



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1655 to 1726

## CONTENTS IN THIS ISSUE

Pages 1667 to 1724 include **ARC 8410B** to **ARC 8420B** and **ARC 8427B** to **ARC 8435B**

### AGENDA

Administrative rules review committee . . . . . 1659

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice, Dairy—updates of references to  
inspection handbooks and milk truck  
approaches, 68.1, 68.11(1), 68.13,  
68.15, 68.37(1) **ARC 8432B** . . . . . 1667  
Filed, Labeling of biodiesel fuel and  
ethanol blended gasoline, 85.48 **ARC 8434B** . . 1718

### ALL AGENCIES

Agency identification numbers . . . . . 1665  
Citation of administrative rules . . . . . 1657  
Schedule for rule making . . . . . 1658

### DELAYS

Education Department[281] HSAP  
funding, 98.12 . . . . . 1725  
Public Safety Department[661]  
Residential construction—sprinklers,  
301.8, Sections R313.1 and R313.2 . . . . . 1725

### ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Filed, Housing fund, 25.6(7), 25.6(8),  
25.8(7) **ARC 8418B** . . . . . 1719

### EDUCATION DEPARTMENT[281]

Delay, HSAP funding, 98.12 . . . . . 1725

### EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

Notice, Renewal requirements for  
professional service license, 27.4, 27.5  
**ARC 8410B** . . . . . 1668

### ELDER AFFAIRS DEPARTMENT[321]

Notice, Elder abuse prevention initiative  
and dependent adult abuse mandatory  
reporter training, rescind ch 12; adopt  
ch 15 **ARC 8427B** . . . . . 1669  
Filed Emergency, Senior living  
coordinating unit, rescind ch 16 **ARC 8419B** . . 1716  
Filed Emergency, Regulation of adult day  
services, assisted living programs, and  
elder group homes, rescind chs 24 to  
27, 29 **ARC 8420B** . . . . . 1716

### INSPECTIONS AND APPEALS DEPARTMENT[481]

Filed, Administration, amendments to  
ch 1 **ARC 8431B** . . . . . 1719  
Filed, Health care facilities, 50.10 to  
50.13, 56.3, 56.6, 56.13 to 56.16, 58.57  
**ARC 8433B** . . . . . 1720

### PHARMACY BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Notice, Reductions in fees, amendments  
to chs 2, 3, 8, 10, 12, 17 **ARC 8429B** . . . . . 1675  
Notice, Continuing education for  
pharmacists, 2.12 **ARC 8412B** . . . . . 1678  
Notice, Hospital pharmacy  
practice—outpatient services, drugs  
in emergency department, 7.11, 7.12  
**ARC 8413B** . . . . . 1680  
Notice, Prohibition of animals within a  
licensed pharmacy, 8.5(4) **ARC 8414B** . . . . . 1683  
Notice, Correctional pharmacy practice,  
ch 15 **ARC 8416B** . . . . . 1684

**PHARMACY BOARD[657]** (Cont'd)

Notice, Annual inventory and record of controlled substances, 17.16(2) <b>ARC 8415B</b> ...	1689
Filed Emergency, Controlled substances—fospropofol, 10.38(3)“az” <b>ARC 8411B</b> .....	1717
<b>PUBLIC HEARINGS</b>	
Summarized list .....	1662
<b>PUBLIC SAFETY DEPARTMENT[661]</b>	
Delay, Residential construction—sprinklers, 301.8, Sections R313.1 and R313.2 .....	1725
<b>REVENUE DEPARTMENT[701]</b>	
Notice, Individual income, corporation income, and franchise taxes, amendments to chs 39 to 41, 46, 48, 52, 53, 58, 59 <b>ARC 8430B</b> .....	1690
Notice, Assessment practices—determination of agricultural factor, 71.3 <b>ARC 8428B</b> .....	1712

**TREASURER OF STATE**

Notice—Public Funds Interest Rates .....	1713
Notice—Public Funds Interest Rates .....	1714

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Filed, Abbreviated franchise process—eligibility, petition, and notice requirements, 11.1(9), 11.2(3), 11.3(1)“g,” 11.5(11) <b>ARC 8435B</b> .....	1721
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**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

Filed, Iowa veterans home, 10.36, 10.43, 10.47 <b>ARC 8417B</b> .....	1723
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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.

KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
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### CITATION of Administrative Rules

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

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

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

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

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

## Schedule for Rule Making 2010

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
16	Friday, January 8, 2010	January 27, 2010
17	Friday, January 22, 2010	February 10, 2010
18	Friday, February 5, 2010	February 24, 2010

**PLEASE NOTE:**

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

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

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

The Administrative Rules Review Committee will hold its regular, monthly meeting on Tuesday, January 5, 2010, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

### **AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Grape and wine development funding program, rescind ch 52	Notice	ARC 8375B	12/16/09
Dairy—updates of references to inspection handbooks and milk truck approaches, 68.1, 68.11(1), 68.13, 68.15, 68.37(1)	Notice	ARC 8432B	12/30/09
Labeling of biodiesel fuel and ethanol blended gasoline, 85.48	Filed	ARC 8434B	12/30/09

### **ARCHITECTURAL EXAMINING BOARD[193B]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Rolling five-year period for valid examination scores, 2.3(4)	Notice	ARC 8392B	12/16/09
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### **DENTAL BOARD[650]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Dental board, amendments to chs 1, 16, 20, 22, 25, 27, 29, 30, 51	Filed	ARC 8369B	12/16/09
Deep sedation/general anesthesia, conscious sedation and nitrous oxide inhalation analgesia, amendments to ch 29	Notice	ARC 8370B	12/16/09

### **ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Housing fund, 25.6(7), 25.6(8), 25.8(7)	Filed	ARC 8418B	12/30/09
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### **EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]“umbrella”

Filing of complaints; service of complaint notices to respondents, 11.4	Filed	ARC 8406B	12/16/09
Highly qualified teacher (HQT) status, 13.26(2)“b”(4)	Filed	ARC 8400B	12/16/09
Highly qualified teacher (HQT) status, 13.26(3)“b”(4)	Filed	ARC 8401B	12/16/09
Highly qualified teacher (HQT) status, 13.26(4)“b”(4)	Filed	ARC 8402B	12/16/09
Elementary classroom teacher—core content areas, 13.26(5)	Notice	ARC 8408B	12/16/09
Agriculture endorsement, 13.28(1)	Filed	ARC 8403B	12/16/09
Agricultural sciences and agribusiness endorsement, 17.1(1)“a”	Filed	ARC 8404B	12/16/09
Qualifications for behind-the-wheel driving instructor authorization, 23.1(1)	Notice	ARC 8409B	12/16/09
Speech-language pathology (SLP) paraeducators, 24.4(6)	Filed	ARC 8405B	12/16/09
Renewal requirements for professional service license, 27.4, 27.5	Notice	ARC 8410B	12/30/09

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

Attendance centers, rescind ch 19	Filed	ARC 8386B	12/16/09
Community colleges, amendments to ch 21	Notice	ARC 8390B	12/16/09
Adult education, 23.1, 23.2	Notice	ARC 8389B	12/16/09
Community college accreditation, 24.1, 24.3 to 24.6	Notice	ARC 8388B	12/16/09
Special education, amendments to ch 41	Filed	ARC 8387B	12/16/09
Gifted and talented programs, 59.1 to 59.8	Filed	ARC 8382B	12/16/09
Programs and funding for students with limited English proficiency, 60.2, 60.3, 60.5, 60.6	Filed	ARC 8383B	12/16/09
Statewide local option sales and services tax for school infrastructure, 96.1 to 96.8	Filed	ARC 8384B	12/16/09
Vision Iowa school infrastructure program, rescind ch 100	Filed	ARC 8385B	12/16/09

### **ELDER AFFAIRS DEPARTMENT[321]**

Elder abuse prevention initiative and dependent adult abuse mandatory reporter training, rescind ch 12; adopt ch 15	Notice	ARC 8427B	12/30/09
Senior living coordinating unit, rescind ch 16	Filed Emergency	ARC 8419B	12/30/09
Regulation of adult day services, assisted living programs, and elder group homes, rescind chs 24 to 27, 29	Filed Emergency	ARC 8420B	12/30/09

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

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Fees and charges, 2.1	Notice	ARC 8393B	12/16/09
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### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Water quality standards—lake criteria, 61.3(4)	Notice	ARC 8397B	12/16/09
Animal feeding operations, amendments to ch 65	Notice	ARC 8398B	12/16/09

**HUMAN SERVICES DEPARTMENT[441]**

Verification of dependent care expenses, 65.22(1), 65.33, 75.57(2)“b”(7) Notice **ARC 8407B**..... 12/16/09

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

Administration, amendments to ch 1 Filed **ARC 8431B**..... 12/30/09

Health care facilities, 50.10 to 50.13, 56.3, 56.6, 56.13 to 56.16, 58.57 Filed **ARC 8433B** ..... 12/30/09

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

OSHA—acetylene standards, conducting inspections, 3.5(1), 10.20 Notice **ARC 8378B**..... 12/16/09

OSHA standards; amusement ride reinspection fee, 10.20; ch 35 title; 61.1(2)“c” Filed **ARC 8395B**..... 12/16/09

Update of references to ASME codes, 91.1(1), 91.1(4) Notice **ARC 8391B** ..... 12/16/09

**MEDICINE BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Permanent physician licensure, 9.1, 9.3(1), 9.4 to 9.18 Notice **ARC 8379B** ..... 12/16/09

**PHARMACY BOARD[657]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Pharmacy support persons, amend chs 1, 3, 6 to 8, 14, 16, 18, 25, 31, 32, 36; adopt ch 5

Notice **ARC 8380B** ..... 12/16/09

Reductions in fees, amendments to chs 2, 3, 8, 10, 12, 17 Notice **ARC 8429B**..... 12/30/09

Continuing education for pharmacists, 2.12 Notice **ARC 8412B**..... 12/30/09

Hospital pharmacy practice—outpatient services, drugs in emergency department, 7.11, 7.12

Notice **ARC 8413B** ..... 12/30/09

Prohibition of animals within a licensed pharmacy, 8.5(4) Notice **ARC 8414B** ..... 12/30/09

Controlled substances—fospropofol, 10.38(3)“az” Filed **Emergency ARC 8411B** ..... 12/30/09

Correctional pharmacy practice, ch 15 Notice **ARC 8416B**..... 12/30/09

Annual inventory and record of controlled substances, 17.16(2) Notice **ARC 8415B**..... 12/30/09

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]“umbrella”

Social work, amendments to chs 279 to 281, 283 Filed **ARC 8371B** ..... 12/16/09

Social work, rescind chs 279, 284; rescind 280.8, 280.12, 280.13, 281.4 to 281.7, 283.5

Notice **ARC 8368B** ..... 12/16/09

Supervised professional practice for LISW, 280.6(1)“e” and “f” Notice **ARC 8374B**..... 12/16/09

Discipline for sign language interpreters and transliterators, 363.2(11) Filed **ARC 8373B**..... 12/16/09

**PUBLIC HEALTH DEPARTMENT[641]**

Immunizations, 7.4(1), 7.11(2) Notice **ARC 8399B**, also Filed **Emergency ARC 8377B** ..... 12/16/09

**PUBLIC SAFETY DEPARTMENT[661]**

Electrician and electrical contractor licensing and electrical inspections, amend chs 500 to

503, 550 to 552; adopt ch 505 Filed **ARC 8396B** ..... 12/16/09

**REVENUE DEPARTMENT[701]**

Individual income, corporation income, and franchise taxes, amendments to chs 39 to 41, 46,

48, 52, 53, 58, 59 Notice **ARC 8430B**..... 12/30/09

Assessment practices—determination of agricultural factor, 71.3 Notice **ARC 8428B** ..... 12/30/09

**SOIL CONSERVATION DIVISION[27]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Elimination of organic nutrient management, levee reconstruction and repair, and soil

practices loan programs, rescind chs 13 to 15 Notice **ARC 8367B**..... 12/16/09

**STATE PUBLIC DEFENDER[493]**

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Court-appointed attorneys—appointment and fee claims, 11.5(4), 12.2 Filed **ARC 8372B** ..... 12/16/09

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]“umbrella”

Abbreviated franchise process—eligibility, petition, and notice requirements, 11.1(9),

11.2(3), 11.3(1)“g,” 11.5(11) Filed **ARC 8435B** ..... 12/30/09

Notification of electrical outages, 20.18(6), 20.19 Filed **ARC 8394B** ..... 12/16/09

Rescission of outage notification requirements for telecommunications providers, 22.2(8)  
Notice **ARC 8376B** ..... 12/16/09

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**  
Iowa veterans home, 10.36, 10.43, 10.47 Filed **ARC 8417B**..... 12/30/09

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

**EDITOR’S NOTE: Terms ending April 30, 2011.**

Senator Merlin Bartz  
2081 410th Street  
Grafton, Iowa 50440

Representative Marcella R. Frevert  
P.O. Box 324  
Emmetsburg, Iowa 50536

Senator Thomas Courtney  
2200 Summer Street  
Burlington, Iowa 52601

Representative David Heaton  
510 East Washington  
Mt. Pleasant, Iowa 52641

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

Representative Tyler Olson  
P.O. Box 2389  
Cedar Rapids, Iowa 52406

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

Representative Nathan Reichert  
1155 Iowa Avenue  
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**DENTAL BOARD[650]**

Deep sedation/general anesthesia, conscious sedation and nitrous oxide inhalation analgesia, amendments to ch 29 IAB 12/16/09 <b>ARC 8370B</b>	Board Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	January 5, 2010 10 a.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

Elementary classroom teacher—core content areas, 13.26(5) IAB 12/16/09 <b>ARC 8408B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 6, 2010 1 p.m.
Qualifications for behind-the-wheel driving instructor authorization, 23.1(1) IAB 12/16/09 <b>ARC 8409B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 6, 2010 1 p.m.
Renewal requirements for professional service license, 27.4, 27.5 IAB 12/30/09 <b>ARC 8410B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	January 20, 2010 1 p.m.

**EDUCATION DEPARTMENT[281]**

Community colleges, amendments to ch 21 IAB 12/16/09 <b>ARC 8390B</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 12, 2010 1 to 2 p.m.
Adult education, 23.1, 23.2 IAB 12/16/09 <b>ARC 8389B</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 12, 2010 1 to 2 p.m.
Community college accreditation, 24.1, 24.3 to 24.6 IAB 12/16/09 <b>ARC 8388B</b>	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 12, 2010 1 to 2 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Water quality standards—lake criteria, 61.3(4) IAB 12/16/09 <b>ARC 8397B</b>	Fifth Floor Conference Rooms Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	January 11, 2010 10 a.m.
	Public Library 200 N. 4th St. Clear Lake, Iowa	January 13, 2010 1 p.m.
	Conference Room Atlantic Municipal Utilities 15 W. 3rd St. Atlantic, Iowa	January 14, 2010 10 a.m.
	Waitt Building Iowa Lakeside Laboratory 1838 Highway 86 Milford, Iowa	January 14, 2010 6 p.m.
	Falcon Civic Center 1305 5th Ave. NE Independence, Iowa	January 21, 2010 10 a.m.
	Meeting Room B, Public Library 115 W. Washington St. Washington, Iowa	January 21, 2010 4 p.m.



**ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)**

Animal feeding operations, amendments to ch 65 IAB 12/16/09 <b>ARC 8398B</b>	Orange City Gymnasium 125 Central Ave. SE Orange City, Iowa	January 12, 2010 4:30 p.m.
	NICC Dairy Center, Room 115 Highway 150 (south of Calmar) Calmar, Iowa	January 13, 2010 1:30 p.m.
	Wallace State Office Bldg. Auditorium 502 E. 9th St. Des Moines, Iowa	January 15, 2010 11 a.m.
	Cass County Community Center 805 W. 10th St. Atlantic, Iowa	January 15, 2010 4:30 p.m.
	Marr Park Conservation Center 2943 Highway 92 Ainsworth, Iowa	January 20, 2010 1:30 p.m.
	NIACC Muse Norris Conference Center 500 College Dr. Mason City, Iowa	February 1, 2010 1:30 p.m.

**LABOR SERVICES DIVISION[875]**

OSHA—acetylene standards, conducting inspections, 3.5(1), 10.20 IAB 12/16/09 <b>ARC 8378B</b>	Stanley Room Iowa Workforce Development 1000 E. Grand Ave. Des Moines, Iowa	January 7, 2010 3:30 p.m.
Update of references to ASME codes, 91.1(1), 91.1(4) IAB 12/16/09 <b>ARC 8391B</b>	Stanley Room Iowa Workforce Development 1000 E. Grand Ave. Des Moines, Iowa	January 7, 2010 2:30 p.m. (If requested)

**MEDICINE BOARD[653]**

Permanent physician licensure, 9.1, 9.3(1), 9.4 to 9.18 IAB 12/16/09 <b>ARC 8379B</b>	Suite C 400 SW Eighth St. Des Moines, Iowa	January 5, 2010 11 a.m.
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**NATURAL RESOURCE COMMISSION[571]**

Aquatic plants in public waters; ginseng harvesting, amendments to ch 54 IAB 12/2/09 <b>ARC 8332B</b>	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 5, 2010 1 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645]**

Board of social work, rescind chs 279, 284; rescind 280.8, 280.12, 280.13, 281.4 to 281.7, 283.5 IAB 12/16/09 <b>ARC 8368B</b>	Fifth Floor Board Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 5, 2010 9 to 9:30 a.m.
Social work—supervised professional practice for LISW, 280.6(1)“e” and “P” IAB 12/16/09 <b>ARC 8374B</b>	Fifth Floor Board Room 526 Lucas State Office Bldg. Des Moines, Iowa	January 5, 2010 9:30 to 10 a.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Immunizations, 7.4(1), 7.11(2) <b>IAB 12/16/09 ARC 8399B</b> (See also <b>ARC 8377B</b> ) <b>(ICN Network)</b>	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	January 5, 2010 9 to 10 a.m.
	Room 276, High School 1700 Fourth St. S Mason City, Iowa	January 5, 2010 9 to 10 a.m.
	Room 247, Ottumwa Regional Health Ctr. 1001 E. Pennsylvania Ottumwa, Iowa	January 5, 2010 9 to 10 a.m.
	Room 465, Public Library 2950 Learning Campus Dr. Bettendorf, Iowa	January 5, 2010 9 to 10 a.m.
	West High School 2001 Casselman Sioux City, Iowa	January 5, 2010 9 to 10 a.m.
	Room 106, CB Comm. School District 2501 W. Broadway Council Bluffs, Iowa	January 5, 2010 9 to 10 a.m.
	Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	January 5, 2010 9 to 10 a.m.

**UTILITIES DIVISION[199]**

Small wind innovation zones, 15.19, 15.20 <b>IAB 12/2/09 ARC 8335B</b>	Board Hearing Room 350 Maple St. Des Moines, Iowa	January 11, 2010 10 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

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

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

## ARC 8432B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 194.2, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 68, “Dairy,” Iowa Administrative Code.

The proposed amendments update the reference to the handbooks used for dairy inspections. An obsolete grandfathering provision on milk truck approaches is deleted.

Any interested person may make written comments on the proposed amendments on or before January 20, 2010. Comments may be sent to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or E-mailed to [Margaret.Thomson@Iowaagriculture.gov](mailto:Margaret.Thomson@Iowaagriculture.gov).

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

These amendments are intended to implement Iowa Code section 192.102.

The following amendments are proposed.

ITEM 1. Amend rule ~~21—68.1(192,194)~~, definition of “P.M.O.,” as follows:

“P.M.O.” means the Grade A Pasteurized Milk Ordinance, ~~2003 Recommendations of 2009 Revisions, from~~ the United States Public Health Service/Food and Drug Administration, a copy of which is on file with the department and is incorporated into this chapter by reference and made a part of this chapter.

ITEM 2. Amend subrule 68.11(1) as follows:

**68.11(1)** Grade A and Grade B farm permit suspension and revocation. The department may temporarily suspend a Grade A or Grade B farm permit if the dairy farm fails to meet all the requirements as set forth in the P.M.O. or the Grade B United States Department of Agriculture document titled, “Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements,” effective ~~June 17, 2002~~ September 1, 2005. A Grade A farm under temporary suspension of the Grade A permit may sell the milk as “milk for manufacturing purposes” until reinstated as a Grade A farm if the former Grade A farm meets the requirements necessary to sell Grade B milk. A Grade B farm under temporary suspension of the Grade B permit may sell milk as “Undergrade Class 3” until reinstated as a Grade B farm if the former Grade B farm meets the requirements of Undergrade Class 3. If an inspection reveals a violation which, in the opinion of the inspector, is an imminent hazard to the public health, the inspector shall take immediate action to prevent any milk believed to have been exposed to the hazard from entering commerce. In addition, the inspector shall immediately notify the department that such action has been taken. In other cases, if there is a repeat violation of a dairy standard as determined by two consecutive routine inspections of a dairy farm, the inspector shall immediately refer the violation to the department for action. The department may revoke the dairy permit of a person that the department determines is a habitual violator as defined in rule 21—68.1(192,194).

ITEM 3. Amend rule 21—68.13(192,194) as follows:

**21—68.13(192,194) Public health service requirements.**

**68.13(1) Certification.** A rating of 90 percent or more calculated according to the rating system as contained in Public Health Service “Methods of Making Sanitation Ratings of Milk Shippers,” ~~2003~~ 2009 Revision, shall be necessary to receive or retain a Grade A certification under Iowa Code

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

chapter 192. That publication is hereby incorporated into this rule by this reference and made a part thereof insofar as applicable, a copy of which is on file with the department.

**68.13(2) Documents.** The following publications of the Public Health Service of the Food and Drug Administration are hereby adopted. A copy of each is on file with the department:

1. "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments," 2003 2009 Revision.
2. "Standards for the Fabrication of Single Service Containers and Closures for Milk and Milk Products," as incorporated in the P.M.O., Appendix J.
3. "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey," Supplement I to the Grade A Pasteurized Milk Ordinance, 1995 2009 Recommendations.
4. "Evaluation of Milk Laboratories," 1995 2009 Revision.

This rule is intended to implement Iowa Code chapter 192.

ITEM 4. Amend rule 21—68.15(192,194) as follows:

**21—68.15(192,194) Milk standards.** Standards for the production and processing of milk for manufacturing purposes shall conform to standards contained in the USDA document entitled "Milk for Manufacturing Purposes and Its Production and Processing, Recommended Requirements," dated ~~June 17, 2002~~ September 1, 2005, which is hereby incorporated into this rule by reference and made a part thereof insofar as applicable, a copy of which is on file with the department.

ITEM 5. Amend subrule 68.37(1) as follows:

**68.37(1)** The milk truck approach of a dairy farm facility shall not be through a cowyard or any other animal confinement area. ~~In a dairy facility that is under permit by the department on February 28, 2001, the operator of the facility shall have until January 1, 2002, to modify the facility to comply with this rule.~~

**ARC 8410B****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 27, "Issuance of Professional Service Licenses," Iowa Administrative Code.

This proposed amendment establishes the criteria for renewal of the new Professional Service License adopted in July 2009.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, January 20, 2010, 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.

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

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 22, 2010. 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.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Adopt the following **new** rules 282—27.4(272) and 282—27.5(272):

**282—27.4(272) Specific renewal requirements for the initial professional service license.**

**27.4(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

**27.4(2)** If a person meets all requirements for the standard professional service license except for the requirements in paragraph 27.2(2) “b,” the initial professional service license may be renewed upon written request. A second renewal may be granted if the holder of the initial license has not met the requirements in paragraph 27.2(2) “b” and if the license holder can provide evidence of employment, which will be acceptable for the experience requirement.

**282—27.5(272) Specific renewal requirements for the standard professional service license.**

**27.5(1)** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth in rule 282—20.3(272).

**27.5(2)** Four units are needed for renewal. These units may be earned in any combination listed below:

*a.* One unit may be earned for each semester hour of graduate credit, completed from a regionally accredited institution, which leads toward the completion of a planned master’s, specialist’s, or doctor’s degree program.

*b.* One unit may be earned for each semester hour of graduate or undergraduate credit, completed from a regionally accredited institution, which may not lead to a degree but which adds greater depth/breadth to present endorsements held.

*c.* One unit may be earned for each semester hour of credit, completed from a regionally accredited institution, which may not lead to a degree but which leads to completion of requirements for an endorsement not currently held.

*d.* One unit may be earned upon completion of each licensure renewal course or activity approved pursuant to guidelines established by the board of educational examiners.

**ARC 8427B**

**ELDER AFFAIRS DEPARTMENT[321]**

**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 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act, the Department on Aging hereby gives Notice of Intended Action to rescind Chapter 12, “Elder Abuse, Neglect or Exploitation Prevention and Awareness and Mandatory Reporter Training,” and to adopt new Chapter 15, “Elder Abuse Prevention Initiative and Dependent Adult Abuse Mandatory Reporter Training,” Iowa Administrative Code.

## ELDER AFFAIRS DEPARTMENT[321](cont'd)

The proposed new chapter provides for the enhanced prevention, detection, and reporting of elder abuse, local advocacy, and service coordination for the protection of older individuals and establishes criteria for certifying trainers to provide dependent adult abuse mandatory reporter training. It also establishes standards for those services and includes a severability rule.

The proposed chapter contains provisions currently found in Chapter 12. Proposed new Chapter 15 includes all Department rules related to elder abuse prevention, intervention, awareness, and mandatory reporter training rather than having the provisions split into two chapters. This rule making also proposes to rescind the current Chapter 12 as a result of combining Chapter 12 into the proposed new Chapter 15.

Any interested person may make written suggestions or comments on the proposed chapter on or before January 19, 2010. Such written suggestions or comments should be directed to the Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319; E-mailed to [lisa.burk@iowa.gov](mailto:lisa.burk@iowa.gov); or faxed to (515)725-3300.

These amendments are intended to implement Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act.

The following amendments are proposed.

ITEM 1. Rescind and reserve **321—Chapter 12**.

ITEM 2. Adopt the following **new** 321—Chapter 15:

## CHAPTER 15

ELDER ABUSE PREVENTION INITIATIVE AND DEPENDENT ADULT ABUSE  
MANDATORY REPORTER TRAINING

**321—15.1(231) Purpose.** This chapter establishes the elder abuse prevention initiative as a method of providing prevention, intervention, detection, and reporting of abuse, neglect, and exploitation of older individuals, and of providing service options for at-risk older adults. This chapter also establishes criteria for certifying trainers to provide dependent adult abuse mandatory reporter training.

**321—15.2(231) Definitions.** Words and phrases used in this chapter are as defined in 321 IAC 1 unless the context of the rule indicates otherwise. The following definitions also apply to this chapter:

*“Abuse”* means the willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or the deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness in an older individual.

*“Adequate food, shelter, clothing, or other care”* means food, shelter, clothing, or other care which, if not provided, would constitute denial of critical care.

*“Assessment”* means a document designated by the department to be completed by a contractor to determine service needs and address the safety of the client.

*“Assessment intake”* means the process by which a contractor receives and records reports of suspected elder abuse.

*“At-risk older individual”* or *“client”* means a person aged 60 or older who is at risk for or experiencing abuse, neglect, self-neglect, or exploitation.

*“Caregiver”* means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law. “Caregiver” also means a family member or other individual who provides compensated or uncompensated care to an older individual.

*“Case”* means a referral of suspected elder abuse that has been accepted for assessment and services.

*“Contractor”* means the contract recipient.

*“Coordinator”* means the contractor’s designee who is responsible for coordinating elder abuse prevention initiative services and who is the central point of contact for case files, subcontractors, and care providers.

*“Department”* means the department on aging.



## ELDER AFFAIRS DEPARTMENT[321](cont'd)

“*Elder abuse*” means abuse of an older individual and may consist of abuse, neglect, self-neglect, or exploitation.

“*Exploitation*” means an individual, including a caregiver or legal representative, who uses the resources of an older individual for monetary or personal benefit, profit, or gain that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

“*Immediate danger to health and safety*” means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention.

“*Legal representative*” means a person appointed by the court to act on behalf of a client.

“*Neglect*” means the failure of a caregiver or legal representative to provide the goods or service necessary to maintain the health or safety of an older individual.

“*Older individual*” means a person aged 60 or older.

“*Physical harm*” means bodily injury, impairment, or disease.

“*Purchase of service form*” means the mechanism used to document and request approval for the purchase of a specific service on behalf of a client.

“*Referral*” means any information received by a contractor from any source that identifies an individual aged 60 or older as experiencing, or at risk of, abuse, neglect, or exploitation.

“*Self-neglect*” means an older individual’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks, including obtaining essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, or general safety; or managing one’s own financial affairs.

“*Service provider*” means a provider receiving funds from a contractor.

**321—15.3(231) Project administration.** In any year in which funds are available for the elder abuse prevention initiative, the department shall contract with local agencies or organizations to administer available funds and to study and evaluate community-based projects and educational programs for the prevention of elder abuse. The contractors shall utilize the funds to provide community-based services for older individuals who have been the subject of suspected elder abuse or for the provision of educational programs to raise awareness about elder abuse. Agencies or organizations that receive elder abuse prevention initiative funds shall submit a proposal to the department one month prior to the commencement of the fiscal year. Proposals shall contain the following:

1. Project summary, including issues the project will address;
2. Projection of the number of older individuals to be served;
3. Description of services to be provided;
4. Description of community support for the project;
5. Designation of evaluation and audit mechanisms;
6. Project budget; and
7. Evaluation plan.

**321—15.4(231) Contractor responsibilities.**

**15.4(1)** A contractor shall have a designated coordinator to administer elder abuse prevention initiative funds and services who meets all of the following qualifications:

- a. A bachelor’s degree in a human services field and a minimum of four years of experience in a human services or gerontology field;
- b. Completion of dependent adult abuse mandatory reporter training requirements in accordance with Iowa Code section 235B.16 prior to direct client contact;
- c. Completion of orientation and training provided by the department prior to direct client contact related to utilization of the assessment tool; service coordination and monitoring; performance measures and outcome evaluation; advocacy, and public awareness training; and
- d. Eight hours of annual training related to dependent adult or elder abuse.

**15.4(2)** Staff members utilized by a contractor or subcontractor to provide services shall meet all of the following qualifications:

- a. A minimum of two years of experience in the human services field;

## ELDER AFFAIRS DEPARTMENT[321](cont'd)

*b.* Completion of dependent adult abuse mandatory reporter training requirements in accordance with Iowa Code section 235B.16 prior to direct client contact; and

*c.* Completion of orientation and training provided by the department related to utilization of the assessment tool; service coordination and monitoring; performance measures and outcome evaluation; advocacy and public awareness training prior to direct client contact.

**15.4(3)** A contractor shall utilize the assessment forms, purchase of services forms, procedures, and software systems specified by the department.

**15.4(4)** A contractor shall ensure that:

*a.* Record checks have been conducted for any coordinator, staff member, volunteer, or other person who performs duties under a contract or subcontract who:

- (1) Has direct responsibility for the client, or
- (2) Has access to a client when the client is alone.

*b.* The record checks shall be conducted to determine whether the person:

- (1) Has any founded child abuse reports;
- (2) Has any founded dependent adult abuse reports;
- (3) Has any criminal convictions; or
- (4) Has been placed on the sex offender registry.

**321—15.5(231) Funding restrictions.** The use of funding is restricted as follows:

1. A contractor shall determine that the client is not eligible to receive services under another funding source prior to authorizing the use of elder abuse prevention initiative funds and shall document this in the assessment.

2. Services funded shall reduce or eliminate abuse, neglect, self-neglect, exploitation, or risk of the same.

3. The funds shall be utilized for one-time expenditures but may be used for ongoing or monthly expenditures if no other funding source is available and the client would otherwise remain in an abusive situation.

**321—15.6(231) Reallocation of funds.** The contractor shall report, in writing, any projected underexpenditure of funds prior to the completion of the contract. The department may reallocate such funds to other contractors for the same purpose or to the department's elder abuse prevention efforts.

**321—15.7(231) Eligibility.** If funding is available, an older individual shall be eligible for assistance under the elder abuse prevention initiative if all of the following criteria are met:

**15.7(1)** If abuse, neglect, exploitation, or self-neglect exists, or there is risk of same. Abuse, neglect, exploitation, or self-neglect includes the deprivation of the minimum food, shelter, clothing, supervision, physical care, mental health care, or other care necessary to maintain the older individual in an independent living arrangement.

**15.7(2)** The older individual is not a resident in a nursing facility as defined in Iowa Code section 135C.1(13). Exceptions may be granted by the department on a case-by-case basis.

**321—15.8(231) Assessment intake.** A contractor shall accept all referrals for at-risk older individuals who may be experiencing abuse, neglect, self-neglect, or exploitation. The primary purpose of intake is to obtain available and pertinent information regarding an allegation of elder abuse to determine whether or not a referral becomes a case. When a referral is received, the contractor shall record all allegations and concerns on the intake portion of the assessment form to determine the priority level of the case as follows:

**15.8(1) Priority I.** The at-risk older individual's health or safety is in immediate danger, and the individual requires immediate intervention. The contractor shall contact appropriate agencies such as the department of human services, emergency medical services, and law enforcement. A face-to-face visit with the at-risk older individual and completion of the assessment form shall occur after the life-threatening situation is resolved and within 24 hours.

## ELDER AFFAIRS DEPARTMENT[321](cont'd)

**15.8(2) Priority 2.** The at-risk older individual's health or safety is not in immediate danger, but the risk is real and foreseeable in the future. A face-to-face visit with the client and completion of the assessment shall be made within four working days.

**15.8(3) Priority 3.** The at-risk older individual's health or safety is not in immediate danger, but there is potential risk for abuse, neglect, self-neglect, or exploitation. Contact with the at-risk older individual is required within ten working days.

**321—15.9(231) Release of information.** A release of information form designated by the department shall be signed by the at-risk older individual or the individual's legal representative prior to the provision of services. In Priority 1 cases, if obtaining the at-risk older individual's signature will delay the process of immediate intervention or the protection of the at-risk older individual's safety, telephone approval is acceptable and shall be documented in the assessment. In this circumstance, appropriate signatures shall be obtained as soon as the life-threatening situation is resolved and a face-to-face assessment is conducted. A release shall also be signed by a client or the client's legal representative if photographs, electronic images, or recordings are taken involving the client or the client's home.

**321—15.10(231) Assessment.** A comprehensive assessment shall be completed on each client within the time frames specified in 321—15.8(231) to protect the client's safety and provide for services where necessary and desired by the client. The tasks associated with completion of the assessment are:

**15.10(1) Interviewing the alleged victim.** This shall include interviewing the at-risk older individual to identify the nature and scope of the abuse or risk; assessing the at-risk older individual's cognitive, emotional, and physical capabilities, home environment, relationships with others living in the residence, relationships with any service providers, and information on the alleged offender; and gathering any information related to prior incidences of similar abuse or risk. Interviews with the alleged victim shall occur without the alleged offender present.

**15.10(2) Interviewing other sources.** Attempts shall be made to conduct interviews with persons who have relevant information to share about allegations.

**15.10(3) Evaluating the information.** Evaluation of the information shall include an analysis that confirms whether or not the alleged victim meets the eligibility criteria for services.

**15.10(4) Intervention plan.** An intervention plan designed to address the victim's situation shall be developed for all clients who are found to be eligible for services and, at a minimum, shall include a service plan, desired outcomes, funding source, and dates to review progress. If the situation is perpetuated by an older individual's personal choices, the intervention plan shall note this.

**321—15.11(231) Monitoring and reassessment.** A contractor shall monitor the provision of services identified in the intervention plan. A contractor shall conduct and document a face-to-face client reassessment every six months or whenever there is a significant change in the client's physical health, mental health, economic status, or risk status and shall update the intervention plan accordingly.

**321—15.12(231) Purchase of service.** A contractor may subcontract with a service provider for the provision of services. Any service provided by a contractor or a subcontractor shall be documented on a purchase of service form designated by the department. A subcontractor shall send the purchase of service form to the coordinator for approval prior to the expenditure of funds. Notification of approval or denial shall be sent to the subcontractor via E-mail or fax and shall be retained in the client's case record. A service provider shall bill the contractor within 30 days of rendering a service. A copy of all invoices shall be kept in the client's case record.

**321—15.13(231) Case records.**

**15.13(1)** A case record shall be maintained for each client and shall contain copies of the assessments and any related correspondence or information that pertains to the assessment of the client, intervention plan, medical records, updates, legal representation documents, and documentation of dates, times, travel, activities, and expenditures related to the client. The department shall have complete access to all client case records during regular business hours and upon request.

## ELDER AFFAIRS DEPARTMENT[321](cont'd)

**15.13(2)** Case records shall be maintained for a minimum of five years from the date a case is closed in accordance with Iowa Code chapter 305. A case record that is closed shall contain completed assessments; signed release of information forms; purchase of service forms and invoices for services rendered; department of human services' dependent adult abuse report forms; photographs, electronic images, or recordings; and all case documentation, records, and notes.

**321—15.14(231) Refusal of assistance.** A client has the right to refuse services at any time. However, if dependent adult abuse is suspected, the abuse shall be reported to law enforcement, the department of human services, and the county attorney pursuant to mandatory reporting requirements.

**321—15.15(231) Termination or limitation.** A contractor may terminate or limit services provided under circumstances including but not limited to the following:

1. Services are no longer needed or do not benefit the client;
2. The client moves out of state or outside the service area;
3. The client moves into a nursing facility as defined in Iowa Code section 135C.1(13);
4. The client or the client's legal representative requests termination;
5. The client is unwilling or unable to meet the terms in the intervention plan;
6. The client's legal representative refuses to provide information needed for the development of an intervention plan; or
7. There is risk of harm to the contractor or service provider.

**321—15.16(231) Confidentiality and disclosure.** Client identification numbers shall be used to maintain confidentiality. All case records shall be maintained by the department and the contractor as confidential records pursuant to Iowa Code section 22.7 and shall not be disclosed except with the written consent of the client or the client's legal representative.

**321—15.17(231) Legal representatives.**

**15.17(1)** A legal representative shall provide appointment papers, a court order, or power of attorney documentation within 72 hours of being contacted by a contractor. The legal representative's signature shall be obtained on the assessment before the client receives services.

**15.17(2)** If there is suspicion of abuse, neglect, exploitation or self-neglect of an older individual and the legal representative will not permit access to the older individual, the contractor shall make oral and written reports to the department of human services and local law enforcement pursuant to Iowa Code section 235B.3. The contractor shall also notify the judge in probate for the county in which the guardianship or conservatorship was filed by certified letter within five days of the denial of access. The notification shall detail concerns and potential consequences of the guardian's or conservator's action or inaction that appears not to be in the best interest of the older individual.

**321—15.18(231) Appeals.** Complaints by any aggrieved party shall be heard first by the contractor using the contractor's procedures and shall be exhausted before the department is contacted. Appeals made by any aggrieved party to the department shall follow the procedures set forth in 321 IAC 2.9(231).

**321—15.19(231) Conflict of interest.** Conflict of interest includes any action or failure to act that may be an actual or perceived conflict between official duties and personal interest. Conflict of interest exists when an elder abuse prevention initiative contractor or any entity or individual involved in that program:

1. Uses an official position for private gain (other than salary);
2. Gives preferential treatment to any contractor, entity, or individual or fails to act impartially in the conduct of official duties;
3. Impedes or adversely affects governmental efficiency or economy;
4. Engages in conduct that could adversely affect the confidence of the public in the integrity of the elder abuse prevention initiative;
5. Creates circumstances where it might reasonably be perceived that a contractor's, an entity's, or an individual's judgment could be influenced by the nature of the circumstances; or

## ELDER AFFAIRS DEPARTMENT[321](cont'd)

6. Has a client that is related to the contractor, entity, or individual within the third degree of consanguinity.

**321—15.20(235B) Dependent adult abuse mandatory reporter training.** The department shall develop and maintain a dependent adult abuse mandatory reporter training curriculum in accordance with Iowa Code section 235B.16(2). The curriculum shall comply with the specifications of the department of public health's abuse education review panel as provided in 641 IAC 93.

**15.20(1)** The department shall certify trainers to provide the department's approved dependent adult abuse mandatory reporter curriculum. A trainer shall not utilize the department's curriculum unless the trainer has been certified by completing the department's required training program.

**15.20(2)** The department's training program shall include but is not limited to information on laws, rules, and regulations relating to all forms of dependent adult abuse and reporting requirements.

**15.20(3)** A trainer's certification shall be valid for three years from the date of issuance and must be renewed by completing the department's training program.

**15.20(4)** The department may revoke a trainer's certification for noncompliance with training requirements after a written warning.

**15.20(5)** Certified trainers shall notify the department of changes in contact information, such as address, E-mail, and telephone number. Certified trainers shall be responsible for checking the department's Web site for curriculum updates.

**321—15.21(231) Severability.** Should any rule, subrule, paragraph, phrase, sentence, or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

These rules are intended to implement Iowa Code sections 231.56A and 235B.16 and chapter 249H and Title VII of the federal Older Americans Act.

**ARC 8429B**

**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 124.301, 124B.11, and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 2, “Pharmacist Licenses,” Chapter 3, “Pharmacy Technicians,” Chapter 8, “Universal Practice Standards,” Chapter 10, “Controlled Substances,” Chapter 12, “Precursor Substances,” and Chapter 17, “Wholesale Drug Licenses,” Iowa Administrative Code.

The amendments were approved at the November 17, 2009, regular meeting of the Board of Pharmacy.

The proposed amendments decrease fees for the licensure and registration of pharmacists, pharmacy technicians, pharmacies, drug wholesalers, precursor substances permittees, and individuals involved in the distribution of controlled substances in Iowa. Late payment penalty fees and examination or license transfer fees are also reduced. Pursuant to Iowa Code section 147.80, the Board reviewed current fee schedules and projected revenues and expenditures and determined that fees should be decreased to align revenues with anticipated expenses relating to support of these Board programs and activities.

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

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on January 19, 2010. 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).

These amendments are intended to implement Iowa Code sections 124.301, 124.302, 124B.11, 147.10, 147.11, 147.34, 147.44, 147.53, 147.80, 155A.6, 155A.6A, 155A.11, 155A.13, 155A.13A, 155A.14, 155A.17, and 155A.39.

The following amendments are proposed.

ITEM 1. Amend subrule 2.3(1) as follows:

**2.3(1) Fees to the board.** The biennial license fee shall be the fee established by rule ~~657—2.11(147,155A)~~, including surcharge. The processing fee shall be ~~\$80~~ \$50. No refunds of the processing fee shall be made for cancellation or withdrawal of applications. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy and may be remitted in the form of personal check, money order, or certified check. No refund of fees shall be made for failure to complete all licensure requirements within the period specified in subrule 2.1(2).

ITEM 2. Amend subrule 2.9(4) as follows:

**2.9(4) Fees.** The fee for license transfer shall consist of the biennial license fee established by rule ~~657—2.11(147,155A)~~ including surcharge and a processing fee of ~~\$100~~ \$50. No refunds of the processing fee shall be made for cancellation or withdrawal of an application. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy and may be remitted in the form of personal check, money order, or certified check.

ITEM 3. Amend rule ~~657—2.11(147,155A)~~ as follows:

**~~657—2.11(147,155A) License expiration and renewal.~~** A license to practice pharmacy shall expire on the second thirtieth day of June following the date of issuance of the license, with the exception that a new pharmacist license issued between April 1 and June 29 shall expire on the third thirtieth day of June following the date of issuance. The license renewal certificate shall be issued upon completion of the renewal application and timely payment of a ~~\$200~~ \$100 fee plus applicable surcharge pursuant to ~~657—30.8(155A)~~.

**2.11(1) Late payment penalty.** Failure to renew the license before July 1 following expiration shall require payment of the renewal fee, a penalty fee of ~~\$200~~ \$100, and applicable surcharge pursuant to ~~657—30.8(155A)~~. Failure to renew the license before August 1 following expiration shall require payment of the renewal fee, a penalty fee of ~~\$300~~ \$200, and applicable surcharge pursuant to ~~657—30.8(155A)~~. Failure to renew the license before September 1 following expiration shall require payment of the renewal fee, a penalty fee of ~~\$400~~ \$300, and applicable surcharge pursuant to ~~657—30.8(155A)~~. Failure to renew the license before October 1 following expiration may require an appearance before the board and shall require payment of the renewal fee, a penalty fee of ~~\$500~~ \$400, and applicable surcharge pursuant to ~~657—30.8(155A)~~. In no event shall the combined fee and penalty fee for late renewal of the license exceed ~~\$700~~ \$500 plus applicable surcharge pursuant to ~~657—30.8(155A)~~. The provisions of Iowa Code section 147.11 shall apply to a license that is not renewed within five months of the expiration date.

**2.11(2)** No change.

ITEM 4. Amend rule ~~657—3.10(155A)~~ as follows:

**~~657—3.10(155A) Registration fee.~~** The following fees for initial registration and registration renewal shall apply to the specified registration applications filed within the following time frames. The appropriate fee shall be submitted with the registration application in the form of a personal check, certified check or cashier's check, or a money order payable to the Iowa Board of Pharmacy.

**~~3.10(1) Registration prior to July 1, 2009.~~** ~~The fee for obtaining an initial technician registration, for obtaining an initial certified pharmacy technician registration, or for renewal of a technician or certified~~

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

technician registration prior to July 1, 2009, shall be \$40 plus applicable surcharge pursuant to rule 657—30.8(155A).

~~3.10(2)~~ **3.10(1)** *Registration beginning July 1, 2009 Certified pharmacy technician registration.* The fee for obtaining an initial certified pharmacy technician registration or for biennial renewal of a certified pharmacy technician registration beginning July 1, 2009, shall be \$50 \$30 plus applicable surcharge pursuant to rule 657—30.8(155A).

~~3.10(3)~~ **3.10(2)** *Technician trainee registration beginning July 1, 2009.* The fee for a one-year pharmacy technician trainee registration shall be \$20 plus applicable surcharge pursuant to rule 657—30.8(155A).

ITEM 5. Amend subrule 3.11(2) as follows:

**3.11(2)** *Registration renewal.* A certified pharmacy technician registration that is not renewed before its expiration date shall be delinquent, and the registrant shall not continue employment as a pharmacy technician until the registration is reactivated. An individual who continues employment as a pharmacy technician without a current registration, in addition to the pharmacy and the pharmacist in charge that allow the individual to continue practice as a pharmacy technician, may be subject to disciplinary sanctions.

a. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the month following expiration shall pay the renewal fee of \$30, a penalty fee equal to the amount of the renewal fee \$30, plus the applicable surcharge pursuant to rule 657—30.8(155A).

b. A person who is required to renew a registration pursuant to these rules and who fails to renew the registration before the first day of the second month following expiration shall pay the renewal fee, a penalty fee equal to the amount of the renewal fee, \$40, plus the applicable surcharge pursuant to rule 657—30.8(155A), plus an additional penalty fee of \$10 for each additional month, not to exceed three additional months, that the registration is delinquent. Failure to renew the registration before the first day of the third month following expiration shall require payment of the renewal fee, a penalty fee of \$50, plus the applicable surcharge pursuant to rule 657—30.8(155A). Failure to renew the registration before the first day of the fourth month following expiration shall require payment of the renewal fee, a penalty fee of \$60, plus the applicable surcharge pursuant to rule 657—30.8(155A). The maximum combined fee payment for reactivation of a delinquent registration shall not exceed an amount equal to twice the renewal fee plus \$30 \$90 plus the applicable surcharge pursuant to rule 657—30.8(155A).

ITEM 6. Amend subrule 8.35(4) as follows:

**8.35(4)** *License expiration and renewal.* General pharmacy licenses, hospital pharmacy licenses, special or limited use pharmacy licenses, and nonresident pharmacy licenses shall be renewed before January 1 of each year. The fee for a new or renewal license shall be ~~\$150~~ \$100.

a. *Late payment penalty.* Failure to renew the pharmacy license before January 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$150~~ \$100. Failure to renew the license before February 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$250~~ \$150. Failure to renew the license before March 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$350~~ \$200. Failure to renew the license before April 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$450~~ \$250 and may require an appearance before the board. In no event shall the combined renewal fee and penalty fee for late renewal of a pharmacy license exceed ~~\$600~~ \$350.

b. No change.

ITEM 7. Amend rule 657—10.3(124) as follows:

**657—10.3(124) Registration and renewal.** For each registration or timely renewal of a registration to manufacture, distribute, dispense, prescribe, import or export, conduct research or instructional activities, or conduct chemical analysis with controlled substances listed in Schedules I through V of Iowa Code chapter 124, registrants shall pay a biennial fee of ~~\$100~~ \$60.

**10.3(1)** No change.

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

**10.3(2) *Late renewal.*** Any registered person or business may apply, on forms provided by the board office, for registration renewal not more than 60 days prior to the expiration of the registration. Failure to renew a registration prior to the first day of the month following expiration shall require payment of the renewal fee and a penalty fee of ~~\$100~~ \$60. Payment shall be made as specified in subrule 10.3(1).

ITEM 8. Amend subrule 12.7(2) as follows:

**12.7(2) *Initial permit, renewal, and fees.*** The fee for an initial permit or permit renewal shall be paid at the time that the application for the permit or permit renewal is submitted for filing. Payment shall be made in the form of a personal, business, certified, or cashier's check or money order made payable to the Iowa Board of Pharmacy. Payments made in the form of foreign currency or third-party endorsed checks will not be accepted.

*a. Initial and renewal fees.* For each initial permit or timely renewed permit, an applicant shall pay a fee of ~~\$200~~ \$100.

*b. Late application.* Failure to renew a permit prior to January 1 following the permit's expiration shall require payment of the renewal fee plus a ~~\$200~~ \$100 late payment fee.

*c. No change.*

ITEM 9. Amend subrule 17.3(2) as follows:

**17.3(2) *License expiration and renewal.*** A wholesale drug license shall be renewed before January 1 of each year. The fee for a new or renewal license shall be ~~\$300~~ \$150.

*a. Late payment penalty.* Failure to renew the license before January 1 shall require payment of the renewal fee and a penalty fee of ~~\$300~~ \$150. Failure to renew the license before February 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$400~~ \$250. Failure to renew the license before March 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$500~~ \$350. Failure to renew the license before April 1 following expiration shall require payment of the renewal fee and a penalty fee of ~~\$600~~ \$450 and may require an appearance before the board. In no event shall the combined renewal fee and penalty fee for late renewal of a wholesale drug license exceed ~~\$900~~ \$600.

*b. No change.*

**ARC 8412B**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272C.2, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 2, "Pharmacist Licenses," Iowa Administrative Code.

The amendments were approved at the November 17, 2009, regular meeting of the Board of Pharmacy.

The proposed amendments define continuing education for the practice of pharmacy, correct the name of the pharmacy education accreditation council, identify additional programs that qualify for the drug therapy course requirement in subrule 2.12(4), clarify the information required on the program attendance certificate and on reports to the Board, clarify the process for exemption from continuing education requirements in subrule 2.12(1), and identify types of non-ACPE provider programs that will be accepted for no more than 50 percent of the total continuing education credits required during a renewal period.

Requests for waiver or variance of the discretionary provisions of these 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 January 19, 2010. Such written materials may be sent to Terry



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

Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

These amendments are intended to implement Iowa Code section 272C.2.

The following amendments are proposed.

ITEM 1. Amend rule **657—2.12(272C)**, introductory paragraph, as follows:

**657—2.12(272C) Continuing education requirements.** Pharmacists shall complete continuing education for license renewal pursuant to the requirements of this rule. For purposes of this rule, “continuing education” means a structured educational activity that is applicable to the practice of pharmacy, that promotes problem solving and critical thinking, and that is designed or intended to support the continuing development of pharmacists to maintain and enhance their competence.

ITEM 2. Amend subrule 2.12(1) as follows:

**2.12(1) Continuing education program attendance.** Continuing education programs that carry the seal of an ~~American Council on Pharmaceutical Education~~ Accreditation Council on Pharmacy Education (ACPE)-approved provider will automatically qualify for continuing education credit. Program attendance is mandated in order to receive credit unless the program is a correspondence course that ACPE approved.

*a. Non-ACPE provider program.* ~~A pharmacist requesting individual credit for completing a non-ACPE provider program shall submit a request for approval of the program to the board office no later than the date the program commences. The request shall be made on forms provided by the board office. A maximum 50 percent of the total continuing education credits required pursuant to subrule 2.12(4) may be obtained through completion of non-ACPE provider programs if such programs are provided by an accredited health-professional continuing education provider, such as a continuing medical education (CME) provider, and if the program content directly relates to the pharmacist’s professional practice.~~

*b. Exemption for health-related graduate studies.* A pharmacist who is continuing formal education in health-related graduate programs may be exempted from meeting the continuing education requirements during the period of such enrollment. An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program, on forms provided by the board office. At the discretion of the board, exemption during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

ITEM 3. Amend paragraph **2.12(3)“a”** as follows:

*a.* An approved provider will be required to make available to an individual pharmacist a certificate that indicates successful completion of and participation in a continuing education program. The certificate will carry the following information:

- (1) Pharmacist’s full name.
- (2) Pharmacist’s license number.
- (3) Number of contact hours or CEUs awarded for program attended.
- (4) Date and place of continuing education program.
- (5) Name of program provider.
- (6) An indicator of the type or category of continuing education program completed.
- (7) Program title and program identification number.

ITEM 4. Amend subrule 2.12(4) as follows:

**2.12(4) Continuing education program topics.** Each pharmacist is required to obtain a minimum of 50 percent of the pharmacist’s required 3.0 CEUs in ACPE-approved courses dealing with drug therapy. Programs qualifying for the drug therapy course requirement will include the ACPE topic designator “01” or “02” in the last two digits of the program number.

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

ITEM 5. Amend subrule 2.12(7) as follows:

**2.12(7) Reporting continuing education credits.**

a. A pharmacist shall submit on or with the renewal application form documentation that the continuing education requirements have been met. Documentation shall be in a format that includes the following:

- (1) The total number of credits accumulated for the renewal period;
- (2) The individual programs attended, including program title and program identification number;
- (3) The dates of participation;
- (4) The credits awarded for each course;
- (5) The name of the provider of each course; and
- (6) Identification of the programs completed to comply with the drug therapy course requirements in subrule 2.12(4).

b. and c. No change.

**ARC 8413B**

**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 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 7, “Hospital Pharmacy Practice,” Iowa Administrative Code.

The amendments were approved at the November 17, 2009, regular meeting of the Board of Pharmacy.

The proposed amendments establish criteria for the administration and dispensing of prescription drugs through hospital outpatient services and a hospital emergency department. The amendments define terms specifically related to these hospital outpatient services and the hospital emergency department; address accountability controls for drugs maintained, administered, or dispensed through these services; and specifically address the use of an InstyMeds dispensing system in a hospital emergency department.

Requests for waiver or variance of the discretionary provisions of these 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 January 19, 2010. 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).

These amendments are intended to implement Iowa Code sections 124.301, 124.306, 126.10, 126.11, 155A.13, 155A.27, and 155A.28.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 657—7.11(124,126,155A):

**657—7.11(124,126,155A) Outpatient services.** No prescription drugs shall be dispensed to patients in a hospital outpatient setting. If a need is established for the dispensing of a prescription drug to an outpatient, a prescription drug order shall be provided to the patient to be filled at a pharmacy of the patient’s choice.

**7.11(1) Definitions.** For the purposes of this rule, the following definitions shall apply:

“*Emergency department patient*” means an individual who is examined and evaluated in the emergency department.

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

“*Outpatient*” means an individual examined and evaluated by a prescriber who determined the individual’s need for the administration of a drug or device, which individual presents to the hospital outpatient setting with a prescription for administration of a drug or device. “Outpatient” does not include an emergency department patient.

“*Outpatient medication order*” means a written order from a prescriber or an oral or electronic order from a prescriber or the prescriber’s authorized agent for administration of a drug or device. An outpatient medication order may authorize continued or periodic administration of a drug or device for a period of time and frequency determined by the prescriber or by hospital policy, not to exceed legal limits for the refilling of a prescription drug order.

**7.11(2) Administration in the outpatient setting.** Drugs shall be administered only to outpatients who have been examined and evaluated by a prescriber who determined the patient’s need for the drug therapy ordered.

*a. Accountability.* A system of drug control and accountability shall be developed and supervised by the pharmacist in charge and the facility’s outpatient services committee, or a similar group or person responsible for policy in the outpatient setting. The system shall ensure accountability of drugs incidental to outpatient nonemergency therapy or treatment. Drugs shall be administered only in accordance with the system.

*b. Controlled substances.* Controlled substances maintained in the outpatient setting are kept for use by or at the direction of prescribers for the nonemergency therapy or treatment of outpatients. In order to receive a controlled substance, a patient shall be examined in the outpatient setting or in an alternate practice setting or office by a prescriber who shall determine the patient’s need for the drug. If the patient is examined in a setting outside the outpatient setting, the prescriber shall provide the patient with a written prescription to be presented at the hospital outpatient setting.

*c. Outpatient medication orders.* A prescriber may authorize, by written outpatient medication order, the periodic administration of a drug to an outpatient. An outpatient medication order for administration of a controlled substance may be authorized for a period not to exceed six months from the date ordered. An outpatient medication order for administration of a noncontrolled prescription drug may be authorized for a period not to exceed 18 months from the date ordered.

ITEM 2. Rescind rule 657—7.12(124,126,155A) and adopt the following **new** rule in lieu thereof:

**657—7.12(124,126,155A) Drugs in the emergency department.** Drugs maintained in the emergency department are kept for use by or at the direction of prescribers in the emergency department. Drugs shall be administered or dispensed only to emergency department patients. For the purposes of this rule, “emergency department patient” means an individual who is examined and evaluated in the emergency department.

**7.12(1) Accountability.** A system of drug control and accountability shall be developed and supervised by the pharmacist in charge and the facility’s emergency department committee, or a similar group or person responsible for policy in the emergency department. The system shall identify drugs of the nature and type to meet the immediate needs of emergency department patients. Drugs shall be administered or dispensed only in accordance with the system.

**7.12(2) Controlled substances.** Controlled substances maintained in the emergency department are kept for use by or at the direction of prescribers in the emergency department.

*a.* In order to receive a controlled substance, a patient shall be examined in the emergency department by a prescriber who shall determine the need for the drug. It is not permissible under state and federal regulations for a prescriber to see a patient outside the emergency department setting, or talk to the patient on the telephone, and then proceed to call the emergency department and order the administration of a stocked controlled substance upon the patient’s arrival at the emergency department except as provided in paragraph 7.12(2) “*c*” or “*d*.”

*b.* A prescriber may authorize, without again examining the patient, the administration of additional doses of a previously authorized drug to a patient presenting to the emergency department within 24 hours of the patient’s examination and treatment in the emergency department.

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

c. In an emergency situation when a health care practitioner authorized to prescribe controlled substances is not available on site, and regardless of the provisions of paragraph 7.12(2)“a,” the emergency department nurse may examine the patient in the emergency department and contact the on-call prescriber. The on-call prescriber may then authorize the nurse to administer a controlled substance to the patient pending the arrival of the prescriber at the emergency department. As soon as possible, the prescriber shall examine the patient in the emergency department and determine the patient’s further treatment needs.

d. In an emergency situation when a health care practitioner authorized to prescribe controlled substances examines a patient in the prescriber’s office and determines a need for the administration of a controlled substance, and regardless of the provisions of paragraph 7.12(2)“a,” the prescriber may direct the patient to present to the emergency department, with a valid written prescription for the administration of the controlled substance. As soon as possible, the prescriber shall examine the patient in the emergency department and determine the patient’s further treatment needs.

**7.12(3) Drug dispensing.** In those facilities with 24-hour pharmacy services, only a pharmacist or prescriber may dispense any drugs to an emergency department patient. In those facilities located in an area of the state where 24-hour outpatient or 24-hour on-call pharmacy services are not available within 15 miles of the hospital, and which facilities are without 24-hour pharmacy services, the provisions of this rule shall apply.

a. *Pharmacist in charge responsibility.* The pharmacist in charge is responsible for maintaining accurate records of dispensing of drugs from the emergency department and for ensuring the accuracy of prepackaged drugs and the complete and accurate labeling of prepackaged drugs pursuant to this paragraph.

(1) Prepackaging. Except as provided in subrule 7.12(4), drugs dispensed to an emergency department patient in greater than a 24-hour supply may be dispensed only in prepackaged quantities not to exceed a 72-hour supply or the minimum prepackaged quantity in suitable containers, except that a seven-day supply of doxycycline provided through the department of public health pursuant to the crime victim compensation program of the Iowa department of justice may be dispensed for the treatment of a victim of sexual assault. Prepackaged drugs shall be prepared pursuant to the requirements of rule 657—22.3(126).

(2) Labeling. Drugs dispensed pursuant to this paragraph shall be appropriately labeled as required in paragraph 7.12(3)“b,” including necessary auxiliary labels.

b. *Prescriber responsibility.* Except as provided in subrule 7.12(4), a prescriber who authorizes dispensing of a prescription drug to an emergency department patient is responsible for the accuracy of the dispensed drug and for the accurate completion of label information pursuant to this paragraph.

(1) Labeling. Except as provided in subrule 7.12(4), at the time of delivery of the drug the prescriber shall appropriately complete the label such that the dispensing container bears a label with at least the following information:

1. Name and address of the hospital;
2. Date dispensed;
3. Name of prescriber;
4. Name of patient;
5. Directions for use;
6. Name and strength of drug.

(2) Delivery of drug to patient. Except as provided in subrule 7.12(4), the prescriber, or a licensed nurse under the supervision of the prescriber, shall give the appropriately labeled, prepackaged drug to the patient or patient’s caregiver. The prescriber, or a licensed nurse under the supervision of the prescriber, shall explain the correct use of the drug and shall explain to the patient that the dispensing is for an emergency or starter supply of the drug. If additional quantities of the drug are required to complete the needed course of treatment, the prescriber shall provide the patient with a prescription for the additional quantities.

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

**7.12(4) Use of InstyMeds dispensing system.** A hospital located in an area of the state where 24-hour outpatient pharmacy services are not available within 15 miles of the hospital may implement the InstyMeds dispensing system in the hospital emergency department only as provided by this subrule.

*a.* Persons with access to the dispensing machine for the purposes of stocking, inventory, and monitoring shall be limited to pharmacists, pharmacy technicians, and pharmacist-interns.

*b.* The InstyMeds dispensing system shall be used only in the hospital emergency department for the benefit of patients examined or treated in the emergency department.

*c.* The dispensing machine shall be located in a secure and professionally appropriate environment.

*d.* The stock of drugs maintained and dispensed utilizing the InstyMeds dispensing system shall be limited to acute care drugs provided in appropriate quantities for a 72-hour supply or the minimum commercially available package size, except that antimicrobials may be dispensed in a quantity to provide the full course of therapy.

*e.* Drugs dispensed utilizing the InstyMeds dispensing system shall be appropriately labeled as provided in 657—subrule 6.10(1), paragraphs “a” through “g.”

*f.* Prior to authorizing the dispensing of a drug utilizing the InstyMeds dispensing system, the prescriber shall offer the patient the option of being provided a prescription that may be filled at the pharmacy of the patient’s choice.

*g.* When appropriate for an acute condition, the prescriber shall provide to the patient or the patient’s caregiver a prescription for the remainder of drug therapy beyond the supply available utilizing the InstyMeds dispensing system. During consultation with the patient or the patient’s caregiver, the prescriber shall clearly explain the appropriate use of the drug supplied, the need to have a prescription for any additional supply of the drug filled at a pharmacy of the patient’s choice, and the need to complete the full course of drug therapy.

*h.* The pharmacy shall, in conjunction with the hospital emergency department, implement policies and procedures to ensure that a patient utilizing the InstyMeds dispensing system has been positively identified.

*i.* The hospital pharmacist shall review the printout of drugs provided utilizing the InstyMeds dispensing system within 24 hours unless the pharmacy is closed, in which case the printout shall be reviewed during the first day the pharmacy is open following the provision of the drugs. The purpose of the review is to identify any dispensing errors, to determine dosage appropriateness, and to complete a retrospective drug use review of any antimicrobials dispensed in a quantity greater than a 72-hour supply. Any discrepancies found shall be addressed by the pharmacy’s continuous quality improvement program.

**ARC 8414B**

**PHARMACY BOARD[657]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendment was approved at the November 17, 2009, regular meeting of the Board of Pharmacy.

The proposed amendment prohibits, unless as specifically excepted, animals within a licensed pharmacy.

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

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on January 19, 2010. 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).

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

The following amendment is proposed.

Amend subrule 8.5(4) as follows:

**8.5(4) *Orderly and clean.*** The pharmacy shall be arranged in an orderly fashion and kept clean. All required equipment shall be in good operating condition and maintained in a sanitary manner. Animals shall not be allowed within a licensed pharmacy unless that pharmacy is exclusively providing services for the treatment of animals or unless the animal is a service dog or assistive animal as defined in Iowa Code subsection 216C.11(1).

**ARC 8416B****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 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to rescind Chapter 15, “Correctional Facility Pharmacy Practice,” and to adopt new Chapter 15, “Correctional Pharmacy Practice,” Iowa Administrative Code.

This amendment was approved at the November 17, 2009, regular meeting of the Board of Pharmacy.

The proposed amendment rescinds current Chapter 15 and proposes new rules regarding correctional pharmacy practice. A pharmacy licensed as a correctional pharmacy is issued a limited-use pharmacy license subject to the requirements of new Chapter 15. The rules define terms used throughout the chapter and establish the purpose and scope of correctional pharmacy practice. Reference library requirements are identified, and the responsibilities of the pharmacist in charge are enumerated. Security requirements are established, including requirements for training and utilization of pharmacy technicians and pharmacy support persons, identification of individuals authorized to access the pharmacy in the absence of the pharmacist, and identification of individuals authorized to access drug supplies and to administer patient drugs. The rules establish requirements for prescription drug orders, administration records, unit dose and med-pak dispensing, and dispensing for patient self-administration, including requirements for labeling of drug packaging. An emergency/first dose drug supply is authorized to be maintained for the care of facility patients, and the requirements for administration of a drug from the emergency supply are established, including record keeping and pharmacist review. Policies and procedures relating to all aspects of the correctional pharmacy are to be developed and implemented by the pharmacist in charge.

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

Any interested person may present written comments, data, views, and arguments on the proposed rules not later than 4:30 p.m. on January 19, 2010. 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).

These rules are intended to implement Iowa Code sections 124.301, 124.303, 124.306, 124.308, 126.10, 126.11, 155A.6A, 155A.6B, 155A.13, 155A.27, 155A.28, 155A.31, 155A.32, and 155A.34 through 155A.36.

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

The following amendment is proposed.

Rescind 657—Chapter 15 and adopt the following **new** chapter in lieu thereof:

CHAPTER 15  
CORRECTIONAL PHARMACY PRACTICE

**657—15.1(155A) Purpose and scope.** It is the intent of these rules to authorize the department of corrections to distribute prescription drugs to patients in correctional facilities from one or more correctional pharmacies. Each correctional pharmacy shall be responsible for the provision of pharmacy services for a specific number of correctional facilities. The correctional pharmacies may be located on the grounds of a correctional facility or may be located off site from all facilities. The correctional pharmacies shall be licensed by the board with limited-use pharmacy licenses designated as correctional pharmacy licenses. Pharmacists shall be responsible for any delegated act performed by supportive personnel under the pharmacists' supervision. The requirements of these rules for correctional pharmacy practice are in addition to the requirements of 657—Chapter 8 and other rules of the board relating to the services provided by the pharmacies.

**657—15.2(126,155A) Definitions.** For purposes of this chapter, the following definitions shall apply:

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

*“Department”* means the Iowa department of corrections.

*“Emergency/first dose drug supply”* means a limited inventory of drugs stored outside the correctional pharmacy and accessible to designated health care staff for the purpose of initiating emergency or first dose prescription drug orders issued during periods when the pharmacist is unavailable.

*“Medication administration record”* means the record of the administration of drugs to patients.

*“Med-pak”* means a customized patient medication package prepared for a specific patient which comprises a series of immediate containers containing prescribed solid oral dosage forms, each container being labeled with the time or the appropriate period for the patient to take its contents.

*“Prescription drug order”* means an order that is for a drug or device for a patient in custody status in a correctional facility, that is originated by a practitioner authorized to prescribe, and that meets the information requirements for a prescription drug order but is recorded, distributed, and administered as though it were a medication order.

*“Qualified individual”* means a pharmacist, a person who has successfully completed a medication administration course, or a person specifically authorized under pertinent sections of the Iowa Code to administer prescription drugs.

*“Single unit package”* means a package that contains one discrete pharmaceutical dosage form.

*“Unit dose dispensing system”* means a drug distribution system utilizing single unit, unit dose, or unit of issue packaging in a manner that helps reduce or remove traditional drug stocks from resident care areas and enables the selection and distribution of drugs to be pharmacy-based and controlled.

*“Unit dose package”* means a package that contains that particular dose of a drug ordered for the patient for one administration time. A unit dose package is not always a single unit package.

*“Unit of issue package”* means a package that provides multiple units or doses attached to each other but separated in a card or specifically designed container.

**657—15.3(155A) Pharmacist in charge.** One professionally competent, legally qualified pharmacist who is licensed to practice pharmacy in Iowa shall be the pharmacist in charge of the correctional pharmacy and shall be responsible for, at a minimum, the following:

1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services;
2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy;

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

3. Ensuring that a quarterly inspection of all pharmaceuticals located at the correctional facility, including any emergency/first dose drug supply located outside the confines of the pharmacy, is completed and documented;
4. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy;
5. Preparing written policies and procedures governing pharmacy functions; periodically reviewing and revising those policies and procedures to reflect changes in processes, organization, and other pharmacy functions; ensuring that policies and procedures are consistent with board rules; and ensuring that all pharmacy personnel are familiar with the policies and procedures;
6. Ensuring that a pharmacist performs prospective drug use reviews as specified in rule 657—8.21(155A);
7. Ensuring that a pharmacist provides drug information to other health professionals, to other caregivers, and to patients as required or requested;
8. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel;
9. Delivering drugs to the patient or the patient's agent;
10. Ensuring that patient drug records are maintained as specified in rule 657—15.8(124,126,155A);
11. Training pharmacy technicians and pharmacy support persons;
12. Establishing policies and procedures for the procurement and storage of prescription drugs and devices and other products dispensed from the pharmacy;
13. Disposing of and distributing drugs from the pharmacy;
14. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations;
15. Establishing and maintaining effective controls against the theft or diversion of prescription drugs and records for such drugs;
16. Ensuring the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy.

**657—15.4(155A) Reference library.** References may be printed or computer-accessed. Each correctional pharmacy shall have on site, at a minimum, one current reference from each of the following categories, including access to current periodic updates.

1. The Iowa Pharmacy Law and Information Manual.
2. A patient information reference that includes or provides patient information in compliance with rule 657—6.14(155A).
3. A reference on drug interactions.
4. A general information reference.
5. A drug equivalency reference.
6. A reference on natural or herbal medicines.
7. The readily accessible telephone number of a poison control center that serves the area.
8. Additional references as may be necessary for the pharmacist to adequately meet the needs of the patients served.

**657—15.5(124,155A) Security.** The pharmacy shall be located in an area or areas that provide for effective control against theft of, diversion of, and unauthorized access to prescription drugs and pharmacy records. The following conditions shall be met to ensure appropriate control over drugs and chemicals in the pharmacy:

**15.5(1) Locked areas.** All areas occupied by the correctional pharmacy or where drugs or devices are maintained or stored shall be lockable by a key, combination, or electronic device so as to prevent access by unauthorized personnel and shall be locked when unoccupied or unattended.



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

**15.5(2) Access when pharmacist absent.** The pharmacist in charge, with the concurrence of the department, shall establish and implement policies and procedures for the security of the correctional pharmacy. Policies and procedures shall identify who will have access to the pharmacy, what areas may be accessed, and the procedures to be followed for obtaining drugs and chemicals when the pharmacist is absent from the pharmacy.

**15.5(3) Pharmacist responsibility.** Each pharmacist, while on duty, shall be responsible for the security of the correctional pharmacy. This responsibility includes provisions for effective control against theft of, diversion of, or unauthorized access to prescription drugs or devices, controlled substances, records for such drugs and devices, and patient records as provided in 657—Chapter 21 and rule 657—8.16(124,155A). Policies and procedures shall identify the days and hours the pharmacy shall be open. A pharmacist shall be on site during all times that the pharmacy is open.

**15.5(4) Drugs in the correctional facility.** All drugs distributed from the pharmacy to areas of the correctional facility for subsequent administration to patients shall be kept in locked storage when not in use. Policies and procedures shall identify the qualified individuals who are authorized to access these drugs and the process to be followed for their removal.

**657—15.6** Reserved.

**657—15.7(124,126,155A) Training and utilization of pharmacy technicians or pharmacy support persons.** All correctional pharmacies utilizing pharmacy technicians or pharmacy support persons shall develop, implement, and periodically review written policies and procedures for the training and utilization of pharmacy technicians and pharmacy support persons appropriate to the practice of pharmacy at that licensed location. Pharmacy policies shall specify the frequency of the review. Pharmacy technician and pharmacy support person training shall be documented and maintained by the pharmacy for the duration of employment. Policies and procedures and documentation of pharmacy technician and pharmacy support person training shall be available for inspection by the board or an agent of the board.

**657—15.8(124,126,155A) Drug distribution and dispensing controls.** Prescription drugs shall be distributed or dispensed only from the original or a properly verified prescription drug order. There shall be no transcribing of prescription drug orders by nursing staff or clerical staff except for their own records.

**15.8(1) Required information.** Prescription drug orders written in patient health records shall include the following information:

- a. Patient name, identification number, and correctional facility location;
- b. Drug name, strength, dosage form, and quantity or duration;
- c. Directions for use of the drug;
- d. Date the prescription drug order is authorized;
- e. Prescriber's name, signature, and office address;
- f. Prescriber's DEA number for controlled substances.

**15.8(2) Original maintained.** The original prescription drug order and the medication administration record shall be maintained for a minimum of two years in the patient's health record.

**15.8(3) Effect upon transfer of patient.** Current prescription drug orders remain in effect when a patient is transferred to another correctional facility.

**15.8(4) Unit dose dispensing.** Drugs dispensed in a unit dose dispensing system for subsequent administration by nurses or other qualified individuals shall be packaged and labeled by pharmacy staff in compliance with the provisions of rule 657—22.1(155A). Policies and procedures shall be implemented that include, but are not limited to, the following:

- a. Return and reuse of drugs;
- b. Expiration dating;
- c. Record keeping.

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

**15.8(5) *Med-pak dispensing.*** Drugs may be dispensed in med-pak dispensing systems for subsequent administration by nurses or other qualified individuals. Policies and procedures shall be implemented that are in accordance with rule 657—22.5(155A) and include, but are not limited to, the following:

- a. Return and reuse of containers;
- b. Expiration dating;
- c. Record keeping.

**15.8(6) *Drug administration.*** Only a licensed health care professional authorized to administer drugs or a qualified individual shall administer to a patient prepackaged drugs from the supply distributed by the pharmacy. Documentation of administration shall be recorded in the medication administration record. The single unit, unit dose, or med-pak packaging shall remain intact to the point of administration.

**15.8(7) *Dispensing for patient self-administration.*** Drugs dispensed for self-administration by a patient shall be packaged and labeled in accordance with rule 657—6.10(126,155A).

**15.8(8) *Labeling of drugs under special circumstances.***

a. *Insulin, ophthalmics, otic preparations, inhalers, nasal sprays, topicals, and other similarly packaged drugs.* A label shall be affixed to the immediate container showing at least the patient's name and ID number. A label that complies with 657—subrule 6.10(1) shall be affixed to the outer container.

b. *Leave and release drugs.* Labeling of prescription drugs for patients leaving the correctional facility for temporary absences in excess of 24 hours, such as court appearances, and for patients being released from custody shall comply with 657—subrule 6.10(1) before the drug is removed from the facility. The dispensing pharmacy shall be responsible for packaging and labeling leave and release drugs in compliance with this paragraph.

**15.8(9) *Drug product selection.*** Correctional pharmacies shall be exempt from the patient notification requirements of Iowa Code section 155A.32 when exercising drug product selection.

**15.8(10) *Emergency/first dose drug supply.*** An emergency/first dose drug supply of prescription drugs may be supplied to a correctional facility for use by authorized personnel pursuant to rule 657—22.7(124,155A). Only pharmacists, pharmacist-interns, and pharmacy technicians may restock, replace, or return drugs to the emergency/first dose drug supply. A drug shall be removed from the emergency/first dose drug supply only pursuant to a valid prescription drug order. The pharmacy shall be notified of the removal and administration of a drug from the emergency/first dose drug supply. The pharmacist shall perform drug use review prior to the administration of a second dose. All drugs removed from the emergency/first dose drug supply that are not administered, including any wastage, shall be returned to the pharmacy. A written or electronic record shall be made of all removals from the emergency/first dose drug supply. The record shall include the following information:

- a. Patient's name and identification number;
- b. Prescriber;
- c. Name, strength, dosage form, and quantity of the drug removed;
- d. Signature, unique identification, or initials of the authorized person removing the drug;
- e. Date and time the drug was removed;
- f. Returns of unused drugs to the pharmacy.

**657—15.9** Reserved.

**657—15.10(124,126,155A) Policies and procedures.** The pharmacist in charge shall develop and implement written policies and procedures for the pharmacy drug distribution system consistent with board rules and department policies and procedures pertaining to pharmaceutical services. Pharmacy policies and procedures shall address, but not be limited to, the following:

1. Controlled substances;
2. Formulary or drug list;
3. Stop orders;
4. Drug sample use and distribution;
5. Drug recalls;

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

6. Outdated drugs;
7. Patient records;
8. Inspection of drug inventories;
9. Adverse reaction reports;
10. Leave and release drugs;
11. Emergency/first dose drug supply;
12. Drugs brought into the facility;
13. Medication administration and records;
14. Drug compounding;
15. Sterile products;
16. Access to the pharmacy in the absence of the pharmacist;
17. Transfers of drugs between facilities and correctional pharmacies;
18. Transfers of prescription drug orders between correctional pharmacies;
19. Delivery of drugs;
20. Notification when a drug or device is not available;
21. Drug destruction within the pharmacy;
22. Return of unused drugs.

These rules are intended to implement Iowa Code sections 124.301, 124.303, 124.306, 124.308, 126.10, 126.11, 155A.6A, 155A.6B, 155A.13, 155A.27, 155A.28, 155A.31, 155A.32, and 155A.34 through 155A.36.

**ARC 8415B****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 124.301 and 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 17, “Wholesale Drug Licenses,” Iowa Administrative Code.

The amendment was approved at the November 17, 2009, regular meeting of the Board of Pharmacy.

The proposed amendment requires drug wholesalers to complete an annual inventory of all controlled substances in stock and to maintain the record of that inventory for a period of two years from the date of the inventory.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on January 19, 2010. 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).

This amendment is intended to implement Iowa Code sections 124.306 and 155A.17.

The following amendment is proposed.

Amend subrule 17.16(2) as follows:

**17.16(2) *Records maintained.*** Inventories and records shall be made available for inspection and photocopying by any authorized official of the board or of any governmental agency charged with enforcement of these rules for a period of two years following disposition of the drugs. ~~A biennial~~ The

PHARMACY BOARD[657](cont'd)

annual inventory of controlled substances shall be maintained for a minimum of ~~four~~ two years from the date of the inventory.

## ARC 8430B

### 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 39, “Filing Return and Payment of Tax,” Chapter 40, “Determination of Net Income,” Chapter 41, “Determination of Taxable Income,” Chapter 46, “Withholding,” Chapter 48, “Composite Returns,” Chapter 52, “Filing Returns, Payment of Tax and Penalty and Interest,” Chapter 53, “Determination of Net Income,” Chapter 58, “Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues,” and Chapter 59, “Determination of Net Income,” Iowa Administrative Code.

These amendments are proposed as a result of 2009 Iowa Acts, House File 817, and 2009 Iowa Acts, Senate Files 253, 344, 456, 470, 471, 478, 480, 481 and 483.

The proposed rule making:

- Amends rule 701—39.12(422) to allow additional time for certain military personnel deployed outside the United States to file Iowa returns and perform other acts related to the Department of Revenue.
- Amends rule 701—40.43(422) to remove an obsolete provision and provide clarification regarding an exclusion from Iowa individual income tax for payments received by individuals providing unskilled in-home health care to members of a caregiver’s family.
- Amends subrule 40.60(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2010, does not apply for Iowa individual income tax.
- Adopts new subrule 40.60(4) to provide that the 50 percent bonus depreciation for qualified disaster assistance property does not apply for Iowa individual income tax.
- Amends rule 701—40.70(422) to provide that the exclusion of income for individual income tax for qualified expenditures related to a film project registered with the Iowa film office on or after July 1, 2009, must be excluded over a four-year period.
- Amends subrule 41.3(2) to provide that the federal refund received due to the first-time homebuyer credit does not have to be reported on the Iowa individual income tax return.
- Adopts new subrule 41.3(8) to provide that the federal rebate received by individuals in 2009 does have to be included as part of an individual’s federal income tax refund for Iowa individual income tax purposes.
- Adopts new subrule 41.5(16) to provide that the charitable contribution for which an endow Iowa tax credit was claimed is not allowed as an itemized deduction for Iowa individual income tax for years beginning on or after January 1, 2010.
- Amends subrule 46.1(2) to clarify the treatment of withholding tax for sick pay benefits.
- Amends subrule 46.3(3) to clarify that amended returns must be filed to claim a refund for Iowa withholding tax if tax was paid which was not due.
- Amends rule 701—48.5(422) to provide that composite returns for Iowa individual income tax may be allowed for nonresidents other than nonresident partners, members, beneficiaries or shareholders in partnerships, limited liability companies, trusts or S corporations.
- Amends subrules 52.7(3) and 52.7(5) to include federal revisions made in 2008 to the research activities credit for corporation income tax and adopts new subrule 52.7(6) to provide for an annual report of certain research activities credit claims, which report is due by February 15 of each year.

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

- Amends rule 701—52.12(422) to update the sequence of deducting tax credits for corporation income tax.
- Amends subrule 52.14(3) to provide for additional research activities credit for companies eligible under the enterprise zone program for expenses related to the development and deployment of innovative renewable energy generation.
- Amends rule 701—52.18(422) to provide for changes to the historic preservation and cultural and entertainment district tax credit for corporation income tax.
- Amends rule 701—52.23(15E) to provide for changes to the endow Iowa tax credit for corporation income tax.
- Amends rule 701—52.26(422,476B) to provide for changes to the wind energy production tax credit for corporation income tax.
- Amends rule 701—52.27(422,476C) to provide for changes to the renewable energy tax credit for corporation income tax.
- Amends rule 701—52.28(15) to provide, for corporation income tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.
- Amends rule 701—52.33(175,422) to provide for a cap for the agricultural assets transfer tax credit effective with the fiscal year beginning July 1, 2009.
- Amends rule 701—52.34(15,422) to provide for changes to the film qualified expenditure tax credit for corporation income tax.
- Amends rule 701—52.35(15,422) to provide for changes to the film investment tax credit for corporation income tax.
- Amends 701—Chapter 52 by adopting new corporation income tax rules 701—52.38(422) for the school tuition organization tax credit, 701—52.39(15,422) for the redevelopment tax credit, 701—52.40(15) for credits related to the high quality jobs program, and 701—52.41(15) for the aggregate tax credit limit on certain economic development program tax credits.
- Amends rules 701—53.2(422), 701—53.4(422), and 701—53.15(422) to provide that any Iowa net operating loss for corporation income tax is no longer allowed to be carried back for tax years beginning on or after January 1, 2009.
- Amends subrule 53.22(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2010, does not apply for Iowa corporation income tax.
- Adopts new subrule 53.22(4) to provide that the 50 percent bonus depreciation for qualified disaster assistance property does not apply for Iowa corporation income tax.
- Amends rule 701—53.25(422) to provide that the exclusion of income for corporation income tax for qualified expenditures related to a film project registered with the Iowa film office on or after July 1, 2009, must be excluded over a four-year period.
- Amends rule 701—58.13(15E) to provide for changes to the endow Iowa tax credit for franchise tax.
- Amends rule 701—58.17(15) to provide, for franchise tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.
- Adopts new rule 701—58.21(15) relating to tax credits for the high quality jobs program for franchise tax.
- Amends rules 701—59.2(422) and 701—59.4(422) to provide that any Iowa net operating loss for franchise tax is no longer allowed to be carried back for tax years beginning on or after January 1, 2009.
- Adopts new subrule 59.23(3) providing for the disallowance of 50 percent bonus depreciation for assets acquired after December 31, 2008, but before January 1, 2010, and subrule 59.23(4) relating to the disallowance of 50 percent bonus depreciation for qualified disaster assistance property for Iowa franchise tax.

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

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

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

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 1, 2010, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 19, 2010. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 22, 2010.

These amendments are intended to implement Iowa Code section 15.335 as amended by 2009 Iowa Acts, House File 817 and Senate File 478; Iowa Code section 422.21 as amended by 2009 Iowa Acts, Senate File 253; Iowa Code sections 15.329 and 15.335A as amended by 2009 Iowa Acts, Senate File 344; Iowa Code sections 476B.4 and 476C.3 as amended by 2009 Iowa Acts, Senate File 456; Iowa Code section 422.33 as amended by 2009 Iowa Acts, Senate File 470 and Senate File 478; Iowa Code section 469.10 as amended by 2009 Iowa Acts, Senate File 471; Iowa Code sections 15A.9, 15E.305 and 422.10 as amended by 2009 Iowa Acts, Senate File 478; Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480; Iowa Code section 404A.4 as amended by 2009 Iowa Acts, Senate File 481; and Iowa Code sections 15.119, 175.37 and 422.35 as amended by 2009 Iowa Acts, Senate File 483.

The following amendments are proposed.

ITEM 1. Amend rule 701—39.12(422) as follows:

**701—39.12(422) Tax benefits for persons in the armed forces serving in a combat zone or a qualified hazardous duty area or deployed outside the United States in a contingency operation.**

**39.12(1)** For tax years ending after August 2, 1990, a number of state tax benefits are authorized for persons in the armed forces who serve in an area designated by the President and the Congress as a combat zone. Similar state tax benefits are also authorized for persons who serve in an area designated by the President and the Congress as a qualified hazardous duty area for tax years beginning on or after January 1, 1999. In addition, uniform state tax benefits are authorized for persons in the armed forces of the United States who were deployed outside the United States in an operation designated by the Secretary of Defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became a contingency operation by the operation of law. Persons who were deployed in a contingency operation who ceased to participate in such operation on or after May 21, 2003, are considered to be eligible individuals for purposes of being granted additional time to perform certain acts with the department to the extent the period for performing an act did not expire prior to May 21, 2003, or a later date if the person ceased to participate in the contingency operation on a date after May 21, 2003. Those persons who were serving in support of the armed forces personnel in a combat zone or those persons who were serving in support of armed forces personnel in a qualified hazardous duty area are also eligible for the state tax benefits. The eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department of revenue as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. “Other acts related to the department of revenue” includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts. The additional time period for filing returns and performing other acts applies to the spouse of the person who was in the combat zone or the qualified

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

hazardous duty area or the spouse of a person who was serving in support of persons in the combat zone or the hazardous duty area to the extent the spouse files jointly or separately on the combined return with the person who was in the combat zone or the hazardous duty area, or when the spouse is a party with the person who was serving in support of persons in the combat zone or hazardous duty area to any tax matter with the department for which the additional time period is allowed. The additional time period for filing state returns and performing other acts is 180 days after the person leaves the combat zone or hazardous duty area or ceases to participate in the contingency operation which is the same time period as allowed in federal income tax law. However, a person who was hospitalized because of illness or injury in the combat zone or the hazardous duty area has up to five years to file returns or perform certain acts with this department after leaving the combat zone or hazardous duty area.

**39.12(2)** For tax years beginning on or after January 1, 1995, certain persons performing peacekeeping duties in a location designated by Congress as a qualified hazardous duty area or other individuals performing military duties overseas in support of the persons in the hazardous duty area are eligible for the tax benefits described above. See rule 701—39.14(422) for additional information on the Bosnia-Herzegovina hazardous duty area.

**39.12(3)** For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department of revenue described in subrule 39.12(1) is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department of revenue.

This rule is intended to implement Iowa Code sections 422.3 and 422.21 as amended by 2003 2009 Iowa Acts, House Senate File 674 253.

ITEM 2. Amend rule 701—40.43(422) as follows:

**701—40.43(422) Retroactive exemption for payments received for providing unskilled in-home health care services to a relative.** Retroactive to January 1, 1988, for tax years beginning on or after that date, supplemental assistance payments authorized under Iowa Code section 249.3(2) “a”(2) which are received by an individual providing unskilled in-home health care services to a member of the caregiver’s family are exempt from state income tax to the extent that the individual caregiver is not a licensed health care professional designated in Iowa Code section 147.13, subsections 1 to 10.

For purposes of this exemption, a member of the caregiver’s family includes a spouse, parent, stepparent, child, stepchild, brother, stepbrother, sister, stepsister, lineal ancestor such as grandparent and great-grandparent, and lineal descendant such as grandchild and great-grandchild, and those previously described relatives who are related by marriage or adoption. Those licensed health care professionals who are not eligible for this exemption include medical doctors, doctors of osteopathy, physician assistants, psychologists, podiatrists, chiropractors, physical therapists, occupational therapists, nurses, dentists, dental hygienists, optometrists, speech pathologists, audiologists, and other similar licensed health care professionals.

Taxpayers who paid state income tax on the supplemental assistance payments on individual income tax returns for tax years beginning in the 1988 calendar year and who are eligible for the exemption may claim refunds of state income tax paid on the assistance payments, if the refund claims are filed with the department of revenue on or before April 30, 1993.

This rule is intended to implement Iowa Code section 422.7.

ITEM 3. Amend subrule 40.60(3) as follows:

**40.60(3) Assets acquired after December 31, 2007, but before January 1, 2009 2010.** For tax periods beginning after December 31, 2007, but beginning before January 1, 2009 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return

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

must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, can be calculated on Form IA 4562A.

See rule 701—53.22(422) for examples illustrating how this rule is applied.

ITEM 4. Adopt the following new subrule 40.60(4):

**40.60(4) *Qualified disaster assistance property.*** For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

ITEM 5. Amend rule 701—40.70(422) as follows:

**701—40.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects.**

**40.70(1) *Projects registered on or after January 1, 2007, but before July 1, 2009.*** For tax years beginning on or after January 1, 2007, a taxpayer who is a resident of Iowa may exclude, to the extent included in federal adjusted gross income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—42.35(15,422). See rule 701—38.17(422) for the determination of Iowa residency.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—42.35(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

EXAMPLE: A production company which registers with the film office for a project is a limited liability company with three members, all of whom are Iowa residents. If any of the three members receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, such member(s) cannot exclude this income on the Iowa income tax return because the member(s) has an equity interest in the business which received the credit.

**40.70(2) *Projects registered on or after July 1, 2009.*** For tax years beginning on or after July 1, 2009, a taxpayer who is a resident of Iowa may exclude no more than 25 percent of the income received from



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

the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development in the year in which the qualified expenditure occurred. A reduction of 25 percent of the income is allowed to be excluded for the three subsequent tax years.

EXAMPLE: An Iowa taxpayer received \$10,000 in income in the 2010 tax year related to qualified film expenditures for a project registered on February 1, 2010. The \$10,000 was reported as income on taxpayer's 2010 federal tax return. Taxpayer may exclude \$2,500 of income on the Iowa individual income tax return for each of the tax years 2010-2013.

This rule is intended to implement Iowa Code section ~~422.7~~ 15.393 as amended by ~~2007~~ 2009 Iowa Acts, ~~House Senate File 892~~ 480, section 4 ~~5~~, and Iowa Code section ~~422.7~~.

ITEM 6. Adopt the following **new** paragraph **41.3(2)“c”**:

c. Any portion of the federal refund received due to the first-time homebuyer credit computed under Section 36 of the Internal Revenue Code does not have to be reported on the Iowa return. Similarly, any recapture of the credit under Section 36(f) of the Internal Revenue Code is not allowed as a deduction for federal taxes paid.

EXAMPLE: Individual A filed a 2008 federal income tax return reporting a tax liability of \$1,000. Individual A had \$1,200 of federal tax withheld and \$7,500 of first-time homebuyer credit and received a federal income tax refund of \$7,700 after filing the return in 2009. Individual A must report a \$200 federal refund on the Iowa return for 2009, since the portion of the federal refund relating to the first-time homebuyer credit does not have to be reported. The \$500 of federal taxes that will be recaptured and paid for each year on the federal income tax return for 2009-2023 in accordance with Section 36(f) of the Internal Revenue Code will not be allowed as a deduction on the Iowa return for federal taxes paid.

ITEM 7. Adopt the following **new** subrule 41.3(8):

**41.3(8)** *Federal rate reduction credit and the federal income tax deduction for the 2009 tax year.* For tax years beginning in the 2009 calendar year, the tax reduction credit or the advanced refund of federal income tax provided to certain individuals pursuant to the federal Economic Stimulus Act of 2008 is to be included as part of an individual's federal income tax refund for Iowa individual income tax purposes. The tax reduction credit was also referred to as the federal rebate when it was refunded to some taxpayers during the 2008 calendar year. This subrule does not apply to those taxpayers who received the federal rebate in the 2008 calendar year.

EXAMPLE: When Fred and Barbara Jones completed their 2008 federal income tax return, they received the benefit of a rate reduction credit of \$1,200, which resulted in the Browns' receiving a federal income tax refund of \$1,300 in May 2009. Fred and Barbara need to report the entire \$1,300 refund of federal income tax when they complete their Iowa income tax return for 2009.

ITEM 8. Adopt the following **new** subrule 41.5(16):

**41.5(16)** 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—42.30(422) cannot claim an itemized 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.

ITEM 9. Amend paragraph **46.1(2)“c,”** first unnumbered paragraph, as follows:

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

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

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

ITEM 10. Amend subparagraph **46.3(3)“h”(2)** as follows:

(2) Overpayment. If an employer remits more than the correct amount of tax for a return period, the employer must file an amended withholding tax return and report the correct amount request a refund of the withholding tax paid which was not due.

ITEM 11. Amend rule 701—48.5(422) as follows:

**701—48.5(422) Composite return required by director.** The director may in accordance with rule 701—48.3(422) require the filing of a composite return under the following conditions.

~~1-~~ **48.5(1)** The director may require the filing of a composite return if the nonresident partners, shareholders, or beneficiaries do not file individual income tax returns and pay the tax due.

~~2-~~ **48.5(2)** Where some of the nonresident partners, shareholders, or beneficiaries file individual income tax returns and pay the tax due, but other nonresident partners, shareholders, or beneficiaries do not file individual returns, the director may require a composite return which includes the Iowa taxable income of those nonresident partners, shareholders, or beneficiaries who did not file individual returns.

**48.5(3)** For tax years beginning on or after January 1, 2010, if it is determined that it is necessary for the efficient administration of Iowa individual income tax, the director may require the filing of a composite return for nonresidents other than nonresident partners, members, beneficiaries or shareholders in partnerships, limited liability companies, trusts or S corporations.

For example, the director may require a composite return in situations where nonresident real estate brokers or nonresident insurance agents who are independent contractors earn commission income from the sale of real estate in Iowa or from insurance policies sold to Iowa residents.

This rule is intended to implement Iowa Code section 422.13 as amended by 2009 Iowa Acts, Senate File 478, section 132.

ITEM 12. Amend paragraph **52.7(3)“c”** as follows:

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph “b” of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2008~~ 2009.

ITEM 13. Adopt the following **new** subrule 52.7(6):

**52.7(6) Reporting of research activities credit claims.** Beginning with research activities credit claims filed on or after July 1, 2009, the department shall issue an annual report to the general assembly of all research activities credit claims in excess of \$500,000. The report, which is due by February 15 of each year, will contain the name of each claimant and the amount of the research activities credit for all claims filed during the previous calendar year in excess of \$500,000.

ITEM 14. Amend rule **701—52.7(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2008~~ 2009 Iowa Acts, Senate File ~~2123~~ 478.

ITEM 15. Amend rule 701—52.12(422) as follows:

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

1. Franchise tax credit.
2. ~~Venture capital credits~~ School tuition organization tax credit.
3. ~~Endow Iowa tax credit~~ Venture capital credits.
4. ~~Agricultural assets transfer tax credit~~ Endow Iowa tax credit.
5. ~~Film qualified expenditure tax credit~~ Agricultural assets transfer tax credit.

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

6. ~~Film investment tax credit~~ Film qualified expenditure tax credit.
7. ~~Investment tax credit~~ Film investment tax credit.
8. ~~Wind energy production tax credit~~ Redevelopment tax credit.
9. ~~Renewable energy tax credit~~ Investment tax credit.
10. ~~New jobs credit~~ Wind energy production tax credit.
11. ~~Economic development region revolving fund tax credit~~ Renewable energy tax credit.
12. ~~Charitable conservation contribution tax credit~~ New jobs credit.
13. ~~Alternative minimum tax credit~~ Economic development region revolving fund tax credit.
14. ~~Historic preservation and cultural and entertainment district tax credit~~ Charitable conservation contribution tax credit.
15. ~~Corporate tax credit for certain sales tax paid by developer~~ Alternative minimum tax credit.
16. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit~~ Historic preservation and cultural and entertainment district tax credit.
17. ~~Research activities credit~~ Corporate tax credit for certain sales tax paid by developer.
18. ~~Assistive device credit~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
19. ~~Motor fuel credit~~ Research activities credit.
20. ~~Wage benefits tax credit~~ Assistive device credit.
21. ~~Soy-based cutting tool oil tax credit~~ Motor fuel credit.
22. ~~Refundable portion of investment tax credit, as provided in subrule 52.10(4)~~ Wage benefits tax credit.
23. ~~E-85 gasoline promotion tax credit~~ Soy-based cutting tool oil tax credit.
24. ~~Biodiesel blended fuel tax credit~~ Refundable portion of investment tax credit, as provided in subrule 52.10(4).
25. ~~Soy-based transformer fluid tax credit~~ E-85 gasoline promotion tax credit.
26. ~~Estimated tax and payments with vouchers~~ Biodiesel blended fuel tax credit.
27. Soy-based transformer fluid tax credit.
28. Estimated tax and payments with vouchers.

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

ITEM 16. Amend subrule 52.14(3) as follows:

**52.14(3) *Research activities credit.*** An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in subrule 52.7(5).

*a. Tax years ending on or after July 1, 2005, but before July 1, 2009.* For ~~tax years ending on or after July 1, 2005,~~ for eligible businesses approved under the enterprise zone program, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality job creation program described in subrule 52.28(1) shall not exceed \$1 million in the aggregate.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in subrule 52.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 52.28(1) for businesses approved under the high quality job creation program, and are not applicable to the research activities credit set forth in subrule 52.7(3).

*b. Tax years ending on or after July 1, 2009.* For eligible businesses approved under the enterprise zone program, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of

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

innovative renewable energy generation components are not eligible for the federal credit for increasing research activities.

(1) For purposes of this paragraph, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity.

(2) The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality jobs program described in subrule 52.28(1) shall not exceed \$2 million for the fiscal year ending June 30, 2010, and \$1 million for the fiscal year ending June 30, 2011.

(3) These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in subrule 52.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 52.40(1) for businesses approved under the high quality jobs program, and are not applicable to the research activities credit set forth in subrule 52.7(3).

ITEM 17. Amend subrule 52.18(2) as follows:

**52.18(2)** *Application and review process for the historic preservation and cultural and entertainment district tax credit.*

*a.* Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, \$2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional \$4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than \$4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, \$10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, \$15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, and for subsequent fiscal years, ~~\$20~~ \$50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the \$50 million of credits for fiscal years beginning on or after July 1, 2009, is set forth in rule 223—48.7(303,404A). Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

*b.* For the state fiscal year beginning on July 1, 2009, \$20 million of the credits may be claimed on tax returns beginning on or after January 1, 2009, and \$30 million of the credits may be claimed on tax returns beginning on or after January 1, 2010. For the state fiscal year beginning July 1, 2010, \$20 million of the credits may be claimed on tax returns beginning on or after January 1, 2010, and \$30 million of the credits may be claimed on tax returns beginning on or after January 1, 2011. For the state fiscal year beginning July 1, 2011, \$20 million of the credits may be claimed on tax returns beginning on or after January 1, 2011, and \$30 million of the credits may be claimed on tax returns beginning on or after January 1, 2012.

*c.* Applicants for the historic preservation and cultural and entertainment district tax credit must include all information and documentation requested on the application forms for the credit in order for the applications to be processed.

*d.* The state historic preservation office (SHPO) is to establish selection criteria and standards for rehabilitation projects involving eligible property. The approval process is not to exceed 90 days from

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

the date the application is received by SHPO. To the extent possible, the standards used by SHPO are to be consistent with the standards of the United States Secretary of the Interior for rehabilitation of eligible property that is listed on the National Register of Historic Places or is designated as of historic significance to a district listed in the National Register of Historic Places.

~~The selection standards are to provide that a taxpayer who qualifies for the rehabilitation investment credit under Section 47 of the Internal Revenue Code shall automatically qualify for the state historic preservation and cultural and entertainment district tax credit to the extent that all the historic preservation and cultural and entertainment district tax credits appropriated for the fiscal year have not already been awarded.~~

*e.* Once SHPO approves a particular historic preservation and cultural and entertainment district tax credit project application, the office will encumber an estimated historic preservation and cultural and entertainment district tax credit under the name of the applicant(s) for the year the project is approved.

ITEM 18. Amend subrule **52.18(3)**, third unnumbered paragraph, as follows:

For example, the basis of a commercial building in a historic district was \$500,000, excluding the value of the land, before the rehabilitation project. During a project to rehabilitate this building, \$600,000 in rehabilitation costs were expended to complete the project and \$500,000 of those rehabilitation costs were qualified rehabilitation costs which were eligible for the historic preservation and cultural and entertainment district tax credit of \$125,000. Therefore, the basis of the building for Iowa income tax purposes was \$975,000, since the qualified rehabilitation costs of \$125,000, which are equal to the amount of the historic preservation and cultural and entertainment district tax credit for the tax year, are not added to the basis of the rehabilitated property. The basis of the building for federal income tax purposes was \$1,100,000. However, for tax years beginning only in the 2000 calendar year, the basis of the rehabilitated property would have been \$600,000, since for those tax periods any qualified rehabilitation costs used to compute the historic preservation and cultural and entertainment district tax credit for the tax year could not be added to the basis of the property. It should be noted that this example does not consider any possible reduced basis for the building for federal income tax purposes due to the rehabilitation investment credit provided in Section 47 of the Internal Revenue Code. If the building in this example were eligible for the federal rehabilitation credit provided in Section 47 of the Internal Revenue Code, the basis of the building for Iowa tax purposes would ~~not be affected by the federal credit~~ be reduced accordingly by the same amount as the reduction required for federal tax purposes.

ITEM 19. Amend subrule 52.18(4), introductory paragraph, as follows:

**52.18(4)** *Completion of the historic preservation and cultural and entertainment district project and claiming the historic preservation and cultural and entertainment district tax credit on the Iowa return.* After the taxpayer completes an authorized rehabilitation project, the taxpayer must get a certificate of completion of the project from the state historic preservation office of the department of cultural affairs. After verifying the taxpayer's eligibility for the historic preservation and cultural and entertainment district tax credit, the state historic preservation office, ~~in consultation with the Iowa department of economic development,~~ shall issue a historic preservation and cultural and entertainment district tax credit certificate, which shall be attached to the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the year the credit was reserved, whichever is the later. For example, if a project was completed in 2008 and the credit was reserved for the state fiscal year ending June 30, 2010, the credit can be claimed on the 2009 calendar year return that is due on April 30, 2010. The tax credit certificate is to include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the year the tax credit was reserved, and the amount of the historic preservation and cultural and entertainment district tax credit. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.18(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, where the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary should be provided with the certificate. The tax credit certificate should be attached to the income tax

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

return for the period in which the project was completed. If the amount of the historic preservation and cultural and entertainment district tax credit exceeds the taxpayer's income tax liability for the tax year for which the credit applies, the taxpayer is entitled to a refund of the excess portion of the credit at a discounted value for tax periods ending prior to July 1, 2007. However, the refund cannot exceed 75 percent of the allowable tax credit. The refund of the tax credit is to be computed on the basis of the following table:

ITEM 20. Amend subrule 52.18(6), introductory paragraph, as follows:

**52.18(6)** *Transfer of the historic preservation and cultural and entertainment district tax credit.* For tax periods beginning on or after January 1, 2003, the historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. A tax credit certificate of less than \$1,000 shall not be transferable.

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

This rule is intended to implement Iowa Code chapter 404A as amended by 2009 Iowa Acts, Senate File 481, and Iowa Code section 422.33 as amended by 2007 Iowa Acts, Senate File 566.

ITEM 22. Amend rule 701—52.23(15E) as follows:

**701—52.23(15E) Endow Iowa tax credit.** Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. The For tax years beginning on or after January 1, 2003, but before January 1, 2010, the credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, the credit is equal to 25 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, a taxpayer 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. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

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

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code ~~Supplement~~ section 15E.305 as amended by 2006 2009 Iowa Acts, chapter 4154 Senate File 478, and Iowa Code section 422.33.

ITEM 23. Amend subrule 52.26(1) as follows:

**52.26(1)** *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the

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

wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but before July 1, 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least ~~two~~ 2 megawatts and no more than 30 megawatts. For applications filed on or after July 1, 2009, by a private college or university, community college, institution under the control of the state board of regents, public or accredited nonpublic elementary and secondary school, or public hospital as defined in Iowa Code section 249J.3, the facility must have a combined nameplate capacity of no less than  $\frac{3}{4}$  of a megawatt. ~~In addition, the facility must also be approved by the board of supervisors of the county in which the facility is located. Once the owner receives the approval from the board of supervisors, approval is not required for subsequent tax periods.~~

~~The wind energy production tax credit cannot be allowed for a facility for which the owner has claimed an exemption from property tax under Iowa Code section 427B.26 or 441.21(8) or claimed an exemption from sales tax under Iowa Code section 423.3(54). The facility will be subject to the assessment of property tax in accordance with rule 701—80.13(427B).~~

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed ~~450~~ 150 megawatts of nameplate generating capacity. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

An owner of the qualified facility must apply to the Iowa utilities board for the wind energy production tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.20(1).

ITEM 24. Amend subrule **52.26(2)**, second unnumbered paragraph, as follows:

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 52.26(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 52.26(1).

ITEM 25. Amend rule **701—52.26(422,476B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476B as amended by ~~2008~~ 2009 Iowa Acts, Senate File ~~2405~~ 456.

ITEM 26. Amend subrule **52.27(1)**, first unnumbered paragraph, as follows:

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed ~~180~~ 330 megawatts of nameplate generating capacity. The maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 20 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. A producer

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

of renewable energy, which is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51 percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility.

ITEM 27. Amend subrule **52.27(2)**, second unnumbered paragraph, as follows:

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 52.27(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 52.27(1). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

ITEM 28. Amend rule **701—52.27(422,476C)**, implementation sentence, as follows:

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

ITEM 29. Amend rule 701—52.28(15), introductory paragraph, as follows:

**701—52.28(15) High quality job creation program.** Effective for tax periods ending on or after July 1, 2005, for programs approved on or after July 1, 2005, but before July 1, 2009, a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code ~~Supplement~~ section 15.329. The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—52.40(15) for information on the investment tax credit and additional research activities credit under the high quality jobs program. Any investment tax credit and additional research activities credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid and can be claimed on tax returns filed after July 1, 2009.

ITEM 30. Amend rule **701—52.33(175,422)**, second unnumbered paragraph, as follows:

The Iowa agricultural development authority will issue a tax credit certificate to the owner of agricultural assets which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. For fiscal years beginning on or after July 1, 2009, the amount of tax credit certificates issued by the Iowa agricultural development authority cannot exceed \$6 million, and the credit certificates will be issued on a first-come, first-served basis.

ITEM 31. Amend rule **701—52.33(175,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 175.37 as amended by 2009 Iowa Acts, Senate File 473, and section 422.33.



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

ITEM 32. Amend rule 701—52.34(15,422), introductory paragraph, as follows:

**701—52.34(15,422) Film qualified expenditure tax credit.** Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for corporation income tax. The tax credit ~~is equal to~~ cannot exceed 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film qualified expenditure tax credit for IDED may be found at 261—Chapter 36.

ITEM 33. Amend subrule 52.34(1) as follows:

**52.34(1) Qualified expenditures.** A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental or furnishing of tangible personal property or services directly related to the registered project. The qualified expenditures include, but are not limited to, the following:

1. to 12. No change.

13. Labor and personnel, ~~excluding the director, producers, or cast members other than extras and stand-ins.~~ For limitations on the amount of labor and personnel expenditures, see Iowa department of economic development 261—paragraph 36.7(2) "b."

14. to 26. No change.

A detailed list of all qualified expenditures for each of these categories is available ~~on Form Z, Schedule of Qualified Expenses, which is available~~ from the film office of IDED.

ITEM 34. Amend subrule 52.34(2), introductory paragraph, as follows:

**52.34(2) Claiming the tax credit.** Upon completion of the registered project in Iowa, the taxpayer must submit ~~to the film office a completed Form Z, Schedule of Qualified Expenses, or an alternative to Form Z~~ in a format approved by IDED prior to production, a listing of the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

ITEM 35. Amend rule ~~701—52.34(15,422)~~, implementation sentence, as follows:

This rule is intended to implement ~~2007~~ 2009 Iowa Acts, House Senate File 892 480, section ~~3~~ 4, and Iowa Code section 422.33 ~~as amended by 2007 Iowa Acts, House File 892, section 7.~~

ITEM 36. Amend rule 701—52.35(15,422), introductory paragraph, as follows:

**701—52.35(15,422) Film investment tax credit.** Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for corporation income tax. The tax credit ~~is equal to~~ cannot exceed 25 percent of the taxpayer's investment in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film investment tax credit for IDED may be found at 261—Chapter 36.

ITEM 37. Amend rule ~~701—52.35(15,422)~~, implementation sentence, as follows:

This rule is intended to implement ~~2007~~ 2009 Iowa Acts, House Senate File 892 480, section ~~3~~ 4, and Iowa Code section 422.33 ~~as amended by 2007 Iowa Acts, House File 892, section 7.~~

ITEM 38. Adopt the following new rules 701—52.38(422) to 701—52.41(15):

**701—52.38(422) School tuition organization tax credit.** Effective for tax years beginning on or after July 1, 2009, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. The credit is not available for S corporations, partnerships and limited liability companies where the income is taxed directly to the individual shareholders, partners or members. For information on the initial registration, participation forms and reporting requirements for school tuition organizations, see rule 701—42.30(422).

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

**52.38(1) Amount of tax credit authorized.** Of the \$7.5 million of school tuition organization tax credits authorized for 2009 and subsequent calendar years, no more than 25 percent, or \$1,875,000, can be authorized for corporation income tax taxpayers.

**52.38(2) Issuance of tax credit certificates.** The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate will contain the name, address and tax identification number of the taxpayer, the amount and date that the contribution was made, the amount of the credit, the tax year that the credit may be applied, the school tuition organization to which the contribution was made, and the tax credit certificate number.

**52.38(3) Claiming the tax credit.** The taxpayer must attach the tax credit certificate to the tax return for which the credit is claimed. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The taxpayer may not claim a deduction for charitable contributions for Iowa corporation income tax purposes for the amount of the contribution made to the school tuition organization.

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

**701—52.39(15,422) Redevelopment tax credit.** Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council may claim a redevelopment tax credit. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

**52.39(1) Eligibility for the credit.** The Iowa department of economic development is responsible for developing a system for registration and authorization of redevelopment tax credits. Investments in brownfield or grayfield sites must be made on or after January 1, 2009, but before June 30, 2010, to be eligible for the tax credit. The maximum amount of tax credits that can be issued for redevelopment projects is \$1 million in the aggregate, and the amount of credits for any one redevelopment project cannot exceed \$100,000.

**52.39(2) Computation and claiming of the credit.**

*a.* The amount of the tax credit shall equal one of the following:

- (1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.
- (2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).
- (3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.
- (4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

*b.* Upon completion of the project, the Iowa department of economic development will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.39(3).

*c.* If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

*d.* The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled \$100,000 for which a \$12,000 redevelopment tax credit was issued, the increase in the basis of the property would total \$88,000 for Iowa tax purposes (\$100,000 less \$12,000).

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

*e.* To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

**52.39(3) *Transfer of the credit.*** The redevelopment tax credit can be transferred to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information describing how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

This rule is intended to implement Iowa Code section 15.293A.

**701—52.40(15) High quality jobs program.** Effective for tax periods beginning on or after July 1, 2009, a business which qualifies under the high quality jobs program is eligible to receive tax credits. The high quality jobs program replaces the high quality job creation program. An eligible business under the high quality jobs program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The tax credits available under the high quality jobs program are based upon the number of jobs created or retained that pay a qualifying wage threshold and the amount of qualifying investment. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

**52.40(1) *Research activities credit.*** An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in subrule 52.7(4).

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the high quality jobs program and the enterprise zone program shall not exceed \$2 million for the fiscal year ending June 30, 2010, and \$1 million for the fiscal year ending June 30, 2011.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and in subrule 52.7(5) for businesses in enterprise zones, and are not applicable to the research activities credit set forth in subrule 52.7(3).

**52.40(2) *Investment tax credit.*** An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created or retained by the location or

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

expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7).

The determination of the new investment eligible for the investment tax credit, the eligibility of a refundable investment tax credit for value-added agricultural product or biotechnology-related projects and the repayment of investment tax credits for the high quality jobs program is the same as set forth in subrule 52.28(2) for the high quality job creation program.

This rule is intended to implement Iowa Code chapter 15.

**701—52.41(15) Aggregate tax credit limit for certain economic development programs.** Effective for fiscal years beginning on or after July 1, 2009, awards made under certain economic development programs cannot exceed \$185 million during a fiscal year. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program, and the high quality jobs program. The administrative rules for the aggregate tax credit limit for the Iowa department of economic development may be found at 261—Chapter 76.

This rule is intended to implement 2009 Iowa Acts, Senate File 483, section 1.

ITEM 39. Amend paragraph **53.2(1)“a”** as follows:

a. Refunds of federal income taxes due to net operating loss and ~~investment~~ credit carrybacks or carryovers shall be reflected in the following manner:

(1) Accrual basis taxpayers shall accrue refunds of federal income taxes to the year in which the net operating loss or excess credit occurs. The federal refund shall still accrue for tax periods beginning on or after January 1, 2009, even though the Iowa net operating loss carryback is not allowed.

(2) Cash basis taxpayers shall reflect refunds of federal income taxes in the return for the year in which the refunds are received. The federal refund due to any net operating loss carryback for federal income tax purposes for tax years beginning on or after January 1, 2009, must still be reflected even though the Iowa net operating loss carryback is not allowed.

ITEM 40. Amend paragraphs **53.2(3)“b”** and **“c”** as follows:

b. The net operating loss attributable to Iowa, as determined in rule 701—53.2(422), shall be subject to a 3-year carryback and a 15-year carryover provision for tax years beginning prior to August 6, 1997. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 15 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

c. For tax years beginning after August 5, 1997, but before January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—53.2(422), incurred in a presidentially declared disaster area by a corporation engaged in a small business or in the trade or business of farming must be carried back 3 taxable years and carried forward 20 taxable years. All other net operating losses attributable to Iowa must be carried back 2 taxable years and carried forward 20 taxable years. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

ITEM 41. Amend paragraph **53.2(3)“d,”** introductory paragraph, as follows:

d. For tax years beginning on or after January 1, 1998, but before January 1, 2009, for a taxpayer who is engaged in the trade or business of farming as defined in Section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in Section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business

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

of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss. However, if a taxpayer has a net operating loss from the trade or business of farming for a taxable year beginning in 1998 or for a taxable year after 1998 and makes a valid election for federal income tax purposes to carry back the net operating loss two years, or three years if the loss was in a presidentially declared disaster area or related to a casualty or theft loss, the net operating loss must be carried back two years or three years for Iowa income tax purposes. A copy of the federal election made under Section 172(i)(3) of the Internal Revenue Code for the two-year or three-year carryback in lieu of the five-year carryback must be attached to the Iowa return or the Form IA 1139 ~~Farm~~, Application for Refund Due to the Carryback of Corporate Farming Losses, to show why the carryback was two years or three years instead of five years. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa.

ITEM 42. Adopt the following new paragraph **53.2(3)“e”**:

*e.* For tax years beginning on or after January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—53.2(422), shall be carried forward 20 taxable years. The net operating loss cannot be carried back to a previous tax year. The federal refund due to any carryback of a federal net operating loss must still be included in income as provided in subrule 53.2(1), paragraph “a.”

ITEM 43. Amend rule **701—53.2(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.35 as amended by ~~1999~~ 2009 Iowa Acts, ~~chapter 95~~ Senate File 483.

ITEM 44. Amend rule 701—53.4(422) as follows:

**701—53.4(422) Net operating and capital loss carrybacks and carryovers.** If the taxpayer, for tax periods beginning prior to January 1, 2009, has both a net operating loss and a capital loss carryback to a prior tax year, the capital loss shall be carried back first and then the new operating loss offset against any remaining income.

This rule is intended to implement Iowa Code section 422.35 as amended by 2009 Iowa Acts, Senate File 483.

ITEM 45. Amend paragraphs **53.15(8)“b”** and **“c”** as follows:

*b. Limitation on net operating loss carryover.* A net operating loss from a separate return limitation year of a member of the group may be carried over only to the extent that the member contributed to the Iowa consolidated taxable income as computed under subrule 53.15(7). A net operating loss carryover from a separate return limitation year cannot create or increase a consolidated net operating loss which is carried back for tax years beginning prior to January 1, 2009.

A consolidated net operating loss may be carried over to a consolidated return year without limitation even though in the carryover year the affiliated group contains members which were not members of the group in the loss year.

If a member of the affiliated group in the loss year leaves the group through the sale of its stock or because it is now a corporation exempt from tax under Iowa Code section 422.34, its share, as determined by subrule 53.15(7), of the unabsorbed consolidated net operating loss at the end of the consolidated return year during which the member left the group or became exempt from tax may not be carried forward to a subsequent consolidated return.

*c. Limitation on net operating loss carryback for tax periods beginning prior to January 1, 2009.* A member’s share of an Iowa consolidated net operating loss as computed under subrule 53.15(7) must be carried back to a separate return year, unless the affiliated group elected to carry the net operating loss forward. However, if the member was not in existence in the carryback year but had been a member of the group for every tax year of its existence, its share of the Iowa consolidated loss may be carried back to a separate return year of the common parent.

If a consolidated net operating loss is carried back to a consolidated return year and all members of the affiliated group are the same in the carryback year as in the loss year, the consolidated net operating loss may be carried back without limitation. If there are members of the affiliated group in the loss year which were not members in the carryback year, then the formula in subrule 53.15(7) must be used to

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

determine the portion of the consolidated net operating loss attributable to the members in existence in the carryback year and which may be carried back. Any member of the affiliated group which was a member of the loss-year affiliated group which has been a member of the group since its formation will be regarded as having been a member of the group in the carryback year even though it was not then in existence. A merger or liquidation of members within the affiliated group will be disregarded in determining whether there has been a change in the group between the loss year and the carryback year.

The amount of net operating loss that may be carried back from a separate return year to a consolidated return year is limited to the extent that the former member contributed to the Iowa consolidated taxable income as computed under subrule 53.15(7).

ITEM 46. Amend rule **701—53.15(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.35 as amended by 2009 Iowa Acts, Senate File 483, and section 422.37 as amended by 1992 Iowa Acts, Second Extraordinary Session, Senate File 2393.

ITEM 47. Amend subrule **53.22(3)**, introductory paragraph, as follows:

**53.22(3)** *Assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010.* For tax periods beginning after December 31, 2007, but beginning before January 1, ~~2009~~ 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

ITEM 48. Amend subrule **53.22(3)**, first and second unnumbered paragraphs, as follows:

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, can be calculated on Form IA 4562A.

ITEM 49. Adopt the following **new** subrule 53.22(4):

**53.22(4)** *Qualified disaster assistance property.* For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

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

ITEM 50. Amend rule 701—53.25(422) as follows:

**701—53.25(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television, or video projects.**

**53.25(1)** *Projects registered on or after January 1, 2007, but before July 1, 2009.* For tax years beginning on or after January 1, 2007, a taxpayer ~~which~~ that is an Iowa-based business may exclude, to the extent included in federal taxable income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—52.34(15,422). An Iowa-based business is a business whose commercial domicile as defined in Iowa Code section 422.32(3) is in Iowa.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—52.34(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

EXAMPLE: A production company which registers with the film office for a project is a corporation which is domiciled in Iowa. If this same corporation receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, the corporation cannot exclude this income on the Iowa corporation income tax return because the corporation has claimed the film qualified expenditure tax credit.

**53.25(2)** *Projects registered on or after July 1, 2009.* For tax years beginning on or after July 1, 2009, a taxpayer that is an Iowa-based business may exclude no more than 25 percent of the income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development in the year in which the qualified expenditure occurred. A reduction of 25 percent of the income is allowed to be excluded for the three subsequent tax years.

EXAMPLE: An Iowa taxpayer received \$10,000 in income in the 2010 tax year related to qualified film expenditures for a project registered on February 1, 2010. The \$10,000 was reported as income on taxpayer's 2010 federal tax return. Taxpayer may exclude \$2,500 of income on the Iowa corporation income tax return for each of the tax years 2010-2013.

This rule is intended to implement Iowa Code section ~~422.35~~ 15.393 as amended by ~~2007~~ 2009 Iowa Acts, House Senate File 892 480, section & 5, and section ~~422.35~~.

ITEM 51. Amend rule 701—58.13(15E) as follows:

**701—58.13(15E) Endow Iowa tax credit.** Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. ~~The~~ For tax years beginning on or after January 1, 2003, but before January 1, 2010, the credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, the credit is equal to 25 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, a taxpayer 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. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is \$2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is \$2 million annually for the 2005-2007 calendar years, and \$200,000 of these tax credits on an annual basis is reserved for endowment gifts

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

of \$30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and ~~subsequent 2009~~ calendar years is \$2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is \$3 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code ~~Supplement~~ section 15E.305 as amended by ~~2006 2009~~ Iowa Acts, ~~chapter 454~~ Senate File 478, and Iowa Code section 422.60.

ITEM 52. Amend rule 701—58.17(15), introductory paragraph, as follows:

**701—58.17(15) High quality job creation program.** Effective for tax periods ending on or after July 1, 2005, ~~for programs approved on or after July 1, 2005, but before July 1, 2009,~~ a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code ~~Supplement~~ section 15.329. ~~The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.~~

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—52.40(15) for information on the investment tax credit under the high quality jobs program. Any investment tax credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid, and can be claimed on tax returns filed after July 1, 2009. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

ITEM 53. Adopt the following new rule 701—58.21(15):

**701—58.21(15) High quality jobs program.** Effective for tax periods beginning on or after July 1, 2009, a business which qualifies under the high quality jobs program is eligible to receive tax credits. The high quality jobs program replaces the high quality job creation program. An eligible business under the high quality jobs program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The tax credits available under the high quality jobs program are based upon the number of jobs created or retained that pay a qualifying wage threshold and the amount of qualifying investment. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

For information on the credits that may be taken under this program, how the investment tax credit is computed and other details about the program, see rule 701—52.40(15). However, the research credit described in subrule 52.40(1) is not available for franchise tax filers.

This rule is intended to implement Iowa Code chapter 15.

ITEM 54. Amend paragraphs **59.2(3)“b”** and **“c”** as follows:

*b.* The net operating loss attributable to Iowa, as determined in rule 701—59.2(422), shall be subject to a 3-year carryback and a 15-year carryover provision for tax years beginning before August 6, 1997. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction



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

of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 15 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

c. For tax years beginning after August 5, 1997, but before January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—59.2(422), incurred in a presidentially declared disaster area by a corporation engaged in a small business or in the trade or business of farming must be carried back 3 taxable years and carried forward 20 taxable years. All other net operating losses attributable to Iowa must be carried back 2 taxable years and carried forward 20 taxable years. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa franchise tax return filed with the department.

ITEM 55. Adopt the following **new** paragraph **59.2(3)“d”**:

d. For tax years beginning on or after January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—59.2(422), shall be carried forward 20 taxable years. The net operating loss cannot be carried back to a previous tax year.

ITEM 56. Amend rule **701—59.2(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.35 as amended by ~~1998~~ 2009 Iowa Acts, Senate File ~~2357~~ 483, and sections 422.61; and 422.63.

ITEM 57. Amend rule 701—59.4(422) as follows:

**701—59.4(422) Net operating and capital loss carrybacks and carryovers.** If the taxpayer, for tax periods beginning before January 1, 2009, has both a net operating loss and a capital loss carryback to a prior tax year, the capital loss shall be carried back first and then the net operating loss offset against any remaining income.

This rule is intended to implement Iowa Code ~~sections~~ section 422.35 as amended by 2009 Iowa Acts, Senate File 483, and section 422.61.

ITEM 58. Adopt the following **new** subrules 59.23(3) and 59.23(4):

**59.23(3) Assets acquired after December 31, 2007, but before January 1, 2010.** For tax periods beginning after December 31, 2007, but beginning before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2010, can be calculated on Form IA 4562A.

See rule 701—53.22(422) for examples illustrating how this rule is applied.

**59.23(4) Qualified disaster assistance property.** For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified

REVENUE DEPARTMENT[701](cont'd)

disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

**ARC 8428B**

## **REVENUE DEPARTMENT[701]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code chapter 17A and section 421.17, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 71, “Assessment Practices and Equalization,” Iowa Administrative Code.

The proposed amendment pertains to the determination of the agricultural factor and explains the process used to compute the factor so that there will be no major increases or decreases in it over time.

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 Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed amendment 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 February 1, 2010, to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before January 19, 2010. Such written comments should be directed to the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Service and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 22, 2010.

This amendment is intended to implement Iowa Code section 441.21.

The following amendment is proposed.

REVENUE DEPARTMENT[701](cont'd)

Amend rule 701—71.3(421,428,441), third unnumbered paragraph, as follows:

In order to determine a productivity value for agricultural buildings and structures, assessors shall must make an agricultural adjustment to the market value of these buildings and structures by developing an “agricultural factor” for ~~their jurisdiction~~ the assessors’ jurisdictions. The agricultural factor for each jurisdiction ~~shall be~~ is the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa Real Property Appraisal Manual prepared by the department. The agricultural factor ~~shall~~ must be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction. As an example, if a building’s actual value is \$500,000 and the agricultural factor is ~~50~~ 30 percent, the productivity value of that building is ~~\$250,000~~ \$150,000. See *H & R Partnership v. Davis County Board of Review*, 654 N.W.2d 521 (Iowa 2002). The 2007, 2008, and 2009 average of the market value of land will be used in determining the agricultural factor for assessment year 2011. A five-year market value average of land for years used to determine the productivity formula will be used to determine the agricultural factor for assessment year 2013 and subsequent assessment years.

### TREASURER OF STATE

#### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vautt have established today the following rates of interest for public obligations and special assessments. The usury rate for November is 5.50%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants .....	Maximum 6.0%
74A.4 Special Assessments .....	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective November 10, 2009, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TREASURER OF STATE(cont'd)

TIME DEPOSITS

7-31 days .....	Minimum 0.05%
32-89 days .....	Minimum 0.05%
90-179 days .....	Minimum 0.05%
180-364 days .....	Minimum 0.25%
One year to 397 days .....	Minimum 0.60%
More than 397 days .....	Minimum 1.25%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

**TREASURER OF STATE**

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New official state interest rates, effective December 9, 2009, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days .....	Minimum 0.05%
32-89 days .....	Minimum 0.05%
90-179 days .....	Minimum 0.05%
180-364 days .....	Minimum 0.25%
One year to 397 days .....	Minimum 0.60%
More than 397 days .....	Minimum 1.20%

## TREASURER OF STATE(cont'd)

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

**ARC 8419B****ELDER AFFAIRS DEPARTMENT[321]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 231.14, the Department on Aging hereby rescinds Chapter 16, "Senior Living Coordinating Unit," Iowa Administrative Code.

2009 Iowa Acts, House File 811, eliminated the requirement for the Senior Living Coordinating Unit (SLCU) by amending Iowa Code section 231.58. This rule making amends the Department's rules to comply with 2009 Iowa Acts, House File 811, by rescinding administrative rules for the SLCU.

For good cause and pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to adoption of this amendment pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest because the requirement for the SLCU was eliminated in 2009 Iowa Acts, House File 811.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective December 4, 2009. This amendment confers a benefit upon the public by providing for the implementation of 2009 Iowa Acts, House File 811.

This amendment is intended to implement Iowa Code section 231.58 as amended by 2009 Iowa Acts, House File 811.

This amendment became effective December 4, 2009.

The following amendment is adopted.

Rescind and reserve **321—Chapter 16**.

[Filed Emergency 12/4/09, effective 12/4/09]

[Published 12/30/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/09.

**ARC 8420B****ELDER AFFAIRS DEPARTMENT[321]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 231.14, the Department on Aging hereby rescinds Chapter 24, "Adult Day Services Programs," Chapter 25, "Assisted Living Programs," Chapter 26, "Monitoring, Civil Penalties, Complaints and Investigation for Elder Group Homes, Adult Day Services and Assisted Living Programs," Chapter 27, "Fees for Adult Day Services and Assisted Living Programs," and Chapter 29, "Elder Group Homes," Iowa Administrative Code.

2007 Iowa Acts, Senate File 601, transferred the regulatory authority for adult day services, assisted living programs, and elder group homes from the Department on Aging to the Department of Inspections and Appeals (DIA) by amending Iowa Code chapters 231B, 231C, and 231D.

This rule making amends the Department's rules to comply with 2007 Iowa Acts, Senate File 601, by rescinding the Department on Aging's administrative rules for adult day services, assisted living programs, and elder group homes. The DIA has adopted rules for regulation of the same that will become effective on January 1, 2010 (see **ARC 8174B**, **ARC 8175B**, **ARC 8176B**, **ARC 8177B**, IAB 9/23/09; see also 481 IAC Chapters 67, 68, 69, and 70).

For good cause and pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation prior to adoption of these amendments pursuant to Iowa Code section 17A.4(1) are impracticable and contrary to the public interest because the Department is complying with statute related to the transfer of authority and due to the recently adopted new rules by the DIA.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective

ELDER AFFAIRS DEPARTMENT[321](cont'd)

January 1, 2010. These amendments confer a benefit upon the public by providing for the implementation of 2007 Iowa Acts, Senate File 601.

These amendments are intended to implement Iowa Code chapters 231B, 231C, and 231D as amended by 2007 Iowa Acts, Senate File 601.

These amendments will become effective January 1, 2010.

The following amendments are adopted.

ITEM 1. Rescind and reserve **321—Chapter 24**.

ITEM 2. Rescind and reserve **321—Chapter 25**.

ITEM 3. Rescind and reserve **321—Chapter 26**.

ITEM 4. Rescind and reserve **321—Chapter 27**.

ITEM 5. Rescind and reserve **321—Chapter 29**.

[Filed Emergency 12/4/09, effective 1/1/10]

[Published 12/30/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/09.

**ARC 8411B**

## **PHARMACY BOARD[657]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 124.301, the Board of Pharmacy hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment adds the drug fospropofol to the list of Schedule IV controlled substances, subjecting fospropofol to the record-keeping, security, and control requirements applicable to other substances classified as Schedule IV substances pursuant to the Iowa Controlled Substances Act. This action conforms to similar action recently taken by the federal Drug Enforcement Administration.

The Board will not consider waiver or variance of this amendment because fospropofol is classified as a Schedule IV controlled substance under federal law and the Board has no authority to waive requirements of federal law.

The amendment was approved during the November 17, 2009, meeting of the Board of Pharmacy.

The Board finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are unnecessary and impracticable due to the immediate need for this amendment in order to ensure appropriate control of fospropofol use and distribution in Iowa.

The Board also finds, pursuant to Iowa Code subsection 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on December 1, 2009. This amendment confers a benefit by ensuring appropriate controls, in conformance with federal law, of the distribution and use of fospropofol in Iowa.

This amendment became effective December 1, 2009.

This amendment is intended to implement Iowa Code section 124.201.

The following amendment is adopted.

Adopt the following **new** subrule 10.38(3):

**10.38(3)** Amend Iowa Code section 124.10, subsection 3, by adding the following new paragraph:  
*az.* Fospropofol.

[Filed Emergency 12/1/09, effective 12/1/09]

[Published 12/30/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/09.

**ARC 8434B**

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 214.10, 214A.2 and 215.24, the Department of Agriculture and Land Stewardship hereby amends Chapter 85, "Weights and Measures," Iowa Administrative Code.

The amendments eliminate the need for the labeling of biodiesel fuel containing 5 percent or less of biodiesel. The new labeling requirements for biodiesel are set out. Wholesalers selling ethanol blended gasoline or biodiesel fuel will be required to provide the exact volume of the ethanol or biodiesel on the sales slip or invoice.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8041B** on August 12, 2009.

One comment was received requesting removal of certain language on labeling.

No changes were made since publication of the Notice.

These amendments are intended to implement 2009 Iowa Acts, Senate File 478, sections 118 to 121.

These amendments will become effective February 3, 2010.

The following amendments are adopted.

ITEM 1. Adopt the following **new** paragraph **85.48(10)"e"**:

*e.* Biodiesel fuel containing 5 percent or less of biodiesel does not require the biodiesel label.

ITEM 2. Adopt the following **new** paragraph **85.48(10)"f"**:

*f.* Biodiesel fuel containing more than 5 percent but not more than 20 percent of renewable fuel must indicate on the label whether biodiesel or biomass-based diesel is the renewable fuel contained in the product. The label must also indicate that the fuel contains biodiesel or biomass-based diesel in quantities greater than 5 percent but not more than 20 percent. A specific blend percentage is not required on the label.

ITEM 3. Adopt the following **new** paragraph **85.48(10)"g"**:

*g.* Biodiesel fuel containing more than 20 percent renewable fuel must indicate on the label whether biodiesel or biomass-based diesel is the renewable fuel contained in the product. The label must also reflect the specific percentage of biodiesel or biomass-based diesel in the product.

ITEM 4. Adopt the following **new** subrule 85.48(16):

**85.48(16)** Ethanol blended gasoline shall be designated E-xx where "xx" is the volume percent of ethanol in the ethanol gasoline. Ethanol blended gasoline formulated with a percentage of ethanol between 70 and 85 percent by volume shall be designated as E-85. Biodiesel fuel shall be designated as B-xx where "xx" is more than 20 percent renewable fuel by volume.

ITEM 5. Adopt the following **new** subrule 85.48(17):

**85.48(17)** A wholesale dealer selling ethanol blended gasoline or biodiesel fuel to a purchaser shall provide the purchaser with a statement indicating the actual volume percentage present. The statement may be on the sales slip provided or a similar document such as a bill of lading or invoice. This statement shall include the specific amount of biodiesel, even if the amount of renewable fuel is 5 percent or less.

[Filed 12/8/09, effective 2/3/10]

[Published 12/30/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/09.



**ARC 8418B**

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 25, "Housing Fund," Iowa Administrative Code.

The amendments extend the time frame for waiver of a local match requirement for one additional year, increase the allowable interest rate on participating mortgages by 2 percent, and clarify the maximum dollar amounts allowable under the program for various activities, while retaining the same overall allowable maximum cost per unit.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 23, 2009, as **ARC 8149B**.

A public hearing was held on October 14, 2009, to receive comments about the proposed amendments. No comments were received at the public hearing or in writing. These amendments are identical to those published under Notice.

The Iowa Economic Development Board adopted these amendments on November 19, 2009.

These amendments will become effective on February 3, 2010.

These amendments are intended to implement Iowa Code section 8.41.

The following amendments are adopted.

ITEM 1. Amend subrule 25.6(7) as follows:

**25.6(7)** An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IDED HOME funds requested. Sources of a local PJ financial commitment could include one or more of the following: HOME, CDBG, TIF, tax abatement, or general funds. This requirement is waived for awards made by the department during federal HOME program year ~~2009 (October 1, 2008 – September 30, 2009)~~; 2010 (October 1, 2009 – September 30, 2010).

ITEM 2. Amend subparagraph **25.6(8)“c”(1)** as follows:

(1) Loan interest rates may be no higher than ~~two~~ four percentage points above the federal prime interest rate at the time of loan closing;

ITEM 3. Amend paragraph **25.8(7)“a”** as follows:

a. The maximum per unit subsidy for all single-family activities involving rehabilitation is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; home ownership assistance activities; technical services costs, including lead hazard reduction ~~or abatement~~ carrying costs; lead hazard reduction ~~or abatement~~ costs; and temporary relocation. All rehabilitation hard costs funded with housing funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction ~~or abatement~~ carrying costs, are limited to \$4,500 per unit.

[Filed 12/3/09, effective 2/3/10]

[Published 12/30/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/09.

**ARC 8431B**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code chapter 10A, the Department of Inspections and Appeals hereby amends Chapter 1, "Administration," Iowa Administrative Code.

Chapter 1 is being amended to incorporate statutory changes over the last several years.

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

These amendments were published under Notice of Intended Action as **ARC 8242B** in the October 21, 2009, issue of the Iowa Administrative Bulletin. No comments were received from the public. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapters 10A, 13B, 99D, 99F, and 237.

These amendments will become effective February 3, 2010.

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 1] is being omitted. These amendments are identical to those published under Notice as **ARC 8242B**, IAB 10/21/09.

[Filed 12/8/09, effective 2/3/10]

[Published 12/30/09]

[For replacement pages for IAC, see IAC Supplement 12/30/09.]

**ARC 8433B****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 50, "Health Care Facilities Administration," Chapter 56, "Fining and Citations," and Chapter 58, "Nursing Facilities," Iowa Administrative Code.

This rule making is intended to implement 2009 Iowa Acts, Senate File 433. The amendments to Chapter 50 include new requirements for exit interviews, plans of correction, and revisits; set forth the process for handling complaints and self-reported incidents; update requirements for service; and include inspector conflict of interest provisions. The amendments to Chapter 56 add waiver provisions for violations, self-identification procedures, procedures for the 35 percent reduction, and provisions for double class I fines for intentional violations and update the appeals and informal conference portions to conform with the new law. The amendment to Chapter 58 adds training requirements for nursing facility inspectors to conform with the new law.

Notice of Intended Action for these amendments was published in the October 7, 2009, Iowa Administrative Bulletin as **ARC 8190B**. Since publication of the Notice, Item 9, which amends rule 481—56.15(135C), has been changed to include an amendment to subrule 56.15(2) to add class I citations to correct an oversight in the Notice. Subrule 56.15(2) now reads as follows:

**"56.15(2)** If the facility does desire to further contest an affirmed or modified citation for a class I, class II or class III violation, the facility shall, within five working days after the informal conference, or within five working days after receipt of the written decision and explanation of the department of inspections and appeals' representative at the informal conference, as the case may be, notify the department of inspections and appeals in writing of the facility's intent to formally contest the citation."

Comments related to the taking of photographs and to standards for determining a deficiency were received from one state agency. Both comments, which were outside the scope of this rule making, related to federal requirements and not to specific state requirements; therefore, the Department has not incorporated the suggestions.

These amendments were presented to the State Board of Health at the Board's December 8, 2009, meeting, at which time they were approved.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14 and 2009 Iowa Acts, Senate File 433.

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

These amendments will become effective February 3, 2010.

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 [50.10 to 50.13, 56.3, 56.6, 56.13 to 56.16, 58.57] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 8190B**, IAB 10/7/09.

[Filed 12/8/09, effective 2/3/10]

[Published 12/30/09]

[For replacement pages for IAC, see IAC Supplement 12/30/09.]

**ARC 8435B****UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.4 and 476.1 and 2009 Iowa Acts, Senate File 279 [Iowa Code Supplement section 478.1(5)], the Utilities Board (Board) gives notice that on December 9, 2009, the Board issued an order in Docket No. RMU-2009-0006, In re: Requirements for Abbreviated Franchise Petition [199 IAC Chapter 11], "Order Adopting Amendments." The Board is adopting amendments to 199 IAC Chapter 11 to establish an abbreviated franchise process where an electric company is upgrading 34.5 kilovolt (kV) electric lines to be capable of operating at 69 kV, so long as the upgrade meets certain conditions. This proceeding was initiated by an order issued May 28, 2009. Notice of Intended Action on the proposed amendments was published in IAB Vol. XXXI, No. 26 (6/17/09) p. 2785, as **ARC 7859B**.

Written comments concerning the proposed amendments were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), MidAmerican Energy Company (MidAmerican), Interstate Power and Light Company (IPL), and ITC Midwest LLC (ITC). To allow for oral comments and questions from the Board, the Board scheduled an oral presentation for July 28, 2009. On July 10, 2009, the Board issued an order rescheduling the oral presentation for August 20, 2009. An Amended Notice of Intended Action reflecting the change in the date for the oral presentation was published in IAB Vol. XXXII, No. 3 (7/29/09) p. 319, as **ARC 8012B**.

On August 20, 2009, the Board held the oral presentation. IPL, MidAmerican, Consumer Advocate, ITC, and the Iowa Association of Electric Cooperatives (IAEC) appeared at the oral presentation. On August 28, 2009, the Board issued an order allowing interested persons the opportunity to file additional comments. On September 8, 2009, IPL, ITC, and Consumer Advocate filed additional comments.

The Board is adopting the proposed amendments to 199 IAC 11.1(9) with certain revisions based upon consideration of the comments. In addition to some minor revisions, the Board is revising the definition of "substantially the same right-of-way" to exclude conductor and overhang and anchor easements in the calculation of the one-mile threshold. In this rule making, the Board did not propose a definition for the requirement that a line have "substantially the same effect on the underlying properties." The Board will not adopt a definition for this standard in this rule making since it did not propose a definition in the Notice of Intended Action or request comment on the issue. However, the Board did provide guidance on its interpretation of this standard in the order adopting amendments. The Board stated that the exemption for conductor and overhang and anchor easements complies with the "substantially the same effect on the underlying properties" standard. The Board also stated that it would interpret this standard as requiring that the line remain in the public right-of-way, the upgraded line be for substantially the same use as the existing line, and the upgraded line will not be a substantially greater obstruction to the use of the property.

The Board is also adopting revisions to 199 IAC 11.2(3) to remove the requirement that the petitioner include approval from the appropriate highway authority in the petition. Finally, the Board is revising 199 IAC 11.5(11) to require only one month's notice in advance of construction to landowners and

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

persons residing on affected property. The order adopting the amendments can be found on the Board's electronic filing Web site at <http://efs.iowa.gov>.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.1 and 2009 Iowa Acts, Senate File 279 [Iowa Code Supplement section 478.1(5)].

These amendments will become effective on February 3, 2010.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 11.1(9):

**11.1(9) Eligibility for abbreviated franchise process.** Petitions for an electric franchise or an amendment to a franchise may be filed pursuant to the abbreviated franchise process set forth in 2009 Iowa Acts, Senate File 279 [Iowa Code Supplement section 478.1(5)], if the following requirements are met:

*a.* The project consists of the conversion, upgrading, or reconstruction of an existing electric line operating at 34.5 kV to a line capable of operating at 69 kV.

*b.* The project will be on substantially the same right-of-way as an existing 34.5 kV line. For purposes of this subrule, "substantially the same right-of-way" means that the new or additional interests in private property right-of-way will be required for less than one mile of the proposed project length. Easements required for conductor and crossarm overhang of private property or for anchor easements shall not be considered when determining the length of additional interests in private property right-of-way.

*c.* The project will have substantially the same effect on the underlying properties as the existing 34.5 kV line.

*d.* The completed line will comply with the Iowa electrical safety code found in 199—Chapter 25.

*e.* Notice will be provided as required in subrule 11.5(11).

*f.* The petitioner does not request the power of eminent domain.

*g.* The petitioner agrees to pay all costs and expenses of the franchise proceeding.

Petitions that do not comply with the eligibility requirements in paragraphs 11.1(9) "a" through "g" shall be rejected.

ITEM 2. Adopt the following **new** subrule 11.2(3):

**11.2(3) Form of petition for abbreviated franchise process.** A petition for a new franchise or an amendment to a franchise filed pursuant to the abbreviated franchise process set forth in 2009 Iowa Acts, Senate File 279 [Iowa Code Supplement section 478.1(5)], shall be made on forms prescribed by the board, shall be notarized, and shall have all required exhibits attached. Exhibits in addition to those required by this subrule may be attached when appropriate. The exhibits that are required to be attached are as follows:

*a. Exhibit A.* A legal description of the route. The description shall include the name of the county, the maximum and nominal voltages, the beginning and ending points of the line, and whether the route is on public, private, or railroad right-of-way. The description shall identify any termini located in other counties.

*b. Exhibit B.* A map showing the route of the line drawn with reasonable accuracy considering the scale. The map may be to any scale appropriate for the level of detail to be shown, but not smaller than one inch to the mile. The following minimum information shall be provided:

(1) The route of the electric line which is the subject of the petition, including the starting and ending points and, when parallel to a road or railroad, the side on which the line is located. Line sections with double circuit construction or underbuild shall be designated. The nominal voltage and ownership of other circuits or underbuild shall be indicated.

(2) The name of the county, county and section lines, section numbers, and the township and range numbers.

(3) The location and identity of roads, railroads, major streams and bodies of water, and any other significant natural or man-made features or landmarks.

(4) The name and corporate limits of cities.

UTILITIES DIVISION[199](cont'd)

(5) If any deviation from the existing route is proposed, the original and proposed routes shall be shown and identified.

*c. Exhibit C.* Technical information and engineering specifications describing typical materials, equipment, and assembly methods as specified on forms provided by the board.

*d. Exhibit D.* The exhibit shall consist of written text containing the following:

(1) A listing of any existing franchises that would be terminated or amended in whole or in part by this petition, including the docket number, franchise number, date of issue, county of location, and to whom granted.

(2) An allegation, with supporting testimony, that the project is eligible for the abbreviated franchise process.

(3) An allegation, with supporting testimony, that the project is necessary to serve a public use and represents an overall plan of transmitting electricity in the public interest.

(4) An explanation for any deviations from the existing line route.

*e. Exhibit E.* A statement that the right of eminent domain is not being requested.

*f. Exhibit F.* The exhibit shall consist of a showing of notice to other electric, pipeline, telephone, communication, cable television, rural water district, and railroad companies that are crossed by or in shared right-of-way with the proposed electric line.

*g. Exhibit G.* The exhibit shall consist of the form of notice to be mailed in accordance with subrule 11.5(11) to owners of and persons residing on property where construction shall occur.

ITEM 3. Adopt the following **new** paragraph **11.3(1)“g”**:

*g.* Petition for Franchise or Amendment to Franchise Under Abbreviated Franchise Process.

ITEM 4. Adopt the following **new** subrule 11.5(11):

**11.5(11)** *Notice of franchise or amendment to franchise under abbreviated franchise process.*

*a.* Petitioner shall provide written notice concerning the anticipated construction to the last-known address of the owners of record of the property where construction will occur and to persons residing on such property one month prior to commencement of construction. Notices may be served by ordinary mail, addressed to the last-known address of the owners of record of the property and to persons residing on such property. Petitioner must make a good-faith effort to identify and notify all owners of record and persons residing on the property.

*b.* The notice shall include the following information:

(1) A description of the purpose of the project and the nature of the work to be performed.

(2) A copy of the Exhibit B map.

(3) The estimated dates the construction or reconstruction will commence and end.

(4) The name, address, telephone number, and E-mail address of a representative of the petitioner who can respond to inquiries concerning the anticipated construction.

(5) For the purposes of this subrule, “construction” means physical entry onto private property by personnel or equipment for the purpose of rebuilding or reconstructing the electric line.

[Filed 12/9/09, effective 2/3/10]

[Published 12/30/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/30/09.

**ARC 8417B**

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs hereby amends Chapter 10, “Iowa Veterans Home,” Iowa Administrative Code.

## VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

These amendments add language regarding the ability for domiciliary residents to leave the facility on a pass status, information about which is received from the Department of Veterans Affairs, and clarify the discharge process for emergency discharge proceedings and the responsibility for discharge appeals.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 8235B** on October 21, 2009. No comments were received from the public. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 35D as amended by 2009 Iowa Acts, Senate File 407.

These amendments will become effective February 3, 2010.

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 [10.36, 10.43, 10.47] is being omitted. These amendments are identical to those published under Notice as **ARC 8235B**, IAB 10/21/09.

[Filed 12/2/09, effective 2/3/10]

[Published 12/30/09]

[For replacement pages for IAC, see IAC Supplement 12/30/09.]

AGENCY	RULE	DELAY
Education Department[281]	98.12 [IAB 8/26/09, <b>ARC 8054B</b> ]	Effective date of September 30, 2009, delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2009. [Pursuant to §17A.8(9)]
Public Safety Department[661]	301.8, Sections R313.1 and R313.2 [IAB 11/18/09, <b>ARC 8305B</b> ]	Effective date of January 1, 2010, delayed until the adjournment of the 2010 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held December 8, 2009. [Pursuant to §17A.8(9)]