, 2014.

The following amendment is adopted.

Adopt the following **new** subrule 72.1(9):

**72.1(9)** For installations on or after January 31, 2014:

- a. ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;
- b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-10;
- c. ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

[Filed 11/20/13, effective 1/31/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1240C****LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 90A.7 and 2013 Iowa Acts, Senate File 430, the Labor Commissioner hereby adopts a new Chapter 169, "General Requirements for Athletic Events," and amends Chapter 170, "Operations of Advisory Board," Chapter 171, "Grant Applications and Awards," Chapter 172, "Professional Wrestling," Chapter 173, "Professional Boxing," Chapter 174, "Elimination Tournaments," and Chapter 177, "Mixed Martial Arts," Iowa Administrative Code.

These amendments update or rescind obsolete rules; establish event license fees pursuant to 2013 Iowa Acts, Senate File 430; establish a new chapter that sets forth standardized rules for promoter responsibilities and administrative requirements such as insurance, reporting of taxes and application for an event license; and change regulations pertaining to health insurance, life insurance and blood testing.

Notice of Intended Action was published in the October 16, 2013, Iowa Administrative Bulletin as **ARC 1107C**. Numerous public comments regarding the proposed amendments were received. The

## LABOR SERVICES DIVISION[875](cont'd)

proposed reduction in insurance coverage limits received favorable comments; however, the proposed maximum deductible for health insurance was criticized. The proposal to reduce the frequency of blood tests was greeted with approval. Some of the commenters believed that professional wrestling should not be covered by Iowa Code chapter 90A. One person commented that subrule 169.5(11) was subject to misinterpretation.

Most of the comments related to the event license fees. Commenters stated that athletic competitions are beneficial for young people and for small towns and that the event license fees would reduce the number of events. Some commenters questioned whether the athletic commissioner really needs additional funds to run the program, and others suggested alternative funding sources for the athletic program.

These amendments are not identical to the amendments published under Notice of Intended Action. The event license fees have been reduced and the effective date for the event license fees has been delayed to allow the industry to adjust. The maximum deductible for health insurance has been increased from \$1,000 to \$1,500. Subrule 169.5(11) was clarified to avoid misinterpretation.

The principal reasons for these amendments are to implement legislative intent, protect the public safety and health, establish event license fees, make the athletic fund solvent, and modernize and standardize the rules.

No variance procedures are included in this rule making. Applicable variance procedures are set forth in 875—Chapter 1.

After analysis and review of this rule making, these amendments will have no impact on jobs.

These amendments are intended to implement Iowa Code chapter 90A as amended by 2013 Iowa Acts, Senate File 430.

These amendments shall become effective on January 15, 2014, and the event license fees shall apply only to events held on or after May 1, 2014.

The following amendments are adopted.

ITEM 1. Adopt the following **new** 875—Chapter 169:

CHAPTER 169  
GENERAL REQUIREMENTS FOR ATHLETIC EVENTS

**875—169.1(90A) Scope and application.** Unless otherwise noted, this chapter applies to each event covered by Iowa Code chapter 90A.

**875—169.2(90A) Prohibited events.** No promoter shall arrange or advertise:

- 169.2(1)** A match between persons of the opposite sex;
- 169.2(2)** A match between more than two contestants; or
- 169.2(3)** A match with a contestant who is younger than 18 years of age.

**875—169.3(90A) Advance notice of event.** A promoter shall submit advance notice of an event, other than a professional wrestling event, to the commissioner on the form provided by the commissioner at least 60 days prior to the event but not more than six months prior to the event. The advance notice shall include:

- 169.3(1)** The date, time, type, and location of the event;
- 169.3(2)** The promoter's name and contact information;
- 169.3(3)** One-half of the required event license fee set forth by subrule 169.4(2);
- 169.3(4)** Whether the event is indoors or outdoors; and
- 169.3(5)** Other relevant information requested by the commissioner on the form.

**875—169.4(90A) Event license.** A promoter shall hold a mixed martial arts match, professional boxing match, or wrestling match only if the commissioner of athletics (commissioner) has issued an applicable event license.

## LABOR SERVICES DIVISION[875](cont'd)

**169.4(1) Application.** At least seven days before the event, the promoter shall submit a completed application for a license on the form provided by the commissioner.

*a.* For a professional wrestling event, the application shall include each of the following:

(1) The promoter's name, address, telephone number and other contact information as requested by the commissioner;

(2) The event date, venue name, and venue address;

(3) A nonrefundable \$100 event license fee applicable to events held on or after May 1, 2014; and

(4) The promoter's signature.

*b.* For any other covered event, the application shall contain all of the following information:

(1) The date, time, type, and location of the event;

(2) The promoter's name, address, and contact information;

(3) One-half of the required event license fee set forth in subrule 169.4(2);

(4) The name, address, weight, gender, and opponent of each contestant;

(5) A copy of the medical license of the ringside physician;

(6) The date, time, and location for the weighing of the contestants;

(7) The name, contact information, and role of each proposed official;

(8) Copies of the contracts with the contestants, the emergency medical services company, and the security company;

(9) The name and contact information for the certified law enforcement officer who will attend the event;

(10) The date, time, and location of the ringside physician's examination of the contestants;

(11) Certificates of insurance as required by subrules 169.5(17) and 169.5(18);

(12) A bond in the sum of \$5,000, payable to the State of Iowa, conditioned upon the payment of the tax and penalties imposed by Iowa Code chapter 90A, unless the promoter has a current valid bond on file with the division;

(13) The name and telephone number of the person designated to clean between rounds; and

(14) Other relevant information requested by the commissioner on the form.

**169.4(2) Event license fees applicable to events held on or after May 1, 2014.** For events held on or after May 1, 2014, the nonrefundable event license fee shall be \$100 for a professional wrestling event and \$450 for all other covered events. A professional wrestling promoter shall submit the event license fee with the event license application at least 7 days prior to the event. For all other covered events, the promoter shall submit one-half of the event license fee with the advance notice of the event at least 60 days prior to the event, and one-half of the event license fee with the event license application at least 7 days prior to the event.

**169.4(3) Issuance.** The decision to issue an event license is solely within the discretion of the commissioner. The following factors will be considered by the commissioner when deciding whether to issue an event license:

*a.* Date the promoter filed advance notice of event.

*b.* The promoter's prior compliance with Iowa Code chapter 90A and applicable rules.

*c.* Applications for conflicting events.

*d.* Ability of the commissioner to provide staff.

*e.* The promoter's history of canceling events.

*f.* Anticipated tax revenue.

*g.* Completeness of application package.

*h.* Whether the event is indoors or outdoors.

**169.4(4) Revocation.** When the commissioner finds that failure to provide adequate security to maintain public safety imperatively requires emergency action, the commissioner may immediately suspend the event license, pending license revocation procedures pursuant to Iowa Code chapter 17A.

**875—169.5(90A) Promoter responsibilities.** The promoter of a professional wrestling event shall be responsible for subrules 169.5(1) through 169.5(6). All other promoters shall be responsible for each of the following:

## LABOR SERVICES DIVISION[875](cont'd)

**169.5(1)** Ensure compliance with Iowa Code chapter 90A and applicable rules.

**169.5(2)** Ensure that the referees are familiar with and enforce the rules.

**169.5(3)** Be responsible for the conduct and attendance of all officials and participants.

**169.5(4)** Ensure that adequate public safety is maintained at all events. Adequate personnel provided by a private security company and at least one law enforcement officer who is certified pursuant to Iowa Code chapter 80B shall be furnished by the promoter.

**169.5(5)** Ensure that a referee inspects the gloves, bandages, and body of each contestant for foreign substances that might be detrimental to an opponent.

**169.5(6)** Ensure that contestants are free of fingernails that are capable of causing injury to an opponent.

**169.5(7)** Provide officials and participants who are subject to approval by the commissioner.

**169.5(8)** Answer to the commissioner for noncompliance.

**169.5(9)** Be available to the commissioner throughout an event or identify a designee who shall be:

- a. Available to the commissioner throughout an event; and
- b. Authorized by the promoter to address issues that may arise.

**169.5(10)** Enter into a written contract with each contestant using the form furnished by the commissioner. Telegrams, fax transmissions, electronic mail, or letters indicating acceptance of terms will be considered an agreement between a contestant, the contestant's manager and the promoter, pending the actual signing of the contract.

**169.5(11)** Provide appropriate gloves.

**169.5(12)** Provide and maintain a container with a solution of ten parts water to one part bleach to clean bodily fluids from any part of the cage, cage enclosure, or floor.

**169.5(13)** Ensure that an ambulance and ambulance service authorized at the EMT-B, EMT-I, EMT-P or paramedic specialist level pursuant to 641—Chapter 132 are present at the event. A promoter is fully responsible for all charges assessed by the ambulance service related to the event except:

- a. Charges covered by insurance.
- b. Charges for services provided to persons other than participants and officials.

**169.5(14)** Ensure that contestants are wearing appropriate attire, gloves, and other necessary equipment.

**169.5(15)** Provide a suitable, clean, and private space for contestants to change clothes.

**169.5(16)** Submit to the ringside physician no later than at the time of the physicals test results showing that each contestant scheduled for the event tested negative for the human immunodeficiency, hepatitis B, and hepatitis C viruses within the one-year period prior to the event. The contestant shall not participate and the physician shall notify the promoter that the contestant is prohibited from participating for medical reasons if any of the following occurs:

- a. The promoter does not produce timely proof of testing;
- b. The test results are positive;
- c. The laboratory is not properly certified in accordance with the federal Clinical Laboratory Improvement Act;
- d. The test was performed more than 12 months prior to the event; or
- e. The test results are otherwise deficient.

**169.5(17)** Obtain from a company authorized to do business in the state of Iowa \$10,000 of health insurance coverage on each contestant to provide for medical, surgical and hospital care for injuries sustained and illnesses contracted during the event. If there is a deductible, it shall not exceed \$1,500. If the contestant pays for covered care, the insurance proceeds shall be paid to the contestant or the contestant's beneficiaries as reimbursement for payment. In the event of a claim, payment of the deductible shall be the sole responsibility of the promoter.

**169.5(18)** Obtain from a company authorized to do business in the state of Iowa no less than \$10,000 of life insurance coverage on each contestant to cover death caused by injuries sustained or illnesses contracted during the event.

**169.5(19)** No later than the day of the event, ensure that each contestant makes available to the commissioner's representative suitable proof of age consisting of one of the following documents:

## LABOR SERVICES DIVISION[875](cont'd)

- a. A certified birth certificate;
- b. A passport;
- c. A certified baptismal record;
- d. A U.S. visa;
- e. An identification card issued to the contestant by a governmental entity and which includes the contestant's photograph and birth date; or
- f. A U.S. resident alien card.

**169.5(20)** Ensure that participants and officials behave in a professional manner at all times.

**169.5(21)** Ensure that participants and officials refrain from:

- a. Fighting with anyone other than a scheduled opponent;
- b. Fighting outside the ring;
- c. Throwing objects; and
- d. Making obscene gestures.

**169.5(22)** Establish through [www.mixedmartialarts.com](http://www.mixedmartialarts.com) that no contestant on an amateur card has participated in a reported professional mixed martial arts match.

**875—169.6(90A) Taxes.** No later than 20 days after an event, a promoter shall file with the commissioner a report and pay all taxes due as a result of the event. The report shall be submitted on the form provided by the commissioner and shall include the promoter's business name, name of a contact for the promoter, date of the event, event license number, location of the event, each price for which tickets were offered or sold, number of tickets sold at each price, total gate receipts, and signatures of the licensee and the person who completed the report. The promoter shall submit with the report:

**169.6(1)** Proof of the number of tickets sold and the price of each ticket, which shall include appropriate documentation from a ticketing service, if applicable.

**169.6(2)** A check made payable to the Iowa Division of Labor Services for the amount calculated using the report.

**169.6(3)** A check made payable to the Iowa Department of Revenue for the amount calculated using the report.

These rules are intended to implement Iowa Code chapter 90A as amended by 2013 Iowa Acts, Senate File 430.

ITEM 2. Amend rule 875—170.3(90A) as follows:

**875—170.3(90A) Time of meetings.** ~~The board shall meet at least semiannually.~~ The commissioner shall establish the date of all meetings, and provide notice of all meeting dates, locations, and agenda. ~~The commissioner shall schedule a meeting upon the receipt of a written request from a majority of the members of the board. The request shall state the reason for the meeting and the proposed agenda.~~

ITEM 3. Amend rule 875—171.1(90A) as follows:

**875—171.1(90A) Scope.** This chapter establishes rules of the ~~athletic~~ commissioner of athletics (commissioner) for the distribution of revenues collected from a professional boxing event pursuant to Iowa Code section ~~90A.7(1) in excess of the amount expected to be needed to administer chapter 90A~~ 90A.9.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 4. Rescind and reserve rules **875—172.9(90A)**, **875—172.12(90A)**, **875—172.14(90A)** and **875—172.18(90A)**.

ITEM 5. Rescind and reserve rules **875—173.3(90A)**, **875—173.20(90A)**, **875—173.22(90A)**, **875—173.25(90A)**, **875—173.26(90A)**, **875—173.38(90A)** and **875—173.54(90A)**.

ITEM 6. Rescind and reserve rules **875—174.9(90A)**, **875—174.12(90A)** and **875—174.13(90A)**.

ITEM 7. Rescind and reserve rule **875—177.2(90A)**.

ITEM 8. Rescind and reserve subrules **177.5(9)** to **177.5(11)**.

ITEM 9. Rescind and reserve subrule **177.6(1)**.

ITEM 10. Rescind and reserve rule **875—177.10(90A)**.

[Filed 11/20/13, effective 1/15/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1226C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 321G.2 and 321G.7, the Natural Resource Commission hereby amends Chapter 28, "Snowmobile and All-Terrain Vehicle Registration Revenue Cost-Share Program," and Chapter 47, "Snowmobiles," Iowa Administrative Code.

This rule making implements the action steps identified in a process improvement event held by the Department with the Iowa State Snowmobile Association (ISSA) October 3 through 7, 2011. The purpose of this event was to work with key stakeholders to revamp the snowmobile cost-share program, as cost-share recipients had long asked for an improved process, clearer selection criteria, and an earlier deadline for submitting applications. After working together for one week, a new and improved program was developed.

The rule making changes the snowmobile cost-share application submittal date from July 1 to May 1 each year (see subrule 47.33(2)). By moving the cost-share cycle forward, applicants can enter into approved cooperative agreements sooner, allowing for better timing of preseason groomer repairs, trail development planning, and land acquisition such as securing land leases. The rule making also provides more detailed project selection criteria for the purchase, repair and operation of grooming equipment, trail development, and land acquisition (see rule 571—47.36(321G)). The rule making also sets out that the records kept by entities receiving funds under this program are subject to audit by the Department and the State Auditor's Office (see rule 571—47.40(321G)). The rule making also specifies the requirements for seeking funds for land acquisition such as easements and leases (see rule 571—47.43(321G)). In addition, the rule making provides more clarity on the reimbursement of expenses to ISSA (see subrule 47.42(7)). While existing rules allow ISSA to seek reimbursement of certain expenses pursuant to an agreement with the Department, the rule making clarifies the exact types of items eligible for reimbursement. Moreover, the rule making provides additional oversight regarding payment to ISSA by mandating that the agreement between ISSA and the Department be subject to selection criteria, review and selection committee recommendation, and approval by the Director of the Department.

The rule making also moves the snowmobile cost-share program currently in Chapter 28 into the chapter containing other snowmobile rules, Chapter 47. Containing all program-specific rules in the same place is convenient to stakeholders.

The rule making has positive impacts on the state and local economies, supporting existing jobs and growth. By moving the cost-share application deadline from July 1 to May 1, applicants can enter into approved cooperative agreements sooner, allowing for better timing of preseason groomer repairs, trail

## NATURAL RESOURCE COMMISSION[571](cont'd)

development planning, and land acquisition such as securing land leases. This ensures that preseason groomer repairs are completed well before the snow season; thus, groomers will be grooming trails rather than making repairs at the first snowfall. A groomed snowmobile trail is not only safer, but attracts riders from across the state and from surrounding states. States with early and consistently groomed trails are more likely to attract riders than states without these services. Snowmobilers have a proven spending record with local businesses such as gas stations, restaurants, hotels, and local snowmobile dealers. Preseason repairs provide a boost to local equipment and parts suppliers and other related businesses.

A snowmobile economic impact study conducted by Iowa State University indicated that in 2009 and 2010 Iowa's 28,265 registered snowmobilers spent an estimated \$76.3 million per year on snowmobile equipment and activities. Of that total expenditure, \$50.3 million was spent in Iowa, with the remaining \$26 million spent on trips out of state. Estimated expenditures by out-of-state snowmobilers riding in Iowa added an additional \$556,600 of spending, for a total of \$50.85 million. The in-state expenditures generated an estimated \$30.4 million in additional transactions within the Iowa economy, resulting in an estimated \$81.3 million in total transactions or sales, \$27.9 million in personal income, and 1,101 jobs. The study concluded that if the state of Iowa could capture the \$26 million that Iowa snowmobilers spent out of state, there would be the potential of providing an additional \$41.9 million in total transactions, \$14.5 million in additional household income, and 576 more jobs. See "The Economic Importance of Snowmobiling in Iowa," prepared for ISSA, Daniel Otto, Dept. of Economics, ISU, author.

Capturing the out-of-state trip expenditures is directly related to trail development, maintenance and grooming activities in Iowa. The state of Iowa can facilitate efforts to keep stakeholders riding in Iowa by providing earlier cost-share approvals, leading to earlier preseason groomer repairs, trail development planning and landowner lease agreements. The existing rules limit the aforementioned activities due to the cost-share application deadline's proximity to the snow season. The complete jobs impact statement is available from the Department upon request.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 18, 2013, as **ARC 1022C**. A public hearing was held on October 8, 2013. No comments were received. Three corrections have been made to the amendments published under Notice of Intended Action. The word "committees" was changed to "committee" in the catchwords of rules 571—28.5(321I) and 571—47.34(321G), and the catchwords of rule 571—28.13(321I) were revised to reflect the amended chapter.

These amendments are intended to implement Iowa Code sections 321G.2 and 321G.7.

These amendments shall become effective on January 15, 2014.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend 28.1 to 28.18; adopt 47.30 to 47.47] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 1022C**, IAB 9/18/13.

[Filed 11/19/13, effective 1/15/14]

[Published 12/11/13]

[For replacement pages for IAC, see IAC Supplement 12/11/13.]

**ARC 1201C****PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic hereby amends Chapter 44, "Continuing Education for Chiropractic Physicians," Iowa Administrative Code.

This amendment clarifies the number of continuing education hours a licensee must obtain by type of presentation.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 18, 2013, as **ARC 1012C**. A public hearing was held on October 8, 2013, from 8:30 to 9 a.m. in the Fifth

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

Floor Board Conference Room, Lucas State Office Building. No public comments were received. This amendment is identical to that published under Notice.

This amendment was adopted by the Board of Chiropractic on October 23, 2013.

After analysis and review of this rule making, there should be a positive impact on jobs. There has been some confusion regarding how many hours are required in the various categories of continuing education. This amendment clarifies continuing education rules to better define the categories of continuing education.

This amendment is intended to implement Iowa Code sections 151.11 and 272C.2.

This amendment will become effective January 15, 2014.

The following amendment is adopted.

Amend subparagraph **44.3(2)“a”(1)** as follows:

(1) At least 36 hours of continuing education credit obtained from a program that directly relates to clinical case management of chiropractic patients. ~~Beginning with the July 1, 2008, to June 30, 2010, renewal cycle, at least 24 of these hours shall be earned by completing a program in which an instructor conducts the class employing either a traditional in-person classroom-type presentation or live interactive Web conferencing.~~ Beginning with the July 1, 2012, to June 30, 2014, renewal cycle, on-line instruction may qualify for “live” continuing education credit if provided by a Council on Chiropractic Education (CCE)-accredited chiropractic college in the United States, the Iowa Chiropractic Society, the American Chiropractic Association, or the International Chiropractors Association or if certified by the Providers of Approved Continuing Education (PACE) through the Federation of Chiropractic Licensing Boards (FCLB). The remaining 12 hours may be obtained by independent study, including any on-line instruction. Beginning with the July 1, 2014, to June 30, 2016, renewal cycle, at least 20 of these hours shall be earned by completing a program in which an instructor conducts the class employing a traditional in-person, classroom-type presentation and the licensee is in attendance in the same room as that instructor. The remaining 16 hours of continuing education credit relating to clinical case management of chiropractic patients may be obtained by independent study, including any on-line instruction, that complies with conditions specified in 645—44.1(151).

[Filed 11/12/13, effective 1/15/14]

[Published 12/11/13]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1215C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 141A.2(2), the Department of Public Health hereby rescinds Chapter 11, “Acquired Immune Deficiency Syndrome (AIDS),” and adopts new Chapter 11, “Human Immunodeficiency Virus (HIV) Infection and Acquired Immune Deficiency Syndrome (AIDS),” Iowa Administrative Code.

The rules in Chapter 11 describe procedures and programs related to HIV/AIDS, including laboratory certification, training programs, notification and testing of exposed persons, and the AIDS Drug Assistance Program (ADAP). The new Chapter 11 rules implement changes that have been made to Iowa Code chapters 139A and 141A, including removing the laboratory certification procedures; describing reportable events and conditions for HIV/AIDS; defining and describing partner notification services; updating procedures for occupational exposures to blood-borne pathogens; and removing prohibitions on home testing. In addition, the rules clarify and add detail to consent procedures for HIV testing. They also update references and Iowa Code citations and change the method of calculating income for eligibility for ADAP to conform to the methodology used by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

Notice of Intended Action was published in the October 2, 2013, Iowa Administrative Bulletin as **ARC 1044C**. No comments were received. The adopted rules are identical to those published under Notice.

The State Board of Health adopted these rules on November 13, 2013.

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

These rules are intended to implement Iowa Code chapter 141A and sections 135.11(20) to 135.11(22), 139A.19, 139A.33, and 915.40 to 915.43.

These rules will become effective on January 15, 2014.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 11] is being omitted. These rules are identical to those published under Notice as **ARC 1044C**, IAB 10/2/13.

[Filed 11/14/13, effective 1/15/14]

[Published 12/11/13]

[For replacement pages for IAC, see IAC Supplement 12/11/13.]

**ARC 1218C****PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby adopts new Chapter 23, "Plumbing and Mechanical Systems Board—Licensee Practice," Iowa Administrative Code.

The purpose of this chapter is to clarify the standards governing the practice of the licensed trades defined in Iowa Code chapter 105. The rules describe the conduct and minimum requirements that the Plumbing and Mechanical Systems Board expects from a licensed contractor, master, journeyman or apprentice working in the plumbing, mechanical, HVAC-refrigeration, sheet metal, and hydronics disciplines; and the conduct and minimum requirements for those possessing one of the specialty licenses, a medical gas certificate, or an inactive master/journey license. These rules also implement 2013 Iowa Acts, Senate File 427, to add new mechanical, HVAC-refrigeration, and sheet metal disciplines to the rules.

Notice of Intended Action was published in the August 7, 2013, Iowa Administrative Bulletin as **ARC 0937C**. There were two comments. One was in support of the bonding language. The second comment objected to the master and contractor licenses related to the sheet metal discipline which is identified in statute. A discrepancy was noted with the statutory language of the bill regarding the sheet metal master license. It is the intent of the industry to seek legislative correction to remove this license from the statute during the 2014 session.

As a result of the discrepancy, language that might seem to equate a master or contractor license with the specific sheet metal discipline has been removed from the rules.

The Plumbing and Mechanical Systems Board adopted these rules on November 19, 2013.

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

These rules are intended to implement Iowa Code chapter 105.

These rules will become effective on May 1, 2014.

The following amendment is adopted.

Adopt the following **new** 641—Chapter 23:

CHAPTER 23  
PLUMBING AND MECHANICAL SYSTEMS BOARD—  
LICENSEE PRACTICE

**641—23.1(105) Definitions.** For purposes of these rules, the following definitions shall apply:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

*“Board”* means the plumbing and mechanical systems board as established pursuant to Iowa Code section 105.3.

*“Contractor”* means a person or entity that provides plumbing, mechanical, HVAC-refrigeration, or hydronic systems services on a contractual basis and who is paid a predetermined amount under that contract for rendering those services.

*“Helper”* means a person who performs general manual labor activities and who provides assistance to an apprentice, journey person, or master, while under the supervision of a journey person or master.

*“Journey person”* means an individual who possesses a valid and current journey level license issued by the board.

*“Lapsed license”* means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date, or a license that expired on or after June 30, 2017, and was not renewed by the following August 31.

*“Licensee”* means a person holding a license issued by the board, including an apprentice, journey person, or master license in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronics trades; a combined license; a special, restricted sublicense; or a medical gas certificate.

*“Master”* means an individual who possesses a valid and current master level license issued by the board.

*“Master of record”* means an individual possessing an active master license under Iowa Code chapter 105 who shall be responsible for the proper designing, installing, and repairing of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems and who is actively in charge of the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work of a contractor.

This rule is intended to implement Iowa Code sections 105.10, 105.14, 105.16, 105.18, 105.19 and 105.20.

**641—23.2(105) Duties of all licensees, specialty licensees, and certificate holders.**

**23.2(1)** While conducting business or performing work covered under Iowa Code chapter 105, each licensee must keep a copy of the licensee’s board-issued, wallet-sized licensing identification card issued under Iowa Code section 105.12(2) on the licensee’s person or in an easily retrievable area at the work site.

**23.2(2)** Each licensee must maintain a residential or business address on record with the board. In the event the licensee’s residential or business address changes, the licensee shall so notify the board.

**23.2(3)** Each licensee shall apply for and obtain all applicable permits prior to performing any work covered under Iowa Code chapter 105 as may be required by any law, ordinance, or regulation of this state, or a political subdivision therein.

**23.2(4)** A licensee shall present upon request a copy of the licensee’s board-issued, wallet-sized license identification card issued under Iowa Code section 105.12(2).

**23.2(5)** A licensee possessing a lapsed license may not operate as a contractor or work in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a medical gas system installer or work in a specialty license discipline until the license is reinstated and renewed.

**23.2(6)** Each licensee shall perform all Iowa Code chapter 105-covered work in conformity with the applicable professional code.

**23.2(7)** A licensee shall not perform any Iowa Code chapter 105-covered work for which the licensee does not possess the requisite license.

**23.2(8)** A licensee shall conform to the minimum standard of acceptable and prevailing practice and shall exercise the degree of workmanlike care which is ordinarily exercised by the average licensee in the applicable trade acting in the same or similar circumstances.

**23.2(9)** A licensee who utilizes the services of an unlicensed person as a helper shall be responsible for the work performed by the helper and shall ensure that such work conforms to the minimum standard of acceptable and prevailing practice.

This rule is intended to implement Iowa Code sections 105.10, 105.14, 105.16, 105.18 and 105.19.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—23.3(105) Contractor license.** A contractor licensed under Iowa Code chapter 105 shall adhere to the following requirements, the violation of which may give rise to disciplinary action:

**23.3(1) Master license requirement.** A contractor shall not engage in the business of designing, installing, or repairing plumbing, mechanical, HVAC-refrigeration, or hydronic systems unless at all times the contractor holds or employs at least one person holding an active master license issued by the board for each discipline in which the contractor conducts business. Without prior board approval, a contractor shall not knowingly utilize a master licensee to meet this requirement if the master licensee is simultaneously associated with another contractor in that discipline.

*a.* Notwithstanding subrule 23.3(1), in the event a licensed master of record's employment with the contractor is terminated, or the master of record otherwise discontinues the master of record's relationship with the contractor, or the master of record's master license is lapsed, suspended, revoked, expired, or otherwise invalidated, the contractor may continue to provide plumbing, mechanical, HVAC-refrigeration, or hydronic systems services for a period of up to six months without identifying a new master of record.

*b.* To utilize the six-month grace period set forth in paragraph 23.3(1) "a," a contractor must notify the board of the contractor's loss of the master of record within 30 days from the date the master of record is no longer associated with the contractor, absent exigent circumstances.

**23.3(2) Display of license.** A person holding a contractor license shall keep the current license certificate publicly displayed in the primary place in which the person practices.

**23.3(3) Surety bond.** A person or entity holding a contractor license must maintain during the licensing period a surety bond issued by an entity licensed to do business in Iowa in a minimum amount of \$5,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the surety bond. If a person operates the contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the surety bond, and the surety bond must cover all plumbing or mechanical work performed by the legal entity. The surety bond required under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the surety bond can be canceled.

**23.3(4) Public liability insurance.** A person or entity holding a contractor license must maintain during the licensing period public liability insurance issued by an entity licensed to do business in Iowa in a minimum amount of \$500,000. If a person operates the contractor business as a sole proprietorship, the person must personally obtain and maintain the public liability insurance. If a person operates the contractor business as an employee or owner of a legal entity, the legal entity must obtain and maintain the public liability insurance, and the public liability insurance must cover all plumbing and mechanical work performed by the legal entity. The public liability insurance required under this subrule must contain a provision that requires the issuing entity to provide the board ten days' written notice before the public liability insurance can be canceled.

**23.3(5) Contractor registration with the labor commissioner.** Through June 30, 2017, a contractor must maintain registration as a contractor with the labor commissioner pursuant to Iowa Code chapter 91C. Effective July 1, 2017, a contractor must maintain such registration by providing the board with the necessary information.

**23.3(6) Permanent place of business.** A contractor must maintain a permanent place of business, the address of which must be provided to the board. If a contractor changes the permanent place of business, the contractor must provide the board the new address within 30 days of the change.

**23.3(7) Licensure requirement.** A contractor shall not knowingly allow an employee to perform work covered under Iowa Code chapter 105 without the applicable license.

**23.3(8) Supervision.** A contractor shall not knowingly allow an apprentice employed by the contractor to perform work covered under Iowa Code chapter 105 without supervision of the apprentice by a master or journeyman who is also employed by the contractor and who is licensed in the discipline in which the apprentice is performing such work.

This rule is intended to implement Iowa Code sections 105.10, 105.14, 105.16, 105.18, 105.19 and 105.22.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—23.4(105) Master license.** A master licensed under Iowa Code chapter 105 shall adhere to the following requirements, the violation of which may give rise to disciplinary action:

**23.4(1) Contractor relationship.** A master may only be a master of record for one contractor in any particular discipline at any one time, except that a contractor or a master may seek prior board approval to serve as the master of record for more than one contractor in a particular discipline. An individual who possesses master licenses in multiple disciplines may be a master of record for multiple contractors so long as the individual is only a master of record for one contractor in any particular discipline at one time.

**23.4(2) Contractor.** A master shall not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

**23.4(3) Supervision.** A master who superintends the design, installation, or repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems shall be available to supervise journeypersons or apprentices as needed and may only provide such supervision in the discipline or disciplines in which the master is licensed. A master shall not knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

**23.4(4) Master of record.** A master who serves as a master of record for a contractor and who disassociates from the contractor must notify the board and the contractor of the disassociation, if notice was not previously provided, within 30 days from the date of disassociation, absent exigent circumstances.

This rule is intended to implement Iowa Code section 105.22.

**641—23.5(105) Journeyperson license.** A journeyperson licensed under Iowa Code chapter 105 shall adhere to the following requirements, the violation of which may give rise to disciplinary action:

**23.5(1) Working under supervision.** A journeyperson must work under the supervision of a master licensed in the discipline of the work being performed in the design, installation, and repair of plumbing, mechanical, HVAC-refrigeration, or hydronic systems.

**23.5(2) Contractor.** A journeyperson shall not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

**23.5(3) Supervision.** A journeyperson who superintends one or more apprentices may only provide such supervision in the discipline(s) in which the journeyperson is licensed and only while performing work for the same contractor licensed under Iowa Code chapter 105. A journeyperson shall not knowingly supervise unlicensed persons who perform work covered under Iowa Code chapter 105 for which a board-issued license is required.

This rule is intended to implement Iowa Code sections 105.10, 105.14, 105.16, 105.18 and 105.19.

**641—23.6(105) Apprentice license.** An apprentice licensed under Iowa Code chapter 105 shall adhere to the following requirements, the violation of which may give rise to disciplinary action:

**23.6(1) Working under supervision.** An apprentice may only perform work covered under Iowa Code chapter 105 under the supervision of a master or journeyperson.

**23.6(2) Contractor.** An apprentice shall not knowingly perform work covered under Iowa Code chapter 105 for an unlicensed contractor.

This rule is intended to implement Iowa Code section 105.22.

**641—23.7(105) Specialty licenses and certifications.**

**23.7(1) Medical gas certification.**

*a.* A person who possesses a medical gas certification and who performs medical gas brazing must maintain the person's brazing continuity.

*b.* A person who possesses a medical gas certification must maintain the person's valid certification issued from the National Inspection Testing Certification (NITC) Corporation or an equivalent authority approved by the board.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

**23.7(2) *Hearth systems specialty license.***

*a.* A person who possesses a hearth systems specialty license must maintain the person's valid certification issued from the National Fireplace Institute or equivalent authority approved by the board.

*b.* A hearth systems specialty license allows a licensee to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within three feet of the appliance. A hearth systems specialty license further allows for work in the venting systems associated with a hearth appliance, log lighters, gas log sets, fireplace inserts, and freestanding stoves. A hearth systems specialty license does not allow a licensee to install a shutoff valve or perform any other mechanical or HVAC-refrigeration work.

*c.* A person possessing a hearth systems specialty license shall not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and shall not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

**23.7(3) *Service technician HVAC specialty license.***

*a.* A licensee who holds a service technician HVAC specialty license by demonstrating the licensee possesses a valid certification from North American Technical Excellence, Inc. or an equivalent authority approved by the board must maintain valid certification from North American Technical Excellence, Inc. or an equivalent authority approved by the board.

*b.* A service technician HVAC specialty license allows a licensee to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than three feet from the appliance. A service technician HVAC specialty license does not allow a licensee to perform any other mechanical or HVAC-refrigeration work.

*c.* A person possessing a service technician HVAC specialty license shall not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and shall not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

**23.7(4) *Disconnect/reconnect plumbing technician specialty license.***

*a.* A disconnect/reconnect plumbing technician specialty license allows a licensee to perform work from the appliance shutoff valve or the fixture shutoff valve to the appliance or fixture and any part or component of the appliance or fixture, including the disconnection and reconnection of the existing appliance or fixture to the water or sewer piping and the installation of a shutoff valve no more than three feet from the appliance or fixture. A disconnect/reconnect plumbing technician specialty license does not allow a licensee to perform any other plumbing work.

*b.* A person possessing a disconnect/reconnect plumbing technician specialty license shall not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and shall not perform work within the limited scope of the person's specialty license unless the person can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

**23.7(5) *Private school or college routine maintenance specialty license.***

*a.* A private school or college routine maintenance specialty license allows a licensee to perform routine maintenance within the scope of the licensee's employment with a private school or college. For purposes of this subrule, "routine maintenance" shall mean the maintenance, repair, or replacement of existing fixtures or parts of plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas, or steam piping permanent repairs except for traps and strainers. Routine maintenance shall include emergency repairs. Routine maintenance does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

*b.* A person possessing a private school or college routine maintenance specialty license shall not perform Iowa Code chapter 105-covered work beyond the limited scope of the person's specialty license, and shall not perform work within the limited scope of the person's specialty license unless the person

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

can conform to the minimum standard of acceptable and prevailing practice of a licensee performing such work.

This rule is intended to implement Iowa Code section 105.22.

**641—23.8(105) Inactive license.**

**23.8(1)** A person possessing an inactive license under 641—subrule 29.2(6) shall not perform any plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic work for which licensure is required so long as the person's license is held in inactive status.

**23.8(2)** A person possessing an active journeyman/inactive master license under 641—subrule 29.2(5) shall not perform any plumbing, mechanical, HVAC-refrigeration, or hydronic work for which a master license is required so long as the person's master license is held in inactive status.

This rule is intended to implement Iowa Code sections 105.20 and 105.22.

[Filed 11/19/13, effective 5/1/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1219C**

**PUBLIC HEALTH DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of 2013 Iowa Acts, Senate File 427, section 35, the Department of Public Health hereby amends Chapter 27, "Plumbing and Mechanical Systems Board—Administrative and Regulatory Authority," Iowa Administrative Code.

These amendments incorporate new mechanical, HVAC-refrigeration, and sheet metal disciplines identified in 2013 Iowa Acts, Senate File 427, into definitions for license and licensee. 2013 Iowa Acts, Senate File 427, became effective upon enactment on April 26, 2013, by operation of section 36 of the Senate File. The new disciplines are also incorporated into the rules setting forth the purpose of the Board and into one of the subrules addressing investigations of violations.

Notice of Intended Action was published in the August 7, 2013, Iowa Administrative Bulletin as **ARC 0936C**. There were no comments received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on November 13, 2013.

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

These amendments are intended to implement 2013 Iowa Acts, Senate File 427.

These amendments will become effective on January 15, 2014.

The following amendments are adopted.

ITEM 1. Amend rule **641—27.1(17A,105)**, definitions of "License" and "Licensee," as follows:

"*License*" means a license to operate as a contractor or work in the plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

"*Licensee*" means a person or entity licensed to operate as a contractor or work in the plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

ITEM 2. Amend rule **641—27.2(17A,105,83GA,ch151)**, parenthetical implementation statute, as follows:

(17A,105,83GA,ch151)

ITEM 3. Amend subrule 27.2(1) as follows:

**27.2(1)** Licensing of qualified applicants to operate as a contractor or work in the plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified

PUBLIC HEALTH DEPARTMENT[641](cont'd)

medical gas system installer or work in the specialty license disciplines developed by the board by examination, renewal, endorsement, and reciprocity.

ITEM 4. Amend paragraph **27.3(8)“e”** as follows:

*e.* Investigate alleged violations of statutes or rules that relate to operation as a contractor; work in the plumbing, HVAC, ~~refrigeration~~, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines; work as a certified medical gas system installer; or work in the specialty license disciplines developed by the board upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

[Filed 11/19/13, effective 1/15/14]

[Published 12/11/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1220C**

## **PUBLIC HEALTH DEPARTMENT[641]**

### **Adopted and Filed**

Pursuant to the authority of 2013 Iowa Acts, Senate File 427, section 35, and Iowa Code section 105.4, the Department of Public Health and the Plumbing and Mechanical Systems Board hereby amend Chapter 29, “Plumbing and Mechanical Systems Board—Application, Licensure, and Examination,” Iowa Administrative Code.

Items 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 16, 17 and 18 are necessary to implement 2013 Iowa Acts, Senate File 427, which became effective upon enactment on April 26, 2013, by operation of section 36 of the Senate File.

The following items have the following additional purposes:

Item 2 modifies the definition of “hydronic” to reflect the most current definition contained in Iowa Code section 105.2(8).

Item 12 rescinds subrule 29.4(3), which states that “An applicant shall have no record of felony conviction relating to the profession as determined by the board.”

Item 13 specifies circumstances under which an application for licensure shall be deemed incomplete.

Item 14 removes the requirement that examinations adopted by the Board must be “nationally recognized.”

Item 15 omits the obsolete requirement that a licensee “provide evidence that the licensee continues to meet the general requirements for licensure under rule 641—29.2(105)” in order to qualify for renewal.

Notice of Intended Action was published in the August 7, 2013, Iowa Administrative Bulletin as **ARC 0934C**. There were 21 comments received that supported keeping the examination passing score at 75 percent. As a result of the comments, Item 15 that amended the passing score to 70 percent was not adopted and the subsequent items were renumbered accordingly.

Three of the comments also objected to the master and contractor licenses as related to the sheet metal trade which is reflected in statute. A discrepancy was noted with the statutory language of the bill regarding the sheet metal master license. It is the intent of the industry to seek legislative correction to remove this license from the statute during the 2014 session. As a result of the discrepancy, language that might seem to equate a master or contractor license with the specific sheet metal discipline has been removed from the rules.

Another change from the Notice was to eliminate the provision that assigns existing license holders to the new license types during the transition for reissuance of licenses. With the elimination of the master sheet metal license noted above, the transition from a broader license type down to a sheet metal license was not specified in the amendments. Because these amendments were not drafted specific to a license level, language in subrule 29.8(1) has been eliminated, and the Department plans to address this issue in a future Notice of Intended Action.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

The State Board of Health adopted these amendments on November 13, 2013. The Plumbing and Mechanical Systems Board adopted these amendments on November 19, 2013.

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

These amendments are intended to implement Iowa Code sections 105.2, 105.5, 105.9, 105.18, 105.19, 105.20 and 105.22 and 2013 Iowa Acts, Senate File 427.

These amendments will become effective on May 1, 2014.

The following amendments are adopted.

ITEM 1. Adopt the following new definition of “Sheet metal” in rule **641—29.1(105)**:

“*Sheet metal*” means heating, ventilation, air conditioning, pollution control, fume hood systems and related ducted systems or installation of equipment associated with any component of a sheet metal system. “Sheet metal” excludes refrigeration and electrical lines and all natural gas, propane, liquid propane, or other gas lines associated with any component of a sheet metal system.

ITEM 2. Amend the following definitions in rule **641—29.1(105)**:

“*Apprentice*” means any person, other than a helper, journey person, or master, who, as a principal occupation, is engaged in working as an employee of a plumbing, HVAC, ~~refrigeration~~, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems contractor under the supervision of either a master or a journey person and is progressing toward completion of an apprenticeship training program registered by the Office of Apprenticeship of the United States Department of Labor while learning and assisting in the design, installation, and repair of plumbing, HVAC, refrigeration, sheet metal, or hydronic systems, as applicable.

“*Hearth systems specialty license*” means a sublicense under an HVAC-refrigeration or mechanical license to perform work in the installation of gas burning and solid fuel appliances that offer a decorative view of the flames, from the connector pipe to the shutoff valve located within 3 feet of the appliance. This sublicense is further allowed to perform work in the venting systems, log lighters, gas log sets, fireplace inserts, and freestanding stoves.

“*Hydronic*” means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any heating or cooling system or appliance whose primary purpose is to provide comfort using a liquid, water, or steam as the heating or cooling media. “Hydronic” includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system. For the purposes of this definition, “primary purpose is to provide comfort” means a system or appliance in which at least 51 percent of the capacity generated by its operation, on an annual average, is dedicated to comfort heating or cooling.

“*Inactive license*” means a license that is available for a plumbing, HVAC, ~~refrigeration~~, mechanical, HVAC-refrigeration, sheet metal, or hydronic professional who is not actively engaged in running a business or working in the business in the corresponding discipline at that license level.

“*Journey person*” means any person, other than a master, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master in the design, installation, and repair of plumbing, HVAC, ~~refrigeration~~, mechanical, HVAC-refrigeration, sheet metal, or hydronic systems, as applicable.

“*Licensee*” means a person or entity licensed to operate as a contractor or work in the plumbing, HVAC, ~~refrigeration~~, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board.

“*Master*” means any person who works in the planning or superintending of the design, installation, or repair of plumbing, mechanical, HVAC, refrigeration, or hydronic systems and is otherwise lawfully qualified to conduct the business of plumbing, mechanical, HVAC, refrigeration, or hydronic systems, and who is familiar with the laws and rules governing the same.

“*Mechanical systems*” means HVAC, refrigeration, sheet metal, and hydronic systems.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Routine maintenance*” means the maintenance, repair, or replacement of existing fixtures or parts of plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems in which no changes in original design are made. Fixtures or parts do not include smoke and fire dampers or water, gas or steam piping permanent repairs except for traps or strainers. Routine maintenance shall include emergency repairs. “Routine maintenance” does not include the replacement of furnaces, boilers, cooling appliances, or water heaters more than 100 gallons in size.

“*Service technician HVAC specialty license*” means a sublicense under an HVAC-refrigeration or mechanical license to perform work from the appliance shutoff valve to the appliance and any part and component of the appliance, including the disconnection and reconnection of the existing appliance to the gas piping and the installation of a shutoff valve no more than 3 feet away from the appliance.

ITEM 3. Amend rule 641—29.2(105), introductory paragraph, as follows:

**641—29.2(105) Available licenses and general requirements.** Effective January 1, 2011, all licenses issued by the board will be for a three-year period, except where a shorter or longer period is required or allowed by statute. ~~All licenses issued prior to January 1, 2011, will be for a two-year period.~~ Subject to the general requirements set forth herein and the minimum qualifications for licensure set forth in rule 641—29.4(105), the following licenses are available:

ITEM 4. Amend subparagraph **29.2(2)“a”(2)** as follows:

(2) Pass the state journey person licensing examination in the applicable discipline. An individual who has passed both the journey person HVAC-refrigeration examination and the journey person hydronic examination separately shall be qualified to be issued a journey person mechanical license without having to pass the journey person mechanical examination.

ITEM 5. Amend paragraph **29.2(3)“b”** as follows:

b. Pass the state master licensing examination for the applicable discipline. An individual who has passed both the master HVAC-refrigeration examination and the master hydronic examination separately shall be qualified to be issued a master mechanical license without having to pass the master mechanical examination.

ITEM 6. Adopt the following **new** subparagraphs **29.2(4)“a”(1)** to **(3)**:

(1) Through June 30, 2017, the application shall include the applicant’s state contractor registration number.

(2) Effective July 1, 2017, the application shall include proof of workers’ compensation insurance coverage, proof of unemployment insurance compliance and, for out-of-state contractors, a bond as described in Iowa Code chapter 91C.

(3) Effective July 1, 2017, contractor licensure under Iowa Code chapter 105 as amended by 2013 Iowa Acts, Senate File 427, shall constitute registration as a contractor under Iowa Code chapter 91C.

ITEM 7. Rescind paragraph **29.2(4)“b.”**

ITEM 8. Reletter paragraphs **29.2(4)“c”** to **“g”** as **29.2(4)“b”** to **“f.”**

ITEM 9. Amend relettered paragraph **29.2(4)“e”** as follows:

e. Provide a certificate to the board that the public liability insurance policy required under paragraph 29.2(4)“~~d~~ c” and the surety bond required under paragraph 29.2(4)“~~e~~ d” shall not be canceled without the entity first giving ~~15~~ 10 days’ written notice to the board.

ITEM 10. Amend paragraphs **29.2(5)“c”** and **“d”** as follows:

c. Provide evidence that the applicant is not performing plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, or hydronic work for which a master license is required.

d. Acknowledge awareness that the applicant is unable to perform any plumbing, ~~HVAC,~~ refrigeration, mechanical, HVAC-refrigeration, or hydronic work for which a master license is required so long as the applicant’s master license is held in inactive status.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 11. Amend paragraphs **29.2(6)“c”** and **“d”** as follows:

*c.* Provide the board with evidence that the applicant is not actively engaged working in the plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines for which licensure is required.

*d.* Acknowledge awareness that the applicant is unable to perform any plumbing, ~~HVAC, refrigeration,~~ mechanical, HVAC-refrigeration, sheet metal, or hydronic work for which licensure is required so long as the applicant's license is held in inactive status.

ITEM 12. Rescind subrule **29.4(3)**.

ITEM 13. Adopt the following new paragraph **29.5(4)“c”**:

*c.* Documentation of criminal convictions related to the practice of the profession, which shall include a full explanation from the applicant. No application shall be considered complete unless and until the licensee responds to board requests for additional information regarding applicant criminal convictions.

ITEM 14. Amend paragraph **29.6(2)“a”** as follows:

*a.* The examination will be written and proctored by a ~~nationally recognized~~ testing agency selected by the board ~~through a competitive bid process~~.

ITEM 15. Rescind rule 641—29.7(105) and adopt the following new rule in lieu thereof:

**641—29.7(105) License renewal.**

**29.7(1)** The period of licensure to operate as a contractor or work as a master, journey person or apprentice in the plumbing, mechanical, HVAC-refrigeration, sheet metal, or hydronic disciplines or work as a certified medical gas system installer or work in the specialty license disciplines developed by the board shall be for a period of three years, except as allowed or required in circumstances described in this subrule.

*a.* All licenses issued or renewed on or after July 1, 2014, shall expire on June 30 every three years, beginning with June 30, 2017.

*b.* All licenses that currently possess an expiration date prior to June 30, 2014, shall be granted a one-time extension of the expiration date to June 30, 2014, at no additional charge and with no additional continuing education requirements. The licensees holding the licenses described in this rule shall pay a full renewal fee upon renewal and shall be issued a license with an expiration date of June 30, 2017.

*c.* Licensees with a renewal date that falls from July 1, 2014, through June 29, 2017, shall have the license renewal fee prorated using a one-sixth deduction for each six-month period following July 1, 2014. Applicable late renewal fees shall apply during this period. Licenses renewed through June 29, 2017, shall be issued with an expiration date of June 30, 2017.

*d.* Fees for new licenses issued after the July 1 beginning of each three-year renewal cycle shall be prorated using a one-sixth deduction for each six-month period of the renewal cycle.

*e.* A licensee whose license expires between June 30, 2014, and July 1, 2017, may voluntarily renew the license early so the license may have an expiration date of June 30, 2017. This voluntary early renewal may happen at any time on or after July 1, 2014. Notwithstanding any shortened compliance period, licensees who renew their licenses between June 30, 2014, and July 1, 2017, shall meet all of the continuing education requirements that would otherwise be required at both the July 1, 2017, renewal and the prior renewal.

**29.7(2) Renewal notification.**

*a.* Through December 31, 2016, the board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license. After December 31, 2016, the board shall cease this practice.

*b.* The licensee is responsible for renewing the license prior to its expiration.

*c.* Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

**29.7(3) Specific renewal requirements.**

*a.* A licensee seeking renewal shall:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

(1) Meet the continuing education requirements as set forth in rule 641—30.2(105). 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

(2) Submit the completed renewal application and renewal fee before the license expiration date.

*b.* Failure to renew a license within two months after the expiration of the license shall not invalidate the license, but a reasonable penalty may be assessed as set forth in 641—subrule 28.1(5), in addition to the license renewal fee, to allow reinstatement of the license.

(1) Prior to July 1, 2017, a licensee who allows a license to lapse for 30 days or less may reinstate and renew the license without examination upon payment of the appropriate renewal of license fee as defined in 641—subrule 28.1(3). Beginning July 1, 2017, a licensee who does not timely renew but renews the license on or before the following July 31 may reinstate and renew the license without examination upon payment of the appropriate renewal of license fee as defined in 641—subrule 28.1(3).

(2) Prior to July 1, 2017, a licensee who allows a license to lapse for more than 30 days but less than 60 days may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3). Beginning July 1, 2017, a licensee who does not timely renew but renews a license between the following August 1 and August 31 may reinstate and renew the license without examination upon payment of a \$60 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3).

*c.* Prior to July 1, 2017, a licensee who allows a license to lapse for more than 60 days but not more than 365 days may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3). Beginning July 1, 2017, a licensee who does not timely renew but renews a license after the following August 31 and on or before the following June 30 may reinstate and renew the license without examination upon payment of a \$100 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(3).

*d.* A licensee who allows a license to lapse for more than one year may reinstate and renew the license by either of the following means:

(1) Retaking and successfully passing the applicable licensing examination and paying the appropriate renewal fee as defined in 641—subrule 28.1(3), or

(2) Retaking and successfully completing all continuing education requirements as set forth in rule 641—30.2(105) and paying the appropriate renewal fee as defined in 641—subrule 28.1(3).

*e.* A licensee who reinstates and renews a lapsed license under paragraph 29.7(3)“*d*” shall not be entitled to a prorated, reduced renewal fee.

ITEM 16. Rescind rule 641—29.8(83GA, HF2531) and adopt the following new rule in lieu thereof:

**641—29.8(105) License reissue.** Each reissued license shall be for the same level of license held by the licensee at the time of renewal. Beginning July 1, 2014, upon renewal, licenses shall be reissued as follows:

**29.8(1)** An individual who holds a refrigeration license shall be reissued an HVAC-refrigeration license; an individual who holds an HVAC license shall be reissued an HVAC-refrigeration license.

**29.8(2)** An individual who holds an HVAC license and a hydronic license shall be reissued a mechanical license.

**29.8(3)** An individual who holds a refrigeration license and a hydronic license shall be reissued a mechanical license.

**29.8(4)** An individual who holds a refrigeration license or an HVAC license and has passed the board-designated hydronics test prior to June 30, 2014, shall be reissued a mechanical license.

**29.8(5)** An individual who holds only a hydronics license shall be reissued a hydronics license.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 17. Amend **641—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 105~~ sections 105.2, 105.5, 105.9, 105.18, 105.19, 105.20, 105.22 and 272C.3 as amended by 2011 and 2013 Iowa Acts, ~~House File 392~~ Senate File 427.

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**ARC 1221C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of 2013 Iowa Acts, Senate File 427, section 35, and Iowa Code section 105.4, the Department of Public Health and the Plumbing and Mechanical Systems Board hereby amend Chapter 30, "Continuing Education for Plumbing and Mechanical Systems Professionals," Iowa Administrative Code.

Items 1, 2, 3, 5, and 8 are necessary to implement 2013 Iowa Acts, Senate File 427, which became effective upon enactment on April 26, 2013, by operation of section 36 of the Senate File.

The additional purposes of the following items are as follows:

Item 6 increases the number of hours of continuing education a licensee may obtain through computer-based courses. This amendment is intended to decrease the burden on licensees that may result from traveling to in-person continuing education courses.

Items 1 and 7 clarify that an audit performed pursuant to 641—30.5(105) shall be referred to as "compliance review."

Notice of Intended Action was published in the August 7, 2013, Iowa Administrative Bulletin as **ARC 0933C**. One comment was received that was against the required number of continuing education units and wanted to see an increase in the number of required hours. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on November 13, 2013. The Plumbing and Mechanical Systems Board adopted these amendments on November 19, 2013.

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

These amendments are intended to implement 2013 Iowa Acts, Senate File 427.

These amendments will become effective on January 15, 2014.

The following amendments are adopted.

ITEM 1. Rescind the definition of "Audit" in rule **641—30.1(105)**.

ITEM 2. Adopt the following **new** definitions in rule **641—30.1(105)**:

"*Compliance review*" means the selection by the board of licensees for verification of satisfactory completion of continuing education requirements during a specified continuing education compliance period.

"*Continuing education compliance period*" means the period between renewals during which a licensee must obtain the requisite amount of continuing education in order to renew the licensee's license.

"*Iowa mechanical code*" means the most current version of the International Mechanical Code, as adopted and amended by the board.

"*Iowa plumbing code*" means the most current version of the Uniform Plumbing Code, as adopted and amended by the board.

ITEM 3. Amend subrule 30.2(2) as follows:

**30.2(2)** ~~Each continuing education compliance period:~~ The following continuing education requirements shall apply only to each licensee's first renewal on or after July 1, 2014. For all renewals thereafter, the requirements of subrule 30.2(3) shall apply:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. to d. No change.

ITEM 4. Renumber subrules **30.2(3)** to **30.2(5)** as **30.2(4)** to **30.2(6)**.

ITEM 5. Adopt the following **new** subrule 30.2(3):

**30.2(3)** During each continuing education compliance period, each active or inactive master and journeyman licensee must obtain the following amounts of continuing education:

a. *Safety education.* Each licensee holding a single license shall complete two hours, and each licensee holding multiple licenses shall complete four hours, of continuing education in the content area of the Iowa Occupational Safety and Health Act.

b. *Code education.*

(1) Each licensee holding one or more licenses or sublicenses in a mechanical discipline shall complete two hours of continuing education in the content area of the Iowa mechanical code.

(2) Each licensee holding a plumbing license or sublicense shall complete two hours of continuing education in the content area of the Iowa plumbing code.

c. *Discipline education.*

(1) A licensee holding a single plumbing license or sublicense, or a single license or sublicense in a mechanical discipline, shall complete four hours of continuing education in the discipline in which the licensee holds a license.

(2) A licensee holding multiple licenses or sublicenses shall complete eight hours of continuing education in the relevant disciplines.

d. *Private school or college maintenance specialty license.* For the purposes of this subrule, a private school or college routine maintenance specialty license shall be considered to be a sublicense of whatever discipline(s) in which the licensee actually practices.

ITEM 6. Amend renumbered subrule 30.2(4) as follows:

**30.2(4)** Up to ~~2 hours~~ **one-half** of board-approved continuing education required by subrule 30.2(2) each continuing education compliance period may be obtained through completion of computer-based continuing education programs/activities approved by the board.

ITEM 7. Amend rule 641—30.5(105), introductory paragraph, as follows:

**641—30.5(105) Audit Compliance review of continuing education requirements.** The board may conduct ~~an audit~~ a review of a licensee's license renewal application to ~~review~~ determine compliance with continuing education requirements.

ITEM 8. Amend **641—Chapter 30**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 105 and 272C and 2013 Iowa Acts, Senate File 427.

[Filed 11/19/13, effective 1/15/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1222C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of 2013 Iowa Acts, Senate File 427, section 35, and Iowa Code section 105.4, the Department of Public Health and the Plumbing and Mechanical Systems Board hereby amend Chapter 32, "Plumbing and Mechanical Systems Board—Licensee Discipline," Iowa Administrative Code.

Item 4 is necessary to implement 2013 Iowa Acts, Senate File 427, which became effective upon enactment on April 26, 2013, by operation of section 36 of the Senate File.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

The following items have the following additional purposes:

Items 1, 2, and 3 clarify the following additional grounds for licensee discipline: failure to comply with a compliance review of continuing education; practice outside the scope of a license; practicing as a journeyman without the supervision of a master; practicing in a trade for which the licensee does not hold a Board-issued license; contracting for Iowa Code chapter 105-covered work in Iowa without a contractor license; practicing with a lapsed license; and practicing as a contractor without the required bonding and insurance.

Item 5 clarifies that an order imposing civil penalty may be administratively issued subsequent to the Board's issuing a notice of intent to impose such penalty and that a licensee can waive right to hearing at any time and pay a penalty noticed under rule 641—32.5(105).

Item 6 clarifies that the settlement agreement provisions for contested cases apply if a notice of hearing is issued under paragraph 32.5(5)“c.”

Item 7 establishes procedures which would allow the Board to participate in the state offset program to attempt to collect delinquent civil penalties.

Notice of Intended Action was published in the August 7, 2013, Iowa Administrative Bulletin as **ARC 0932C**. One comment was received in support for the surety bond from the Alliance of Surety Companies. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on November 13, 2013. The Plumbing and Mechanical Systems Board adopted these amendments on November 19, 2013.

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

These amendments are intended to implement Iowa Code sections 8A.504, 105.22, 105.23, 105.27 and 105.28 and 2013 Iowa Acts, Senate File 427.

These amendments will become effective on January 15, 2014.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definition of “Lapsed license” in rule **641—32.1(105,272C)**:

“*Lapsed license*” means a license that expired prior to June 30, 2017, and was not renewed within 60 days following its expiration date, or a license that expired on or after June 30, 2017, and was not renewed by the following August 31.

ITEM 2. Amend subrule 32.2(12) as follows:

**32.2(12)** Failure to ~~cooperate with a board audit~~ timely submit the requested materials in response to a compliance review conducted pursuant to 641—30.5(105).

ITEM 3. Adopt the following **new** subrules 32.2(35), 32.2(36) and 32.2(37):

**32.2(35)** Practice outside the scope of the license, which shall include, but not be limited to:

- a. Practicing as a journeyman without the supervision of a master.
- b. Practicing in a trade for which the licensee does not hold a board-issued license.
- c. Contracting for plumbing or mechanical work in the state of Iowa without a board-issued contractor license.

**32.2(36)** Practicing on a lapsed license.

**32.2(37)** Practicing as a contractor without valid bonding or insurance, as required by Iowa Code section 105.19 as amended by 2013 Iowa Acts, Senate File 427.

ITEM 4. Amend subrule 32.5(1) as follows:

**32.5(1)** *Unlawful practices*. Practices by an unlicensed person which are subject to civil penalties include, but are not limited to:

- a. Acts or practices by unlicensed persons which require licensure to install or repair plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems under Iowa Code chapter 105.
- b. Acts or practices by unlicensed persons which require certification to install or repair medical gas piping systems under Iowa Code chapter 105.
- c. Engaging in the business of designing, installing, or repairing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems without employing a licensed master.

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d. Providing plumbing, mechanical, HVAC, refrigeration, sheet metal, or hydronic systems services on a contractual basis.

~~e. Use or attempted use of a licensee's certificate or wallet card or use or attempted use of an expired, suspended, revoked, or nonexistent certificate.~~

~~e.f. Falsely impersonating a person licensed under Iowa Code chapter 105 as amended by 2013 Iowa Acts, Senate File 427.~~

~~f.g. Providing false or forged evidence of any kind to the board in obtaining or attempting to obtain a license.~~

~~g.h. Other violations of Iowa Code chapter 105.~~

~~h.i. Knowingly aiding or abetting an unlicensed person or establishment in any activity identified in this rule.~~

ITEM 5. Amend paragraph **32.5(5)“b”** as follows:

b. If a request for hearing is not timely made, or if the nonlicensee waives in writing the right to hearing and agrees to pay the penalty, the board chairperson, ~~or the chairperson's designee, or the board executive~~ may issue an order imposing the civil penalty and requiring compliance with Iowa Code chapter 105, as described in the notice. The order may be mailed by regular first-class mail or served in the same manner as the notice of intent to impose a civil penalty.

ITEM 6. Rescind paragraph **32.5(5)“d”** and adopt the following **new** paragraph in lieu thereof:

d. Subsequent to the issuance of a notice of hearing under this subrule, the settlement agreement provisions of 641—33.23(272C) shall apply.

ITEM 7. Adopt the following **new** rule 641—32.6(105,272C):

**641—32.6(105,272C) Collection of delinquent civil penalties and discipline-related debts.**

**32.6(1)** The board may participate in the department of administrative services' income offset program.

**32.6(2)** Definitions. For purposes of this rule, the following definitions apply:

“*Debtor*” means any person who owes a debt to the board as a result of a proceeding in which notice and opportunity to be heard was afforded.

“*Income offset program*” means the program established in Iowa Code section 8A.504 through which the department of administrative services coordinates with state agencies to satisfy liabilities owed to those state agencies.

“*Notification of offset*” means receipt of actual notice by the board from the department of administrative services that the debtor is entitled to a payment that qualifies for offset.

“*Preoffset notice*” means the notice required by 32.6(5)“a.”

**32.6(3)** The board office may provide the department of administrative services a liability file.

a. With respect to each individual debtor, the liability file shall contain the following:

(1) Information relevant to the identification of the debtor, as required by the department of administrative services and including the debtor's name and social security number or federal identification number,

(2) The amount of liability, and

(3) A written statement declaring the debt to have occurred.

b. The board office shall certify the liability file at least semiannually, as required by the department of administrative services.

c. The board office shall update the liability file:

(1) When necessary to reflect new debtors, and

(2) When the status of a debt changes due to payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

**32.6(4)** Due diligence.

a. Before submitting debtor information to the outstanding liability file, the board office shall make a good faith attempt to collect from the debtor. Such attempt shall include at least all of the following:

(1) A telephone call requesting payment.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

- (2) An initial letter to the debtor's last discernible address requesting payment within 15 days.
- (3) A second letter to the debtor's last discernible address requesting payment within 10 days.

*b.* The board office shall document due diligence and retain such documentation.

**32.6(5)** Notification of offset. Within 10 calendar days of receiving notification from the department of administrative services that the debtor is entitled to a payment, the board office shall:

*a.* Send a preoffset notice to the debtor. The preoffset notice shall inform the debtor of the amount the department intends to claim, and shall include all of the following information:

- (1) The board's right to the payment in question.
- (2) The board's right to recover the payment through the offset procedure.
- (3) The basis of the board's case in regard to the debt.
- (4) The right of the debtor to request, in accordance with subrule 32.6(6) and within 15 days of the mailing of the preoffset notice, a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.

(5) The debtor's right to appeal the offset, in accordance with subrule 32.6(7) and within 15 days of the mailing of the preoffset notice, and the procedure to follow in that appeal.

(6) The board office's contact information, including a telephone number, for the debtor to contact in case of questions.

*b.* Notify the department of administrative services that the preoffset notice has been sent to the debtor, and supply a copy of the preoffset notice to the department of administrative services.

**32.6(6)** Request to divide a jointly or commonly owned right to payment.

*a.* A debtor who receives a preoffset notice may request release of a joint or common owner's share, if the request is received by the board within 15 days of the date the preoffset notice is mailed.

*b.* In conjunction with such a request, the debtor shall provide to the board the full name and social security number of any joint or common owner.

*c.* Upon receipt of such a request, the board office shall notify the department of administrative services of the request.

**32.6(7)** Appeal process.

*a.* A debtor who receives a preoffset notice may request an appeal of the underlying debt, if such request is made within 15 days of the date the preoffset notice is mailed.

*b.* Request for appeal must be submitted in writing to the Iowa Plumbing and Mechanical Systems Board, Attn: Offset Appeals, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

*c.* If a request for appeal is timely made, the board office shall issue a notice of hearing to the debtor, and also serve a copy upon the assistant attorney general for the board.

*d.* The appeal shall be conducted as a contested case proceeding pursuant to 641—Chapter 33.

*e.* If a request for appeal is timely made, the board office shall notify the department of administrative services within 45 days of the notification of offset. The board shall hold a payment in abeyance until the final disposition of the contested liability or offset.

**32.6(8)** Once any offset has been completed, the board office shall notify the debtor of the action taken, and what balance, if any, still remains owing to the board.

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**ARC 1223C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 105.4 and 272C.5, the Plumbing and Mechanical Systems Board hereby amends Chapter 33, "Plumbing and Mechanical Systems Board—Contested Cases," Iowa Administrative Code.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments pertain to the statement of charges issued by the Board. Item 1 rescinds paragraph 33.13(2)“b” which states, “Any allegation in the statement of charges not denied in the answer is considered admitted.” The effect of this rescission is to ensure that licensees have an opportunity to raise any potential defense in a contested case disciplinary proceeding, regardless of whether a licensee timely files an answer and regardless of the contents of the answer. It is the intent of the Board through these amendments to make the discipline process as fair as possible to licensees.

Notice of Intended Action was published in the August 7, 2013, Iowa Administrative Bulletin as **ARC 0931C**. No comments were received. The adopted amendments are identical to those published under Notice.

The Plumbing and Mechanical Systems Board adopted these amendments on November 19, 2013.

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

These amendments are intended to implement Iowa Code chapter 17A and section 105.27.

These amendments will become effective January 15, 2014.

The following amendments are adopted.

ITEM 1. Rescind paragraph **33.13(2)“b”**

ITEM 2. Reletter paragraph **33.13(2)“c”** as **33.13(2)“b.”**

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**ARC 1224C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of 2013 Iowa Acts, Senate File 427, section 35, the Department of Public Health hereby amends Chapter 35, “Plumbing and Mechanical Systems Board—Licensure of Nonresident Applicant—Reciprocity,” Iowa Administrative Code.

These amendments are necessary to implement 2013 Iowa Acts, Senate File 427, which became effective upon enactment on April 26, 2013, by operation of section 36 of the Senate File. The amendments identify three new disciplines: mechanical, HVAC-refrigeration, and sheet metal, which will be added to the disciplines recognized for the purpose of reciprocity.

Notice of Intended Action was published in the August 7, 2013, Iowa Administrative Bulletin as **ARC 0930C**. No comments were received. The adopted amendments are identical to those published under Notice.

The State Board of Health adopted these amendments on November 13, 2013.

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

These amendments are intended to implement Iowa Code section 105.21 as amended by 2013 Iowa Acts, Senate File 427.

These amendments will become effective on January 15, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 641—35.2(105) as follows:

**641—35.2(105) Reciprocity agreements.**

**35.2(1)** The board may enter into reciprocity agreements with other states that have plumbing, HVAC, ~~refrigeration~~, ~~mechanical~~, ~~HVAC-refrigeration~~, ~~sheet metal~~, and hydronic licensing requirements similar to those set forth under Iowa law.

**35.2(2)** The board shall not enter into a reciprocity agreement with another state unless the other state grants the same reciprocity licensing privileges to residents of Iowa who have obtained Iowa plumbing,

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~HVAC, refrigeration, mechanical~~, HVAC-refrigeration, sheet metal, or hydronic licenses under Iowa Code chapter 105 as amended by 2013 Iowa Acts, Senate File 427.

ITEM 2. Amend paragraph **35.3(1)“b”** as follows:

b. The applicant possesses a valid plumbing, ~~HVAC, refrigeration, mechanical~~, HVAC-refrigeration, sheet metal, or hydronic license issued from a state with which the board has entered into a reciprocity agreement;

ITEM 3. Amend **641—Chapter 35**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 105~~ section 105.21 as amended by 2013 Iowa Acts, Senate File 427.

[Filed 11/19/13, effective 1/15/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/11/13.

**ARC 1225C**

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 142A.4(10), the Tobacco Use Prevention and Control Commission hereby amends Chapter 151, “Tobacco Use Prevention and Control Community Partnership Initiative,” Iowa Administrative Code.

The rules in Chapter 151 apply to community partnerships established as part of a comprehensive tobacco use prevention and control initiative to reduce tobacco use by youth and pregnant women, to promote compliance by minors and retailers with tobacco sales laws and ordinances, to enhance the capacity of youth to make healthy choices and to foster a social and legal climate in which tobacco use becomes undesirable and unacceptable.

These amendments affect community partnerships funded by state tobacco appropriations. The amendments ensure equitable funding and tobacco control services for all Iowa counties, regardless of population. The amendments also impact future applicants for funding by ensuring fairness and reducing barriers to competition. The amendments will be implemented beginning in FY15 for all partnerships that apply for tobacco funding.

Notice of Intended Action was published in the August 21, 2013, Iowa Administrative Bulletin as **ARC 0973C**. No comments were received. These amendments are identical to those published under Notice.

The Tobacco Use Prevention and Control Commission adopted these amendments on October 4, 2013.

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

These amendments are intended to implement Iowa Code sections 142A.8 and 142A.10.

These amendments will become effective on January 15, 2014.

The following amendments are adopted.

ITEM 1. Rescind subrules **151.4(8)** to **151.4(10)**.

ITEM 2. Renumber subrules **151.4(4)** to **151.4(7)** as **151.4(5)** to **151.4(8)**.

ITEM 3. Adopt the following **new** subrule 151.4(4):

**151.4(4)** A description of the community outreach and educational programming services currently provided by the applicant;

ITEM 4. Renumber subrules **151.4(11)** to **151.4(14)** as **151.4(9)** to **151.4(12)**.

ITEM 5. Amend renumbered subrule 151.4(9) as follows:

**151.4(9)** An assessment of the needs of the community partnership area which incorporates, but is not limited to, the following information for each county in the community partnership area:

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

a. Tobacco-related information from the community health needs assessment and health improvement plan (CHNA and HIP, Healthy Iowans);

b. to e. No change.

f. ~~Tobacco-related information from Healthy Iowans 2010;~~

ITEM 6. Amend rule 641—151.6(142A), introductory paragraph, as follows:

**641—151.6(142A) Application deadline.** ~~Applicants~~ An applicant seeking to be approved as a community partnership for distribution of funds during the ~~2001~~ current fiscal year may apply ~~immediately and must apply no later than November 10, 2000~~ once the RFA/RFP has been posted.

ITEM 7. Rescind and reserve subrule **151.6(1)**.

ITEM 8. Renumber subrules **151.7(2)** to **151.7(5)** as **151.7(3)** to **151.7(6)**.

ITEM 9. Adopt the following new subrule 151.7(2):

**151.7(2)** The department in consultation with the commission shall allocate funding to the community partnerships from the total moneys appropriated to the tobacco use prevention and control initiative. If sufficient funds are available, the department shall distribute the funding allocated to the community partnerships in accordance with this rule.

ITEM 10. Amend renumbered subrule 151.7(3) as follows:

**151.7(3)** The ~~commission~~ department shall fund one community partnership per community partnership area. Funds shall be distributed equitably among the state's community partnership areas based on general population, school-age population, and designation of county or counties which comprise the community partnership area as a rural county or ~~a metropolitan statistical area~~ an urban county as defined by the ~~U.S. Bureau of the Census~~ Office of Management and Budget. Available funds will be distributed under the following formulas, using United States Census Bureau annual population estimates:

Rural counties:

\$ .84 per school-age youth plus an additional \$ .84 per non-school-age county resident

~~Metropolitan statistical areas (Black Hawk, Dallas, Dubuque, Johnson, Linn, Polk, Pottawattamie, Scott, Warren, and Woodbury Counties)~~ Urban counties:

\$ .52 per school-age youth plus an additional \$ .52 per non-school-age county resident; provided that application of the funding formula results in distribution to a community partnership of a minimum amount per county included in each community partnership area as determined annually by the department in consultation with the commission.

If application of the funding formula would result in distribution of less than the minimum established amount, the department shall distribute to such community partnership no less than the minimum established amount per county included in the community partnership area.

As sufficient funds become available, the department in consultation with the commission may also distribute to community partnerships funds for special or pilot projects within a community partnership area.

ITEM 11. Amend renumbered subrule 151.7(4) as follows:

**151.7(4)** Funding received by a community partnership shall be matched on a ~~one-to-one~~ one-to-four basis. ~~At least 25 percent must be a cash match. Up to 75 percent of the~~ The match may include in-kind services, office support, or other tangible support or offset of costs.

Any offers to assist the applicant in reaching the match must be disclosed to the department in writing. In regard to any cash offers that are declined, the applicant must disclose reasons and rationale as to why these offers were declined.

~~Any funds left unallocated under subrules 151.7(2) and 151.7(3) on March 1, 2001, due to the failure of community partnerships to meet the cash match requirement pursuant to subrule 151.7(3) shall be distributed among all the community partnerships no later than June 30, 2001, in proportion to the amount of funding, including any cash match, each community partnership has reported to the department by March 15, 2001.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

~~Funding distributed to community partnerships from the department shall be matched by the community partnership on a 75 percent basis. The match may include cash, or may include only in-kind services, office support, or other tangible support or offset of costs.~~

~~Any offers to assist the applicant in reaching the match must be disclosed to the department in writing. If any cash offers are declined, the applicant must disclose the reasons and the rationale for rejecting the offer.~~

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**ARC 1243C**

**SECRETARY OF STATE[721]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 9B.27, the Secretary of State hereby amends Chapter 43, "Notarial Acts," Iowa Administrative Code.

The amendment provides that when documents are filed using the Electronic Document Management System (EDMS) administered by the Iowa Judicial Branch, the documents are deemed in compliance with the performance of notarial acts on electronic records under Iowa Code chapter 9B.

This amendment was published under Notice of Intended Action in the Iowa Administrative Bulletin as **ARC 1092C** on October 16, 2013. No public comments were received. This amendment is identical to that published under Notice.

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

This amendment is intended to implement Iowa Code section 9B.27.

This amendment will become effective on January 15, 2014.

The following amendment is adopted.

Adopt the following new rule 721—43.5(9B):

**721—43.5(9B) Performance of notarial act on electronic record.** A notarized document is deemed to be in compliance with the requirements for a notarial act on an electronic record under Iowa Code chapter 9B when the document is submitted and accepted on the electronic document management system (EDMS) administered by the Iowa judicial branch.

This rule is intended to implement Iowa Code section 9B.27.

[Filed 11/20/13, effective 1/15/14]

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**ARC 1202C**

**TRANSPORTATION DEPARTMENT[761]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 321.252, the Iowa Department of Transportation, on November 12, 2013, adopted amendments to Chapter 119, "Tourist-Oriented Directional Signing," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the September 18, 2013, Iowa Administrative Bulletin as **ARC 1018C**.

These amendments ease restrictions on small businesses interested in qualifying for the Tourist-Oriented Directional Signing Program. The amendments:

## TRANSPORTATION DEPARTMENT[761](cont'd)

- Relax restrictions so that businesses within towns with a population between 2500 and 5000 can qualify for the program. Currently, the program is offered to rural areas and towns with a population of 2500 or less.
- Relax restrictions so that businesses within ten miles of the intersection on the primary highway where the signs are to be placed can qualify in all subcategories. Currently, the limit is set at five miles for two of the four subcategories.
- Relax restrictions so that a business can have both a tourist-oriented directional sign and a private directional sign within a mile of each other along a primary route. This is currently prohibited.
- Relax restrictions so that vehicle service and repair facilities are required to maintain hours of operation of at least eight hours per day and five days per week in order to qualify for the program. Current hours are set at eight hours per day and six days per week.

Other amendments eliminate redundancies, improve consistency in word usage, and correct nondiscrimination language and an agency name.

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

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 321.252.

These amendments will become effective January 15, 2014.

The following amendments are adopted.

ITEM 1. Amend subrule 119.2(2) as follows:

**119.2(2) Spacing and location.**

a. No change.

b. Tourist-oriented directional signing shall be installed in advance of the intersection where the motorist leaves the primary highway system to travel to the activity or site. However, tourist-oriented directional signs may be placed ~~within the maximum travel distance~~ on a higher classified highway to direct motorists onto a lower classified highway, or on a greater traveled highway to direct motorists onto a lesser traveled highway.

c. and d. No change.

e. Tourist-oriented directional signing shall not be placed within the urban area as established by the U.S. Census Bureau of an incorporated municipality with a population of 5000 or more.

ITEM 2. Amend rule 761—119.3(321) as follows:

**761—119.3(321) General eligibility requirements for an activity or site.** This rule describes the general requirements which an individual activity or site must meet to qualify for tourist-oriented directional signing.

~~**119.3(1) Significant interest to the traveling public.** An activity or site must be of significant interest to the traveling public. This means that a major portion of the activity's or site's products or services is tourist- or motorist-oriented.~~

**119.3(2) 119.3(1) Hours.** The activity or site shall be open to the general public during regular and reasonable hours and not by appointment, reservation or membership only.

a. and b. No change.

~~**119.3(3) 119.3(2) Building or area.** The activity shall be conducted in an appropriate area or in a building appropriately designed or well-suited for the purpose.~~

a. and b. No change.

~~**119.3(4) 119.3(3) Location of activity or site.** The activity or site shall be located:~~

a. In an unincorporated area or inside the corporate limits of a city with a population of 2500 or less Within ten miles of the intersection on the primary highway where the tourist-oriented directional sign will be placed.

TRANSPORTATION DEPARTMENT[761](cont'd)

~~b. Outside the corporate limits of a city with a population between 2500 and 5000. However, tourist-oriented directional signing for the activity or site may be located within the corporate limits.~~

~~e. b. Outside the urban area, as established by the U.S. Census Bureau, of a city an incorporated municipality with a population of 5000 or more. However, tourist-oriented directional signing for the activity or site may be located within the urban area or corporate limits.~~

~~119.3(5) 119.3(4) *Signing restrictions.*~~ An activity or site does not qualify for a tourist-oriented directional sign if:

~~a. The activity or site is identified by an off right-of-way directional sign, as authorized in 761 Chapter 120, that is within one mile, is on the same route, and is facing the same direction as the proposed tourist-oriented directional sign.~~

~~b. a. The activity or site or an on-premises sign advertising the activity or site is readily recognizable from the primary highway far enough ahead of the entrance to allow the motorist time to safely make the turn into the entrance.~~

~~e. b. An advertising device which serves the activity or site is erected or maintained in violation of Iowa Code chapter 306B; Iowa Code chapter 306C, division II; or other statutes or administrative rules regulating outdoor advertising.~~

~~119.3(6) 119.3(5) *Nondiscrimination.*~~ The activity or site shall comply with all applicable laws concerning public accommodations without regard to ~~age, race, religion, creed, color, age, sex, sexual orientation, gender identity, or national origin, religion or disability.~~

ITEM 3. Amend rule 761—119.4(321) as follows:

**761—119.4(321) Specific eligibility requirements for the type of activity or site.** This rule describes the types of activities or sites that may qualify for tourist-oriented directional signing. Within each type, this rule also describes the specific requirements that an individual activity or site must meet to qualify for tourist-oriented directional signing. These requirements are in addition to those found in rule 761—119.3(321).

**119.4(1) *Motorist service.***

a. No change.

b. An activity or a site providing a motorist service must:

(1) Be open a minimum of eight hours a day, six days a week, except for vehicle services or repair facilities, which shall be open a minimum of eight hours a day, five days a week.

(2) No change.

~~(3) Be located within five miles of the primary highway.~~

**119.4(2) *Tourist attraction.***

a. and b. No change.

c. A tourist attraction must:

(1) and (2) No change.

~~(3) Be located within five miles of the primary highway or within ten miles if open a minimum of eight hours a day, seven days a week.~~

**119.4(3) *Agricultural business activity.***

a. No change.

b. “Significant interest” means the agricultural business activity does one of the following:

(1) No change.

(2) Offers products which are of interest to the general traveling public and can be purchased from the site.

(3) No change.

c. An agricultural business activity must:

(1) and (2) No change.

~~(3) Be located within ten miles of the primary highway.~~

**119.4(4) *Other commercial activity.***

a. No change.

b. A nonagricultural commercial activity must:

TRANSPORTATION DEPARTMENT[761](cont'd)

(1) and (2) No change.

~~(3) Be located within five miles of the primary highway.~~

ITEM 4. Amend subrule 119.5(3) as follows:

**119.5(3)** The tourist signing committee consists of representatives from the ~~department of economic development~~ economic development authority, the department of transportation, the department of agriculture and land stewardship, the department of natural resources, the department of cultural affairs, the Travel Federation of Iowa, and the Outdoor Advertising Association of Iowa. The committee's responsibility is to approve or deny applications.

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**ARC 1203C**

## **TRANSPORTATION DEPARTMENT[761]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 306C.11, 307.10 and 307.12, the Iowa Department of Transportation, on November 12, 2013, adopted amendments to Chapter 120, "Private Directional Signing," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the September 18, 2013, Iowa Administrative Bulletin as **ARC 1017C**.

The amendments:

- Delete a restriction that prohibits a business or tourist attraction from placing a private directional sign within the daylight area of an intersection, exclusive of any public right-of-way.
- Add a restriction on the placement of any private directional sign which obstructs or impairs the vision of the motorist near an intersection or a railroad crossing pursuant to Iowa Code section 657.2.
- Clarify that if a trademark or logo is to be approved for use by the Department, it will serve as the identification of the business or attraction in lieu of a word message identifying the business or attraction.
- Provide exceptions for signs measuring 32 square feet or less in size; the Tourist Signing Committee will not need to review these applications, and there is no application fee.
- Correct nondiscrimination language and the implementation sentence.

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

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 sections 306C.11 and 657.2.

These amendments will become effective January 15, 2014.

The following amendments are adopted.

ITEM 1. Rescind the definition of "Daylight area" in rule **761—120.1(306C)**.

ITEM 2. Amend rule 761—120.2(306C) as follows:

### **761—120.2(306C,657) General requirements.**

**120.2(1)** No change.

**120.2(2)** A private directional sign shall not:

*a.* to *e.* No change.

*f.* Obstruct or impair the view of any portion of the public roadway at an intersection or a railroad crossing and cause an unsafe condition as determined by the department.

TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 3. Amend subrule 120.5(3) as follows:

**120.5(3)** The following spacing requirements apply to private directional signs:

*a. to e.* No change.

~~*f.* A private directional sign shall not be located within the daylight area.~~

~~*g. f.*~~ Except as otherwise specified, on-premises signs, permitted billboards, and official signs and notices are not taken into consideration when determining compliance with spacing requirements.

ITEM 4. Amend subrule 120.6(4) as follows:

**120.6(4)** The sign message shall not contain additional words or phrases descriptive of the activity or site, pictorial or photographic representations of the activity or site or its environs, or advertisements of brand-name goods. However, the department may authorize the display of a nationally or regionally recognized trademark or logo in lieu of a word message to identify the activity or site.

ITEM 5. Amend subrule 120.7(3) as follows:

**120.7(3)** The activity or site must be open to the general public and not by appointment, reservation or membership only and must comply with all applicable laws concerning public accommodations without regard to age, race, religion, creed, color, age, sex, sexual orientation, gender identity, or national origin, religion or disability.

ITEM 6. Amend subrule 120.8(3) as follows:

**120.8(3)** The tourist signing committee will approve or deny applications, except that signs located along noninterstate routes and not exceeding 32 square feet in size may be approved or denied by the department. The composition of the committee is set out in 761—subrule 119.5(3).

ITEM 7. Amend rule 761—120.9(306C) as follows:

**761—120.9(306C) Fees.** Fees are applicable to all signs measuring over 32 square feet in size. The initial fee, payable at the time of application, is \$100 per permit. The annual renewal fee, payable on or before June 30 of each year, is \$15 per permit.

ITEM 8. Amend **761—Chapter 120**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 306C.10 to 306C.19 and 657.2.

[Filed 11/13/13, effective 1/15/14]

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**ARC 1217C**

## **TREASURER OF STATE[781]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 12C.1, the Treasurer of State hereby adopts new Chapter 11, "Deposit of Public Funds by State Agencies," Iowa Administrative Code.

This chapter establishes the requirements governing the deposit of public funds by state agencies.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 16, 2013, as **ARC 1109C**. The Treasurer of State received no written comments. This chapter is identical to that published under Notice of Intended Action.

The Treasurer of State adopted this chapter on November 20, 2013.

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

These rules are intended to implement Iowa Code section 12C.1.

These rules will become effective January 15, 2014.

The following amendment is adopted.

TREASURER OF STATE[781](cont'd)

Adopt the following **new** 781—Chapter 11:

CHAPTER 11  
DEPOSIT OF PUBLIC FUNDS BY STATE AGENCIES

**781—11.1(12C) Scope.** Iowa Code section 12C.1 grants authority to the treasurer of state to act as the public officer for depositing public funds of the state. Iowa Code chapter 12C also requires that all public funds of the state deposited in a financial institution be secured, either by a pledge of collateral by that financial institution or by the state sinking fund. These rules outline the requirements that state agencies shall follow to ensure that public funds of the state are secured as required by Iowa Code chapter 12C.

**781—11.2(12C) Definitions.** As used in this chapter:

“*Agency*” or “*state agency*” means a unit of state government, which can be an authority, board, commission, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, and includes the office of an elective constitutional or statutory officer, the general assembly and any office or unit under its administration, and the judicial branch.

“*Depository*” means a financial institution into which public funds are deposited under Iowa Code chapter 12C.

“*Financial institution*” means a corporation or limited liability company engaged in the business of banking and organized under the laws of this state, another state, or the United States, as well as a savings bank organized under the laws of another state or the United States. “*Financial institution*” also means a cooperative or a nonprofit association incorporated under Iowa Code chapter 533 or the federal Credit Union Act and that is insured by the National Credit Union Administration and includes an office of a credit union.

“*Public funds*” or “*public deposits*” means the moneys of the state deposited by or on behalf of a state agency. “*Moneys of the state*” includes moneys credited to a depository for the purpose of completing an electronic financial transaction created by the federal government, a business, a consumer, or any other public or private entity, and a transaction created pursuant to 2013 Iowa Acts, Senate File 396, section 23.

“*Treasurer*” means the treasurer of the state of Iowa and members of staff carrying out duties delegated by the treasurer.

**781—11.3(12C) Treasurer’s procedures for administering the depository process.**

**11.3(1)** The treasurer shall enter into an agreement with one or more financial institutions located in the state to serve as a depository.

**11.3(2)** The treasurer shall specify which depositories may be used by state agencies and any third party hired by an agency to collect receipts and make deposits of public funds on the agency’s behalf.

**11.3(3)** The treasurer shall provide state agencies with the proper instructions for receiving electronic financial transactions at a depository.

**11.3(4)** The treasurer shall provide state agencies with instructions on creating cash receipt accounting documents reflecting the deposit of public funds into a depository.

**11.3(5)** Before an agency hires a third party to collect receipts and make deposits of public funds on the agency’s behalf, the treasurer shall review the collection process being considered by the agency and third party to ensure that public funds are being deposited directly into a depository.

**781—11.4(12C) State agency requirements for depositing public funds.**

**11.4(1)** A state agency shall make deposits of public funds with the treasurer’s cashier or directly into an account owned by the treasurer at a depository located in the state.

**11.4(2)** A state agency shall notify the treasurer of the agency’s intent to use a third party to collect receipts and make deposits of public funds on the agency’s behalf to allow the treasurer to review the process to ensure that receipts of public funds are being deposited directly into a depository.

TREASURER OF STATE[781](cont'd)

**11.4(3)** A state agency shall require any third party collecting public funds on the agency's behalf to make deposits directly into the depository and account specified by the treasurer.

**11.4(4)** A state agency shall comply with the treasurer's instructions on creating cash receipt accounting documents reflecting the deposit of public funds into a depository.

These rules are intended to implement Iowa Code section 12C.1.

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