



# IOWA ADMINISTRATIVE BULLETIN

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Pages 385 to 484

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**PREFACE**

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Economic Impact Statements to proposed rules and filed emergency rules; Objections filed by Administrative Rules Review Committee, Governor or the Attorney General; and Delay by the Committee of the effective date of filed rules; Regulatory Flexibility Analyses and Agenda for monthly Administrative Rules Review Committee meetings. Other "materials deemed fitting and proper by the Administrative Rules Review Committee" include summaries of Public Hearings, Attorney General Opinions and Supreme Court Decisions.

The Bulletin may also contain Public Funds Interest Rates [12C.6]; Workers' Compensation Rate Filings [515A.6(7)]; Usury [535.2(3)"a"]; Agricultural Credit Corporation Maximum Loan Rates [535.12]; and Regional Banking—Notice of Application and Hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

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Department of General Services  
Hoover State Office Building, Level A  
Des Moines, IA 50319  
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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(249A)	(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).

## Schedule for Rule Making 2000

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 24 '99	Jan. 12 '00	Feb. 1 '00	Feb. 16 '00	Feb. 18 '00	Mar. 8 '00	Apr. 12 '00	July 10 '00
Jan. 7	Jan. 26	Feb. 15	Mar. 1	Mar. 3	Mar. 22	Apr. 26	July 24
Jan. 21	Feb. 9	Feb. 29	Mar. 15	Mar. 17	Apr. 5	May 10	Aug. 7
Feb. 4	Feb. 23	Mar. 14	Mar. 29	Mar. 31	Apr. 19	May 24	Aug. 21
Feb. 18	Mar. 8	Mar. 28	Apr. 12	Apr. 14	May 3	June 7	Sept. 4
Mar. 3	Mar. 22	Apr. 11	Apr. 26	Apr. 28	May 17	June 21	Sept. 18
Mar. 17	Apr. 5	Apr. 25	May 10	May 12	May 31	July 5	Oct. 2
Mar. 31	Apr. 19	May 9	May 24	May 26	June 14	July 19	Oct. 16
Apr. 14	May 3	May 23	June 7	June 9	June 28	Aug. 2	Oct. 30
Apr. 28	May 17	June 6	June 21	June 23	July 12	Aug. 16	Nov. 13
May 12	May 31	June 20	July 5	July 7	July 26	Aug. 30	Nov. 27
May 26	June 14	July 4	July 19	July 21	Aug. 9	Sept. 13	Dec. 11
June 9	June 28	July 18	Aug. 2	Aug. 4	Aug. 23	Sept. 27	Dec. 25
June 23	July 12	Aug. 1	Aug. 16	Aug. 18	Sept. 6	Oct. 11	Jan. 8 '01
July 7	July 26	Aug. 15	Aug. 30	Sept. 1	Sept. 20	Oct. 25	Jan. 22 '01
July 21	Aug. 9	Aug. 29	Sept. 13	Sept. 15	Oct. 4	Nov. 8	Feb. 5 '01
Aug. 4	Aug. 23	Sept. 12	Sept. 27	Sept. 29	Oct. 18	Nov. 22	Feb. 19 '01
Aug. 18	Sept. 6	Sept. 26	Oct. 11	Oct. 13	Nov. 1	Dec. 6	Mar. 5 '01
Sept. 1	Sept. 20	Oct. 10	Oct. 25	Oct. 27	Nov. 15	Dec. 20	Mar. 19 '01
Sept. 15	Oct. 4	Oct. 24	Nov. 8	Nov. 10	Nov. 29	Jan. 3 '01	Apr. 2 '01
Sept. 29	Oct. 18	Nov. 7	Nov. 22	Nov. 24	Dec. 13	Jan. 17 '01	Apr. 16 '01
Oct. 13	Nov. 1	Nov. 21	Dec. 6	Dec. 8	Dec. 27	Jan. 31 '01	Apr. 30 '01
Oct. 27	Nov. 15	Dec. 5	Dec. 20	Dec. 22	Jan. 10 '01	Feb. 14 '01	May 14 '01
Nov. 10	Nov. 29	Dec. 19	Jan. 3 '01	Jan. 5 '01	Jan. 24 '01	Feb. 28 '01	May 28 '01
Nov. 24	Dec. 13	Jan. 2 '01	Jan. 17 '01	Jan. 19 '01	Feb. 7 '01	Mar. 14 '01	June 11 '01
Dec. 8	Dec. 27	Jan. 16 '01	Jan. 31 '01	Feb. 2 '01	Feb. 21 '01	Mar. 28 '01	June 25 '01
Dec. 22	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5 '01	Jan. 24 '01	Feb. 13 '01	Feb. 28 '01	Mar. 2 '01	Mar. 21 '01	Apr. 25 '01	July 23 '01

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 15, 2000	October 4, 2000
8	Friday, September 29, 2000	October 18, 2000
9	Friday, October 13, 2000	November 1, 2000

**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.

## PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies  
FROM: Kathleen K. Bates, Iowa Administrative Code Editor  
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses Interleaf 6 to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

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*Guide to Rule Making, June 1995 Edition*, available upon request to the Iowa Administrative Code Division, Lucas State Office Building, First Floor, Des Moines, Iowa 50319.

## To All Agencies:

The Administrative Rules Review Committee voted to request that Agencies comply with Iowa Code section 17A.4(1)“b” by allowing the opportunity for oral presentation (hearing) to be held at least **twenty** days after publication of Notice in the Iowa Administrative Bulletin.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Certified school to career program, 11.2, 11.3 <b>IAB 9/6/00 ARC 0120B</b>	Main Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 26, 2000 2 p.m.
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Accelerated career education program, ch 20 <b>IAB 9/6/00 ARC 0121B</b> (See also <b>ARC 0122B</b> herein)	Workforce Development Conference Room—First Floor 200 E. Grand Ave. Des Moines, Iowa	September 26, 2000 3 to 4:30 p.m.
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Community economic betterment program; brownfield redevelopment program, 53.8(3), ch 65 <b>IAB 9/6/00 ARC 0123B</b> (See also <b>ARC 0124B</b> herein)	Business Finance Conference Room First Floor 200 E. Grand Ave. Des Moines, Iowa	September 26, 2000 1:30 p.m.
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Community attraction and tourism  
 development program,  
 amendments to ch 211  
**IAB 9/6/00 ARC 0119B**  
**(ICN Network)**

EDITOR'S NOTE: IDEED will hold hearings regarding  
**ARC 0118B** and **ARC 0119B** at the ICN sites as  
 scheduled below.

AND

Vision Iowa program; Vision Iowa  
 board: uniform waiver and variance  
 rules, chs 212, 213  
**IAB 9/6/00 ARC 0118B**  
**(ICN Network)**

Main Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	September 27, 2000 7 to 9 p.m.
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Room 210 Scott Community College 500 Belmont Rd. Bettendorf, Iowa	September 27, 2000 7 to 9 p.m.
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Great River AEA 1200 University Burlington, Iowa	September 27, 2000 7 to 9 p.m.
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Room 144 DMACC Carroll Campus 906 Grant Rd. Carroll, Iowa	September 27, 2000 7 to 9 p.m.
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Room 32A Kirkwood Farm Kirkwood Community College Cedar Rapids, Iowa	September 27, 2000 7 to 9 p.m.
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**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
(ICN Network) (Cont'd)**

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Educational Services Ctr. Admin. 12 Scott St. Council Bluffs, Iowa	September 27, 2000 7 to 9 p.m.
Room 107, Technology Center Southwestern Community College 1501 W. Townline Rd. Creston, Iowa	September 27, 2000 7 to 9 p.m.
Lakeland AEA Hwy. 18 and Second St. Cylinder, Iowa	September 27, 2000 7 to 9 p.m.
Room 204, Library Bldg. Arrowhead AEA 330 Avenue M Fort Dodge, Iowa	September 27, 2000 7 to 9 p.m.
Hudson High School 245 S. Washington Hudson, Iowa	September 27, 2000 7 to 9 p.m.
Carpentry Room Western Iowa Technical Community College 801 E. Second Ida Grove, Iowa	September 27, 2000 7 to 9 p.m.
Turkey Valley High School 3219 State Hwy. 24 Jackson Junction, Iowa	September 27, 2000 7 to 9 p.m.
Room 2102 Iowa Valley Community College 3405 S. Center St. Marshalltown, Iowa	September 27, 2000 7 to 9 p.m.
Newman Catholic High School 2445 19th Street SW Mason City, Iowa	September 27, 2000 7 to 9 p.m.
Southern Prairie AEA 2814 N. Court St. Ottumwa, Iowa	September 27, 2000 7 to 9 p.m.
Room 128 Sibley-Ocheyedan High School 120 11th Avenue NE Sibley, Iowa	September 27, 2000 7 to 9 p.m.

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
(ICN Network) (Cont'd)**

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Room A169 Carroll High School 2809 N. Grant Rd. Carroll, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. NW Cedar Rapids, Iowa	September 29, 2000 10 a.m. to 12 noon
Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 107, Technology Center Southwestern Community College 1501 W. Townline Rd. Creston, Iowa	September 29, 2000 10 a.m. to 12 noon
Decorah High School 100 E. Claiborne Dr. Decorah, Iowa	September 29, 2000 10 a.m. to 12 noon
Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	September 29, 2000 10 a.m. to 12 noon
Room E-1 Estherville High School 1520 Central Ave. Estherville, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 12 Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 527, Continuing Education Ctr. Iowa Valley Community College 3702 S. Center St. Marshalltown, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 129, Careers Building NIACC 500 College Dr. Mason City, Iowa	September 29, 2000 10 a.m. to 12 noon



**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**  
**(ICN Network) (Cont'd)**

Video Conferencing and Training Ctr. Indian Hills Community College 651 Indian Hills Dr. Ottumwa, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 410, Building D Northwest Iowa Community College 603 W. Park St. Sheldon, Iowa	September 29, 2000 10 a.m. to 12 noon
Ed May Center Shenandoah High School 1000 Mustang Dr. Shenandoah, Iowa	September 29, 2000 10 a.m. to 12 noon
North High School 4200 Cheyenne Sioux City, Iowa	September 29, 2000 10 a.m. to 12 noon
Room 110, Tama Hall Hawkeye Community College 1501 E. Orange Rd. Waterloo, Iowa	September 29, 2000 10 a.m. to 12 noon
Ag. Room 331 Southeastern Community College 1015 S. Gear Ave. West Burlington, Iowa	September 29, 2000 10 a.m. to 12 noon

**EDUCATIONAL EXAMINERS BOARD[282]**

Administrative endorsements— elementary and secondary school principals, 14.23 IAB 6/28/00 ARC 9923A	Conference Room 3 North Third Floor Grimes State Office Bldg. Des Moines, Iowa	September 6, 2000 1 p.m.
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**EDUCATION DEPARTMENT[281]**

Certified school to career program, 48.2 to 48.4 IAB 8/23/00 ARC 0085B	State Board Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 10 a.m.
Supplementary weighting; at-risk and alternative school programs, 97.1 to 97.3 IAB 8/23/00 ARC 0080B	State Board Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 3 p.m.
Vision Iowa school infrastructure program, ch 100 IAB 8/23/00 ARC 0076B (ICN Network)	Keystone AEA 1 1400 2nd St. NW Elkader, Iowa	September 12, 2000 12 noon
	NIACC - 3 500 College Dr. Mason City, Iowa	September 12, 2000 12 noon
	Emmetsburg High School 2nd and King St. Emmetsburg, Iowa	September 12, 2000 12 noon

**EDUCATION DEPARTMENT[281]  
(ICN Network) (Cont'd)**

Northwest Iowa Community College 603 W. Park St. Sheldon, Iowa	September 12, 2000 12 noon
Fort Dodge High School 819 N. 25th St. Fort Dodge, Iowa	September 12, 2000 12 noon
AEA 6 909 S. 12th St. Marshalltown, Iowa	September 12, 2000 12 noon
Schindler 130A University of Northern Iowa - 2 Hudson Rd. and 23rd St. Cedar Falls, Iowa	September 12, 2000 12 noon
Scott Community College - 1 500 Belmont Rd. Bettendorf, Iowa	September 12, 2000 12 noon
Kirkwood Community College - 2 6301 Kirkwood Blvd. NW Cedar Rapids, Iowa	September 12, 2000 12 noon
Heartland AEA 11 6500 Corporate Dr. Johnston, Iowa	September 12, 2000 12 noon
ICN Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 12 noon
East High School 5011 Mayhew Ave. Sioux City, Iowa	September 12, 2000 12 noon
Iowa Western Community College - 2 2700 College Rd. Council Bluffs, Iowa	September 12, 2000 12 noon
Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	September 12, 2000 12 noon
Indian Hills Community College - 3 651 Indian Hills Dr. Ottumwa, Iowa	September 12, 2000 12 noon
Southeastern Community College - 2 1015 S. Gear Ave. West Burlington, Iowa	September 12, 2000 12 noon
State Board Room—Second Floor Grimes State Office Bldg. Des Moines, Iowa	September 12, 2000 2 p.m.

**INSURANCE DIVISION[191]**

Accounting practices and procedures manual; annual statement instructions, 5.15 IAB 8/23/00 <b>ARC 0073B</b>	330 Maple St. Des Moines, Iowa	September 12, 2000 10 a.m.
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**IOWA FINANCE AUTHORITY[265]**

Low-income housing tax credits—compliance manual, 12.3, 12.4 IAB 8/23/00 <b>ARC 0062B</b>	Conference Room Suite 250 100 E. Grand Ave. Des Moines, Iowa	September 14, 2000 9 a.m.
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**MEDICAL EXAMINERS BOARD[653]**

Physician eligibility to supervise a physician assistant, ch 21 IAB 8/23/00 <b>ARC 0064B</b>	Suite C 400 SW 8th St. Des Moines, Iowa	September 14, 2000 3 p.m.
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**NATURAL RESOURCE COMMISSION[571]**

Fishing—method of take, 81.2(11) IAB 9/6/00 <b>ARC 0104B</b>	Dorothy Pecaut Nature Center Stone State Park Sioux City, Iowa	September 26, 2000 7 p.m.
	Teamster Union Hall 5000 J St. SW Cedar Rapids, Iowa	September 27, 2000 7 p.m.
	Room 100, Bennet Training Center Indian Hills Community College Ottumwa, Iowa	September 28, 2000 7 p.m.
	Fifth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	September 29, 2000 1 p.m.

**NURSING BOARD[655]**

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**PROFESSIONAL LICENSURE DIVISION[645]**

Waivers or variances from administrative rules, ch 18 IAB 8/9/00 <b>ARC 0043B</b>	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 6, 2000 1 to 3 p.m.
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**PROFESSIONAL LICENSURE DIVISION[645] (Cont'd)**

Barber examiners, 20.12, 20.101 to 20.105, 20.107 to 20.113, 20.200, 20.212, 20.214, ch 23 IAB 8/23/00 <b>ARC 0069B</b>	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 12, 2000 1:30 to 3:30 p.m.
Dietetic examiners, 80.1, 80.8, 80.100 to 80.108, 80.214, 80.220, ch 81 IAB 8/23/00 <b>ARC 0079B</b>	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 12, 2000 9 to 11 a.m.
Mortuary science examiners, 101.3 to 101.11, 101.98, 101.100 to 101.109, 101.200, 101.212 to 101.215, 101.300, ch 102 IAB 9/6/00 <b>ARC 0116B</b>	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	October 9, 2000 9 to 11 a.m.
Social work examiners, 280.1 to 280.4, 280.100 to 280.106, 280.212, 280.213, ch 281 IAB 9/6/00 <b>ARC 0115B</b>	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	September 26, 2000 9 to 11 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Fees for fire inspection; renewal of registration for aboveground petroleum storage tanks, 5.5, 5.307 IAB 7/26/00 <b>ARC 9990A</b> (See also <b>ARC 9989A</b> )	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 9:45 a.m.
Residential occupancies; bed and breakfast inns, 5.800 to 5.810, 5.820 IAB 7/12/00 <b>ARC 9970A</b>	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 9:30 a.m.
Sex offender registry, 8.303(2), 8.304(1) IAB 7/26/00 <b>ARC 9986A</b> (See also <b>ARC 9988A</b> )	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 11 a.m.
Elevators in new apartment buildings, 16.705(3) IAB 7/26/00 <b>ARC 9987A</b>	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 1:30 p.m.
Fire service training bureau, ch 53 IAB 7/12/00 <b>ARC 9964A</b> (See also <b>ARC 9968A</b> )	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 10 a.m.
Firefighter certification, ch 54 IAB 7/12/00 <b>ARC 9965A</b> (See also <b>ARC 9969A</b> )	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 10:15 a.m.
Volunteer emergency services provider death benefits, ch 59 IAB 7/12/00 <b>ARC 9966A</b> (See also <b>ARC 9967A</b> )	Conference Room—3rd Floor Wallace State Office Bldg. Des Moines, Iowa	September 8, 2000 10:30 a.m.

**RACING AND GAMING COMMISSION[491]**

Waivers; fair information practices; greyhound racing; gambling games; accounting and cash control, 1.8, 3.3(7); adopt chs 7, 11, 12; rescind chs 22, 24, 26 IAB 9/6/00 <b>ARC 0106B</b>	Suite B 717 E. Court Des Moines, Iowa	September 26, 2000 9 a.m.
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**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Registration fees for certified general and certified residential appraisers, 10.1 IAB 8/23/00 <b>ARC 0066B</b>	Conference Room Second Floor 1918 SE Hulsizer Ankeny, Iowa	September 12, 2000 9 a.m.
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**UTILITIES DIVISION[199]**

Self-generation, 15.1, 15.11(5) IAB 8/23/00 <b>ARC 0071B</b>	Board Hearing Room 350 Maple St. Des Moines, Iowa	September 27, 2000 10 a.m.
Disconnection and reconnection, 19.4(15), 20.4(15) IAB 8/23/00 <b>ARC 0072B</b> (See also <b>ARC 9717A</b> , IAB 3/8/00)	Board Hearing Room 350 Maple St. Des Moines, Iowa	October 5, 2000 10 a.m.

**WORKFORCE DEVELOPMENT DEPARTMENT[871]**

New Iowan centers, ch 14 IAB 8/23/00 <b>ARC 0056B</b> (See also <b>ARC 0057B</b> )	Room 104 150 Des Moines St. Des Moines, Iowa	September 12, 2000 9 to 11 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:

**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]

**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 Division[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]

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[301]**

**ELDER AFFAIRS DEPARTMENT[321]**

**EMPOWERMENT BOARD, IOWA[349]**

**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**

**EXECUTIVE COUNCIL[361]**

**FAIR BOARD[371]**

**GENERAL SERVICES DEPARTMENT[401]**

**HUMAN INVESTMENT COUNCIL[417]**

**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]

**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]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATIONAL AND COMMUNITY SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE AND FINANCE DEPARTMENT[701]  
    Lottery Division[705]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
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 COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
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 0110B****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 159.5(11), the Department of Agriculture and Land Stewardship gives Notice of Intended Action to rescind Chapter 23, “Dairy Trade Practices,” Iowa Administrative Code.

The purpose of this rule making is to eliminate a chapter of the Department’s administrative rules that is no longer necessary. The 2000 General Assembly enacted 2000 Iowa Acts, House File 2328, that repeals Iowa Code chapter 192A. Chapter 192A established the Department’s dairy trade practices program. As a result of the repeal of the program, there is no need for the Department’s rules intended to implement the program.

Any interested person may make written suggestions or comments on the proposed amendment prior to 4:30 p.m. on September 26, 2000. Such written material should be directed to Mary Jane Olney, Administrative Division Director, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by fax to (515)281-4282 or by E-mail to: [Mary.Jane.Olney@idals.state.ia.us](mailto:Mary.Jane.Olney@idals.state.ia.us).

This amendment is intended to implement Iowa Code section 159.5(11) and 2000 Iowa Acts, House File 2328.

The following amendment is proposed.

Rescind and reserve **21—Chapter 23**.

**ARC 0107B****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 sections 159.5(11) and 203C.5, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 90, “State Licensed Warehouses and Warehouse Operators,” Iowa Administrative Code.

These proposed rules allow warehouse operators to store corn in polyethylene bags or in a ground pile to accommodate the large corn harvests.

Current storage facilities are frequently inadequate to provide for the storage of corn, especially in a year in which a large harvest is anticipated. Therefore, temporary storage space is required. These proposed rules allow the Depart-

ment to approve and license temporary storage space under certain conditions.

Any interested person may make written suggestions or comments on the proposed rules on or before 4:30 p.m. on September 26, 2000. Such written materials should be directed to Donna Gwinn, Bureau Chief, Grain Warehouse Bureau, Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319, by fax to (515)281-6800, or by E-mail to: [Donna.Gwinn@idals.state.ia.us](mailto:Donna.Gwinn@idals.state.ia.us).

No waiver provision is included in these proposed rules because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to the new rules proposed in this filing.

These rules are being simultaneously Adopted and Filed Emergency and are published herein as **ARC 0108B**. The content of that submission is incorporated by reference.

These rules are intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

**ARC 0120B****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 11, “Certified School to Career Program,” Iowa Administrative Code.

The proposed amendments allow changes in program guidelines and program administration procedures and eliminate the role of the Department of Economic Development from joint program approval responsibilities (in conjunction with the Department of Education). In addition, the amendments modify the definition of “participant” and clarify the eligible paid employment periods.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on September 26, 2000. Interested persons may submit written or oral comments by contacting Michael Brown, Community and Rural Development Workforce Manager, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4783.

A public hearing to receive comments about the proposed amendments will be held on September 26, 2000, at 2 p.m. at the above address in the IDED Main Conference Room.

These amendments are intended to implement Iowa Code sections 15.362 and 15.363 as amended by 2000 Iowa Acts, House File 2179, and Iowa Code Supplement section 15.364 as amended by 2000 Iowa Acts, House File 2179.

The following amendments are proposed.

ITEM 1. Amend the parenthetical implementation in rules **261—11.1(77GA,ch1225)** through **261—11.4(77GA, ch1225)** by striking “(77GA,ch1225)” and inserting “(15)”.



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ITEM 2. Amend the definitions of "certified school to career program" and "participant" in rule 261—11.2(15) as follows:

"Certified school to career program" or "certified program" means a sequenced and articulated secondary and postsecondary program registered as an apprenticeship program under 29 CFR Subtitle A, Part 29, which is conducted pursuant to an agreement as provided in ~~1998 Iowa Acts, chapter 1225, section 18 Iowa Code Supplement section 15.364 as amended by 2000 Iowa Acts, House File 2179, or a~~ *an individual program of study developed jointly by a secondary school, postsecondary institution, and an employer approved by the state board of education, in conjunction with the department of economic development, as meeting that meets the standards enumerated in 1998 Iowa Acts, chapter 1225, section 17 Iowa Code section 15.363 as amended by 2000 Iowa Acts, House File 2179*, that integrates a secondary school curriculum with private sector job training which places students in job internships, which is designed to continue into postsecondary education that will result in new skills, add value to the wage-earning potential of participants and increase their long-term employability in the state, and which is conducted pursuant to an agreement as provided in ~~1998 Iowa Acts, chapter 1225, section 18 Iowa Code Supplement section 15.364 as amended by 2000 Iowa Acts, House File 2179.~~

"Participant" means an individual between the ages of 16 and 24 who is enrolled in a public or private secondary school or postsecondary institution and who initiated participation in a certified school to career program ~~as part of secondary school education no later than the start of the student's senior year of high school.~~

ITEM 3. Amend subrule 11.3(3) as follows:

**11.3(3)** Designation of a career field. A description of the career field in which the participant is to be trained and the beginning date and duration of the training *and employment* shall be included. The corresponding program of study that the participant plans to enter at the eligible postsecondary institution or through the registered apprenticeship program provider must also be designated.

ITEM 4. Amend subrule 11.3(5) as follows:

**11.3(5)** Employer's agreement to pay a base wage. The employer shall agree to provide paid employment, at a base wage, for the participant ~~during the summer months after the participant's junior and senior years in high school and after the participant's first year of postsecondary education beginning no earlier than the participant's junior year in high school and ending no later than the fall after the participant's second year of postsecondary education.~~

ITEM 5. Amend subrule 11.3(8) as follows:

**11.3(8)** ~~Additional amount to be held in an Employee Retirement Income Security Act (ERISA) fund to pay for postsecondary tuition. ERISA is described in Title 19 of the United States Code, Chapter 18. Additional amount to be held in trust for postsecondary tuition.~~

a. and b. No change.

c. This additional amount shall be held in trust by the employer for the benefit of the participant. Payment into an ERISA-approved fund for the benefit of the participant shall satisfy this requirement. *ERISA is described in Title 19 of the United States Code, Chapter 18.* The specific fund shall be specified in the agreement.

d. Payment of postsecondary tuition expenses from the *ERISA trust* fund established through this program shall be made directly to the postsecondary institution or registered

apprenticeship program provider unless otherwise designated in the certified program agreement.

e. The certified program work site agreement shall specify any tax implications that the participant may encounter as a result of the accumulation of ERISA funds.

ITEM 6. Amend subrule 11.3(10) by adopting **new** paragraph "g" as follows:

g. If the participant is unable to complete the two-year employment obligation because the employer did not afford the participant a two-year employment opportunity, the participant shall not be required to repay to the employer the amount paid by the employer toward the participant's postsecondary education expenses.

ITEM 7. Amend 261—Chapter 11, implementation clause, as follows:

These rules are intended to implement ~~1998 Iowa Acts, chapter 1225, sections 15 to 21 Iowa Code sections 15.362 and 15.363 as amended by 2000 Iowa Acts, House File 2179, and Iowa Code Supplement section 15.364 as amended by 2000 Iowa Acts, House File 2179.~~

## ARC 0121B

ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]Notice of Termination  
and  
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 15.104 and 15.106, the Iowa Department of Economic Development hereby terminates the Notice of Intended Action published as **ARC 0035B** in the August 9, 2000, Iowa Administrative Bulletin and hereby gives Notice of Intended Action to rescind Chapter 20, "Accelerated Career Education Program," and adopt a new Chapter 20, "Accelerated Career Education Program," Iowa Administrative Code.

The proposed new rules implement the Accelerated Career Education (ACE) Program as authorized by Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439, and 2000 Iowa Acts, Senate File 2453. The rules establish guidelines, application procedures, and evaluation criteria for the capital costs and program job credits components of the ACE program.

Public comments concerning the proposed new chapter will be accepted until 5 p.m. on September 26, 2000. Interested persons may submit written or oral comments by contacting Mike Fastenau, Business Finance, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4831.

A public hearing to receive comments about the proposed rules will be held on September 26, 2000, from 3 to 4:30 p.m. at the above address in the Workforce Development Conference Room on the first floor.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 0122B**. The content of that submission is incorporated by reference.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

These rules are intended to implement Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439, and 2000 Iowa Acts, Senate File 2453.

**ARC 0123B****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to amend Chapter 53, "Community Economic Betterment Program," and adopt a new Chapter 65, "Brownfield Redevelopment Program," Iowa Administrative Code.

The proposed chapter implements a new program authorized by 2000 Iowa Acts, House File 2423. The rules describe the purpose of the Brownfield Redevelopment Program, eligibility requirements, evaluation criteria, and the application process. The amendment to the CEBA program adds a rating criterion for remediation or redevelopment of a brownfield site.

Public comments concerning the proposed new chapter will be accepted until 4:30 p.m. on September 26, 2000. Interested persons may submit written or oral comments by contacting: Sharon Timmins, Division of Business Development, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515) 242-4901.

A public hearing to receive comments about the proposed new chapter will be held on September 26, 2000, at 1:30 p.m. at the above address in the Business Finance Conference Room on the first floor.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 0124B**. The content of that submission is incorporated by this reference.

These amendments are intended to implement 2000 Iowa Acts, House File 2423.

**ARC 0119B****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 211, "Recreation, Environment, Art and Cultural

Heritage Initiative (REACH)—Community Attraction and Tourism Development Program," Iowa Administrative Code.

The Vision Iowa Board approved the proposed amendments on August 9, 2000, and forwarded the amendments to the Iowa Department of Economic Development (IDED) to initiate rule making as provided in 2000 Iowa Acts, Senate File 2447, section 4.

Chapter 65 has been renumbered as Chapter 211 in **ARC 0125B** published herein (page 462). The proposed amendments to Chapter 211 update the current rules to incorporate the requirements of 2000 Iowa Acts, Senate File 2447. References to the Department are replaced with "Vision Iowa Board," citations are updated, and new evaluation criteria are added.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on Friday, September 29, 2000. Interested persons may submit written or oral comments by contacting Susan Judkins, Vision Iowa Program Coordinator, Vision Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4780.

Two public hearings have been scheduled over the Iowa Communications Network (ICN) to receive comments about the proposed amendments:

(1) Wednesday, September 27, 2000, 7 to 9 p.m., Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa. ICN remote locations that are scheduled to be connected for this hearing are:

Scott Community College  
Room 210  
500 Belmont Road  
Bettendorf

Great River AEA  
1200 University  
Burlington

DMACC Carroll Campus  
Room 144  
906 Grant Road  
Carroll

Kirkwood Community College  
Kirkwood Farm, Room 32A  
Cedar Rapids

Graphic Arts Technology Center  
Room 16  
1951 Manufacturing Drive  
Clinton

Educational Services Center Admin.  
12 Scott Street  
Council Bluffs

Southwestern Community College Technology Center  
Room 107  
1501 W. Townline Road  
Creston

Lakeland AEA  
Highway 18 and 2nd Street  
Cylinder

Arrowhead AEA  
Library Building, Room 204  
330 Avenue M  
Fort Dodge

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

Hudson High School  
245 S. Washington  
Hudson

Western Iowa Technical Community College  
Carpentry Room  
801 East 2nd  
Ida Grove

Turkey Valley High School  
3219 State Highway 24  
Jackson Junction

Iowa Valley Community College  
Room 2102  
3405 S. Center Street  
Marshalltown

Newman Catholic High School  
2445 19th Street SW  
Mason City

Southern Prairie AEA  
2814 N. Court Street  
Ottumwa

Sibley-Ocheyedan High School  
Room 128  
120 11th Avenue N.E.  
Sibley

(2) Friday, September 29, 2000, 10 a.m. to 12 noon, Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa. ICN remote locations that are scheduled to be connected for this hearing are:

Scott Community College  
Room 210  
500 Belmont Road  
Bettendorf

Carroll High School  
Room A169  
2809 N. Grant Road  
Carroll

Kirkwood Community College  
Linn Hall, Room 203B  
6301 Kirkwood Blvd. N.W.  
Cedar Rapids

Iowa Western Community College  
Looft Hall  
2700 College Road  
Council Bluffs

Southwestern Community College  
Technology Center, Room 107  
1501 W. Townline Road  
Creston

Decorah High School  
100 East Claiborne Drive  
Decorah

Keystone AEA  
2310 Chaney Road  
Dubuque

Estherville High School  
Room E-1  
1520 Central Avenue  
Estherville

Fort Dodge High School  
Room 12  
819 N. 25th Street  
Fort Dodge

Iowa Valley Community College  
Continuing Education Center, Room 527  
3702 S. Center Street  
Marshalltown

North Iowa Area Community College  
Careers Building, Room 129  
500 College Drive  
Mason City

Indian Hills Community College  
Video Conferencing and Training Center  
651 Indian Hills Drive  
Ottumwa

Northwest Iowa Community College  
Building D, Room 410  
603 W. Park Street  
Sheldon

Shenandoah High School  
Ed May Center  
1000 Mustang Drive  
Shenandoah

North High School  
4200 Cheyenne  
Sioux City

Hawkeye Community College  
Tama Hall, Room 110  
1501 E. Orange Road  
Waterloo

Southeastern Community College  
Ag Room 331  
1015 South Gear Avenue  
West Burlington

These amendments are intended to implement 2000 Iowa Acts, Senate File 2447.

The following amendments are proposed.

ITEM 1. Amend **261—Chapter 211**, title, as follows:

CHAPTER 211  
RECREATION, ENVIRONMENT, ART AND  
CULTURAL HERITAGE INITIATIVE (REACH)—  
COMMUNITY ATTRACTION AND TOURISM  
DEVELOPMENT PROGRAM

ITEM 2. Amend the parenthetical implementation in rules **261—211.1(78GA, HF772)** through **261—211.11(78GA, HF772)** by striking “(78GA, HF772)” and inserting “(78GA, SF2447)”.

ITEM 3. Amend 261—211.1(78GA, SF2447) as follows:

**261—211.1(78GA, SF2447) Purpose.** The community attraction and tourism development program, ~~a component of the recreation, environment, art and cultural heritage initiative (REACH),~~ is designed to assist communities in the de-

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

velopment and creation of multiple-purpose attraction and tourism facilities.

ITEM 4. Amend 261—211.2(78GA,SF2447) as follows:

**261—211.2(78GA,SF2447) Definitions.** When used in this chapter, unless the context otherwise requires:

~~“Activity” means one or more specific activities or projects assisted with community attraction and tourism development funds.~~

“Attraction” means a permanently located recreational, cultural, or entertainment activity, ~~or event~~ that is available to the general public.

“Board” means the vision Iowa board established by 2000 Iowa Acts, Senate File 2447, section 2.

“Community” or “political subdivision” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“Community attraction and tourism program review committee” or “CAT review committee” means the committee established by 2000 Iowa Acts, Senate File 2447, section 9, and identified as the following members of the vision Iowa board: the three members of the general public, one from each of the three tourism regions; the mayor of a city with a population of less than 20,000; and the county supervisor from a county that has a population ranking in the bottom 33 counties according to the 1990 census. The chair and vice chair of any subcommittee of the board.

“Department” or “IDED” means the Iowa department of economic development.

“Economic development organization” means an entity organized to position a community to take advantage of economic development opportunities and strengthen a community’s competitiveness as a place to work and live.

“Float loan” or “interim financing” means a short-term loan (maximum of 30 months) from obligated but unexpended funds.

“Fund” means the community attraction and tourism fund established pursuant to 1999 Iowa Acts, House File 772, section 3(2) 2000 Iowa Acts, Senate File 2447, section 7(1).

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“Local support” means endorsement by local individuals ~~or entities and organizations~~ that have a substantial interest in a project, particularly by those whose opposition or indifference would hinder the activity’s success.

“Nonfinancial support” may include, but is not limited to, the value of labor and services which may not total more than 25 percent of a local match. Real property and personal property donated for purposes of the project are considered financial support at their fair market value.

“Private organization” means a corporation, partnership, or other organization that is operated for profit.

“Program” means the community attraction and tourism program established in 2000 Iowa Acts, Senate File 2447, section 7(1).

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization that sponsors or supports including those that sponsor or support community or tourism attractions and activities.

“Recipient” means the entity under contract with ~~IDED~~ the vision Iowa board to receive community attraction and

tourism development funds and undertake the funded activity.

“Recreational and cultural attraction” means an attraction that enhances the quality of life in the community.

“School district” means a school corporation organized under Iowa Code chapter 274.

“Subrecipient” means a private organization or other entity operating under an agreement or contract with a recipient to carry out a funded community attraction and tourism development activity.

“Tourism opportunity” means a facility that draws people into the community from at least 50 miles (one way) away from home.

“Vertical infrastructure” means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails. “Vertical infrastructure” does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

ITEM 5. Amend 261—211.3(78GA,SF2447) as follows:

**261—211.3(78GA,SF2447) Program components and eligibility requirements.** There are ~~three~~ two direct components to the community attraction and tourism development program. The first component relates to community attraction, tourism or leisure activities projects that are sponsored by political subdivisions, and public organizations, and school districts in cooperation with a city or county. This component is referred to as the community attraction component. ~~The second component relates to the encouragement and creation of public-private partnerships for exploring the development of new community tourism and attraction activities. This component is referred to as the project development component. A third~~ The second component provides community attraction and tourism development funds for interim financing for eligible projects under the community attraction component. This component is referred to as the interim financing component.

**211.3(1)** Community attraction component. The objective of the community attraction component is to provide financial assistance for community-sponsored attraction and tourism activities projects. Community attraction projects may include but are not limited to the following: museums, theme parks, cultural and recreational centers, heritage attractions, sports arenas and other attractions.

**211.3(2)** Project development component. ~~The department, at its discretion, may also provide funding for project development related to proposed activities under this program. Project development assistance could be for the purpose of assisting in departmental evaluation of proposals, or could be one of the proposed activities in a funding request whose further project development could reasonably be expected to lead to an eligible community attraction and tourism development activity. Feasibility studies are eligible for assistance under this component.~~

**211.3(3) 211.3(2)** Interim financing component.

a. The objective of the community attraction and tourism development interim financing component is to provide short-term financial assistance for eligible community attraction and tourism activities projects. Financial assistance may be provided as a float loan. A float loan may only be made for activities projects that can provide the department vision Iowa board with an irrevocable letter of credit or equivalent security instrument from a lending institution rated AA or better, assignable to IDIED in an amount equal to or greater than the principal amount of the loan.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

b. Applications for float loans shall be processed, reviewed and considered on a first-come, first-served basis to the extent funds are available. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority. Applications for float loans shall meet all other criteria required for the community attraction component.

ITEM 6. Amend 261—211.4(78GA,SF2447) as follows:

**261—211.4(78GA,SF2447) Allocation of funds.**

**211.4(1)** Except as otherwise noted in this rule, all community attraction and tourism development funds shall be awarded for *activities projects* as specified in rule 211.3(78GA,SF2447).

~~**211.4(2)** IDEED may retain a portion of community attraction and tourism development funds for administrative costs associated with program implementation and operation. The percent of funds retained for administrative costs shall not exceed 1 percent in any year.~~

~~**211.4(3)** For the fiscal year beginning July 1, 1999, \$400,000 is allocated from the fund to be used to provide grants to up to three political subdivisions, in an amount not to exceed \$200,000 per grant. The purpose of the three grants is to study the feasibility and viability of developing and creating a multiple purpose attraction and tourism facility.~~

**211.4(2)** *One-third of the moneys shall be allocated to provide assistance to cities and counties which meet the following criteria:*

a. *A city which has a population of 10,000 or less according to the most recently published census.*

b. *A county which has a population that ranks in the bottom 33 counties according to the most recently published census.*

**211.4(3)** *Two-thirds of the moneys shall be allocated to provide assistance to any city and county in the state, which may include a city or county included under subrule 211.4(2).*

**211.4(4)** *If two or more cities or counties submit a joint project application for financial assistance under the program, all joint applicants must meet the criteria of subrule 211.4(2) in order to receive any moneys allocated under that subrule.*

**211.4(5)** *If any portion of the allocated moneys under subrule 211.4(2) has not been awarded by April 1 of the fiscal year for which the allocation is made, the portion which has not been awarded may be utilized by the vision Iowa board to provide financial assistance under the program to any city or county in the state.*

ITEM 7. Amend 261—211.5(78GA,SF2447), introductory paragraph, as follows:

**261—211.5(78GA,SF2447) Eligible applicants.** Eligible applicants for community attraction and tourism development funds include political subdivisions, and public organizations, and school districts in cooperation with a city or county.

ITEM 8. Amend 261—211.6(78GA,SF2447) as follows:

**261—211.6(78GA,SF2447) Eligible activities projects and forms of assistance—all components.**

**211.6(1)** Eligible *activities projects* include those which are related to a community or tourism attraction, and which would position a community to take advantage of economic development opportunities in tourism and strengthen a community's competitiveness as a place to work and live. Eligible *activities projects* include building construction or recon-

struction, rehabilitation, conversion, acquisition, demolition for the purpose of clearing lots for development, site improvement, equipment purchases, and other *activities projects* as may be deemed appropriate by ~~IDEED~~ *the vision Iowa board*.

**211.6(2)** Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, float loans under the interim financing component, interest subsidies, deferred payment loans, forgivable loans, loan guarantees, or other forms of assistance as may be approved by ~~IDEED~~ *the vision Iowa board*.

**211.6(3)** Financial assistance for an eligible *activity project* may be provided in the form of a multiyear award to be paid in increments over a period of years, subject to the availability of funds.

**211.6(4)** IDEED, *with the approval of the chair or vice chair of the vision Iowa board*, reserves the right to ~~negotiate the terms of an award~~ *make technical corrections that are within the intent of the terms of a board-approved award*.

**211.6(5)** ~~Recipients Applicants may use community attraction and tourism funds in conjunction with other sources of funding must report other sources of funding or pending funding, public or private, for the project~~ including the local recreation infrastructure grants program administered by the department of natural resources and the Iowa historic site preservation program administered by the department of cultural affairs. IDEED may consult with appropriate staff from the department of cultural affairs and the department of natural resources to coordinate the review of applications under the programs.

ITEM 9. Amend subrules 211.7(1) and 211.7(3) as follows:

**211.7(1)** The ~~department~~ *vision Iowa board* shall not approve an application for assistance under this program to re-finance an existing loan.

**211.7(3)** The ~~department~~ *vision Iowa board* shall not approve an application for assistance in which community attraction and tourism development funding would constitute more than 50 percent of the total project costs. A portion of the resources provided by the applicant for project costs may be in the form of in-kind or ~~noncash~~ *nonfinancial* contributions.

ITEM 10. Amend 261—211.8(78GA,SF2447) as follows:

**261—211.8(78GA,SF2447) Threshold application requirements.** To be considered for funding under the community attraction and tourism development program, an application must meet the following threshold requirements:

**211.8(1)** There must be demonstrated local support for the proposed activity.

**211.8(2)** A need for community attraction and tourism development program funds must exist after other financial resources have been identified for the proposed *activity project*.

~~**211.8(3)** Some portion of the~~ *The proposed activity project must primarily involve the creation or renovation of vertical infrastructure with demonstrated substantial regional or statewide economic impact.*

**211.8(4)** *The project must provide and pay at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.*

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

ITEM 11. Amend 261—211.9(78GA,SF2447) as follows:

**261—211.9(78GA,SF2447) Application review criteria.** Applications meeting the threshold requirements of rule 211.8(78GA,SF2447) will be reviewed by IDED staff and passed on to the vision Iowa board. IDED staff shall provide a review, analysis and evaluation of the applications to the CAT review committee of the vision Iowa board. The CAT review committee shall evaluate and rank applications based on the following criteria:

**211.9(1) Feasibility (0-25 points).** The feasibility of the existing or proposed facility to remain a viable enterprise (~~0-25 points~~). Rating factors for this criterion include, but are not limited to, the following: initial capitalization, project budget, financial projections, marketing analysis, marketing plan, management team, and operational plan. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

**211.9(2) Economic impact (0-25 points).** Number of jobs created and other ~~measure~~ measures of economic impact including long-term tax generation. The evaluation of the economic impact of a proposed activity shall also include a review of the wages, benefits, including health benefits, safety, and other attributes of the activity project that would improve the quality of attraction and tourism employment in the community. Additionally, the economic impact of an activity ~~may~~ the project shall also be reviewed based on the degree to which the activity project enhances the quality of life in a community and; increases the recreational and cultural attraction and tourism opportunities; contributes to the community's efforts to retain and attract a skilled workforce; and creatively uses existing resources in the community. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

**211.9(3) Leveraged activity (0-10 points).** The degree to which the facility or project will stimulate the development of other ~~community attraction and tourism activities~~ recreational and cultural attractions or tourism opportunities and enhance economic growth and job opportunities (~~0-25 points~~). In order to be eligible for funding, proposals must score at least 15 6 points on this rating factor.

**211.9(4) Geographic diversity.** The extent to which facilities are located in different regions of the state (~~0-10 points~~).

**211.9(5) 211.9(4) Local match Matching funds (0-25 points).** The proportion of local nonstate match to be contributed to the project, and the extent of public and private participation (~~0-15 points~~).

**211.9(5) Planning principles (0-10 points).** The extent to which the project has taken the following planning principles into consideration:

a. Efficient and effective use of land resources and existing infrastructure by encouraging development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land.

b. Provision for a variety of transportation choices, including pedestrian traffic.

c. Maintenance of unique sense of place by respecting local cultural, historical and natural environmental features.

d. Conservation of open space and farmland and preservation of critical environmental areas.

e. Promotion of the safety, livability, and revitalization of existing urban and rural communities.

**211.9(6) Technology and values (0-5 points).** Whether the project has taken the following into consideration:

a. Extent to which the project encourages technologies that allow for long-distance learning and Internet access to facility resources so that all Iowa communities may benefit from the development.

b. Extent to which the project enhances education, wellness (health), and breadth of the project to attract Iowans of all ages.

c. Extent to which facilities are nonsmoking.

A minimum score of 65 points is needed for a project to be recommended for funding.

ITEM 12. Amend 261—211.10(78GA,SF2447), introductory paragraph, as follows:

**261—211.10(78GA,SF2447) Application procedure.** Subject to availability of funds, applications are reviewed ~~and rated~~ by IDED staff on an ongoing basis and reviewed at least quarterly by the board. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. ~~The IDED staff may refer applications to the project development component, subject to the availability of funds. Recommendations~~ A review, analysis and evaluation from the IDED staff will be submitted to the director of the department the CAT review committee of the board who will then make a final recommendation to the complete board for final approval, denial or deferral. The vision Iowa board has the option to fund a component of a proposed project if the entire project does not qualify for funding.

ITEM 13. Amend 211.10(2) as follows:

**211.10(2)** IDED may provide technical assistance to applicants as necessary. IDED staff and board members may conduct on-site evaluations of proposed activities.

ITEM 14. Amend subrule 211.10(3) as follows:

**211.10(3)** A comprehensive business plan must accompany the application and shall include at least the following information: initial capitalization including a description of sources of funding, project budget, detailed financial projections for five years, marketing analysis, marketing plan, management team, and the operational plan that provides detailed information about how the proposed attraction will be operated and maintained including a time line for implementing the activity project. Additionally, applicants shall also provide the following information: the number of jobs to be created, and the wages and benefits associated with those jobs; direct measures of economic impact including long-term tax generation, but excluding the use of economic multipliers; a description of the current attraction and tourism employment opportunities in the community including information about wages, benefits and safety; and a description of how the activity project will enhance the quality of life in a community and contribute to the community's efforts to retain and attract a skilled workforce.

ITEM 15. Amend subrule 211.11(1) as follows:

**211.11(1)** Administration of awards.

a. A contract shall be executed between the recipient and ~~IED~~ the vision Iowa board. These rules and applicable state laws and regulations shall be part of the contract.

b. The recipient must execute and return the contract to ~~IED~~ the vision Iowa board within 45 days of transmittal of the final contract from ~~IED~~ the vision Iowa board. Failure to do so may be cause for ~~IED~~ the vision Iowa board to terminate the award.

c. Certain activities projects may require that permits or clearances be obtained from other state or local agencies be-

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

fore the ~~activity~~ project may proceed. Awards may be conditioned upon the timely completion of these requirements.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the ~~activity~~ project.

e. Awards may be conditioned upon IDED receipt and board approval of an implementation plan for the funded ~~activity~~ project.

ITEM 16. Amend subrule 211.11(5) as follows:

**211.11(5)** Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alteration of the funded ~~activities~~ project that change the scope, location, objectives or scale of the approved ~~activity~~ project. Amendments must be requested in writing by the recipient and are not considered valid until approved by the vision Iowa board and ~~approved~~ confirmed in writing by IDED following the procedure specified in the contract between the recipient and IDED.

ITEM 17. Amend subrule 211.11(8) as follows:

**211.11(8)** Remedies for noncompliance. At any time before contract closeout, ~~IDED the board~~ may, for cause, find that a recipient is not in compliance with the requirements of this program. At ~~IDED's the board's~~ discretion, remedies for noncompliance may include penalties up to and including the return of program funds to ~~IDED the board~~. Reasons for a finding of noncompliance include but are not limited to the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded ~~activities~~ projects in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved ~~activity~~ project in a timely manner.

ITEM 18. Amend **261—Chapter 211**, implementation clause, as follows:

These rules are intended to implement ~~1999 Iowa Acts, House File 772, section 3, subsection 2, and sections 23 and 24 2000 Iowa Acts, Senate File 2447.~~

Proposed new Chapter 212, "Vision Iowa Program," establishes program guidelines, describes application procedures, outlines review criteria, and provides information on program administration. Proposed new Chapter 213, "Vision Iowa Board: Uniform Waiver and Variance Rules," describes the procedures for applying for, issuing or denying waivers and variances from Vision Iowa Board rules.

Public comments concerning the proposed new chapters will be accepted until 4:30 p.m. on Friday, September 29, 2000. Interested persons may submit written or oral comments by contacting Susan Judkins, Vision Iowa Program Coordinator, Vision Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4780.

Two public hearings have been scheduled over the Iowa Communications Network (ICN) to receive comments about the proposed new rules:

(1) Wednesday, September 27, 2000, 7 to 9 p.m., Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa. ICN remote locations that are scheduled to be connected for this hearing are as follows:

Scott Community College  
Room 210  
500 Belmont Road  
Bettendorf

Great River AEA  
1200 University  
Burlington

DMACC Carroll Campus  
Room 144  
906 Grant Road  
Carroll

Kirkwood Community College  
Kirkwood Farm, Room 32A  
Cedar Rapids

Graphic Arts Technology Center  
Room 16  
1951 Manufacturing Drive  
Clinton

Educational Services Center Admin.  
12 Scott Street  
Council Bluffs

Southwestern Community College  
Technology Center, Room 107  
1501 W. Townline Road  
Creston

Lakeland AEA  
Highway 18 and 2nd Street  
Cylinder

Arrowhead AEA  
Library Building, Room 204  
330 Avenue M  
Fort Dodge

Hudson High School  
245 S. Washington  
Hudson

Western Iowa Technical Community College  
Carpentry Room  
801 East 2nd  
Ida Grove

**ARC 0118B**

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

**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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to adopt new Chapter 212, "Vision Iowa Program," and new Chapter 213, "Vision Iowa Board: Uniform Waiver and Variance Rules," Iowa Administrative Code.

The Vision Iowa Board approved the proposed rules on August 9, 2000, and forwarded the rules to the Iowa Department of Economic Development to initiate rule making as provided in 2000 Iowa Acts, Senate File 2447, section 4.



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Turkey Valley High School  
3219 State Highway 24  
Jackson Junction

Iowa Valley Community College  
Room 2102  
3405 S. Center Street  
Marshalltown

Newman Catholic High School  
2445 19th Street SW  
Mason City

Southern Prairie AEA  
2814 N. Court Street  
Ottumwa

Sibley-Ocheyedan High School  
Room 128  
120 11th Avenue N.E.  
Sibley

(2) Friday, September 29, 2000, 10 a.m. to 12 noon, Main Conference Room, Second Floor, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa. ICN remote locations that are scheduled to be connected for this hearing are as follows:

Scott Community College  
Room 210  
500 Belmont Road  
Bettendorf

Carroll High School  
Room A169  
2809 N. Grant Road  
Carroll

Kirkwood Community College  
Linn Hall, Room 203B  
6301 Kirkwood Blvd. N.W.  
Cedar Rapids

Iowa Western Community College  
Looft Hall  
2700 College Road  
Council Bluffs

Southwestern Community College  
Technology Center, Room 107  
1501 W. Townline Road  
Creston

Decorah High School  
100 East Claiborne Drive  
Decorah

Keystone AEA  
2310 Chaney Road  
Dubuque

Estherville High School  
Room E-1  
1520 Central Avenue  
Estherville

Fort Dodge High School  
Room 12  
819 N. 25th Street  
Fort Dodge

Iowa Valley Community College  
Continuing Education Center, Room 527  
3702 S. Center Street  
Marshalltown

North Iowa Area Community College  
Careers Building, Room 129  
500 College Drive  
Mason City

Indian Hills Community College  
Video Conferencing and Training Center  
651 Indian Hills Drive  
Ottumwa

Northwest Iowa Community College  
Building D, Room 410  
603 W. Park Street  
Sheldon

Shenandoah High School  
Ed May Center  
1000 Mustang Drive  
Shenandoah

North High School  
4200 Cheyenne  
Sioux City

Hawkeye Community College  
Tama Hall, Room 110  
1501 E. Orange Road  
Waterloo

Southeastern Community College  
Ag Room 331  
1015 South Gear Avenue  
West Burlington

These rules are intended to implement 2000 Iowa Acts, Senate File 2447.

The following amendments are proposed.

ITEM 1. Adopt the following new chapter:

CHAPTER 212  
VISION IOWA PROGRAM

**261—212.1(78GA,SF2447) Purpose.** The vision Iowa board is charged by the Iowa legislature and the governor with establishing, overseeing and providing approval of the administration of the vision Iowa program and the community attraction and tourism program of the state of Iowa. The board will encourage and support creative projects that enhance the lives of Iowans throughout the state, will encourage and support visionary thinking in cities and towns and counties of all sizes and in all areas, and will leverage state money as heavily as possible to attract funds for these projects from other sources. The vision Iowa board will support projects that build on Iowa's unique assets and values and expand the recreational, cultural and educational opportunities in the state.

**261—212.2(78GA,SF2447) Definitions.** When used in this chapter, the following definitions apply unless the context otherwise requires:

“Attraction” means a permanently located recreational, cultural, or entertainment activity that is available to the general public.

“Board” means the vision Iowa board as established in 2000 Iowa Acts, Senate File 2447.



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

“Department” or “IDED” means the Iowa department of economic development.

“Economic development organization” means an entity organized to position a community to take advantage of economic development opportunities and strengthen a community’s competitiveness as a place to work and live.

“Float loan” or “interim financing” means a short-term loan (maximum of 30 months) from obligated but unexpended funds.

“Fund” means the vision Iowa fund established pursuant to 2000 Iowa Acts, Senate File 2447, section 11(1).

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“Local support” means endorsement by local individuals and organizations that have a substantial interest in a project.

“Major tourism facility” means a project of at least \$20 million in scope that has substantial regional or statewide economic impact.

“Nonfinancial support” may include, but is not limited to, the value of labor and services which may not total more than 25 percent of a local match. Real property and personal property donated for purposes of the project are considered financial support at their fair market value.

“Political subdivision” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“Private organization” means a corporation, partnership, or other organization that is operated for profit.

“Program” means the vision Iowa program established in 2000 Iowa Acts, Senate File 2447.

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization including those that sponsor or support community or tourism attractions and activities.

“Recipient” means the entity under contract with the vision Iowa board to receive vision Iowa funds and undertake the funded project.

“School district” means a school corporation organized under Iowa Code chapter 274.

“Subrecipient” means a private organization or other entity operating under an agreement or contract with a recipient to carry out a funded vision Iowa project.

“Vertical infrastructure” means land acquisition and construction, major renovation and major repairs of buildings, all appurtenant structures, utilities, site development, and recreational trails. It does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

“Vision Iowa program review committee” means the committee established by 2000 Iowa Acts, Senate File 2447, and identified as the following members of the vision Iowa board: the four members of the general public, the mayor of a city with a population of 20,000 or more, the director of the Iowa department of economic development, the treasurer of state or designee, and the auditor of state or designee. The chair and vice chair of the vision Iowa board may serve as ex-officio members of any subcommittee of the board.

**261—212.3(78GA,SF2447) Allocation of funds.** Except as otherwise noted in 2000 Iowa Acts, Senate File 2447, all vision Iowa funds shall be awarded for projects as specified in Iowa Code section 12.72.

**261—212.4(78GA,SF2447) Eligible applicants.**

**212.4(1)** Eligible applicants for vision Iowa funds include political subdivisions, public organizations, and school districts in cooperation with a city or county.

**212.4(2)** Any eligible applicant may apply directly or on behalf of a subrecipient.

**212.4(3)** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

**261—212.5(78GA,SF2447) Eligible projects and forms of assistance.**

**212.5(1)** Eligible projects include those which are related to a major tourism facility which would position a community to take advantage of economic development opportunities in tourism and strengthen a community’s competitiveness as a place to work and live. Eligible projects include building construction or reconstruction, rehabilitation, conversion, acquisition, demolition for the purpose of clearing lots for development, site improvement, equipment purchases, and other projects as may be deemed appropriate by the vision Iowa board.

**212.5(2)** Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, interim financing, interest subsidies, deferred payment loans, forgivable loans, loan guarantees, float loans, or other forms of assistance as may be approved by the vision Iowa board.

**212.5(3)** Financial assistance for an eligible project may be provided in the form of a multiyear award to be paid in increments over a period of years, subject to the availability of funds.

**212.5(4)** IDED, with the approval of the chair and vice chair of the vision Iowa board, reserves the right to make technical corrections which are within the intent of the terms of a board-approved award.

**212.5(5)** Applicants must report other sources of funding or pending funding, public or private, for the project including the local recreation infrastructure grants program administered by the department of natural resources and the Iowa historic site preservation program administered by the department of cultural affairs. IDED may consult with appropriate staff from the department of cultural affairs and the department of natural resources to coordinate the review of applications under the programs.

**261—212.6(78GA,SF2447) Ineligible projects.** The board shall not approve an application for assistance under this program under any of the following circumstances:

1. To refinance an existing loan.
2. To fund a project that has previously received financial assistance under the vision Iowa program, unless the applicant demonstrates that the assistance would be used for a significant expansion of the project.
3. A project in which vision Iowa funding would constitute more than 50 percent of the total project costs. A portion of the resources provided by the applicant for project costs may be in the form of nonfinancial support.

**261—212.7(78GA,SF2447) Threshold application requirements.** To be considered for funding under the vision Iowa program, an application shall meet the following threshold requirements:

**212.7(1)** There must be demonstrated local support for the proposed project.

**212.7(2)** A need for vision Iowa program funds must exist after other financial resources have been identified for the proposed project.

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

**212.7(3)** The proposed project must primarily involve the creation or renovation of vertical infrastructure with demonstrated substantial regional or statewide economic impact.

**212.7(4)** The project must provide and pay at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.

**261—212.8(78GA,SF2447) Application review criteria.** Applications meeting the threshold requirements of rule 261—212.7(78GA,SF2447) will be reviewed by IDEED and passed on to the vision Iowa board. IDEED staff shall provide a review, analysis and evaluation of applications to the vision Iowa program review committee of the vision Iowa board. The vision Iowa program review committee shall evaluate and rank applications based on the following criteria:

**212.8(1) Feasibility (0-25 points).** The feasibility of the existing or proposed facility to remain a viable enterprise. Rating factors for this criterion include, but are not limited to, the following: initial capitalization, project budget, financial projections, marketing analysis, marketing plan, management team, and operational plan. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

**212.8(2) Economic impact (0-25 points).** Number of jobs created and other measures of economic impact including long-term tax generation. The evaluation of the economic impact of a proposed project shall also include a review of the wages, benefits, including health benefits, safety, and other attributes of the project that would improve the quality of employment in the community. Additionally, the economic impact of an project shall also be reviewed based on the degree to which the project enhances the quality of life in a region, increases diversity of projects available, contributes to the community's efforts to retain and attract a skilled workforce, and creatively uses existing resources in the community. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

**212.8(3) Leveraged activity (0-10 points).** The degree to which the facility or project will stimulate the development of other recreational and cultural attractions or tourism opportunities and enhance economic growth and job opportunities. The degree to which the facility or project is strategically aligned with other existing regional or statewide cultural, recreational, entertainment, or educational activities in the community. In order to be eligible for funding, proposals must score at least 6 points on this rating factor.

**212.8(4) Matching funds (0-25 points).** The proportion of local match to be contributed to the project, and the extent of public and private participation.

**212.8(5) Planning principles (0-10 points).** The extent to which the project has taken the following planning principles into consideration:

a. Efficient and effective use of land resources and existing infrastructure by encouraging development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land.

b. Provision for a variety of transportation choices, including pedestrian traffic.

c. Maintenance of unique sense of place by respecting local cultural, historical and natural environmental features.

d. Conservation of open space and farmland and preservation of critical environmental areas.

e. Promotion of the safety, livability, and revitalization of existing urban and rural communities.

**212.8(6) Technology and values (0-5 points).** Whether the project has taken the following into consideration:

a. Extent to which the project encourages technologies that allow for long distance learning and Internet access to facility resources so that all Iowa communities may benefit from the development.

b. Extent to which the project enhances education, wellness (health), and breadth of the project to attract Iowans of all ages.

c. Extent to which facilities are nonsmoking.

A minimum score of 65 points is required for a project to be recommended for funding.

**261—212.9(78GA,SF2447) Application procedure.**

**212.9(1)** Subject to availability of funds, applications will be reviewed by IDEED staff on an ongoing basis and reviewed at least quarterly by the board. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. A review, analysis and evaluation from the IDEED staff will be submitted to the vision Iowa program review committee of the board who will then make a final recommendation to the complete board for final approval, denial or deferral. The vision Iowa board has the option to fund a component of a proposed project if the entire project does not qualify for funding.

**212.9(2)** Application forms for vision Iowa are available upon request from IDEED, 200 East Grand Avenue, Des Moines, Iowa 50309.

**212.9(3)** IDEED may provide technical assistance as necessary to applicants. IDEED staff may conduct on-site evaluations of proposed projects.

**212.9(4)** A comprehensive business plan must accompany the application and shall include at least the following information: initial capitalization including a description of sources of funding, project budget, detailed financial projections for five years, marketing analysis, marketing plan, management team, and an operational plan that provides detailed information about how the proposed attraction will be operated and maintained including a time line for implementing the activity.

**212.9(5)** Applicants shall also provide the following information: the number of jobs to be created, and the wages and benefits associated with those jobs; direct measures of economic impact including long-term tax generation, but excluding the use of economic multipliers; a description of the current attraction and tourism employment opportunities in the community, including information about wages, benefits and safety; and a description of how the project will enhance the quality of other existing regional or statewide cultural, recreational, entertainment, and educational activities or employment in the community and a description of the long-term economic viability of the project, including projected revenues and expenses for five years.

**261—212.10(78GA,SF2447) Administration of awards.**

**212.10(1)** A contract shall be executed between the recipient and the vision Iowa board. These rules and applicable state laws and regulations shall be part of the contract.

**212.10(2)** The recipient must execute and return the contract to the vision Iowa board within 45 days of transmittal of the final contract from the vision Iowa board. Failure to do so may be cause for the vision Iowa board to terminate the award.

**212.10(3)** Certain projects may require that permits or clearances be obtained from other state or local agencies be-

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fore the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

**212.10(4)** Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

**212.10(5)** Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alteration of the funded projects that change the scope, location, objectives or scale of the approved project. Amendments must be requested in writing by the recipient and are not considered valid until approved by the vision Iowa board and confirmed in writing by IDED following the procedure specified in the contract between the recipient and the vision Iowa board.

These rules are intended to implement 2000 Iowa Acts, Senate File 2447.

ITEM 2. Adopt the following new chapter:

## CHAPTER 213

VISION IOWA BOARD: UNIFORM WAIVER  
AND VARIANCE RULES

**261—213.1(17A,ExecOrd11) Applicability.** This chapter outlines a uniform process for the granting of waivers or variances from rules adopted by the board. The intent of this chapter is to allow persons to seek exceptions to the application of rules issued by the board.

**213.1(1) Definitions.**

“Board” or “vision Iowa board” means the vision Iowa board established by 2000 Iowa Acts, Senate File 2447.

“Person” means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any legal entity.

“Waiver or variance” means an agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

**213.1(2) Authority.**

a. A waiver or variance from rules adopted by the board may be granted in accordance with this chapter if (1) the board has authority to promulgate the rule from which waiver or variance is requested or has final decision-making authority over a contested case in which a waiver or variance is requested; and (2) no statute or rule otherwise controls the grant of a waiver or variance from the rule from which waiver or variance is requested.

b. No waiver or variance may be granted from a requirement which is imposed by statute. Any waiver or variance must be consistent with statute.

**261—213.2(17A,ExecOrd11) Board discretion.** The decision on whether the circumstances justify the granting of a waiver or variance shall be made at the discretion of the board upon consideration of all relevant factors.

**213.2(1) Criteria for waiver or variance.** The board may, in response to a completed petition or on its own motion, grant a waiver or variance from a rule, in whole or in part, as applied to the circumstances of a specified situation if the board finds each of the following:

a. Application of the rule to the person at issue would result in hardship or injustice to that person; and

b. Waiver or variance on the basis of the particular circumstances relative to that specified person would be consistent with the public interest; and

c. Waiver or variance in the specific case would not prejudice the substantial legal rights of any person; and

d. Where applicable, substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or variance is requested.

In determining whether waiver or variance should be granted, the board shall consider whether the underlying public interest policies and legislative intent of the rules are substantially equivalent to full compliance with the rule. When the rule from which a waiver or variance is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all licensees, grantees and constituents.

**213.2(2) Special waiver or variance rules not precluded.** These uniform waiver and variance rules shall not preclude the board from granting waivers or variances in other contexts or on the basis of other standards if a statute or other board rule authorizes the board to do so, and the board deems it appropriate to do so.

**261—213.3(17A,ExecOrd11) Requester's responsibilities in filing a waiver or variance petition.**

**213.3(1) Application.** All petitions for waiver or variance must be submitted in writing to the Vision Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

**213.3(2) Content of petition.** A petition for waiver or variance shall include the following information where applicable and known to the requester (for an example of a petition for waiver or variance, see Exhibit A at the end of this chapter):

a. A description and citation of the specific rule from which a waiver or variance is requested.

b. The specific waiver or variance requested, including the precise scope and operative period that the waiver or variance will extend.

c. The relevant facts that the petitioner believes would justify a waiver or variance.

d. A signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver or variance.

e. A history of any prior contacts between the board and the petitioner relating to the regulated activity, license, grant, loan or other financial assistance affected by the proposed waiver or variance, including a description of each affected license, grant, loan or other financial assistance held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, grant or loan within the last five years.

f. Any information known to the requester regarding the board's treatment of similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver or variance.

h. The name, address, and telephone number of any person or entity who would be adversely affected by the grant of a petition.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver or variance.

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j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver or variance.

**213.3(3) Burden of persuasion.** When a petition is filed for a waiver or variance from a board rule, the burden of persuasion shall be on the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant petitioner a waiver or variance.

**261—213.4(17A,ExecOrd11) Notice.** The board shall acknowledge a petition upon receipt. The board shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the board attesting that notice has been provided.

**261—213.5(17A,ExecOrd11) Board responsibilities regarding petition for waiver or variance.**

**213.5(1) Additional information.** Prior to issuing an order granting or denying a waiver or variance, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board's designee, a committee of the board, or a quorum of the board.

**213.5(2) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (a) to any petition for a waiver or variance of rule filed within a contested case; (b) when the board so provides by rule or order; or (c) when a statute so requires.

**213.5(3) Ruling.** An order granting or denying a waiver or variance shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

**213.5(4) Conditions.** The board may condition the grant of the waiver or variance on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

**213.5(5) Time for ruling.** The board shall grant or deny a petition for a waiver or variance as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**213.5(6) When deemed denied.** Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board.

**213.5(7) Service of order.** Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains, and to any other person entitled to such notice by any provision of law.

**261—213.6(17A,ExecOrd11) Public availability.** Subject to the provisions of Iowa Code section 17A.3(1)"e," the board shall maintain a record of all orders granting or denying waivers and variances under this chapter. All final rulings in response to requests for waivers or variances shall be indexed

and available to members of the public at the Vision Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819.

**261—213.7(17A,ExecOrd11) Voiding or cancellation.** A waiver or variance is void if the material facts upon which the request is based are not true or if material facts have been withheld. The board may at any time cancel a waiver or variance upon appropriate notice if the board finds that the facts as stated in the request are not true, material facts have been withheld, the alternative means of compliance provided in the waiver or variance have failed to achieve the objectives of the statute, or the requester has failed to comply with the conditions of the order.

**261—213.8(17A,ExecOrd11) Violations.** Violation of conditions in the waiver or variance approval is the equivalent of violation of the particular rule for which the waiver or variance is granted and is subject to the same remedies or penalties.

**261—213.9(17A,ExecOrd11) Defense.** After the board issues an order granting a waiver or variance, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

**261—213.10(17A,ExecOrd11) Appeals.** Granting or denying a request for waiver or variance is final agency action under Iowa Code chapter 17A. An appeal to district court shall be taken within 30 days of the issuance of the ruling in response to the request unless a contrary time is provided by rule or statute.

Exhibit A  
Sample Petition (Request) for Waiver/Variance

BEFORE THE VISION IOWA BOARD

Petition by (insert name of petitioner) for the waiver of (insert rule citation) relating to (insert the subject matter).



PETITION FOR WAIVER

Requests for waiver or variance from a board rule shall include the following information in the petition for waiver or variance where applicable and known:

- a. Provide the petitioner's (person asking for a waiver or variance) name, address, and telephone number.
- b. Describe and cite the specific rule from which a waiver or variance is requested.
- c. Describe the specific waiver or variance requested; include the exact scope and time period that the waiver or variance will extend.
- d. Explain the important facts that the petitioner believes justify a waiver or variance. Include in your answer why (1) applying the rule will result in hardship or injustice to the petitioner; and (2) granting a waiver or variance to the petitioner is consistent with the public interest; and (3) granting the waiver or variance will not prejudice the substantial legal rights of any person; and (4) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or variance is requested.
- e. Provide history of prior contacts between the board and petitioner relating to the regulated activity, license, grant, loan or other financial assistance that would be af-

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ected by the waiver or variance; include a description of each affected license, grant, loan or other financial assistance held by the petitioner, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, grant or loan within the last five years.

f. Provide information known to the petitioner regarding the board's treatment of similar cases.

g. Provide the name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver or variance.

h. Provide the name, address, and telephone number of any person or entity who would be adversely affected or disadvantaged by the grant of the waiver or variance.

i. Provide the name, address, and telephone number of any person with knowledge of the relevant or important facts relating to the requested waiver or variance.

j. Provide signed releases of information authorizing persons with knowledge regarding the request to furnish the board with information relevant to the waiver or variance.

I hereby attest to the accuracy and truthfulness of the above information.

\_\_\_\_\_  
Petitioner's signature

\_\_\_\_\_  
Date

Petitioner should note the following when requesting or petitioning for a waiver or variance:

1. The petitioner has the burden of proving, by clear and convincing evidence, the following to the board: (a) application of the rule to the petitioner would result in hardship or injustice to the petitioner; and (b) waiver or variance on the basis of the particular circumstances relative to the petitioner would be consistent with the public interest; and (c) waiver or variance in the specific case would not prejudice the substantial legal rights of any person; and (d) where applicable, how substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver or variance is requested.

2. The board may request additional information from or request an informal meeting with the petitioner prior to issuing a ruling granting or denying a request for waiver or variance.

3. All petitions for waiver or variance must be submitted in writing to the Vision Iowa Board, 200 East Grand Avenue, Des Moines, Iowa 50309-1819. If the petition relates to a pending contested case, a copy of the petition shall also be filed in the contested case proceeding.

These rules are intended to implement Executive Order Number 11, Iowa Code chapter 17A, and 2000 Iowa Acts, Senate File 2447.

ARC 0086B

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 182, “Family-Centered Services,” and Chapter 185, “Rehabilitative Treatment Services,” appearing in the Iowa Administrative Code.

These amendments allow children who are in out-of-home placement where family reunification is not the case plan goal to continue to receive rehabilitative treatment and supportive services such as day treatment from a family-centered provider without regard to income. Services may be continued if the services for the child are determined by the referral worker to be necessary in order to maintain the child's productive relationship with a previous provider, to provide a type of service program not available under the out-of-home placement program, or to maintain the child's permanent placement.

No fiscal impact is anticipated as these services are currently being provided on an exception-to-policy basis. Over 120 exceptions have been requested over the past year. These amendments will allow greater ease of service access for clients and for juvenile courts working to develop family service plans.

These amendments do not provide for waivers in specified situations because these changes actually provide greater access to family-centered services for children and families and eliminate the need for policy exceptions to be requested to receive these services.

Consideration will be given to all written data, views, and arguments thereto received by the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, Des Moines, Iowa 50319-0114, on or before September 27, 2000.

These amendments are intended to implement Iowa Code sections 234.6 and 234.38.

The following amendments are proposed.

ITEM 1. Amend subrule **182.2(1)**, paragraph “b,” as follows:

b. Children are in out-of-home placement, family reunification is the case plan, and services for the children and their families are necessary to achieve this goal *or family reunification is not the case plan goal but services for the child from a family-centered provider are determined by the referral worker to be necessary in order to maintain the child's productive relationship with a previous provider, to provide a type of service program not available under the out-of-home placement program, or to maintain the child's permanent placement.*

ITEM 2. Amend **441—Chapter 185, Division II, Family-Centered Program, Preamble**, first paragraph, as follows:

Family-centered services provide assistance to *children and their families* to prevent and alleviate child abuse and

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

neglect, to prevent and alleviate delinquency, to prevent out-of-home child placements, to reunite families that have had children placed outside the home, *to promote service continuity or provide specialized service programs as necessary for children placed in out-of-home care when reunification is not the case plan goal*, and to maintain family reunification or other alternative permanent placement after a child has been returned to the family or placed in a permanent setting after an out-of-home placement. ~~These services promote family self-sufficiency by providing temporary assistance that permits and encourages parents to keep or gain a responsible level of control over their family's activities and their role in the community.~~

## INSURANCE DIVISION[191]

### Notice of Public Hearings

Pursuant to Executive Order Number 8, the Insurance Division hereby gives Notice of Public Hearings concerning the review of all administrative rules within its jurisdiction. As part of this review process, the Division shall conduct a series of public hearings to receive comments of interested individuals or parties. These hearings are for the sole purpose of receiving comments on existing administrative rules. The following hearings are scheduled:

1. Securities - Iowa Code chapter 502.  
Monday, October 30, 2000, 10 a.m.  
Insurance Division Lobby Conference Room, 330 Maple Street, Des Moines, Iowa 50319-0065.  
Contact Person: Craig A. Goetsch, Superintendent of Securities.
2. Regulated Industries Unit - Iowa Code chapters 523A, 523B, 523C, 523D, 523E, 523I, 566A.  
Monday, October 30, 2000, 1 p.m.  
Insurance Division Lobby Conference Room, 330 Maple Street, Des Moines, Iowa 50319-0065.  
Contact Person: Dennis Britson, Regulated Industries Unit Director.

For further information on these hearings, please call the named contact person at (515)281-5705.

## ARC 0104B

## NATURAL RESOURCE COMMISSION[571]

### 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 subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 81, "Fishing Regulations," Iowa Administrative Code.

The proposed amendment provides for the taking of designated fish by hand, snagging, spearing, bow and arrow, and artificial light in designated areas.

Any interested person may make written suggestions or comments on the proposed amendment on or before October 6, 2000. Such written materials should be directed to Marion Conover, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Fisheries Bureau at (515)281-5208 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be four public hearings as follows:

- September 26, 2000, 7 p.m., Dorothy Pecaut Nature Center, Stone State Park, Sioux City;
- September 27, 2000, 7 p.m., Teamster Union Hall, 5000 J St. S.W., Cedar Rapids;
- September 28, 2000, 7 p.m., Indian Hills Community College, Bennet Training Center, Room 100, Ottumwa; and
- September 29, 2000, 1 p.m., Fifth Floor Conference Room, Wallace State Office Building, Des Moines.

At the public hearings, persons may present their views either orally or in writing. At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements such as hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67 and 481A.76.

The following amendment is proposed.

Amend rule 571—81.2(571) by adopting the following **new** subrule:

**81.2(11) Method of take.** Artificial light may be used in the taking of any fish. The following species of fish may be taken by hand fishing, snagging, spearing, and bow and arrow: common carp, bighead carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback carpsucker, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, sheepshead, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. A fish is foul hooked when caught by a hook in an area other than in the fish's mouth. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of foul hooking fish. Exceptions to snagging as a method of take are as follows:

- a. Missouri River – Snagging is allowed only from July 1 through September 30.
- b. Big Sioux River from I-29 bridge to the confluence with the Missouri River – Snagging is allowed only from July 1 through September 30.
- c. No snagging is permitted in the following areas:
  - (1) Des Moines River from directly below Saylorville Dam to the Southeast 14th Street bridge in Des Moines.
  - (2) Cedar River in Cedar Rapids from directly below the 5 in 1 Dam under I-380 to the 1st Avenue bridge.
  - (3) Cedar River in Cedar Rapids from directly below the "C" Street Roller Dam to 300 yards downstream.
  - (4) Iowa River from directly below the Coralville Dam to 300 yards downstream.

## NATURAL RESOURCE COMMISSION[571](cont'd)

(5) Chariton River from directly below Lake Rathbun Dam to 300 yards downstream.

(6) Spillway area from directly below the Spirit Lake outlet to the confluence at East Okoboji Lake.

**ARC 0116B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby gives Notice of Intended Action to amend Chapter 101, "Board of Mortuary Science Examiners," and to adopt new Chapter 102, "Continuing Education for Mortuary Science," Iowa Administrative Code.

The proposed amendments rescind the current continuing education rules; renumber the rules regarding grounds for discipline, reinstatement of lapsed license, inactive practitioners, fees, method of discipline, disciplinary proceedings and peer review committees; amend endorsement language and fees; adopt a new continuing education chapter; and adopt rules for student practicums as enacted in 2000 Iowa Acts, Senate File 2302, section 42.

Any interested person may make written comments on the proposed amendments no later than October 9, 2000, addressed to Rosalie Steele, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The Division revised these rules according to Executive Order Number 8. The Division sent nine letters to the public for comment, and two letters were received in return. Division staff also had input on these rules. The comments received were discussed by the Board and decisions were based on need, clarity, intent and statutory authority, cost and fairness.

A public hearing will be held on October 9, 2000, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code section 147.76 and chapter 272C and 2000 Iowa Acts, Senate File 2302, section 42.

The following amendments are proposed.

ITEM 1. Adopt new paragraph 101.3(1)"I" as follows:

1. The intern shall, during the internship, be a full-time employee with the funeral establishment at the site of internship.

ITEM 2. Rescind rule 645—101.5(272C) and renumber rule 645—101.4(147,156) as 645—101.5(146,156) and adopt new rule 645—101.4(156) as follows:

**645—101.4(156) Student practicum.**

101.4(1) Application. The applicant shall:

a. Apply to the board for a student practicum on forms provided by the board;

b. Request a letter that shall be sent directly from the student's school, accredited by and in good standing with the American Board of Funeral Service Education, to the board regarding the student's current status and length of practicum; and

c. Pay the fee for student practicum as listed in 645—101.6(147).

101.4(2) No licensed funeral director shall permit any person, in the funeral director's employ or under the funeral director's supervision or control, to serve a student practicum in funeral directing unless that person has a certificate of practicum approved by the board of mortuary science examiners as an Iowa registered practicum student.

101.4(3) Every person who is registered for a student practicum with the board of mortuary science examiners shall have a registration certificate posted in a conspicuous public place in the practicum student's site of practicum.

101.4(4) The practicum student shall serve the practicum in Iowa under the direct physical supervision of the assigned practicum supervisor who has had current preceptor training.

101.4(5) The practicum student shall be under the direct physical supervision of an Iowa licensed funeral director and serve in an Iowa licensed funeral establishment.

101.4(6) No licensed funeral director or licensed funeral establishment shall have more than one practicum student for the first 100 human remains embalmed or funerals conducted per year, with a maximum of two practicum students per funeral establishment.

101.4(7) Practicum students shall not advertise or present themselves as funeral directors.

101.4(8) The student practicum begins upon approval and due notification by the board. The board shall be notified in writing of any change of practicum supervisor or any other alteration, and approval shall be granted by the board before the status of the student practicum is altered.

101.4(9) The length of the student practicum shall be determined by the the student's school.

101.4(10) The practicum student may, during the practicum, embalm human remains in the physical presence of the practicum supervisor and direct or assist in directing funerals under the direct supervision of the practicum supervisor.

ITEM 3. Amend renumbered subrule 101.5(4) as follows:

101.5(4) All applicants for endorsement licenses shall hold original license in good standing obtained upon examination in the state from which the endorsement was received. The examination shall have covered substantially the same subjects in which an examination is required in Iowa, showing the applicant has attained a passing grade. Applicants licensed before 1980 are exempt from showing a passing grade on ~~an~~ *the national board* examination. The applicant shall have met the educational requirements of the state of Iowa for a funeral director.

ITEM 4. Rescind rule 645—101.6(147) and renumber rule 645—101.98(147) as 645—101.6(147,272C).

ITEM 5. Amend renumbered subrule 101.6(3) as follows:

101.6(3) Fee for renewal of a funeral director's license for a biennial period is \$100. ~~Biennial renewal fee for a license to practice mortuary science for the 1999 renewal cycle only is as follows:~~



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

Birth Month	Prorated Fee
July 1999	\$100
August 1999	\$104
September 1999	\$108
October 1999	\$112
November 1999	\$117
December 1999	\$121
January 2000	\$125
February 2000	\$129
March 2000	\$133
April 2000	\$137
May 2000	\$142
June 2000	\$146

ITEM 6. Adopt **new** subrule 101.6(16) as follows:

**101.6(16)** Fee for student practicum is \$25.

ITEM 7. Rescind and reserve rules **645—101.100(147)** through **645—101.106(272C)**.

ITEM 8. Rescind rule **645—101.107(272C)** and renumber rule **645—101.200(272C)** as **645—101.7(272C)**.

ITEM 9. Renumber rules **645—101.212(272C)** through **645—101.215(272C)** as **645—101.8(272C)** through **645—101.11(272C)**.

ITEM 10. Rescind and reserve rule **645—101.300(21)**.

ITEM 11. Adopt **new** 645—Chapter 102 as follows:

CHAPTER 102  
CONTINUING EDUCATION  
FOR MORTUARY SCIENCE

**645—102.1(272C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“Active license” means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

“Administrator” means the administrator of the board of mortuary science examiners.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules, which has received advance approval by the board pursuant to these rules.

“Approved sponsor” means a person or an organization sponsoring continuing education activities, that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person may be deemed automatically approved.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing provider requirements during a specified time period.

“Board” means the board of mortuary science examiners.

“Continuing education” means planned, organized learning acts designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Direct supervision” means under the direction and immediate supervision of a licensed funeral director.

“Full-time” means a minimum of a 35-hour work week.

“Hour of continuing education” means a clock hour spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“Inactive license” means the license of a person who is not in practice in the state of Iowa.

“Lapsed license” means a license that a person has failed to renew as required, or the license of a person who failed to meet stated obligations within a stated time.

“License” means license to practice.

“Licensee” means any person licensed to practice as a funeral director in the state of Iowa.

**645—102.2(272C) Continuing education requirements.**

**102.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on the fifteenth day of the licensee’s birth month and ending on the fifteenth day of the licensee’s birth month. Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 24 hours of continuing education approved by the board.

**102.2(2)** Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

**102.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must meet the requirements herein pursuant to statutory provisions and the rules that implement them.

**102.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

**102.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—102.3(272C) Standards for approval.**

**102.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters.

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date(s), location, course title, presenter(s);

(2) Numbers of program contact hours. (One contact hour equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor.

**102.3(2)** Specific criteria.



PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. The following categories of continuing education activity are accepted:

(1) Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.

(2) Business management: accounting, funeral home management and merchandising, computer application, funeral directing, and small business management.

(3) Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, and philosophy.

(4) Legal, ethical, regulatory: mortuary law; business law; ethics; Federal Trade Commission, OSHA, ADA, and EPA regulations; preneed regulation; social services; veterans affairs benefits; insurance; state and county benefits; legislative concerns.

b. Academic coursework that meets the criteria set forth in the rules is accepted. Continuing education credit equivalents are as follows:

1 academic semester hour = 10 continuing education hours

1 academic trimester hour = 8 continuing education hours

1 academic quarter hour = 7 continuing education hours

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

c. Attendance at or participation in a program or course which is offered or sponsored by an approved continuing education sponsor.

d. Self-study, including television viewing, Internet, video- or sound-recorded programs, or correspondence work, or by other similar means as authorized by the board. Self-study credits must be accompanied by a certificate from the sponsoring organization that indicates successful completion of the test.

e. Presentations of a structured continuing education program or a college course that meets the criteria established in standards for approval may receive 1.5 times the number of hours granted the attendees. These hours shall be granted only once per biennium for identical presentations.

**645—102.4(272C) Approval of sponsors, programs, and activities on continuing education.**

**102.4(1) Approval of sponsors.** An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

a. The form shall include:

(1) Date(s), location, course title(s) offered and outline of content;

(2) Total hours of instruction to be presented;

(3) Names and qualifications of instructors including résumés or vitae; and

(4) Evaluation form(s).

b. Records shall be retained by the sponsor for four years.

c. Attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance to the licensee providing the following information:

(1) Program date(s);

(2) Course title and presenter;

(3) Location;

(4) Number of clock hours attended and continuing education hours earned;

(5) Name of sponsor and sponsor number (if applicable);

(6) Licensee's name; and

(7) Method of presentation.

d. All approved sponsors shall maintain a copy of the following:

(1) The continuing education activity;

(2) List of enrolled licensees' names and license numbers; and

(3) Number of continuing education clock hours awarded for a minimum of four years from the date of the continuing education activity.

e. The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include:

(1) Date(s), location, course title(s) offered and outline of content;

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumés or vitae;

(4) Evaluation form(s); and

(5) A summary of the evaluations completed by the licensees.

**102.4(2) Prior approval of programs/activities.** An organization or person other than an approved sponsor that desires prior approval of a course, program or other education activity or that desires to establish approval of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

a. The date(s);

b. Course(s) offered;

c. Course outline;

d. Total hours of instruction; and

e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

**102.4(3) Review of programs.** Continuing education programs/activities shall be reported every year at the designated time as assigned by the board. Written notice of sponsor status will be sent by the board. The board may at any time reevaluate an approved sponsor. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

**102.4(4) Postapproval of activities.** A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

a. The date(s);

b. Course(s) offered;

c. Course outline;

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

- d. Total hours of instruction and credit hours requested;
- e. Names and qualifications of speakers and other pertinent information;
- f. Request for credit which includes a brief summary of the activity; and
- g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

**102.4(5) Voluntary relinquishment.** The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

**645—102.5(272C) Reporting continuing education by licensee.** At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

**102.5(1)** The information on the form shall include:

- a. Title of continuing education activity;
- b. Date(s);
- c. Sponsor of the activity;
- d. Board-approved sponsor number;
- e. Number of continuing education hours earned; and
- f. Teaching method used.

**102.5(2) Audit of continuing education report.** After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

- a. The board will select licensees to be audited.
- b. The licensee shall make available to the board for auditing purposes a certificate of attendance or verification for all reported activities that includes the following information:

- (1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;
- (2) Number of contact hours for program attended; and
- (3) Certificate of attendance or verification indicating successful completion of the course.

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

**645—102.6(272C) Reinstatement of lapsed license.** Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows the license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse must apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

- 1. Submits a written application for reinstatement to the board;

- 2. Pays all of the renewal, penalty and reinstatement fees then due;

- 3. Provides evidence of satisfactory completion of continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 24 by the number of bienniums since the license lapsed not to exceed 72 hours; and

- 4. Successfully passes the state law and rules examination with a score of at least 75 percent.

**645—102.7(272C) Continuing education waiver for active practitioners.** A funeral director licensed to practice as a funeral director shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing funeral director.

**645—102.8(272C) Continuing education waiver for inactive practitioners.** A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of continuing education compliance and obtain a certificate of waiver upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after waiver. The application for a certificate of waiver shall be submitted upon forms provided by the board.

**645—102.9(272C) Continuing education waiver for disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant a waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—102.10(272C) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of waiver shall, prior to engaging in the practice of mortuary science in the state of Iowa, satisfy the following requirements for reinstatement.

**102.10(1)** Submit written application for reinstatement to the board upon forms provided by the board;

**102.10(2)** Submit payment of the examination fee and reinstatement fee; and

**102.10(3)** Furnish in the application evidence of one of the following:

- a. Full-time practice of mortuary science in another state of the United States or the District of Columbia and completion of continuing education for each biennium of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

- b. Completion of 24 hours of board-approved continuing education.

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

**102.10(4)** Furnish evidence of successful completion of the state law and rules examination with a score of at least 75 percent correct conducted within one year immediately prior to the submission of the application for reinstatement.

**645—102.11(272C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 156.

**ARC 0115B****PROFESSIONAL LICENSURE  
DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners hereby gives Notice of Intended Action to amend Chapter 280, "Board of Social Work Examiners," and to adopt new Chapter 281, "Continuing Education for Social Workers," Iowa Administrative Code.

The proposed amendments rescind the current continuing education rules; rescind and amend definitions; renumber the rules regarding grounds for discipline and rules of conduct; amend rules for the examination process, association name and master's level criteria; and adopt a new chapter for continuing education.

Any interested person may make written comments on the proposed amendments no later than September 26, 2000, addressed to Rosalie Steele, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

The Division revised these rules according to Executive Order Number 8. The Division sent 11 letters to the public for comment and 4 letters were received in return. Division staff also had input on these rules. The comments received were discussed by the Board and decisions were based on need, clarity, intent and statutory authority, cost and fairness.

A public hearing will be held on September 26, 2000, from 9 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code section 147.76 and chapter 272C.

The following amendments are proposed.

ITEM 1. Amend rule **645—280.1(154C)**, definition of "AASSWB," as follows:

"AASSWB" "ASWB" means the American Association of State Social Work Boards.

ITEM 2. Amend rule **645—280.1(154C)** by rescinding the definition of "hour."

ITEM 3. Amend subrule 280.2(2) as follows:

**280.2(2)** A chairperson, vice chairperson and secretary to the board, and delegate and alternate delegate to American Association of State Social Work Boards (AASSWB) (ASWB) shall be elected at the first meeting after April 30 of each year.

ITEM 4. Amend paragraph **280.3(1)"b"** as follows:

b. Has passed the basic level examination of the AASSWB ASWB.

ITEM 5. Amend paragraph **280.3(2)"b"** as follows:

b. Has passed the intermediate level examination of the AASSWB ASWB.

ITEM 6. Amend paragraphs **280.3(3)"b"** and **280.3(3)"d"** as follows:

b. Has passed the clinical level examination of the AASSWB ASWB.

d. Has engaged in the practice of social work at the master's level, under supervision for at least two years as a full-time employee or completion, under supervision, of 4000 hours of part-time employment after the granting of the master's or doctoral degree in social work.

ITEM 7. Amend subrules 280.4(1) and 280.4(2) as follows:

**280.4(1)** Any person seeking a license shall complete and submit to the board a completed application form, which is provided by the board, to the board office no later than 45 days prior to the date of the electronic examination.

**280.4(2)** The application form shall be completed in accordance with instructions contained in the application. If the application is not completed in accordance with instructions, the application may be held until the next examination.

ITEM 8. Rescind and reserve subrule **280.4(6)**.

ITEM 9. Amend subrule 280.4(7) as follows:

**280.4(7)** An applicant may sit for the examination if the applicant will meet meets the requirements stated in rule 280.3(154C) by the examination date. Upon written request of the applicant, the board may authorize a student to sit for the examination if the student is in the last semester of an approved master of social work program. The student shall submit an application for licensure at the master's level and the fee, and, in lieu of a transcript, the student shall request that the school submit a letter directly to the board office. The letter shall state that the student is currently enrolled in a master of social work program and the student's expected date of graduation.

ITEM 10. Rescind rules **645—280.100(154C)** and **645—280.101(154C)** and renumber rules **645—280.212(272C)** and **645—280.213(154C)** as **645—280.100(272C)** and **645—280.101(154C)**.

ITEM 11. Rescind and reserve rules **645—280.102(154C)** through **645—280.106(154C)**.

ITEM 12. Adopt **new** 645—Chapter 281 as follows:

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

## CHAPTER 281

## CONTINUING EDUCATION FOR SOCIAL WORKERS

**645—281.1(154C) Definitions.** For the purpose of these rules, the following definitions shall apply:

“Active license” means the license of a person who is acting, practicing, functioning and working in compliance with license requirements.

“Administrator” means the administrator of the board of social work examiners.

“Approved program/activity” means a continuing education program/activity meeting the standards set forth in these rules, which has received advance approval by the board pursuant to these rules.

“Approved sponsor” means a person or an organization sponsoring continuing education activities that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person may be deemed automatically approved.

“Audit” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing education provider requirements during a specified time period.

“Board” means the board of social work examiners.

“Continuing education” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“Hour of continuing education” means a clock hour spent by a licensee in actual attendance at and completion of approved continuing education activity.

“Inactive license” means the license of a person who is not engaged in practice in the state of Iowa.

“Lapsed license” means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

“License” means license to practice.

“Licensee” means any person licensed to practice as a social worker in the state of Iowa.

“Self-study course” means a form of systematic learning performed at a licensee’s residence, office, or other private location including, but not limited to, viewing of videotapes, participating in studies electronically transmitted from another location, or participating in self-assessment testing (open book tests that are completed by the licensee, submitted to the provider, graded, and returned to the licensee with correct answers and an explanation of why the answer chosen by the provider was the correct answer).

**645—281.2(154C) Continuing education requirements.**

**281.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. (To implement this rule change, the continuing education period for the December 31, 2000, renewal will run from July 1, 1998, to December 31, 2000.) Each biennium, each person who is licensed to practice as a licensee in this state shall be required to complete a minimum of 27 hours of continuing education approved by the board.

**281.2(2)** Requirements of new licensees. Those persons licensed for the first time during the license renewal period

shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second renewal may be used. The new licensee will be required to complete a minimum of 27 hours of continuing education per biennium for each subsequent license renewal.

**281.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board or otherwise meet the requirements herein and be approved by the board pursuant to statutory provisions and the rules that implement them.

**281.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

**281.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**281.2(6)** The licensee shall maintain a personal file with all documentation of the continuing education credits obtained.

**645—281.3(154C) Standards for approval.**

**281.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. The application must be accompanied by a paper, manual or outline which substantively pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of presenters.

d. Fulfills stated program goals, objectives, or both;

e. Provides proof of attendance to licensees in attendance including:

(1) Date, location, course title, presenter(s);

(2) Numbers of program contact hours. (One contact hour equals one hour of continuing education credit.); and

(3) Official signature or verification by program sponsor; and

f. Contains one of the following content areas:

(1) Theories and concepts of human behavior and the social environment;

(2) Social work practice knowledge and skills;

(3) Social work research, program evaluation, or practice evaluation;

(4) Management, administration, and social policy;

(5) Social work ethics as they relate to 645—280.101(154C); and

(6) An area deemed by the board to be of current importance.

**281.3(2)** Specific criteria. Continuing education hours of credit can be obtained by completing:

a. A minimum of three hours per biennium in social work ethics.

b. A maximum of 12 hours per biennium for self-study courses.

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

c. Academic coursework that meets the criteria set forth in the rules. Continuing education equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

d. Self-study courses that have a mentor and prior approval as defined in the rules and are accompanied by a brief paper authored by the licensee demonstrating application of the learning objectives to practice issues.

e. Programs designed for the purpose of enhancing the licensee's administrative, management or other clinical skills.

f. A program or course which is offered or sponsored by an approved continuing education sponsor.

g. Activities/programs that are sponsored/approved by ASWB Approved Continuing Education (ACE) program.

h. Pro-bono/volunteer work that meets the following criteria:

(1) A licensee may earn a maximum of three of the required 27 hours of continuing education for credit during one biennium by performing pro-bono/volunteer services for indigent, underserved populations, or in areas of critical need within the state of Iowa. Such services must be approved in advance by the board.

(2) A licensee shall make application for prior approval of pro-bono/volunteer services by sending a letter to the board indicating that the following requirements will be met:

1. The site for these services is identified including information about the clients, the services that will be offered, how they will be performed and the learning objectives.

2. A contract will be established between licensee and client(s), and each party will be aware that the services are being provided without charge.

3. The services will be subject to all the legal responsibilities and obligations related to the licensee's profession.

4. The licensee will keep records and files of these client services pursuant to the rules of 645—Chapter 280.

5. A representative from the site for pro-bono/volunteer services must provide a letter stating that these services are to be performed by the licensee.

6. Upon review, the licensee will receive a letter from the board indicating prior approval for these pro-bono/volunteer services that will be done for continuing education credit.

7. Following completion of such services:

- The licensee must provide the board a letter stating that the services were performed as planned.

- The representative on the site must provide a letter indicating such completion.

**645—281.4(154C) Approval of sponsors, programs, and activities for continuing education.**

**281.4(1)** Approval of sponsors. An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

a. The form shall include the following:

(1) Date, location, course title(s) offered and outline of content;

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumés or vitae; and

(4) Evaluation form(s).

b. Records shall be retained by the sponsor for four years.

c. An attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance or verification to the licensee providing the following information:

(1) Program date(s);

(2) Course title and presenter;

(3) Location;

(4) Number of clock hours attended and continuing education hours earned;

(5) Name of sponsor and sponsor number;

(6) Licensee's name; and

(7) Method of instruction.

d. All approved sponsors shall maintain a copy of the following:

(1) The continuing education activity;

(2) A list of enrolled licensees' names and license numbers; and

(3) Number of continuing education clock hours awarded for a minimum of four years from the date of the continuing education activity.

e. The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include:

(1) Date(s), location, course title(s) offered and outline of content;

(2) Total hours of instruction presented;

(3) Names and qualifications of instructors including résumés or vitae;

(4) Evaluation form(s); and

(5) A summary of the evaluations completed by the licensees.

**281.4(2)** Prior approval of programs/activities. An organization or person other than an approved sponsor that desires prior approval of a course, program or other education activity or that desires to establish accreditation of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

a. The date(s);

b. Course(s) offered;

c. Course outline;

d. Total hours of instruction; and

e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

**281.4(3)** Review of programs. Continuing education programs/activities shall be reported every year at the designated time as assigned by the board. The board may at any time reevaluate an approved sponsor. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

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

**281.4(4)** Postapproval of activities. A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

- a. The date(s);
- b. Course(s) offered;
- c. Course outline;
- d. Total hours of instruction and credit hours requested;
- e. Names and qualifications of speakers and other pertinent information;
- f. Request for credit which includes a brief summary of the activity; and
- g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A licensee not complying with the requirements of this subrule may be denied credit for such activity.

**281.4(5)** Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

**645—281.5(154C)** Reporting continuing education by licensee. At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

**281.5(1)** The information included on the form shall include:

- a. Title of continuing education activity;
- b. Date(s);
- c. Sponsor of the activity;
- d. Board-approved sponsor number; and
- e. Number of continuing education hours earned.

**281.5(2)** Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

- a. The board will select licensees to be audited.
- b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:

(1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)) and method of presentation; and

(2) Number of contact hours for program attended.

c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of continuing education report.

f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

**645—281.6(154C)** Reinstatement of lapsed license. Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows a license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement

as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;
2. Pays all of the renewal fees then due;
3. Pays all penalty fees which have been assessed by the board for failure to renew;
4. Pays reinstatement fee(s); and
5. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 27 by the number of bienniums since the license lapsed.

6. If the license has lapsed for more than one biennium, the applicant shall successfully pass the board-approved licensure examination.

**645—281.7(154C,272C)** Continuing education waiver for active practitioners. A social worker licensed to practice social work shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing social worker.

**645—281.8(154C,272C)** Continuing education waiver for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in practice in Iowa without first complying with all regulations governing reinstatement after waiver. The application for a waiver shall be submitted upon forms provided by the board.

**645—281.9(154C,272C)** Continuing education waiver for disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—281.10(154C,272C)** Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of social work in the state of Iowa, satisfy the following requirements for reinstatement.

**281.10(1)** Submit written application for reinstatement to the board upon forms provided by the board with appropriate reinstatement fee; and

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

**281.10(2)** Furnish in the application evidence of one of the following:

a. Completion of a total number of hours of approved continuing education computed by multiplying 27 (which includes three hours of ethics) by the number of bienniums a certificate of exemption shall be in effect for such applicant; or

b. Successful completion of any or all parts of the board-approved licensure examination as deemed necessary by the board, successfully completed within one year immediately prior to the submission of such application for reinstatement.

**645—281.11(272C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 154C.

**ARC 0106B****RACING AND GAMING  
COMMISSION[491]****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 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Operation," and Chapter 3, "Public Records and Fair Information Practices"; to rescind Chapter 7, "Greyhound Racing," and adopt a new Chapter 7 with the same title; to adopt a new Chapter 11, "Gambling Games," and a new Chapter 12, "Accounting and Cash Control"; and to rescind Chapter 22, "Manufacturers and Distributors," Chapter 24, "Accounting and Cash Control," and Chapter 26, "Rules of the Games," Iowa Administrative Code.

Item 1 adopts a waiver rule required by statute.

Items 3, 4 and 5 update the Commission's version of the uniform rule on fair information practices.

Item 6 rescinds current Chapter 7 and adopts a new Chapter 7 which incorporates rules on greyhound racing. Many of the rules remain as they were but have been reorganized within the new Chapter 7. Duplicative rules have been removed and some rules were rewritten to reflect current practice. Substantive changes from rescinded Chapter 7 incorporated into new Chapter 7 are as follows:

- Subrule 7.3(9) requires the clerk of scale to observe both the weight display and scale platform when reading the weight.

- In subrule 7.7(15), the age of a greyhound pup eligible to race is changed from 14 months to 16 months.

- Subrule 7.9(7) requires that the facility must list the weight regulations in the program.

Item 7 adopts a new Chapter 11 which incorporates rules regarding rules of the games and manufacturers and distributors from Chapters 22 and 26, which are rescinded in Item 9. Many of the rules remain as they were but have been reorganized within the new Chapter 11. Duplicative rules have been removed and some rules were rewritten to reflect current practice.

Item 8 adopts a new Chapter 12 (rescinded IAB 9/6/00, **ARC 0105B**) which incorporates rules on accounting and cash control from Chapter 24, which is rescinded in Item 9. Many of the rules remain as they were but have been reorganized within the new Chapter 12. Duplicative rules have been removed and some rules were rewritten to reflect current practice.

Item 9 rescinds Chapters 22, 24, and 26.

These rules are not subject to a waiver, pending adoption of a uniform waiver rule.

These proposed amendments were sent out to all the licensees prior to their going before the Commission. No comments were received.

Any person may make written suggestions or comments on the proposed amendments on or before September 26, 2000. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on September 26, 2000, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Amend 491—Chapter 1 by adopting the following new rule:

**491—1.8(17A,99D,99F) Granting of a waiver.** For purposes of this rule, a waiver or variance means action by the commission that suspends in whole or in part the requirements or provisions of a rule as applied to an identified entity on the basis of the particular circumstances of that entity. For simplicity, the term "waiver" shall include both a waiver and a variance.

**1.8(1) Scope of rule.** This rule outlines generally applicable standards and a uniform process for the granting of a waiver from rules adopted by the commission in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this rule with respect to any waiver from that rule.

**1.8(2) Applicability of rule.** The commission may only grant a waiver from a rule if the commission has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The commission may not waive requirements created or duties imposed by statute.

**1.8(3) Criteria for waiver.** In response to a petition completed pursuant to subrule 1.8(5), the commission may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the commission finds, based on clear and convincing evidence, all of the following:



## RACING AND GAMING COMMISSION[491](cont'd)

a. The application of the rule would impose an undue hardship on the entity for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any entity;

c. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

**1.8(4) Filing of petition.** A petition for a waiver must be submitted in writing to the commission, as follows:

a. License application. If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

b. Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

c. Other. If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the administrator.

**1.8(5) Content of petition.** A petition for waiver shall include the following information where applicable and known to the requester:

a. The name, address, and telephone number of the person or entity for whom a waiver is being requested, and the case number of any related contested case.

b. A description and citation of the specific rule from which a waiver is requested.

c. The specific waiver requested, including the precise scope and duration.

d. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in subrule 1.8(3). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition, and a statement of reasons that the petitioner believes will justify a waiver.

e. A history of any prior contacts between the commission and the petitioner relating to the regulated activity or license affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity or license within the last five years.

f. Any information known to the requester regarding the commission's treatment of similar cases.

g. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the grant of a waiver.

h. The name, address and telephone number of any person or entity who would be adversely affected by the grant of a petition.

i. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver.

j. Signed releases of information authorizing persons with knowledge regarding the request to furnish the commission with information relevant to the waiver.

**1.8(6) Additional information.** Prior to issuing an order granting or denying a waiver, the commission may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the commission may, on its own

motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the administrator, a committee of the commission, or a quorum of the commission.

**1.8(7) Notice.** The commission shall acknowledge a petition upon receipt. The commission shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law, within 30 days of the receipt of the petition. In addition, the commission may give notice to other persons.

To accomplish this notice provision, the commission may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law, and provide a written statement to the commission attesting that notice has been provided.

**1.8(8) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the commission so provides by rule or order or is required to do so by statute.

**1.8(9) Ruling.** An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts, reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

**1.8(10) Board discretion.** The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the commission, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the commission based on the unique, individual circumstances set out in the petition.

**1.8(11) Burden of persuasion.** The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the commission should exercise its discretion to grant a waiver from a commission rule.

**1.8(12) Narrowly tailored exception.** A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

**1.8(13) Administrative deadlines.** When the rule from which a waiver is sought establishes administrative deadlines, the commission shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

**1.8(14) Conditions.** The commission may place any condition on a waiver that the commission finds desirable to protect the public health, safety, and welfare.

**1.8(15) Time period of waiver.** A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the commission, a waiver may be renewed if the commission finds that grounds for the waiver continue to exist.

**1.8(16) Time for ruling.** The commission shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the commission shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**1.8(17) When deemed denied.** Failure of the commission to grant or deny a petition within the required time period shall be deemed a denial of that petition by the commission.



## RACING AND GAMING COMMISSION[491](cont'd)

However, the commission shall remain responsible for issuing an order denying a waiver.

**1.8(18) Service of order.** Within seven days of its issuance, any order issued under this rule shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

**1.8(19) Public availability.** All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying a waiver petition are public records under Iowa Code chapter 22. Some petitions or orders may contain information the commission is authorized or required to keep confidential. The commission may accordingly redact confidential information from petitions or orders prior to public inspection.

**1.8(20) Summary reports.** Semiannually, the commission shall prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by these rules, and a general summary of the reasons justifying the commission's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

**1.8(21) Cancellation of a waiver.** A waiver issued by the commission pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the commission issues an order finding any of the following:

a. The petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver;

b. The alternative means for ensuring that the public health, safety, and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or

c. The subject of the waiver order has failed to comply with all conditions contained in the order.

**1.8(22) Violations.** Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

**1.8(23) Defense.** After the commission issues an order granting a waiver the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

**1.8(24) Judicial review.** Judicial review of the commission's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

ITEM 2. Amend **491—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement *2000 Iowa Acts, House File 2206, and Iowa Code chapters 99D and 99F.*

ITEM 3. Amend **491—Chapter 3**, title, as follows:

CHAPTER 3  
~~PUBLIC RECORDS AND~~  
FAIR INFORMATION PRACTICES

ITEM 4. Amend **491—Chapter 3**, introductory paragraph, as follows:

The racing and gaming commission adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to ~~public records and~~ fair information practices which are printed in the first volume of the Iowa Administrative Code.

ITEM 5. Amend subrule **3.3(7)**, paragraph "c," by inserting "30 minutes" in lieu of the words "(specify time period)".

ITEM 6. Rescind **491—Chapter 7** and adopt the following new Chapter 7 as follows:

CHAPTER 7  
GREYHOUND RACING

**491—7.1(99D) Terms defined.** As used in these rules, unless the context otherwise requires, the following definitions apply:

"Bertillion card" means a card that lists the identifying features of a greyhound.

"Bolt" means when a greyhound leaves the race course during the running of an official race.

"Commission" means the racing and gaming commission.

"Dead heat" means when two or more greyhounds reach the finish line of a race at the same time.

"Double entry" means entry of two or more greyhounds in the same race from the same kennel or same owner that are separate wagering interests.

"Draw" means the process of selecting runners and the process of assigning post positions in a manner to ensure compliance with the conditions of the rules of racing.

"Entrance fee" means a fee set by the facility that must be paid in order to make a greyhound eligible for a stakes race.

"Facility" means an entity licensed by the commission to conduct pari-mutuel wagering or gaming operations in Iowa.

"Facility grounds" means all real property utilized by the facility in the conduct of its race meeting, including the race-track, grandstand, concession stands, offices, kennel area, parking lots, and any other areas under the jurisdiction of the commission.

"Foreign substance" means any drug, medicine, or any other substance uncommon to the greyhound's body which can or may affect the racing condition of a greyhound or which can or may affect sampling or testing procedures.

"Forfeit" means money due but lost because of an error, fault, neglect of duty, breach of contract, or a penalty.

"Greyhound" means a greyhound registered with the National Greyhound Association.

"Licensee" means a person that has been issued a current license to participate in racing in Iowa.

"Lock-out kennel" means the secure and restricted facility within the paddock used to temporarily house entered greyhounds prior to their participation in the current performance.

"NGA" means the National Greyhound Association.

"No Race" means a race canceled for any reason by the stewards.

"Owner" means any person or entity that holds any title, right of interest, whole or partial, in a greyhound, including the lessee and lessor of a greyhound.

"Post position" means the position assigned to a greyhound for the start of the race.

"Post time" means the scheduled starting time for a contest.

## RACING AND GAMING COMMISSION[491](cont'd)

“Rule off” means the act of barring a greyhound from the grounds of a facility and denying all racing privileges.

“Scratch” means the act of withdrawing an entered greyhound from a race after the program is printed.

“Tote/totalizator” means the machines that sell mutuel tickets and the board on which the approximate odds are posted.

**491—7.2(99D) Facility’s responsibilities.**

**7.2(1) Racetrack.** Each facility shall provide a race course which:

a. Is constructed and elevated in a manner that is safe and humane for greyhounds.

b. Has a surface, including cushion subsurface and base, constructed of materials and to a depth that adequately provides for the safety of the greyhounds.

c. Has a drainage system that is approved by the commission.

d. Must be approved by the commission and be subject to periodic inspections by the stewards.

**7.2(2) Equipment.** Each facility shall install, and maintain in good working condition, the following equipment and provide for qualified personnel to operate:

a. Equipment necessary to produce adequate videotapes and record each race from start to finish. Videotapes shall be retained and secured by the facility until the first day of the following racing season.

b. Communications systems between the stewards, mutuel department, starting box, public address announcer, paddock, and necessary on-track racing officials.

c. A starting box and mechanical lure approved by the commission.

**7.2(3) Vacancies.**

a. When a vacancy occurs among the racing officials other than the stewards prior to post time of the first race of the day, or when a vacancy occurs after the racing of the day has started, the facility shall immediately fill the vacancy, subject to approval by the board of stewards. Permanent changes of racing officials during the racing meet shall be requested in writing by the licensee subject to the written approval of the administrator or commission representative before the change occurs.

b. If none of the stewards are present prior to post time of the first race of the day, the management of the facility shall name at least three qualified persons to serve during the absence of the stewards, immediately filing a full written report of the absence and the names of the replacements to the commission.

**7.2(4) Other responsibilities.**

a. The facility shall provide an area located within a reasonable proximity of the paddock for the purpose of collecting body fluid samples for any tests required by the commission. The location, arrangement, and furnishings, including refrigeration and hot and cold running water, must be approved by the commission.

b. The facility shall take such measures needed to maintain the security of the greyhounds while on facility grounds to protect them from injury, vexing, or tampering.

c. The facility shall exclude all persons from the kennel compound area who have no designated duty or authority with the greyhounds entered and are not representatives of the commission, racing officials, duly authorized licensed employees, or escorted guests with facility approved passes.

d. The facility shall periodically, or whenever the stewards deem necessary, remove soiled surface materials from runs, the detention area for collection of samples, and exercise areas and replace with clean surface materials.

**491—7.3(99D) Racing officials—duties.****7.3(1) Racing officials—general.**

a. The officials of a race meeting shall include: the board of stewards (track steward and state stewards); commission veterinarian; commission veterinary assistants; director of racing; mutuel manager; racing secretary; assistant racing secretary; chart writer; paddock judge; clerk of scales; lure operator; brakeman; photo finish operator/timer; starter; patrol judge; and kennel master.

b. All racing officials, except the state stewards, commission veterinarian and commission veterinary assistants, shall be appointed by the facility. Appointments by the facility are subject to the approval of the commission or commission representative. The commission or commission representative may demand a change of personnel for what the commission deems good and sufficient reason. The appointment of a successor to racing officials shall be subject to the approval of the administrator or commission representative.

c. Racing officials are prohibited from the following activities:

(1) Having any interest in the sale, lease, purchase, or ownership of any greyhound racing at the meeting, or its sire or dam.

(2) Wagering on the outcome of a race at the facility where they are employed.

(3) Owning a business or being employed by a business that does business with the facility.

(4) Accepting or receiving money or anything of value for assistance in connection with the racing official’s duties.

**7.3(2) Stewards.**

a. There shall be three stewards for each racing meet, two of whom shall be appointed by the commission and one who shall be nominated by the facility for approval by the commission or commission representative.

b. The laws of Iowa and the rules of the commission supersede the conditions of a race. In matters pertaining to racing, the orders of the stewards supersede the orders of the officers of the facility.

c. The stewards shall have the authority to interpret the rules and to decide all questions not specifically covered by the rules.

d. All questions pertaining to the extent of the stewards’ authority shall be determined by a majority of the stewards.

e. The stewards shall have the authority to regulate owners, trainers, kennel helpers, all other persons attendant to greyhounds, racing officials, and licensed personnel of the racing meet and those persons addressed by 491—paragraph 4.6(5)“e.”

f. The stewards shall have the authority to determine all questions arising with reference to entries and racing.

g. The stewards shall have the authority to call for proof that a greyhound is neither itself disqualified in any respect, nor nominated by, nor the property, wholly or in part, of a disqualified person, and in default of proof being given to their satisfaction, they may declare the greyhound disqualified.

h. The stewards shall have the authority to order at any time an examination of any greyhound entered for a race or which has run in a race.

i. The stewards shall take notice of any questionable conduct, with or without complaint, and shall investigate promptly and render a decision on every objection and on every complaint made to them.

j. The stewards, in order to maintain necessary safety and health conditions and to protect the public confidence in greyhound racing as a sport, shall have the right to authorize

## RACING AND GAMING COMMISSION[491](cont'd)

a person(s) on their behalf to enter into or upon the buildings, kennels, rooms, motor vehicles, trailers, or other places within the grounds of a facility, to examine same, and to inspect and examine the person, personal property, and effects of any person within such place, and to seize any illegal articles or any items as evidence found.

k. The steward(s) present shall appoint one or two persons to serve as temporary stewards if a vacancy or vacancies occur among the stewards.

l. The stewards may excuse a greyhound, after it has left the paddock for the post, if they consider the greyhound injured, disabled, or unfit to run. All money on the greyhound shall be refunded.

m. The stewards shall determine the finish of a race by the relative position of the muzzle, or nose if the muzzle is lost or hanging, of each greyhound. They shall immediately notify the mutuel department of the numbers of the first three (four in races with superfecta wagering) greyhounds.

(1) The stewards shall promptly display the numbers of the first three (four in races with superfecta wagering) greyhounds in each race in order of their finishes. If the stewards differ in their placing, the majority shall prevail.

(2) The stewards may consult a picture from the photo finish camera whenever they consider it advisable; however, in all cases, the camera is merely an aid and the decision of the stewards shall be final.

(3) The stewards may post, without waiting for a picture, such placements as are in their opinion unquestionable and, after consulting the picture, make other placements. However, in no case shall the race be declared official until the stewards have determined the greyhounds finishing first, second and third (and fourth in races with superfecta wagering).

(4) The stewards may correct an error before the display of the sign "Official" or recall the sign "Official" in case it has been displayed through error.

n. The stewards may place any greyhound on the schooling list at any time for any reason that, in their opinion, warrants such action.

**7.3(3)** Commission veterinarian and veterinary assistants.

a. The commission veterinarian shall advise the commission and the stewards on all veterinary matters.

b. The commission veterinarian shall be on the grounds of the facility at weigh-in time and during all racing hours. The veterinarian shall make an examination of the physical condition of each greyhound at weigh-in time.

c. The commission veterinarian shall observe each greyhound as it enters the lock-out kennel, examine it when it enters the paddock prior to the race, and recommend to the board of stewards that any greyhound deemed unsafe to race or physically unfit to produce a satisfactory effort in a race be scratched.

d. The commission veterinarian shall place any greyhound determined to be sick or have a communicable disease, or any greyhound deemed unsafe, unsound, or unfit, on a veterinarian's list which shall be posted in a conspicuous place available to all owners, trainers, and racing officials. Once a greyhound has been placed on the veterinarian's list, it must remain on the list for at least three calendar days and may be allowed to race only after it has been removed from the list by the commission veterinarian.

e. The commission veterinarian shall have full access to each and every kennel where greyhounds are kenneled on the facility premises. The commission veterinarian shall inspect the general physical condition of the greyhounds, sanitary conditions of the kennels, segregation of female greyhounds

in season, segregation of sick greyhounds, the types of medicine found in use, incidents of cruel and inhumane treatment, and any other matters or conditions which are brought to the attention of the commission veterinarian.

f. The commission veterinarian shall have supervision and control of the detention area for collection of body fluid samples for the testing of greyhounds for prohibited medication.

g. The commission veterinarian shall not be licensed to participate in racing in any other capacity. Except in the case of an emergency, a commission veterinarian may not prescribe any medication for, or treat, any greyhound owned by a person licensed by the commission, on or away from any facility, with or without compensation. This provision does not apply to a relief veterinarian appointed by the administrator to cover the absence of the commission veterinarian. When emergency treatment is given, a commission veterinarian shall make a complete written report to the stewards. Euthanasia and disposition of greyhounds shall not be considered treatment.

h. The commission veterinarian shall conduct a post-mortem examination on every greyhound to determine the injury or sickness which resulted in the euthanasia or death if:

(1) A greyhound suffers a breakdown on the racetrack.

(2) A greyhound expires while kenneled on facility grounds.

i. Commission veterinary assistant. The commission veterinarian may employ persons to assist in maintaining the detention area and collecting body fluid samples.

**7.3(4)** Director of racing.

a. The director of racing shall have full supervision over kennel owners, greyhound owners, trainers, kennel helpers, lead-outs, and all racing officials.

b. The director of racing shall ascertain that all racing department personnel are properly trained in the discharge of their duties.

**7.3(5)** Mutuel manager. The mutuel manager is responsible for the operation of the mutuel department. The mutuel manager shall ensure that any delays in the running of official races caused by totalizator malfunctions are reported to the stewards. The mutuel manager shall submit a written report on a delay when requested by the state steward.

**7.3(6)** Racing secretary and assistant racing secretary.

a. The racing secretary shall discharge all duties whether expressed or required by the rules and shall keep a complete record of all races.

b. The racing secretary is responsible for maintaining a file of all NGA lease (or appropriate substitute) and ownership papers on greyhounds racing at the meeting. The racing secretary shall inspect all papers and documents dealing with owners and trainers, partnership agreements, appointments of authorized agents, and adoption of kennel names to be sure they are accurate, complete, and up to date. The racing secretary has the authority to demand the production of any documents or other evidence in order to be satisfied as to their validity and authenticity to ensure compliance with the rules. The racing secretary shall be responsible for the care and security of the papers while the greyhounds are located on facility property. Disclosure is made for the benefit of the public and all documents pertaining to the ownership or lease of a greyhound filed with the racing secretary shall be available for public inspection.

c. The racing secretary shall ensure that current valid vaccination certificates for diseases, as determined by the commission veterinarian, are submitted for greyhounds

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housed within facility property. The racing secretary shall also maintain records of vaccinations in such a manner as to notify the stewards, the commission veterinarian, and the trainer of impending expiration ten days prior to the actual date of expiration.

d. The racing secretary shall receive and enter all entries and withdrawals as set forth in this chapter. Conditions of races shall not conflict with commission rules and the racing secretary shall, each day, as soon as the entries have closed and been compiled and the withdrawals have been made, post in a conspicuous place an overnight listing of the greyhounds in each race. The racing secretary shall make every effort to ensure fairness and equal opportunity for all greyhound owners and kennel owners in the drawing of all races.

e. The racing secretary shall not allow any greyhound to start in a race unless the greyhound is entered in the name of the legal owner and the owner's name appears on the registration papers, a legal lease, or bill of sale attached to the registration papers.

f. The racing secretary shall not allow any greyhound to start in a race if it is in any way ineligible or disqualified.

g. Assistant racing secretary. The facility may employ an assistant racing secretary who shall assist the racing secretary in the performance of duties and serve under the supervision of the racing secretary.

**7.3(7) Chart writer.**

a. The chart writer shall compile the information necessary for a program that shall be printed for each racing day. The program shall contain the names of the greyhounds that are to run in each of the races for that day. These names shall appear in the order of their post positions to be designated by numerals placed at the left and in lines with the names of the greyhounds in each race.

b. The program or form sheet must carry at least two past performances of each greyhound scheduled to race. The program or form sheet must also contain name; color; sex; date of whelping; breeding; established racing weight; number of starts in official races; number of times finishing first, second and third; name of owner or lessee (if applicable); name of trainer; distance of race; track record; and other information to enable the public to properly judge the greyhound's ability.

c. If a greyhound's name is changed, the new name, together with the former name, shall be published in the official entries and program until after the greyhound has started six times.

**7.3(8) Paddock judge.**

a. The paddock judge shall complete a Bertillion card for each greyhound prior to entering official schooling or an official race, by a physical inspection of each greyhound and comparison with NGA ownership papers. Inconsistencies between the physical inspection and NGA papers shall be noted on the Bertillion card, and significant inconsistencies shall be reported to the stewards.

b. The paddock judge shall fully identify and check, using the Bertillion card index system of identification maintained by the facility, all greyhounds starting in schooling and official races while in the paddock before post time. No greyhound shall be permitted to start in an official schooling race or official race that has not been fully identified and checked against the Bertillion card. The paddock judge shall report to the stewards any greyhound(s) that does not conform to the card index identification.

c. The paddock judge shall provide to the stewards, at the beginning of each race meeting and during the meeting if requested by the stewards due to inaccuracies or exceptional

circumstances, written certification of the accuracy of the official scale used for weighing greyhounds.

d. The paddock judge shall supervise the kennel master and lead-outs in the performance of their duties.

e. The paddock judge shall not allow any greyhound to be weighed in unless it has an identification tag attached to its collar indicating the number of the race in which the greyhound is entered and its post position. This tag shall not be removed until the greyhound has been weighed out and blanketed.

f. The paddock judge shall not allow anyone to weigh in a greyhound for racing unless the person has a valid kennel owner's, trainer's, or assistant trainer's license issued by the commission.

g. The paddock judge shall not allow any greyhound to leave the paddock for the starting box unless it is equipped with a regulation muzzle and blanket. The blanket worn by each greyhound shall prominently display the numeral corresponding to the greyhound's assigned post position. The muzzles and blankets used shall be approved by the paddock judge, who shall carefully examine them in the paddock before the greyhound leaves for the post to ensure they are properly fitted and secured.

h. The paddock judge shall keep on hand and ready for use extra muzzles of all sizes, lead straps, and collars.

i. The paddock judge shall assign post positions to lead-outs by lot and maintain a record of all such assignments.

j. The paddock judge shall report all delays and weight violations to the stewards.

**7.3(9) Clerk of scales.**

a. The clerk of scales shall weigh all greyhounds in and out in a uniform manner and observe the weight display and scale platform when reading the weight.

b. The clerk of scales shall post a scale sheet of weights promptly in a conspicuous location after weighing.

c. The clerk of scales shall prevent a greyhound from passing the scales if there should be a weight variation as set forth in subrules 7.9(4), 7.9(5), and 7.9(6). The clerk of scales shall promptly notify the paddock judge of the weight variation, who will report to the stewards any infraction of the rules as to weight or weighing.

d. The clerk of scales shall report all late scratches and weights for display on the tote board or on a bulletin board located in a place conspicuous to the wagering public.

e. The clerk of scales shall ensure that all greyhounds are weighed in and weighed out with a muzzle, collar, and lead strap.

f. The clerk of scales shall keep a list of all greyhounds known by the racing officials to be consistent weight losers while in the lock-out kennel and shall notify the stewards as to the weight loss of any such greyhound before each race.

**7.3(10) Lure operator.**

a. The lure operator shall operate the lure in a smooth, uniform, and consistent manner so as not to impede or otherwise disrupt the running of the race.

b. The lure operator shall ensure the distance between the lure and lead greyhound is consistent with the distance prescribed by the stewards.

c. The lure operator shall take into consideration the location on the course and the prevailing weather conditions to maintain the appropriate distance of the lure from the lead greyhound.

d. The lure operator shall be held accountable by the stewards for the lure's operation.

e. The lure operator shall determine that the lure is in good operating condition and shall immediately report any

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circumstance that may prevent the normal, consistent operation of the lure to the stewards.

**7.3(11) Brakeman.**

a. Prior to the running of each race, the brakeman shall:

(1) Ensure the brake system is in good operating condition, which includes properly unlocking the brake.

(2) Inspect the lure motor for any noticeable malfunctions.

(3) Ensure the lure is secured and the arm is fully extended into a stable and locked position.

(4) Inspect the rail to ensure it is in perfect repair and free of debris.

b. The brakeman shall ensure the arm has retracted and stop the lure in a safe and consistent manner after each race is finished.

**7.3(12) Photo finish operator/timer.**

a. The photo finish operator/timer shall maintain the photo finish and timing equipment in proper working order and shall photograph each race.

b. The photo finish operator/timer shall be responsible for and declare the official time of each race. The time of the race shall be taken from the opening of the doors of the starting box.

c. The timer shall use the time shown on the timing device as the official time of the race if the timer is satisfied that the timing device is functioning properly; otherwise, the timer shall use the time recorded manually with a stopwatch.

**7.3(13) Starter.**

a. The starter shall give orders and take measures not in conflict with commission rules necessary to secure a fair start. There shall be no start until, and no recall after, the doors of the starting box have opened except under subrules 7.12(10) and 7.12(11).

b. The starter shall report causes of delay to the stewards.

**7.3(14) Patrol judge.**

a. The patrol judge shall supervise the lead-outs and greyhounds from paddock to post.

b. The patrol judge, in view of the stewards and the public, shall inspect the muzzles and blankets of greyhounds to ensure muzzles and blankets are properly fitted and secured after the greyhounds have left the paddock.

c. The patrol judge shall assist the starter in the starter's duties upon the arrival of the lead-outs and greyhounds at the starting box.

**7.3(15) Kennel master.**

a. The kennel master shall unlock the prerace lock-out kennels immediately before weigh in to inspect that the lock-out kennels are in proper working order and that nothing has been deposited in any of the lock-out crates.

b. The kennel master or designee must receive the greyhounds from the trainer, one at a time, and ensure that each greyhound is placed in its lock-out crate and continue to ensure the security of the lock-out area from weigh in until the time when greyhounds are removed for the last race of a performance.

c. The kennel master shall, on a daily basis, ensure that the lock-out kennels are sprayed, disinfected, and maintained in proper sanitary condition and at an appropriate temperature and climate.

**491—7.4(99D) Lead-outs.**

**7.4(1)** A lead-out shall lead the greyhounds from the paddock to the starting box. Owners, trainers, or attendants will not be allowed to lead their own greyhounds.

**7.4(2)** Each lead-out will lead only one greyhound from the paddock to the starting box during official races. In offi-

cial schooling races, no more than two greyhounds may be led from the paddock to the starting box by one lead-out.

**7.4(3)** Lead-outs must handle the greyhounds in a humane manner, put the assigned greyhound in its proper box before the race, and then retire to their designated post during the running of the race.

**7.4(4)** Lead-outs are prohibited from holding any conversation with the public or with one another en route to the starting box or while returning to the paddock.

**7.4(5)** Lead-outs shall be attired in clean uniforms, present a neat appearance, and conduct themselves in an orderly manner.

**7.4(6)** Lead-outs are prohibited from smoking, drinking beverages other than water, or eating unless on duly authorized breaks in a designated area.

**7.4(7)** Lead-outs shall not be permitted to have any interest in the greyhounds racing for the facility.

**7.4(8)** Lead-outs are prohibited from wagering on the result of any greyhound racing at the facility where they are assigned.

**7.4(9)** Lead-outs shall immediately report any infirmities or physical problems they observe in greyhounds under their care to the nearest racing official for communication to the commission veterinarian.

**7.4(10)** Lead-outs shall not remove racing blankets until the greyhounds are accepted by licensed kennel representatives at the conclusion of the race.

**7.4(11)** Lead-outs may assist the kennel master in the performance of the kennel master's duties.

**491—7.5(99D) Trainers and assistant trainers.**

**7.5(1)** A trainer shall prevent the administration of any drug, medication, or other prohibited substance that may cause a violation of commission rules. The trainer is responsible for the condition of a greyhound entered in an official race and, in the absence of substantial evidence to the contrary, is responsible for the presence of any prohibited drug, medication, or other substance, regardless of the acts of third parties. A positive test for a prohibited drug, medication, or substance, as reported by a commission-approved laboratory, is prima facie evidence of a violation of this rule or Iowa Code chapter 99D.

**7.5(2)** Other responsibilities. A trainer is responsible for:

a. Ensuring that facilities and primary enclosures are cleaned and sanitized as may be necessary to reduce disease hazards and odors. Runs and exercise areas having gravel or other nonpermanent surface materials shall be sanitized by periodic removal of soiled materials, application of suitable disinfectants, and replacement with clean surface materials.

b. Ensuring that fire prevention rules are strictly observed in the assigned area.

c. Providing a list to the state steward(s) of the trainer's employees in any area under the jurisdiction of the commission. The list shall include each employee's name, occupation, social security number, and occupational license number. The commission shall be notified by the trainer, in writing, within 24 hours of any change.

d. Ensuring the proper identity, custody, care, health, condition, and safety of greyhounds in the trainer's charge.

e. Disclosing to the racing secretary the true and entire ownership of each greyhound in the trainer's care upon its arrival on the facility's property, at time of license application, or entry, whichever event occurs first, and making revision immediately upon any subsequent change in ownership. The disclosure, together with all written agreements and affidavits setting out oral agreements pertaining to the ownership for, or rights in and to, a greyhound, shall be attached to

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the registration certificate for the greyhound and filed with the racing secretary.

f. Ensuring that greyhounds under the trainer's care have a completed Bertillion card on file with the paddock judge prior to being entered for official schooling or official races.

g. Ensuring that greyhounds under the trainer's care have not been trained using a live lure or live bait.

h. Using the services of those veterinarians licensed by the commission to attend greyhounds that are kenneled on facility grounds.

i. Promptly reporting to the stewards and the commission veterinarian the serious illness of any greyhound in the trainer's charge.

j. Promptly reporting the death of any greyhound in the trainer's care on facility grounds to the stewards, owner, and the commission veterinarian and complying with the rules on postmortem examination set forth in paragraph 7.3(3)"h."

k. Immediately reporting to the stewards and the commission veterinarian if the trainer knows, or has cause to believe, that a greyhound in the trainer's custody, care, or control has received any prohibited drugs or medication.

l. Having the trainer's greyhound at the weigh-in room promptly at the time appointed. If not, the greyhound may be scratched and the trainer may be subject to disciplinary action.

m. When a trainer is to be absent 24 hours or more from the kennel or grounds where greyhounds are racing, the trainer shall provide a licensed trainer or assistant trainer to assume complete responsibility for all greyhounds under the trainer's care, and both shall sign a "trainer's responsibility form" which must be approved by the stewards.

#### 7.5(3) Assistant trainers.

a. Upon the demonstration of a valid need, a trainer may employ an assistant trainer as approved by the stewards.

b. An assistant trainer may substitute for and shall assume the same duties, responsibilities, and restrictions as imposed on the licensed trainer. The trainer shall be jointly responsible for the assistant trainer's compliance with commission rules.

#### 491—7.6(99D) Registration.

7.6(1) No greyhound shall be entered or permitted to race or to be schooled at any facility unless properly tattooed and registered by the NGA and, if applicable, its last four past-performance lines are made available to the racing secretary. The NGA shall be recognized as the official breeding registry of all greyhounds.

7.6(2) A certificate of registration for each greyhound shall be filed with the racing secretary at the racetrack where the greyhound is to be schooled, entered, or raced. All certificates of registration must be available at all times for inspection by the stewards.

7.6(3) All transfers of any title to a leasehold or other interest in greyhounds schooled, entered, or racing at any facility shall be registered and recorded with the NGA.

7.6(4) No title or other interest in any greyhound will be recognized by the commission until the title or other interest is evidenced by written instrument duly filed with and recorded by the NGA. Certified copies of the written instrument shall be filed with the racing secretary at the facility where the greyhound is to be schooled, entered, or raced, and, upon request, with the commission. When a greyhound is leased, the lessee of the greyhound shall file a copy of the lease agreement with the racing secretary and, upon request, with the commission. The lease agreement shall include:

a. The name of the greyhound.

b. The name and address of the owner.

c. The name and address of the lessee.

d. The kennel name, if any, of each party.

e. The terms of the lease.

7.6(5) Whenever a greyhound, or any interest in a greyhound, is sold or transferred, a copy of the NGA transfer of ownership documents must be filed with the racing secretary, who must forward it to the commission upon request.

7.6(6) When a greyhound is sold with engagements, or any part of them, the written acknowledgment of both parties that the greyhound was sold with the engagements is necessary to entitle the seller or buyer to any rights or obligations set forth in the transaction. If certain engagements are specified, only those are sold with the greyhound. When the greyhound is sold by public auction, the advertised conditions of the sale are sufficient evidence and, if certain engagements are specified, only those are sold with the greyhound.

#### 7.6(7) Vaccination certificates.

a. All NGA certificates must be accompanied by a current valid vaccination certificate for rabies and other diseases as determined by the commission veterinarian and administrator. This certificate must indicate vaccination by a duly licensed veterinarian against such diseases. The criteria for vaccination will be disclosed seven days before the opening of each racing season and will be subject to continuing review. The criteria may be revised at any time and in any manner deemed appropriate by the commission veterinarian and the administrator.

b. Upon expiration of a vaccination certificate, the greyhound must be removed from the premises immediately.

#### 491—7.7(99D) Entries.

7.7(1) Persons entering greyhounds to run at facilities agree in so doing to accept the decision of the stewards on any questions relating to a race or racing.

7.7(2) Every entry for a race must be in the name of the registered owner, lessee, or a kennel name and may be made in person, in writing, by telephone, or by fax. The full name of every person having an ownership in a greyhound, accepting the trainer's percentage, or having any interest in its winnings must be registered with the racing secretary before the greyhound starts at any meeting.

7.7(3) A greyhound shall not be qualified to run in any race unless it has been, and continues to be, duly entered for the same. A greyhound eligible at the time of entry shall continue to be qualified unless the conditions of a race specify otherwise or the greyhound is disqualified by violation of commission rules. A greyhound must be eligible at the time of the start to be qualified for an overnight event.

7.7(4) The entrance to a race shall be free unless otherwise stipulated in its conditions. If the conditions require an entrance fee, it must accompany the entry or the greyhound shall be considered ineligible.

a. A person entering a greyhound becomes liable for the entrance money or stake.

b. A greyhound shall not become a starter for a race unless any stake or entrance money required for that race has been duly paid.

c. Entrance money is not refunded on the death or withdrawal of a greyhound, because of a mistake in its entry if the greyhound is ineligible, or the greyhound's failure to start.

d. If the racing secretary should allow a greyhound to start in a race without its entrance money or stake having been paid, the facility shall be liable for the entrance money or stake.

e. If a race is not run, all stakes or entrance money shall be refunded.



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f. No entry, or right of entry under it, shall become void upon the death of the person who entered the greyhound.

7.7(5) The entrance money required for a race shall be distributed as provided in the conditions of the race.

7.7(6) Any person having an interest in a greyhound that is less than the interest or property of any other person is not entitled to assume any of the rights or duties of an owner as provided by commission rules, including but not limited to the right of entry and declaration.

7.7(7) Joint subscriptions and entries may be made by any one or more of the owners. However, all partners shall be jointly and severally liable for all fees and forfeits.

7.7(8) The racing officials shall have the right to call on any person in whose name a greyhound is entered to produce proof that the greyhound entered is not the property, either wholly or in part, of any person who is disqualified or to produce proof as to the extent of interest or property a person holds in the greyhound. The greyhound shall be considered ineligible if such proof is not provided.

7.7(9) No greyhound shall be permitted to start that has not been fully identified.

7.7(10) Any person who knowingly attempts to establish the identity of a greyhound or its ownership shall be held to account the same as the owner and shall be subject to the same penalty in case of fraud or attempted fraud.

7.7(11) No disqualified greyhound shall be allowed to enter or to start in any race. A greyhound will be considered disqualified if the greyhound is:

- a. Owned in whole or in part or is under the control, directly or indirectly, of a disqualified person.
- b. Not conditioned by a licensed trainer.
- c. On the schooling list or the veterinarian's list.
- d. A female greyhound in season or lactating.
- e. Disqualified by any other commission rule.

7.7(12) Entries that have closed shall be compiled and conspicuously posted without delay by the racing secretary.

a. Entries for stakes races shall close at the time advertised and no entry shall be accepted after that time.

b. In the absence of notice to the contrary, entrance and withdrawals for sweepstakes which close during or on the eve of a race meeting shall close at the office of the racing secretary who shall make provisions therefor. Closing at all other times for sweepstakes shall be at the office of the facility.

7.7(13) No alteration shall be made in any entry after closing of entries, but an error may be corrected.

7.7(14) No trainer or owner shall have more than two greyhounds in any race except in stakes or sweepstakes races. No double entries shall be allowed until all single interests eligible for the performance are used and double entries shall be uncoupled for wagering purposes. Double entries shall be prohibited in all twin trifecta and tri-super races.

7.7(15) No greyhound under the age of 16 months shall be eligible to enter or race.

7.7(16) The facility shall have the right to withdraw or change any unclosed race. In the event the number of entries to any stakes race is in excess of the number of greyhounds that may, because of track limitations, be permitted to start, the starters for the race shall be determined by the racing secretary, in accordance with the conditions of the race.

7.7(17) No greyhound that has been trained using a live lure or live bait shall be entered to race at a facility in the state of Iowa.

7.7(18) The starting post position of greyhounds shall be assigned by lot or drawing supervised by the racing secretary

at a time and place properly posted in the paddock, at least one day prior to the running of the races so that any and all owners, trainers, or authorized agents interested may be present if they so desire.

**491—7.8(99D) Withdrawals and scratches.**

7.8(1) The withdrawal of a greyhound from an engagement is irrevocable.

7.8(2) Withdrawals from sweepstakes shall be made to the racing secretary in the same manner as for making entries. The racing secretary shall record the day and hour of receipt and give early publicity thereto.

7.8(3) Withdrawals from official races must be made by the owner, trainer, or authorized agent to the racing secretary or assistant racing secretary at least one-half hour before the time designated for the drawing of post positions on the day prior to the day on which the greyhound is to race, or at the time the racing secretary may appoint.

7.8(4) Any greyhound that is withdrawn from a race after the overnight entries are closed shall be deemed a scratch. Such a greyhound shall lose all preference accrued up to that date unless excused by the stewards.

a. In order to scratch a greyhound entered in a race, sufficient cause must be given to satisfy the stewards, and the cause must be reported immediately.

b. Any scratches that occur as the result of a violation of a commission rule must carry a penalty, or a suspension of the greyhound for a period of six racing days, or both. Scratches for other causes shall be disciplined at the discretion of the stewards.

c. If any owner or trainer fails to have the greyhound entered at the appointed time for weigh in and as a result the greyhound is scratched, the stewards shall impose a fine, suspension, or both, on the person or persons responsible.

d. The stewards may for sufficient cause scratch a greyhound entered in a race.

7.8(5) All greyhounds scratched from a race because of overweight or underweight shall receive a suspension of six racing days and must school back before starting in an official race. Greyhounds so scratched may school during their suspension.

**491—7.9(99D) Weights and weighing.**

7.9(1) All greyhounds must be weighed, under supervision of a majority of the stewards, not less than one hour before the time of the first race of the performance, unless prior permission is granted by the state steward.

7.9(2) The weigh-in time shall be limited to a 30-minute period unless an extension has been granted by the state steward.

7.9(3) Before a greyhound is allowed to school or race at any track, the owner or trainer must establish the racing weight of each greyhound with the clerk of scales.

7.9(4) At weigh-in time, should there be a variation of more than one and one-half pounds either way from the greyhound's established weight, the stewards shall order the greyhound scratched.

7.9(5) If, at weigh-in time, there should be more than two pounds' variation between the weight of the greyhound's present race and the weight at weigh-in time of the greyhound's last race, the stewards shall order the greyhound scratched.

7.9(6) At weigh-out time, if a greyhound loses weight in excess of two pounds from its weigh-in weight while in the lock-out kennels, the stewards shall order the greyhound scratched. However, if, in the opinion of the veterinarian, the loss of weight while in the lock-out kennels does not impair

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the racing condition of the greyhound, the stewards may allow the greyhound to race.

**7.9(7)** The weight regulations provided in subrules 7.9(1) through 7.9(6) shall be printed in the daily program.

**7.9(8)** The established racing weight may be changed upon written request of the kennel owner or trainer and written consent of the stewards, provided the change is made four calendar days before the greyhound is allowed to race at the new weight.

a. All greyhounds having an established weight change of more than one pound must be schooled at least once, or more at the discretion of the stewards, at the new established weight before being eligible for starting.

b. Greyhounds that have not raced or schooled officially for a period of three weeks will be allowed to establish a new racing weight with the consent of the stewards.

**7.9(9)** The stewards shall have the privilege of weighing a greyhound entered in a race at any period from the time it enters the lock-out kennel until post time.

**7.9(10)** Immediately after being weighed in, the greyhounds shall be placed in lock-out kennels under the supervision of the paddock judge and no owner or other person except racing officials, commission representatives, or lead-outs shall be allowed in or near the lock-out kennels.

**491—7.10(99D) Qualifying time.**

**7.10(1)** Each facility shall establish and notify the state steward of the qualifying times to be in effect during the racing meet. Said notification must be made at least three days before the first day of official racing.

**7.10(2)** The qualifying time shall be posted on the notice board at the track.

**7.10(3)** Any change in the qualifying time during the course of the meeting shall be made only with the approval of the board of stewards.

**7.10(4)** Any greyhound that fails to meet the established qualifying time shall not be permitted to start other than in futurity or stakes races.

**491—7.11(99D) Schooling.**

**7.11(1)** Greyhounds must be schooled in the presence of the stewards, or must, in the opinion of the stewards, be sufficiently experienced before they can be entered or started.

**7.11(2)** All schooling races shall be at a distance not less than 3/16 mile and wagering will not be allowed.

**7.11(3)** Any greyhound that has not raced on-site for a period of 10 racing days or 15 calendar days, whichever is less, or has been placed on the veterinarian's list shall be officially schooled at least once at its racing weight before being eligible for entry. Any greyhound that has not raced for a period of 30 calendar days shall be officially schooled at its racing weight at least twice before being eligible for entry.

**7.11(4)** Each official schooling race must consist of at least six greyhounds. However, if this condition creates a hardship, less than six may be schooled with the permission of the state steward.

**7.11(5)** No hand schooling will be considered official.

**7.11(6)** All greyhounds in official schooling races must be raced at their established racing weight and started from the box wearing muzzles and blankets.

**7.11(7)** Any greyhound may be ordered on the schooling list by the stewards at any time for good cause and must be schooled officially and satisfactorily before being allowed to enter an official race.

**491—7.12(99D) Running of the race.**

**7.12(1)** When two or more greyhounds run a dead heat, all prizes and moneys to which the greyhounds would have been entitled shall be divided equally between them.

**7.12(2)** If a greyhound bolts the course, runs in the opposite direction, or does not run the entire prescribed distance for the race, it shall forfeit all rights in the race and, no matter where it finished, the stewards shall declare the finish of the race the same as if it were not a contender. However, for the purpose of this rule, the greyhound shall be considered to have started the race.

**7.12(3)** If a greyhound bolts the course, or runs in the opposite direction during the running of the race, and in so doing, in the opinion of the stewards, interfered with any other greyhound in the race, the stewards shall declare a "No Race" and all moneys wagered shall be refunded, except when, in the opinion of the stewards, the interference clearly did not interfere with the outcome of the race.

**7.12(4)** If it appears that a greyhound may interfere with the running of the race because of failure to leave the box, an accident, or for any other reason, any lead-out or racing official stationed around the track may remove the greyhound from the track. However, for the purpose of this rule, the greyhound shall be considered to have started the race.

**7.12(5)** All greyhounds must wear the regulation muzzle and blanket while racing.

**7.12(6)** All greyhounds must be exhibited in the show paddock before post time of the race in which they are entered.

**7.12(7)** A race shall not be called official unless the lure is in advance of the greyhounds at all times during the race. If at any time during the race a greyhound catches or passes the lure, the stewards shall declare a "No Race" and all moneys wagered shall be refunded.

**7.12(8)** The stewards shall closely observe the operation of the lure and hold the lure operator to strict accountability for any inconsistency of operation.

**7.12(9)** If a greyhound is left in the box when the doors of the starting box open at the start, there shall be no refund.

**7.12(10)** A false start, due to any faulty action of the starting box, break in the machinery, or other cause, is void, and the greyhounds may be started again as soon as practicable, or the race may be canceled at the discretion of the stewards.

**7.12(11)** After a greyhound has been placed in the starting box, no refund shall be made and all wagers shall stand. In case of mechanical failure with the starting box, the greyhounds shall be removed from the starting box. The stewards shall determine whether the race will be declared a "No Race" and all moneys wagered be refunded or whether to allow the race to be run after the malfunction has been repaired.

**7.12(12)** The decision as to whether the greyhound(s) was prevented from starting by a mechanical failure shall be made by the stewards after consultation with the starter.

**7.12(13)** If a race is marred by jams, spills, or racing circumstances other than accident to the machinery while a race is being run, and three or more greyhounds finish, the stewards shall declare the race finished; but if less than three greyhounds finish the stewards shall declare a "No Race" and all moneys wagered shall be refunded.

**7.12(14)** In the event the lure arm is not fully extended or fails to remain fully extended during the running of the race, the stewards may declare a "No Race" if, in their opinion, the position of the lure arm affected the outcome of the race. In the event the lure arm collapses to the rail during the running of the race, the stewards shall declare a "No Race" and all moneys wagered shall be refunded.



## RACING AND GAMING COMMISSION[491](cont'd)

**7.12(15)** Any act of the owner, trainer, or handler of a greyhound that would tend to prevent the greyhound from running its best and winning if possible shall result in suspension of all persons found guilty of complicity.

**491—7.13(99D) Race reckless/interfered/rule off.**

**7.13(1)** Race reckless. It is the steward's discretion for the first offense on a maiden as to whether the maiden interfered or raced reckless. It will not be mandatory that a first offense on a maiden be raced reckless.

**7.13(2) Interfered.**

a. Maidens or graded greyhounds coming into Iowa with an interference line from another state will be ruled off all Iowa tracks at the time of the first offense in Iowa.

b. Graded greyhounds will be given an interference ticket at the time of their first offense and will be required to school back to stewards' satisfaction.

c. First offense interference greyhounds will be deleted from the master interference list after one year has elapsed.

**7.13(3) Ruled off.**

a. For a second interference, a greyhound is ruled off all Iowa tracks.

b. The stewards may rule off a greyhound after the first incident of interference if they determine the greyhound's continued participation in racing jeopardizes the safety of the greyhounds it competes against.

c. Once a greyhound has been ruled off in the state of Iowa, it cannot for any reason be entered to race in Iowa again.

**491—7.14(99D) Medication and administration, sample collection, chemists, and practicing veterinarians.****7.14(1) Medication and administration.**

a. No greyhound, while participating in a race, shall carry in its body any medication, drug, foreign substance, or metabolic derivative thereof.

b. Also prohibited are any drugs or foreign substances that might mask or screen the presence of the prohibited drugs or prevent or delay testing procedures.

c. Proof of detection by the commission chemist of the presence of a medication, drug, foreign substance, or metabolic derivative thereof, prohibited by paragraphs 7.14(1)"a" or "b," in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a greyhound immediately prior to or promptly after running in a race shall be prima facie evidence that the greyhound was administered, with the intent that it would carry or that it did carry, prohibited medication, drug, or foreign substance in its body while running in a race in violation of this rule.

d. No person other than a licensed veterinarian shall administer, cause to be administered, participate, or attempt to participate in any way in the administration to a greyhound registered for racing any medication, drug, or foreign substance prior to a race on the day of the race for which a greyhound is entered.

e. Any such person found to have administered, or caused, participated, or attempted to participate in any way in the administration of, a medication, drug, or foreign substance which caused or could have caused a violation of this rule shall be subject to disciplinary action.

f. The owner, trainer, kennel helper, or any other person having charge, custody, or care of the greyhound is obligated to protect the greyhound and guard it against the administration or attempted administration of any medication, drug, or foreign substance. If the stewards find that any person has failed to show proper protection and guarding of the grey-

hound, or if the stewards find that any owner, lessee, or trainer is guilty of negligence, they shall impose discipline and take other action they deem proper under any of the rules of the commission.

**7.14(2) Sample collection.**

a. Under the supervision of the commission veterinarian, urine, blood, and other specimens shall be taken and tested from any greyhounds that the stewards of the meeting, commission veterinarian, or the commission's representatives may designate. Tests are to be under the supervision of the commission. The specimens shall be collected by the commission veterinarian or other person(s) the commission may designate.

b. No unauthorized person shall be admitted at any time to the building or the area utilized for the purpose of collecting the required body fluid samples or the area designated for the retention of greyhounds pending the obtaining of body fluid samples.

c. During the taking of specimens from a greyhound, the owner, trainer, or kennel representative designated by the owner or trainer may be present and witness the taking of the specimen and so signify in writing. Failure to be present and witness the collection of the samples constitutes a waiver by the owner, trainer, or kennel representative of any objections to the source and documentation of the sample.

d. A security guard must be in attendance during the hours designated by the commission.

e. The commission veterinarian, the board of stewards, agents of the division of criminal investigation, or the authorized representatives of the commission may take samples of any medicine or other materials suspected of containing improper medication, drugs, or other substance which could affect the racing condition of a greyhound in a race, which may be found in kennels or elsewhere on facility grounds or in the possession of any person connected with racing, and the same shall be delivered to the official chemist for analysis.

f. Nothing in this rule shall be construed to prevent:

(1) Any greyhound in any race from being subjected by the order of a steward or the commission veterinarian to tests of body fluid samples for the purpose of determining the presence of any foreign substance.

(2) The state steward or the commission veterinarian from authorizing the splitting of any sample.

(3) The commission veterinarian from requiring body fluid samples to be stored in a frozen state for future analysis.

**7.14(3) Chemist.**

a. The commission shall employ one or more chemists or contract with one or more qualified chemical laboratories to determine by chemical testing and analysis of body fluid samples whether a foreign substance, medication, drug, or metabolic derivative thereof is present.

b. All body fluid samples taken by or under direction of the commission veterinarian or authorized representative of the commission shall be delivered to the laboratory of the official chemist for analysis. Each sample shall be marked or numbered and bear information essential to its proper analysis; but the identity of the greyhound from which the specimen was taken or the identity of its owners, trainer, or kennel shall not be revealed to the official chemist or the staff of the chemist. The container of each sample shall be sealed as soon as the sample is placed therein.

c. The commission chemist shall be responsible for safeguarding and testing each sample delivered to the laboratory by the commission veterinarian.

d. The commission chemist shall conduct individual tests on each sample, screening for prohibited substances

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and conducting other tests to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of samples shall be permitted only with the knowledge and approval of the administrator.

e. Upon the finding of a test negative for prohibited substances, the remaining portions of the sample may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, the tests shall be reconfirmed, and the remaining portion of the sample, if available, preserved and protected for two years following close of meet.

f. The commission chemist shall submit to the commission a written report as to each sample tested, indicating by sample tag identification number, whether the sample tested negative or positive for prohibited substances. The commission chemist shall report test findings to no person other than the administrator or commission representative. In addition to the administrator, the commission chemist shall notify the state steward of all positive tests. In the event the commission chemist should find a sample suspicious for a prohibited medication, additional time for test analysis and confirmation may be requested.

g. In reporting to the administrator or state steward a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of the professional opinion as to the positive finding.

h. No action shall be taken by the administrator or state steward on the report of the official chemist unless and until the medication, drug, or other substance and the greyhound from which the sample was taken have been properly identified and until an official report signed by the chemist has been received by the administrator or state steward.

i. The cost of the testing and analysis shall be paid by the commission to the official chemist. The commission shall then be reimbursed by each facility on a per-sample basis so that each facility shall bear only its proportion of the total cost of testing and analysis. The commission may first receive payment from funds provided in Iowa Code chapter 99D, if available.

#### 7.14(4) Practicing veterinarian.

##### a. Prohibited acts.

(1) A licensed veterinarian practicing at any meeting is prohibited from possessing any ownership, directly or indirectly, in any racing animal racing during the meeting.

(2) Veterinarians licensed by the commission as veterinarians are prohibited from placing any wager of money or other thing of value directly or indirectly on the outcome of any race conducted at the meeting at which the veterinarian is furnishing professional service.

(3) No veterinarian shall within the facility grounds furnish, sell, or loan any hypodermic syringe, needle, or other injection device, or any drug, narcotic, or prohibited substance to any other person unless with written permission of the stewards.

b. Whenever a veterinarian has used a hypodermic needle or syringe, the veterinarian shall destroy the needle and syringe and remove it from the facility. The use of other than single-use disposable syringes and infusion tubes on facility grounds is prohibited.

c. Every practicing veterinarian licensed by the commission shall keep, on the premises of a facility, a written record of practice relating to greyhounds participating in racing.

(1) This record shall include the name of the greyhound treated, the nature of the greyhound's ailment, the type of

treatment prescribed and performed for the greyhound, and the date and time of treatment.

(2) This record shall be kept for practice engaged at all facilities in the state of Iowa and shall be produced without delay upon the request of the board of stewards or the commission veterinarian.

d. Each veterinarian shall report immediately to the commission veterinarian any illness presenting unusual or unknown symptoms in a racing animal entrusted into the veterinarian's care.

e. Practicing veterinarians may have employees licensed as veterinary assistants or veterinary technicians working under their direct supervision. Activities of these employees shall not include direct treatment or diagnosis of any racing animal. A practicing veterinarian must be present if an employee is to have access to injection devices or injectables.

These rules are intended to implement Iowa Code chapter 99D.

ITEM 7. Adopt the following **new** 491—Chapter 11:

### CHAPTER 11 GAMBLING GAMES

#### 491—11.1(99F) Definitions.

"Administrator" means the administrator of the commission.

"Coin" means tokens, nickels, and quarters of legal tender.

"Commission" means the racing and gaming commission.

"Distributor's license" means a license issued by the administrator to any entity that sells, leases, or otherwise distributes gambling games to any entity licensed to conduct gambling games pursuant to Iowa Code chapter 99F.

"EPROM" means a computer chip that stores erasable, programmable, read-only memory.

"Facility" means an entity licensed by the commission to conduct gaming operations in Iowa.

"Facility grounds" means all real property utilized by the facility in the conduct of its gaming activity, including the grandstand, concession stands, offices, parking lots, and any other areas under the jurisdiction of the commission.

"Gambling game" means any game of chance approved by the commission for wagering including, but not limited to, gambling games authorized by this chapter.

"Implement of gambling" means any device or object determined by the administrator to directly or indirectly influence the outcome of a gambling game; collect wagering information while directly connected to a slot machine; or be integral to the conduct of a commission-authorized gambling game, possession or use of which is otherwise prohibited by statute.

"Manufacturer's license" means a license issued by the administrator to any entity that assembles, fabricates, produces, or otherwise constructs a gambling game or implement of gambling used in the conduct of gambling games pursuant to Iowa Code chapter 99F.

"Slot machine" means a mechanical or electronic gambling game device into which a player may deposit coins, currency, or other form of cashless wagering and from which certain numbers of credits are paid out when a particular configuration of symbols or events is displayed on the machine.

#### 491—11.2(99F) Conduct of all gambling games.

11.2(1) Commission policy. It is the policy of the commission to require that all facilities conduct gambling games in a manner suitable to protect the public health, safety, mor-

## RACING AND GAMING COMMISSION[491](cont'd)

als, good order, and general welfare of the state. Responsibility for the employment and maintenance of suitable methods of operation rests with the facility. Willful or persistent use or toleration of methods of operation deemed unsuitable in the sole discretion of the commission will constitute grounds for disciplinary action, up to and including license revocation.

**11.2(2) Activities prohibited.** A facility is expressly prohibited from the following activities:

a. Failing to conduct advertising and public relations activities in accordance with decency, dignity, good taste, and honesty.

b. Permitting persons who are visibly intoxicated to participate in gaming activity.

c. Failing to comply with or make provision for compliance with all federal, state, and local laws and rules pertaining to the operation of a facility including payment of license fees, withholding payroll taxes, and violations of alcoholic beverage laws or regulations.

d. Possessing, or permitting to remain in or upon any facility grounds, any associated gambling equipment which may have in any manner been marked, tampered with, or otherwise placed in a condition or operated in a manner which might affect the game and its payouts.

e. Permitting, if the facility was aware of, or should have been aware of, any cheating.

f. Possessing or permitting to remain in or upon any facility grounds, if the facility was aware of, or should have been aware of, any cheating device whatsoever; or conducting, carrying on, operating, or dealing any cheating or thieving game or device on the grounds.

g. Possessing or permitting to remain in or upon any facility grounds, if the facility was aware or should have been aware of, any gambling device which tends to alter the normal random selection of criteria which determines the results of the game or deceives the public in any way.

h. Failing to conduct gaming operations in accordance with proper standards of custom, decorum, and decency; or permitting any type of conduct that reflects negatively on the state or acts as a detriment to the gaming industry.

i. Denying a commissioner or commission representative, upon proper and lawful demand, information or access to inspect any portion of the gaming operation.

**11.2(3) Gambling aids.** No person shall use, or possess with the intent to use, any calculator, computer, or other electronic, electrical, or mechanical device that:

a. Assists in projecting the outcome of a game.

b. Keeps track of cards that have been dealt.

c. Keeps track of changing probabilities.

**11.2(4) Wagers.** Wagers may only be made:

a. By a person present at a facility.

b. In the form of chips, coins, or other cashless wagering system.

c. By persons 21 years of age or older.

**491—11.3(99F) Gambling games approved by the commission.** The commission may approve a gambling game by administrative rule, resolution, or motion.

**491—11.4(99F) Approval for distribution or operation of gambling games and implements of gambling.**

**11.4(1) Approval.** Prior to distribution, a distributor shall request that the administrator inspect, investigate, and approve a gambling game or implement of gambling for compliance with commission rules. The distributor, at its own expense, must provide the administrator with information and product sufficient to determine the integrity and security

of the product, including the cost of independent testing conducted or contracted by the commission.

**11.4(2) Trial period.** Prior to or after commission approval and after completing a review of a proposed gambling game, the administrator is authorized to allow a trial period of up to 180 days to test the gambling game in a facility. During the trial period, minor changes in the operation or design of the gambling game may be made with prior approval of the administrator. During the trial period, a gambling game distributor shall not be entitled to receive revenue of any kind from the operation of that gambling game.

**11.4(3) Gambling game submissions.** Prior to conducting a commission-authorized gambling game or for a trial period, a facility shall submit proposals for game rules, procedures, wagers, shuffling procedures, dealing procedures, cutting procedures, and payout odds. The gambling game submission, or requests for modification to an approved submission, shall be in writing and approved by the administrator or a commission representative prior to implementation.

**11.4(4) Public notice.** All gambling games shall clearly represent the rules of play, payout schedule, and permitted wagering amounts to the playing public as required by the administrator.

**11.4(5) Operation.** Each gambling game shall operate and play in accordance with the representation made to the commission and the public at all times. The administrator or commission representative may order the withdrawal of any gambling game suspected of malfunction or misrepresentation, until all deficiencies are corrected.

**491—11.5(99F) Gambling games authorized.**

**11.5(1) Dice, craps, roulette, twenty-one (blackjack), big six—roulette, red dog, baccarat, and poker** are authorized as table games.

**11.5(2) Slot machines, video poker, and all other video games of chance, both progressive and nonprogressive, shall be allowed as slot machine games, subject to the administrator's approval of individual slot machine prototypes and game variations. For racetrack enclosures, "video machine" as used in Iowa Code section 99F.1(9) shall mean video keno and any video machine game version of a table or card game, including but not limited to those listed in 11.5(1).**

**11.5(3) The administrator is authorized to approve variations of approved gambling games and bonus features or progressive wagers associated with approved gambling games, subject to the requirements of rule 11.4(99F).**

**491—11.6(99F) Gambling game-based tournaments and contests.**

**11.6(1) Proposals.** Proposals for terms, game rules, entry fees, prizes, dates, and procedures must be submitted in writing and approved by a commission representative before a facility conducts any tournament or contest. Any changes to approved tournaments and contests must be submitted to the commission representative for review and approval prior to being implemented. Rules, fees, and a schedule of prizes must be made available to the player prior to entry.

**11.6(2) Limits.** Tournaments and contests must be based on gambling games authorized by the commission. Entry fees, less prizes paid, are subject to the wagering tax pursuant to Iowa Code section 99F.11. In determining adjusted gross receipts, to the extent that prizes paid out exceed entry fees received, the facility shall be deemed to have paid the fees for the participants.

**491—11.7(99F) Table game requirements.**

**11.7(1) Removable storage media in a table game device which controls the randomness of card shufflers or progres-**

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sive table game meters shall be verified and sealed with evidence tape by a commission representative prior to implementation.

**11.7(2) Wagers.** All wagers at table games shall be made by placing gaming chips or coins on the appropriate areas of the layout.

**11.7(3) Craps.** Wagers must be made before the dice are thrown. "Call bets," or the calling out of bets between the time the dice leave the shooter's hand and the time the dice come to rest, not accompanied by the placement of gaming chips, are not allowed.

**11.7(4) Twenty-one.**

a. Before the first card is dealt for each round of play, each player shall make a wager against the dealer. Once the first card of any hand has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager. Once a wager on the insurance line, a wager to double down, or a wager to split pairs has been made and confirmed by the dealer, no player shall handle, remove, or alter the wagers until a decision has been rendered and implemented with respect to that wager, except as explicitly permitted. A facility or licensee shall not permit any player to engage in conduct that violates this paragraph.

b. At the conclusion of a round of play, all cards still remaining on the layout shall be picked up by the dealer in a prescribed order and in such a way that they can be readily arranged to indicate each player's hand in case of question or dispute. The dealer shall pick up the cards beginning with those of the player to the far right and moving counterclockwise around the table. The dealer's hand will be the last hand collected. The cards will then be placed on top of the discard pile. No player or spectator shall handle, remove, or alter any cards used to game at twenty-one or be permitted to do so by a casino employee.

c. Each player at the table shall be responsible for correctly computing the point count of the player's hand. No player shall rely on the point counts announced by the dealer without checking the accuracy of such announcement.

**11.7(5) Roulette.**

a. No person at a roulette table shall be issued or permitted to game with nonvalue gaming chips that are identical in color and design to value gaming chips or to nonvalue gaming chips being used by another person at that same table.

b. Each player shall be responsible for the correct positioning of the player's wager on the roulette layout, regardless of whether the player is assisted by the dealer. Each player must ensure that any instructions the player gives to the dealer regarding the placement of the player's wager are correctly carried out.

c. Each wager shall be settled strictly in accordance with its position on the layout when the ball falls to rest in a compartment of the wheel.

**11.7(6) Big six—roulette.**

a. Each player shall be responsible for the correct positioning of the player's wager on the layout regardless of whether the player is assisted by the dealer.

b. Each wager shall be settled strictly in accordance with its position on the layout when the wheel stops with the winning indicator in a compartment of the wheel.

**11.7(7) Poker.**

a. When a facility conducts poker with an impress dealer gaming chip bank, the rules in 491—Chapter 12 for closing and distributing or removing gaming chips to or from gaming tables do not apply. The entire amount of the table rake is subject to the wagering tax pursuant to Iowa Code section

99F.11. Proposals for impress dealer gaming chip banks must be submitted in writing and approved by a commission representative prior to use.

b. All games shall be played according to table stakes game rules as follows:

(1) Only gaming chips or coins on the table at the start of a deal shall be in play for that pot.

(2) Concealed gaming chips or coins shall not play.

(3) A player with gaming chips may add additional gaming chips between deals, provided that the player complies with any minimum buy-in requirement.

(4) A player is never obliged to drop out of contention because of insufficient gaming chips to call the full amount of a bet, but may call for the amount of gaming chips the player has on the table. The excess part of the bet made by other players is either returned to the players or used to form a side pot.

c. Each player in a poker game is required to act only in the player's own best interest. The facility has the responsibility of ensuring that any behavior designed to assist one player over another is prohibited. The facility may prohibit any two players from playing in the same game.

d. Poker games where winning wagers are paid by the facility according to specific payout odds or pay tables are permitted.

**11.7(8) Red dog.** Before the first card is dealt for each round of play, each player shall make a wager against the dealer. Once the first card of any hand has been dealt by the dealer, no player shall handle, remove, or alter any wagers that have been made until a decision has been rendered and implemented with respect to that wager. Once a wager to double down has been made and confirmed by the dealer, no player shall handle, remove, or alter the wagers until a decision has been rendered and implemented with respect to that wager, except as explicitly permitted.

#### **491—11.8(99F) Keno.**

**11.8(1)** Keno shall be conducted using an automated ticket writing and redemption system where a game's winning numbers are selected by a random number generator.

**11.8(2)** Each game shall consist of the selection of 20 numbers out of 80 possible numbers, 1 through 80.

**11.8(3)** For any type of wager offered, the payout must be at least 80 percent.

**11.8(4)** Multigame tickets shall be limited to 20 games.

**11.8(5)** Writing or voiding tickets for a game after that game has closed is prohibited.

**11.8(6)** All winning tickets shall be valid up to a maximum of one year from the date of purchase. The dollar value of all expired and unclaimed winning tickets shall be added to existing keno jackpots in a manner approved by the administrator.

**11.8(7)** The administrator shall determine minimum hardware and software requirements to ensure the integrity of play. An automated keno system must be proven to accurately account for adjusted gross receipts to the satisfaction of the administrator.

**11.8(8)** Adjusted gross receipts from keno games shall be the difference between dollar value of tickets written and dollar value of winning tickets as determined from the automated keno system. The wagering tax pursuant to Iowa Code section 99F.11 shall apply to adjusted gross receipts of keno games.

## RACING AND GAMING COMMISSION[491](cont'd)

**491—11.9(99F) Slot machine requirements.**

**11.9(1) Movement.** Reports must be filed with the commission on the movement of slot machines into and out of the state. Reports must be received in the commission office no later than 15 calendar days after the movement.

**11.9(2) Payout percentage.** A slot machine game must meet the following maximum and minimum theoretical percentage payouts during the expected lifetime of the game.

a. A slot machine game's theoretical payout must be at least 80 percent and no more than 99 percent of the amount wagered. The theoretical payout percentage is determined using standard methods of probability theory.

b. A slot machine game must have a probability of obtaining the maximum payout greater than 1 in 17,000,000.

**11.9(3)** Unless otherwise authorized by the administrator, each slot machine in a casino shall have the following identifying features:

a. A manufacturer's serial number that is firmly attached and visible.

b. A casino number at least two inches in height permanently imprinted, affixed, or impressed on the outside of the machine so that the number may be observed by the surveillance camera.

c. A display located conspicuously on the slot machine that automatically illuminates when a player has won a jackpot not paid automatically and totally by the slot machine and which advises the player to see an attendant to receive full payment.

d. A display on the front of the slot machine that clearly represents its rules of play, character combinations requiring payouts, and the amount of the related payouts. In addition, a facility shall display on the slot machine a clear description of any merchandise or thing of value offered as a payout including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the facility establishes a time limit upon initially offering the merchandise or thing of value, and the availability or unavailability to the patron of the optional cash equivalent value.

e. A mechanical, electrical, or electronic device that automatically precludes a player from operating the slot machine after winning a jackpot requiring a manual payout. The device must require an attendant to reactivate the machine.

f. A light on the pedestal above the slot machine that automatically illuminates when the door to the slot machine or any device connected which may affect the operation of the slot machine is opened.

g. Test connections as may be specified and approved by the administrator for the on-site inspection, examination, and testing of the machine.

h. Devices, equipment, features, and capabilities, as may be required by the commission, that are specific to that slot machine after the prototype model is approved by the commission.

**11.9(4) Storage media.** Hardware media devices which contain game functions or characteristics, including but not limited to pay tables and random number generators, shall be verified and sealed with evidence tape by a commission representative prior to being placed in operation, as determined by the administrator.

**11.9(5) Posting.** A weighted average of the theoretical payout percentage, as defined in subrule 11.9(2), for all slot machine games shall be posted at the main casino entrance, cashier cages, and slot booths.

**491—11.10(99F) Slot machine hardware and software requirements.****11.10(1) Hardware specifications.**

a. Electrical and mechanical parts and design principles shall not subject a player to physical hazards.

b. A surge protector must be installed on the line that feeds power to a slot machine. The battery backup, or an equivalent, for the electronic meters must be capable of maintaining accuracy of all information required for 180 days after power is discontinued from a slot machine. The backup shall be kept within the locked logic board compartment.

c. An on/off switch that controls the electrical current used in the operation of a slot machine and any associated equipment must be located in an accessible place within the interior of the slot machine.

d. The operation of each slot machine must not be adversely affected by static discharge or other electromagnetic interference.

e. A minimum of one electronic coin acceptor must be installed in each slot machine with the exception of coinless or coin-free games. Coinless or coin-free games are defined as slot machines that do not have a hopper mechanism and do not utilize coin in the operation of the game. Approval letters and test reports of electronic coin acceptors from other state or federal jurisdictions may be submitted. However, all coin acceptors are subject to approval by the administrator.

f. The internal space of a slot machine shall not be readily accessible when the front door is both closed and locked.

g. Logic boards and software EPROMs must be in a locked compartment within the slot machine.

h. The drop container must be in a locked compartment within or attached to the slot machine.

i. No hardware switches may be installed that alter the pay tables or payout percentages in the operation of a slot machine. Hardware switches may be installed to control graphic routines, speed of play, and sound.

j. An unremovable identification plate must appear on the exterior of the slot machine that contains the following information:

- (1) Manufacturer.
- (2) Serial number.
- (3) Model number.

k. The rules of play for each slot machine must be displayed on the face or screen. Rules may be rejected if they are incomplete, confusing, or misleading. Each slot machine must also display the credits wagered and the credits awarded for the occurrence of each possible winning combination based on the number of credits wagered. All information required by this subrule shall be kept under glass or another transparent surface and at no time may stickers or other removable items be placed on the slot machine face that make the required information unreadable.

l. Equipment must be installed that enables the machine to communicate with a central computer system accessible to commission representatives using a communications protocol provided to each licensed manufacturer by the commission for the information and control programs approved by the administrator.

**11.10(2) Software requirements—random number generator.** Each slot machine must have a random number generator that will determine the occurrence of a specific card, number, or stop. A selection process will be considered random if it meets the following requirements:

a. Each card, number, or stop satisfies the 99 percent confidence limit using the standard chi-squared analysis.

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“Chi-squared analysis” is the sum of the squares of the difference between the expected result and the observed result.

b. Each card, number, or stop does not produce a significant statistic with regard to producing patterns of occurrences. Each card, number, or stop will be considered random if it meets the 99 percent confidence level with regard to the runs test or any similar pattern-testing statistic. The “runs test” is a mathematical statistic that determines the existence of recurring patterns within a set of data.

c. Each card, number, or stop position is independently chosen without regard to any other card, number, or stop within that game play. This test is the “correlation test.” Each pair of card, number, or stop positions is considered random if it meets the 99 percent confidence level using standard correlation analysis.

d. Each card, number, or stop position is independently chosen without reference to the same card, number, or stop position in the previous game. This test is the “serial correlation test.” Each card, number, or stop position is considered random if it meets the 99 percent confidence level using standard serial correlation analysis.

**11.10(3)** Continuation of game after malfunction is cleared. Each slot machine must be capable of continuing the current game with all current game features after a malfunction is cleared. This rule does not apply if a slot machine is rendered totally inoperable; however, the current wager and all credits appearing on the screen prior to the malfunction must be returned to the player.

**11.10(4)** Software requirements—play transaction records. Each slot machine must maintain electronic accounting meters at all times, regardless of whether the slot machine is being supplied with power. Each meter must be capable of maintaining totals no fewer than six digits in length for the information required in “a” to “d” below. The electronic meters must record the following:

- a. Total number of coins inserted.
- b. Total number of coins paid out.
- c. Total number of coins dropped to drop container.
- d. Total number of credits wagered.
- e. Total number of credits won.
- f. Total number of credits paid out.
- g. Number of times the logic area was accessed.
- h. Number of times the cash door of the device was accessed.
- i. Number of coins or credits wagered in the current game.
- j. Total credits for games won but not collected, commonly referred to as the credit meter.

The meters required in “a,” “b,” and “c” above shall be placed in a position so that the number thereon can be read without opening the slot machine.

No slot machine may have a mechanism by which an error will cause the electronic accounting meters to automatically clear. Clearing of the electronic accounting meters may only be completed after notification and approval by a commission representative. All meter readings must be recorded both before and after the electronic accounting meter is cleared.

**11.10(5)** Software requirements—error conditions—automatic clearing. Slot machines must be capable of detecting and displaying the following conditions, which must be automatically cleared by the slot machine upon initiation of a new play sequence at the start of the second game.

- a. Power reset.
- b. Door open.

**491—11.11(99F) Slot machine specifications.****11.11(1) Error conditions.**

a. Slot machines must be capable of detecting and displaying the following error conditions which are manually cleared:

- (1) Coin-in jam.
- (2) Coin-out jam.
- (3) Hopper empty or timed out.
- (4) RAM error.
- (5) Hopper runaway or extra coins paid out.
- (6) Low RAM battery, for batteries external to the RAM itself.

A battery approved by a commission representative that is replaced pursuant to its manufacturer’s specifications or as specified in the prototype approval report, whichever is sooner, may be installed in lieu of the low RAM battery error condition.

b. A description of slot machine error codes and each code’s meaning must be affixed inside the slot machine.

**11.11(2) Hopper mechanism.** Slot machines equipped with a hopper must be designed to detect jammed coins, extra coins paid out, hopper runaways, and hopper empty conditions. The slot machine control program must monitor the hopper mechanism for these error conditions in all game states. All coins paid from the hopper mechanism must be accounted for by the slot machine, including those paid as extra coins during a hopper malfunction.

**491—11.12(99F) Progressive slot machines.**

**11.12(1) Meter required.** A progressive machine is a slot machine game with a jackpot payout that increases as the slot machine is played. A progressive slot machine or group of linked progressive slot machines must have a meter showing the progressive jackpot payout.

**11.12(2) Progressive controllers.** The reset or base value and the rate of increment of a progressive game must be approved by a commission representative prior to implementation. A reset or base value must equal or exceed the equivalent nonprogressive jackpot payout.

**11.12(3) Limits.** A facility may impose a limit on the progressive jackpot payout of a slot machine if the limit imposed is greater than the progressive jackpot payout at the time the limit is imposed. The facility must prominently display a notice informing the public of the limit. No progressive meter may be turned back to a lesser amount unless one of the following circumstances occurs:

- a. The amount shown on the progressive meter is paid to a player as a jackpot.
- b. It is necessary to adjust the progressive meter to prevent it from displaying an amount greater than the limit imposed by the facility.
- c. It is necessary to change the progressive indicator because of game malfunction.

**11.12(4) Transfer of jackpots.** A progressive jackpot may be transferred to another progressive slot machine at the same facility in the event of malfunction, replacement, or for other good reason. A commission representative shall be notified in writing prior to a transfer.

**11.12(5) Records required.** Records must be maintained that record the amount shown on a progressive jackpot meter. Supporting documents must be maintained to explain any reduction in the payoff amount from a previous entry. The records and documents must be retained for a period of three years unless permission to destroy them earlier is given in writing by the administrator.

**11.12(6) Transfer of progressive slot machines.** A progressive slot machine, upon permission of the administrator,



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may be moved to a different facility if a bankruptcy, loss of license, or other good cause warrants.

**11.12(7)** Linked machines. Each machine on the link must have the same probability of hitting the combination that will award the progressive jackpot.

**11.12(8)** Wide area progressive systems. A wide area progressive system is a method of linking progressive slot machines or electronic gaming devices across telecommunication lines as part of a network connecting participating facilities. The purpose of a wide area progressive system is to offer a common progressive jackpot (system jackpot) at all participating locations. The operation of a wide area progressive system (multilink) is permitted subject to the following conditions:

a. The method of communication over the multilink system must consist of dedicated on-line communication lines (direct connect), dial-tone lines, or wireless communication which may be subject to certain restrictions imposed by the administrator.

b. All communication between each facility location and the central system site must be encrypted.

c. All meter reading data must be obtained in real time in an on-line automated fashion. When requested to do so, the system must return meter readings on all slot machines or electronic gaming devices (machines) attached to the system within a reasonable time of the meter acquisition request. Manual reading of meter values may not be substituted for these requirements. There is no restriction as to the acceptable method of obtaining meter reading values, provided, however, that such methods consist of either pulses from any machine computer board or associated wiring, or the use of serial interface to the machine's random access memory (RAM) or other nonvolatile memory.

d. The multilink system must have the ability to monitor entry into the front door of the machine as well as the logic area of the machine and report such data to the central system.

e. The central system site must be located in the state of Iowa, be equipped with a noninterruptible power supply, and the central computer must be capable of on-line data redundancy should hard disk peripherals fail during operation. The office containing the central computer shall be equipped with a surveillance system that has been approved by the administrator. Any person authorized to provide a multilink system shall be required to keep and maintain an entry and exit log for the office containing the central computer. Any person authorized to provide a multilink system shall provide access to the office containing the central computer to the administrator and shall make available to the administrator all books, records, and information required by the administrator in fulfilling its regulatory purpose.

f. Any person authorized to provide a multilink system must suspend play on the system if a communication failure of the system cannot be corrected within 24 consecutive hours.

g. Approval by a commission representative of any multilink system shall occur only after the administrator has reviewed the system software and hardware and is satisfied that the operation of the system meets accepted industry standards for multilink system products, as well as any other requirements that the administrator may impose to ensure the integrity, security, and legal operation of the multilink system.

h. A meter that shows the amount of the system jackpot must be conspicuously displayed at or near the machines to which the jackpot applies. The system jackpot meter need

not precisely show the actual moneys in the system jackpot award at each instant. Nothing shall prohibit the use of odometer or other paced updating progressive displays. In the case of the use of paced updating displays, the system jackpot meter must display the winning value after the jackpot broadcast is received from the central system, providing the remote site is communicating to the central computer. If a system jackpot is recognized in the middle of a systemwide poll cycle, the system jackpot display may contain a value less than the aggregated amount calculated by the central system. The coin values from the remaining portion of the poll cycle will be received by the central system but not the local site, in which case the system jackpot amount paid will always be the higher of the two reporting amounts.

i. When a system jackpot is won, a person authorized to provide the multilink system and the trust provided for in paragraph "m" below shall have the opportunity to inspect the machine, EPROM, the error events received by the central system, and any other data which could reasonably be used to ascertain the validity of the jackpot.

(1) The central system shall produce reports that will clearly demonstrate the method of arriving at the payoff amount. This shall include the coins contributed beginning with the polling cycle immediately following the previous jackpot and will include all coins contributed up to, and including, the polling cycle, which includes the jackpot signal. Coins contributed to and registered by the system before the jackpot message is received will be deemed to have been contributed to the progressive amount prior to the current jackpot. Coins contributed to the system subsequent to the jackpot message's being received as well as coins contributed to the system before the jackpot message is received by the system, but registered after the jackpot message is received at the system, will be deemed to have been contributed to the progressive amount of the next jackpot.

(2) The system jackpot may be disbursed in periodic payments as long as each machine clearly displays the fact that the jackpot will be paid in such periodic payments. In addition, the number of periodic payments and time between payments must be clearly displayed on the face of the slot machine in a nonmisleading manner.

(3) Two system jackpots which occur in the same polling cycle before the progressive amount can reset will be deemed to have occurred simultaneously; therefore, each winner shall receive the full amount shown on the system jackpot meter.

j. Any person authorized to provide a multilink system must supply, as requested, reports to the commission office and the trust which support and verify the economic activity of the system.

(1) Any person authorized to provide a multilink system must supply to the commission and the trust, as requested, reports and information to the commission office and the trust indicating the amount of, and basis for, the current system jackpot amount. Such reports may include an aggregate report and a detail report. The aggregate report may show only the balancing of the system with regard to systemwide totals. The detail report shall be in such form as to indicate for each machine, summarized by location, the coin-in totals as such terms are commonly understood in the industry.

(2) In addition, upon the invoicing of any facility participating in a multilink system, each such facility must be given a printout of each machine operated by that facility, the coins contributed by each machine to the system jackpot for the period for which an invoice is remitted, and any other infor-

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mation required by the commission to confirm the validity of the facility's contributions to the system jackpot amount.

k. In calculating adjusted gross receipts, a facility may deduct its pro-rata share of the present value of any system jackpots awarded during the month. Such deduction amount shall be listed on the detailed accounting records provided by the person authorized to provide the multilink system. A facility's pro-rata share is based on the number of coins in from that facility's machines on the multilink system, compared to the total amount of coins in on the whole system for the time period(s) between jackpot(s) awarded.

l. In the event a facility ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of operation, the facility may not file an amended wagering tax submission or make a claim for a wagering tax refund based on its contributions to that particular progressive prize pool.

m. A facility, or an entity that is licensed as a manufacturer or distributor, shall provide the multilink system in accordance with a written agreement which shall be reviewed and approved by the commission prior to offering the jackpots, provided, however, a trust comprised of the participating facility shall be established to control the system jackpot fund (trust fund) provided for in paragraph "n," subparagraph (3).

n. The payment of any system jackpot offered on a multilink system shall be administered by a trust, in accordance with a written trust agreement which shall be reviewed and approved by the commission prior to the offering of the jackpot. The trust may contract with a licensed manufacturer or distributor to administer the trust fund. The trust agreement shall require the following:

(1) Any facility participating in offering the multilink system jackpot shall serve as trustee for the trust fund.

(2) Any facility shall be jointly and severally liable for the payment of system jackpots won on a multilink system in which the licensee is or was a participant at the time the jackpot was won.

(3) The moneys in the trust fund shall consist of the sum of funds invoiced to and received by the trust from the facility with respect to each particular system, which invoices shall be based on a designated percentage of the handle generated by all machines linked to the particular system; any income earned by the trust; and sums borrowed by the trust and any other property received by the trust. Prior to the payment of any other expenses, the trust funds shall be used to purchase Iowa state-issued debt instruments or United States Treasury debt instruments in sufficient amounts to ensure that the trust will have adequate moneys available in each year to make all multilink system jackpot payments which are required under the terms of the multilink system jackpots which are won.

(4) A reserve shall be established and maintained within the trust fund sufficient to purchase any United States Treasury or Iowa state debt instruments required as multilink system jackpots are won (systems reserves). For purposes of this rule, the multilink system reserves shall mean an amount equal to the sum of the present value of the aggregate remaining balances owed on all jackpots previously won by patrons on the multilink systems; the present value of the amount currently reflected on the system jackpot meters of the multilink systems; and the present value of one additional reset (start amount) on such systems.

(5) The trust shall continue to be maintained until all payments owed to winners of the multilink system jackpots have been made.

(6) For multilink system jackpots disbursed in periodic payments, any United States Treasury or Iowa state debt instruments shall be purchased within 90 days following notice of the win of the multilink system jackpot, and a copy of such debt instruments will be provided to the commission office within 30 days of purchase. Any United States Treasury or Iowa state debt instrument shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment, and shall have a maturity date prior to the date the periodic jackpot payment is required to be made.

(7) The trust shall not be permitted to sell, trade, or otherwise dispose of any United States Treasury or Iowa state debt instruments prior to maturity unless approval to do so is first obtained from the commission.

(8) Upon becoming aware of an event of noncompliance with the terms of the approved trust agreement or reserve requirement mandated by subparagraph (4) above, the trust must immediately notify the commission of such event. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the trust to be unable to fulfill, or otherwise impair, its ability to satisfy its jackpot payment obligations.

(9) With the exception of the transfer to the estate or heir(s) of a deceased system jackpot winner or to the estate or heir(s) of such transferee upon death or the granting of a first priority lien to the trust to secure repayment of a tax loan to the winner should a tax liability on the full amount of the jackpot be assessed by the Internal Revenue Service against the winner, no interest in income or principal shall be alienated, encumbered, or otherwise transferred or disposed of in any way by any person while in the possession and control of the trust.

(10) On a quarterly basis, the trust must deliver to the commission office a calculation of system reserves required under subparagraph (4) above.

(11) The trust must be audited, in accordance with generally accepted auditing standards, on the fiscal year of the trust by an independent certified public accountant. Two copies of the report must be submitted to the commission office within 90 days after the conclusion of the trust's fiscal year.

o. For multilink system jackpots disbursed in periodic payments, subsequent to the date of the win, a winner may be offered the option to receive, in lieu of periodic payments, a discounted single cash payment in the form of a "qualified prize option," as that term is defined in Section 451(h) of the Internal Revenue Code. The trust administrator shall calculate the single cash payment based on the discount rate. "Discount rate" means either (1) the current prime rate as published in the Wall Street Journal or (2) a blended rate computed by obtaining quotes for the purchase of U.S. Government Treasury Securities at least three times per month. The discount rate selected by the trust administrator shall be used to calculate the single cash payment for all qualified prizes that occur subsequent to the date of the selected discount rate, until a new discount rate becomes effective.

#### **491—11.13(99F) Licensing of manufacturers and distributors of gambling games or implements of gambling.**

**11.13(1) Impact on gambling.** In considering whether a manufacturer or distributor applicant will be licensed or a specific product will be distributed, the administrator shall give due consideration to the economic impact of the applicant's product, the willingness of a licensed facility to offer the product to the public, and whether its revenue potential



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warrants the investigative time and effort required to maintain effective control over the product.

**11.13(2) Licensing standards.** Standards which shall be considered when determining the qualifications of an applicant shall include, but are not limited to, financial stability; business ability and experience; good character and reputation of the applicant as well as all directors, officers, partners, and employees; integrity of financial backers; and any effect on the Iowa economy.

**11.13(3) Application procedure.** Application for a manufacturer's or a distributor's license shall be made to the commission for approval by the administrator. In addition to the application, the following must be completed and presented when the application is filed:

a. Disclosure of ownership interest, directors, or officers of licensees.

(1) An applicant or licensee shall notify the administrator of the identity of each director, corporate officer, owner, partner, joint venture participant, trustee, or any other person who has any beneficial interest of 5 percent or more, direct or indirect, in the business entity. For any of the above, as required by the administrator, the applicant or licensee shall submit background information on forms supplied by the division of criminal investigation and any other information the administrator may require.

For purposes of this rule, beneficial interest includes all direct and indirect forms of ownership or control, voting power, or investment power held through any contract, lien, lease, partnership, stockholding, syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

(2) For ownership interests of less than 5 percent, the administrator may request a list of these interests. The list shall include names, percentages owned, addresses, social security numbers, and dates of birth. The administrator may request the same information required of those individuals in subparagraph (1) above.

b. Investigative fees.

(1) Advance payment. The department of public safety may request payment of the investigative fee in advance as a condition to beginning investigation.

(2) Payment required. The administrator may withhold final action with respect to any application until all investigative fees have been paid in full.

c. A bank or cashier's check made payable to the Iowa Racing and Gaming Commission for the annual license fee as follows:

(1) A manufacturer's license shall be \$250.

(2) A distributor's license shall be \$1,000.

d. A copy of each of the following:

(1) Articles of incorporation and certificate of incorporation, if the applicant is a corporation.

(2) Partnership agreement, if the business entity is a partnership.

(3) Trust agreement, if the business entity is a trust.

(4) Joint venture agreement, if the business entity is a joint venture.

(5) List of employees of the aforementioned who may have contact with persons within the state of Iowa.

e. A copy of each of the following types of proposed distribution agreements, where applicable:

(1) Purchase agreement(s).

(2) Lease agreement(s).

(3) Bill(s) of sale.

(4) Participation agreement(s).

f. Supplementary information. Each applicant shall promptly furnish the administrator with all additional information pertaining to the application or the applicant which the administrator may require. Failure to supply the information requested within five days after the request has been received by the applicant shall constitute grounds for delaying consideration of the application.

g. Any and all changes in the applicant's legal structure, directors, officers, or the respective ownership interests must be promptly filed with the administrator.

h. The administrator may deny, suspend, or revoke the license of an applicant or licensee in which a director, corporate officer, or holder of a beneficial interest includes or involves any person or entity which would be, or is, ineligible in any respect, such as through want of character, moral fitness, financial responsibility, professional qualifications, or due to failure to meet other criteria employed by the administrator, to participate in gaming regardless of the percentage of ownership interest involved. The administrator may order the ineligible person or entity to terminate all relationships with the licensee or applicant, including divestiture of any ownership interest or beneficial interest at acquisition cost.

i. Disclosure. Disclosure of the full nature and extent of all beneficial interests may be requested by the administrator and shall include the names of individuals and entities, the nature of their relationships, and the exact nature of their beneficial interest.

j. Public disclosure. Disclosure is made for the benefit of the public, and all documents pertaining to the ownership filed with the administrator shall be available for public inspection.

**11.13(4) Temporary license certificates.**

a. A temporary license certificate may be issued at the discretion of the administrator.

b. Temporary licenses—period valid. Any certificate issued at the discretion of the administrator shall be valid for a maximum of 120 calendar days from the date of issue.

Failure to obtain a permanent license within the designated time may result in revocation of the license eligibility, fine, or suspension.

**11.13(5) Withdrawal of application.** A written notice of withdrawal of application may be filed by an applicant at any time prior to final action. No application shall be permitted to be withdrawn unless the administrator determines the withdrawal to be in the public interest. No fee or other payment relating to any application shall become refundable by reason of withdrawal of the application.

**11.13(6) Record keeping.**

a. Record storage required. Distributors and manufacturers shall maintain adequate records of business operations, which shall be made available to the administrator upon request. These records shall include:

(1) All correspondence with the administrator and other governmental agencies on the local, state, and federal level.

(2) All correspondence between the licensee and any of its customers who are applicants or licensees under Iowa Code chapter 99F.

(3) A personnel file on each employee of the licensee, including sales representatives.

(4) Financial records of all transactions with facilities and all other licensees under these regulations.

b. Record retention. The records listed in 11.13(6)"a" shall be retained as required by 491—subrule 5.4(14).

**11.13(7) Violation of laws or regulations.** Violation of any provision of any laws of the state or of the United States of America or of any rules of the commission may constitute

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an unsuitable method of operation, subjecting the licensee to limiting, conditioning, restricting, revoking or suspending the license, or fining the licensee, or any combination of the above.

**11.13(8)** Consent to inspections, searches, and seizures. Each manufacturer or distributor licensed under this chapter shall consent to inspections, searches, and seizures deemed necessary by the administrator and authorized by law in order to enforce licensing requirements.

These rules are intended to implement Iowa Code chapter 99F.

ITEM 8. Adopt the following **new** 491—Chapter 12:

## CHAPTER 12

## ACCOUNTING AND CASH CONTROL

**491—12.1(99F) Definitions.**

“Casino” means all areas of a facility where gaming is conducted.

“Coin” means tokens, nickels, and quarters of legal tender.

“Commission” means the racing and gaming commission.

“Container” means:

1. A box attached to a gaming table in which shall be deposited all currency in exchange for gaming chips, fill and credit slips, requests for fill forms, and table inventory forms.

2. A canister in a slot machine cabinet to which coins played are diverted when the hopper is filled or in which currency is retained by slot machines and not used to make change or automatic jackpot payouts.

“Count room” means an area in the facility where contents of containers are counted and recorded.

“Currency” means paper money of legal tender or paper form of cashless wagering.

“Drop” means removing the containers from the casino to the count room.

“Facility” means an entity licensed by the commission to conduct gaming operations in Iowa.

“Hopper” means a payout reserve container in which coins are retained by a slot machine to automatically pay jackpots.

“Internal controls” means the facility’s system of internal controls.

“Moneys” means coin and currency.

“Request” means a request for credit slip, request for fill slip, or request for jackpot payout slip.

“Slip” means a credit slip, fill slip, or jackpot payout slip.

“Slot machine” means a mechanical or electronic gambling game device into which a player may deposit coins, currency, or other form of cashless wagering and from which certain numbers of credits are paid out when a particular configuration of symbols or events is displayed on the machine.

**491—12.2(99F) Accounting records.**

**12.2(1)** Each facility shall maintain complete and accurate records of all transactions pertaining to revenues and costs.

**12.2(2)** General accounting records shall be maintained on a double entry system of accounting with transactions recorded on an accrual basis.

**12.2(3)** Detailed, supporting, and subsidiary records shall be maintained. The records shall include, but are not limited to:

a. Statistical game records by gaming day to reflect drop and win amounts by table for each game.

b. Records of all investments, advances, loans, and receivable balances due the facility.

c. Records related to investments in property and equipment.

d. Records which identify the handle, payout, win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages for each slot machine on a week-to-date, month-to-date, and year-to-date basis.

e. Records of all loans and other amounts payable by the facility.

f. Records that identify the purchase, receipt, and destruction of gaming chips and tokens.

**12.2(4)** Whenever duplicate or triplicate copies of a form, record, or document are required by these rules, the original, duplicate, and triplicate copies shall be color-coded and have the destination of the original copy identified on the duplicate and triplicate copies.

**12.2(5)** Whenever forms or serial numbers are required to be accounted for or copies of forms are required to be compared for agreement and exceptions are noted, such exceptions shall be reported immediately and in writing to the commission.

**491—12.3(99F) Facility internal controls.**

**12.3(1)** Each facility shall submit a description of internal controls to the commission. The submission shall be made at least 90 days before gaming operations are to commence unless otherwise directed by the administrator. The submission shall include and provide for the following:

a. Administrative control that includes, but is not limited to, the plan of organization and the procedures and records that are concerned with the decision processes leading to management’s levels of authorization of transactions.

b. Accounting control that includes the plan of organization and the procedures and records that are concerned with the safeguarding of assets and the reliability of financial records. The accounting control shall be designed to provide reasonable assurance that:

(1) Transactions are executed in accordance with management’s general and specific authorization, which shall include the requirements of this chapter.

(2) Transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets.

(3) Access to assets is permitted only in accordance with management authorization, which shall include requirements of this chapter.

(4) The recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

c. A listing of competent personnel with integrity and an understanding of prescribed internal controls.

d. A listing of the segregation of incompatible functions so that no employee is in a position to perpetrate and conceal errors or irregularities in the normal course of the employee’s duties.

**12.3(2)** A commission representative shall review each submission required by subrule 12.3(1) and determine whether it conforms to the requirements of Iowa Code chapter 99F and to the intent of this chapter and whether the internal controls submitted provide adequate and effective control for the operations of the facility. If the commission representative finds any insufficiencies, the insufficiencies shall be specified in writing to the facility, which shall make appropriate alterations. No facility shall commence gaming

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operations unless and until the internal controls are approved.

**12.3(3)** Each facility shall submit to the commission any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by a commission representative. The proposed changes shall be submitted to the commission and the changes may be approved or disapproved by the commission representative. No facility shall alter its internal controls until the changes are approved.

**12.3(4)** It shall be the affirmative responsibility and continuing duty of each occupational licensee to follow and comply with all internal controls.

**491—12.4(99F) Accounting controls within the cashier's cage.**

**12.4(1)** The assets for which the cashiers are responsible shall be maintained on an impress basis. At the end of each shift, the cashiers assigned to the outgoing shift shall record on a cashier's count sheet the face value of each cage inventory item counted and the total of the opening and closing cage inventories and shall reconcile the total closing inventory with the total opening inventory.

**12.4(2)** At the conclusion of gaming activity each gaming day, a copy of the cashiers' count sheets and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, agreement of amounts thereon to other forms, records, and documents required by this chapter, and the recording of all transactions.

**12.4(3)** Each facility shall place on file with the commission the names of all persons authorized to enter the cashier's cage, persons who possess the combination or keys to the locks securing the entrance to the cage, and persons who possess the ability to operate alarm systems.

**491—12.5(99F) Gaming table container.** Each gaming table in a casino shall have attached to it a container.

**12.5(1)** Each container shall have:

- a. A lock securing the contents of the container, the key to which shall be checked out by the drop team.
- b. A separate lock securing the container to the gaming table, the key to which shall be different from each of the keys to locks securing the contents of the container.
- c. A slot opening through which currency, forms, records, and documents can be inserted.
- d. A mechanical device that will close and lock the slot opening upon removal of the container from the gaming table.

**12.5(2)** Keys referred to in this rule shall be maintained and controlled by the security department in a secured area. The facility shall establish a sign-out procedure for all keys removed from the secured area.

**491—12.6(99F) Accepting currency at gaming tables.** Whenever currency is presented by a patron at a gaming table in exchange for gaming chips, the following procedures and requirements shall be observed:

**12.6(1)** The dealer or boxperson accepting the currency shall spread the currency on the top of the gaming table.

**12.6(2)** The dealer or boxperson shall verbalize the currency value in a tone of voice necessary to be heard by the patron and the casino supervisor assigned to the gaming table.

**12.6(3)** The dealer or boxperson shall take the currency from the top of the gaming table and place it into the container immediately after verbalizing the amount.

**491—12.7(99F) Forms for the movement of gaming chips to and from gaming tables.**

**12.7(1)** A request shall be prepared by a casino supervisor or a casino clerk to authorize the preparation of a slip for the movement of gaming chips. The request shall be a two-part form and access to the form shall, prior to use, be restricted to casino supervisors and casino clerks.

**12.7(2)** On the original and duplicate requests, the following information shall be recorded:

- a. The date and time of preparation.
- b. The total amount of each denomination.
- c. The total amount of all denominations.
- d. The game and table number.
- e. The signature of the casino supervisor. Additionally,

for credit requests, the signature of the dealer or boxperson assigned to the gaming table.

**12.7(3)** Slips shall be serially prenumbered forms; each series of slips shall be used in sequential order and the series numbers of all slips received by a casino shall be accounted for by employees who shall have segregation of incompatible functions. Whenever it becomes necessary to void a slip, the original and duplicate slips must clearly be marked "void" and shall require the signature of the preparer.

**12.7(4)** For facilities in which slips are manually prepared, the following procedures and requirements shall be observed:

a. Each series of slips shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser and will discharge the original and duplicate slips while the triplicate remains in a continuous unbroken form in the dispenser.

b. Access to the triplicates shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of slips, placing slips in the dispensers, and removing from the dispensers, each gaming day, the triplicates remaining therein. The employees shall have segregation of incompatible functions.

**12.7(5)** For facilities in which slips are computer-prepared, each series of slips shall be a two-part form and shall be inserted in a printer that will simultaneously print an original and a duplicate and store, in machine-readable form, all information printed on the original and duplicate and discharge in the cashier's cage the original and duplicate. The stored data shall not be susceptible to change or removal by any person after preparation of a slip.

**12.7(6)** On original, duplicate, and triplicate slips or in stored data, the preparer shall record the following information:

- a. The date and time of preparation.
- b. The total amount of each denomination.
- c. The total amount of all denominations.
- d. The game and table number.
- e. The signature of the preparer or, if computer-prepared, the identification code of the preparer.

**12.7(7)** The original and duplicate slips shall contain signatures of the following personnel at the following times attesting to the accuracy of the information contained on the slips:

- a. The cashier upon preparation.
- b. The security employee, or other employee authorized by the internal controls, upon receipt of the gaming chips to be transported to or from the cashier's cage.
- c. The dealer or boxperson assigned to the gaming table upon receipt of the gaming chips at the table from a security

## RACING AND GAMING COMMISSION[491](cont'd)

employee, or other employee authorized by the internal controls.

d. The casino supervisor assigned to the gaming table upon receipt of the gaming chips at the table.

**12.7(8)** The original and duplicate void slips, void and error reports, requests, and the original slip, maintained and controlled in conformity with subrule 12.8(6) or 12.9(4), shall be forwarded using one of the following alternatives:

a. Forwarded to the count team for agreement with the duplicate slip and duplicate request, and the original and duplicate slip shall be forwarded to the accounting department for agreement, on a daily basis, with the triplicate or stored data.

b. Forwarded to the accounting department for agreement, on a daily basis, with the duplicate slip and duplicate request removed from the container and the triplicate or stored data.

**491—12.8(99F) Distribution of gaming chips to gaming tables.**

**12.8(1)** After preparation of a request, the original request shall be transported directly to the cashier's cage.

**12.8(2)** The dealer or boxperson shall place the duplicate request in public view on the gaming table to which the gaming chips are to be received. The duplicate request shall not be removed until the chips are received.

**12.8(3)** If slips are computer-prepared, and the input data required for preparation complies with subrule 12.7(2), subrules 12.8(1) and 12.8(2) shall not apply.

**12.8(4)** A slip shall be prepared by a cashier.

**12.8(5)** All gaming chips distributed to the gaming tables from the cashier's cage shall be transported to the gaming tables from the cashier's cage by a security employee, or other employee authorized by the internal controls, who shall compare the original request to the slip and sign the original request, maintained at the cashier's cage, before transporting the gaming chips and the original and duplicate slips.

**12.8(6)** Upon meeting the signature requirements as described in subrule 12.7(7), the employee that transported the gaming chips and the original and duplicate slips to the table shall observe the immediate placement by the dealer or boxperson of the original slip and the duplicate request in the container of the gaming table to which the gaming chips were transported and return or observe the return of the duplicate slip to the cashier's cage where the duplicate slip and original request shall be maintained together and controlled by a cashier.

**491—12.9(99F) Removal of gaming chips from gaming tables.**

**12.9(1)** Immediately upon preparation of a request and transfer of gaming chips to a security employee, or other employee authorized by the internal controls, a casino supervisor shall obtain on the duplicate request the signature of the employee to whom the gaming chips were transferred. The dealer or boxperson shall then place the duplicate request in public view on the gaming table from which the gaming chips were removed. The duplicate request shall not be removed until a slip is received from a cashier.

**12.9(2)** The security employee, or other employee authorized by the internal controls, shall transport the original request and the gaming chips removed from the gaming table directly to the cashier's cage.

**12.9(3)** Slips shall be prepared by a cashier or, if computer-prepared, by a cashier, casino supervisor, or casino clerk, whenever gaming chips are returned from the gaming tables to the cashier's cage.

**12.9(4)** Upon meeting the signature requirements as described in subrule 12.7(7), the security employee, or other employee authorized by the internal controls, shall transport the original and duplicate slips to the gaming table. The employee transporting the original and duplicate slips shall observe the immediate placement by the dealer or boxperson of the duplicate slip and duplicate request in the container attached to the gaming table from which the gaming chips were removed. The security employee or the casino clerk shall expeditiously return the original slip to the cashier's cage where the original slip and original request shall be maintained and controlled by employees independent of the casino department.

**491—12.10(99F) Dropping or opening a gaming table.**

**12.10(1)** The table inventory slips shall be two-part forms, the original marked "closer" and the duplicate marked "opener," containing the following:

a. The date and time of preparation.  
b. The game and table number.  
c. The total value of each denomination of gaming chips.

d. The total value of all denominations of gaming chips.

**12.10(2)** Whenever a gaming table is dropped or upon initial opening after a drop, the gaming chips at the gaming table shall be counted by the dealer or boxperson assigned to the gaming table while observed by a casino supervisor assigned to the gaming table.

**12.10(3)** Signatures attesting to the accuracy of the information recorded on the table inventory slips at the time of dropping or opening of the gaming tables shall be of the dealer or boxperson and the casino supervisor assigned to the gaming table who observed the dealer or boxperson count the contents of the table inventory.

**12.10(4)** Upon meeting the signature requirements described in subrule 12.10(3):

a. The closer, at dropping, shall be deposited in the container immediately prior to the closing of the table. The opener and the gaming chips remaining at the table shall be placed in a secured locked area on the table.

b. The opener, at opening, shall be immediately deposited in the container.

**12.10(5)** Upon opening a gaming table, if the totals on the gaming inventory form vary from the opening count, the casino supervisor shall fill out an error notification slip. The casino supervisor and dealer or boxperson shall sign the error notification slip and deposit the slip in the container.

**491—12.11(99F) Slot machines—keys.**

**12.11(1)** Each slot machine located in a casino shall have a hopper and a container. Each container shall be identified at time of removal by a number corresponding to the casino number of the slot machine from which it is removed.

**12.11(2)** The container of each slot machine shall be housed in a locked compartment separate from any other compartment of the slot machine.

**12.11(3)** The key to the compartment securing the container shall be maintained and controlled by the security department in a secured area. The facility shall establish a sign-out procedure for all keys removed from the secured area.

**12.11(4)** Keys to each slot machine or any device connected thereto which may affect the operation of the slot machine with the exception of the keys to the compartment housing the container shall be maintained in a secure place and controlled by the slot department.

## RACING AND GAMING COMMISSION[491](cont'd)

**491—12.12(99F) Forms for hopper fills and jackpot payout slips.**

**12.12(1)** Slips shall be serially prenumbered forms. Each series of slips shall be used in sequential order, and the series numbers of all slips received by a casino shall be accounted for by employees independent of the cashier's cage and the slot department. Whenever it becomes necessary to void a slip, the original and duplicate slips must clearly be marked "void" and shall require the signature of the preparer. A serially prenumbered combined slip may be utilized as approved by a commission representative provided that the combined slip shall be used in a manner which otherwise complies with this chapter.

**12.12(2)** For facilities in which slips are manually prepared, the following procedures and requirements shall be observed:

a. Each series of slips shall be a three-part form and shall be inserted in a locked dispenser that will permit an individual slip in the series and its copies to be written upon simultaneously while still locked in the dispenser and will discharge the original and duplicate slips while the triplicate remains in a continuous unbroken form in the dispenser.

b. Access to the triplicates shall be maintained and controlled at all times by employees responsible for controlling and accounting for the unused supply of slips, placing slips in the dispensers, and removing from the dispensers, each gaming day, the triplicates remaining therein. The employees shall have segregation of incompatible functions.

**12.12(3)** For facilities in which slips are computer-prepared, each series of slips shall be a two-part form and shall be inserted in a printer that will simultaneously print an original and a duplicate and store, in a machine-readable form, all information printed on the original and duplicate and discharge the original and duplicate slips. The stored data shall not be susceptible to change or removal by any personnel after the preparation of a slip.

**12.12(4)** On original, duplicate, and triplicate slips or in stored data, the preparer shall record the following information:

- a. The casino number of the slot machine.
- b. The date and time of preparation.
- c. For fills, the denomination and amount of coins to be distributed.
- d. For jackpots, the amount to be paid and the slot booth or cage location from which the amount is to be paid. For jackpots, the winning combination of symbols and the amount to be paid.
- e. The signature or, if computer-prepared, identification code of the preparer.

**12.12(5)** At the end of each gaming day, the original and duplicate slips shall be forwarded as follows:

a. The original slip shall be forwarded to the accounting department for agreement with the triplicate or stored data.

b. The duplicate slip shall be forwarded directly to the accounting department for recording on the slot win sheet for agreement with the meter readings recorded on the slot meter sheet and agreement with the triplicate or stored data.

**491—12.13(99F) Hopper fills.**

**12.13(1)** Whenever a slot supervisor, attendant, or slot technician requests a fill, a cashier shall prepare a slip.

**12.13(2)** All coins distributed to a slot machine shall be transported directly to the slot machine by a security employee, or other employee authorized by the internal controls, who shall at the same time transport the duplicate slip for signature. The employee shall observe the deposit of the coins in the slot machine and the closing and locking of the

slot machine by the slot technician or slot attendant before obtaining the signature of the slot technician or slot attendant on the duplicate slip.

**12.13(3)** A slot technician or slot attendant who participates in fill transactions shall inspect the slot machine and determine if the empty hopper resulted from a machine malfunction. If the empty hopper is a result of machine malfunction, a slot technician will repair the machine before play of the machine is resumed.

**12.13(4)** Signatures attesting to the accuracy of the information contained on the fill slip shall be of the following personnel at the following times:

a. The cashier upon preparation—on original and duplicate slips.

b. The security employee, or other employee authorized by the internal controls, upon receipt of the coins to be transported to a slot machine from a cashier—on original and duplicate slips.

c. The slot technician or attendant after depositing the coins in the slot machine and closing and locking the slot machine—on duplicate slip only.

**12.13(5)** Upon meeting the signature requirements as described in paragraphs 12.13(4)"a" to "c," the security employee, or other employee authorized by the internal controls, shall maintain and control the duplicate slip or deposit it in a secured area controlled by the accounting department. A cashier shall maintain and control the original slip.

**491—12.14(99F) Jackpot payouts.**

**12.14(1)** Whenever a patron wins a jackpot that is not totally and automatically paid directly from a slot machine, a cashier shall prepare a slip.

**12.14(2)** All remuneration paid to a patron as a result of winning a jackpot shall be disbursed by a cashier to a slot attendant or slot supervisor or, if the jackpot is \$1,200 or more, a security employee, or other employee authorized by the internal controls, who shall transport the winnings directly to the patron.

**12.14(3)** Signatures attesting to the accuracy of the information contained on the slip shall be of the following personnel at the following times:

a. The original and duplicate slips:

(1) The cashier upon preparation.

(2) A slot attendant or supervisor after observing the symbols of the slot machine or, if the jackpot is \$1,200 or more, a supervisor after observing the symbols of the slot machine.

b. The duplicate slip:

(1) The shift manager after observing the symbols of the slot machine if the jackpot is in excess of \$10,000.

(2) A security employee, or other employee authorized by the internal controls, after observing the payout.

**12.14(4)** Upon meeting the signature requirements as described in paragraphs 12.14(3)"a" and "b," the security employee, or other employee authorized by the internal controls, shall maintain and control the duplicate slip or deposit it in a secured area controlled by the accounting department. A cashier shall maintain and control the original slip.

**12.14(5)** Prior to payment of a slot jackpot in excess of \$100,000, a commission representative shall conduct an investigation, including a verification check of game-related storage media. The commission representative shall have the authority to issue a written order to withhold or award any jackpot when conditions indicate that action is warranted.

## RACING AND GAMING COMMISSION[491](cont'd)

**491—12.15(99F) Computer recording requirements and monitoring of slot machines.**

**12.15(1)** A facility shall have a computer connected to each slot machine in the casino to record and monitor the slot machine's activities.

**12.15(2)** The computer shall be designed and operated to automatically perform the functions relating to slot machine meters in the casino as follows:

- a. Record the number and total of moneys placed in the slot machine for the purpose of activating play.
- b. Record the number and total of moneys in the container(s).
- c. Record the number and total of moneys to be paid manually as the result of a jackpot.
- d. Record the electronic meter information required by 491—subrule 11.10(4).

**12.15(3)** The computer shall monitor and detect machine exception codes and error messages as required by 491—subrule 11.10(5) and 491—11.11(99F).

**12.15(4)** The computer shall store in machine-readable form all information required by subrules 12.15(2) and 12.15(3) and the stored data shall not be susceptible to change or removal.

**491—12.16(99F) Transportation of containers.**

**12.16(1)** Each facility shall place on file with a commission representative a schedule setting forth the specific times at which the containers will be brought to or removed from the gaming tables or slot machines.

**12.16(2)** A security employee shall accompany and observe the drop team. All containers removed from the gaming tables shall be transported by one security employee and one casino supervisor.

**12.16(3)** All containers removed from slot machine cabinets shall:

- a. Be removed by a drop team who shall wear outer garments as required by 12.18(2).
- b. Be replaced immediately with an empty container that shall be secured in the cabinet.

**12.16(4)** All containers removed shall be transported directly to, and secured in, the count room or in a secure area within the facility until the containers can be transferred to the count room.

**12.16(5)** Empty containers, not secured to the gaming tables or slot machine cabinets, shall be stored in the count room or an approved secured location.

**491—12.17(99F) Count room—characteristics.**

**12.17(1)** Each facility shall have a count room that shall:

- a. Be designed and constructed to provide maximum security for materials housed within and the activities conducted therein.
- b. Have an alarm device connected to the entrance of the room that causes a signaling to the monitors of the closed circuit television system and to the commission representative's office whenever the door to the room is opened.
- c. Have, if currency is counted within, a count table constructed of clear glass or similar material for the emptying, counting, and recording of the contents of containers.

**12.17(2)** All room keys shall be maintained and controlled by the security department in a secured area. The facility shall establish a sign-out procedure for all keys removed from the secured area.

**491—12.18(99F) Opening, counting, and recording contents of containers in the count room.**

**12.18(1)** Each facility shall file with a commission representative the specific times and procedures for opening, counting, and recording the contents of containers.

**12.18(2)** All persons present in the count room during the counting process, unless expressly exempted by a commission representative, shall wear a full-length, one-piece, pocketless outer garment with openings only for the arms, feet, and neck that extends over any other garments and covers the tops of any footwear.

**12.18(3)** Persons shall not:

- a. Carry a pocketbook or other container into the count room, unless it is transparent.
- b. Remove their hands from or return them to a position on or above the count table unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and the closed circuit television camera.

**12.18(4)** Requirements for conducting the count.

a. Immediately prior to the commencement of the count, the count team shall notify the person assigned to the surveillance room that the count is about to begin, after which the surveillance department shall make a video recording with the time and date inserted thereon of the entire counting process.

b. Prior to counting the contents of the containers, the doors to the count room shall be locked and no person shall be permitted to enter or leave the count room, except during an emergency or on scheduled breaks, until the entire counting, recording, and verification process is completed. During this time, a commission representative shall have unrestricted access.

c. When a container is placed on a count table or coin scale, the count team shall ensure that the table or machine number associated with a container is identified to the surveillance department.

d. A machine may be used to automatically count the contents of a container.

e. The contents of each container shall be emptied on the count table or coin scale and either manually counted separately on the count table or counted in an approved currency counting machine located in a conspicuous location on, near, or adjacent to the count table or coin scale. These procedures shall at all times be conducted in full view of the closed circuit television cameras located in the count room.

f. Immediately after the contents of a container are emptied onto the count table or coin scale, the inside of the container shall be held up to the full view of a closed circuit television camera and shall be shown to at least one other count team member to ensure all contents of the container have been removed and, if applicable, the container shall then be locked. Empty containers shall be secured in an area separate from uncounted containers.

g. If the original count is being performed by a machine that automatically counts and records the amounts of the contents of each individual container, an aggregate count may be permitted in substitution of a second container count.

h. For manually counted containers:

(1) The count team members shall place the contents of each container into separate stacks on the count table by denomination of moneys and by type of form, record, or document, except that a machine may be used to automatically sort moneys by denomination.

(2) Each denomination of moneys shall be counted separately by one count team member who shall group moneys of the same denomination on the count table in full view of a closed circuit television camera. The moneys shall then be

## RACING AND GAMING COMMISSION[491](cont'd)

counted by a second count team member who is unaware of the result of the original count. The second count team member, after completing this count, shall confirm the accuracy of the total, either orally or in writing, with that reached by the first count team member.

**12.18(5) Table games.**

a. As the contents of each container from a table game are counted, one count team member shall record the following information by game, table number, date, and time on a master game report or supporting documents:

- (1) The amount of each denomination of currency.
- (2) The amount of all denominations of currency.
- (3) The amount of coin.
- (4) The total amounts of moneys.
- (5) The amount of the opener.
- (6) The amount of the closer.
- (7) The serial number and amount of each fill.
- (8) The amount of all fills.
- (9) The serial number and amount of each credit.
- (10) The amount of all credits.
- (11) The win or loss.

b. After the contents of each container are counted and recorded, one member of the count team shall record by game on the master game report the total amounts of moneys, table inventory slips, fills, credits, and win or loss together with any other required information.

c. Notwithstanding the requirements of paragraphs 12.18(5)“a” and “b,” if the internal controls allow for the recording of fills, credits, and table inventory slips on the master game report or supporting documents prior to commencement of the count, a count team member shall compare for agreement the totals of the amounts recorded thereon to the fills, credits, and table inventory slips removed from the containers.

d. After preparation of the master game report, each count team member shall sign the report attesting to the accuracy of the information contained thereon.

e. Moneys shall not be removed from the count room after commencement of the count until the moneys total has been verified and accepted by a cashier. At the conclusion of the count, all moneys removed from the containers shall be counted by a cashier in the presence of a count team member prior to having access to the information recorded on the master game report. The cashier shall attest to the accuracy of the amount of moneys received from the gaming tables by signature on the master game report, after which a count team member shall sign the master game report evidencing the fact that both the cashier and count team have agreed on the total amount of moneys counted. The verified funds shall then remain in the custody of the cashier.

f. After the master game report has been signed, the requests, slips, and table inventory slips removed from containers shall be attached. The report, with attachments, shall then be transported directly to the accounting department or shall be maintained in locked storage until the master game report can be delivered to the accounting department. Upon meeting the signature requirements described in paragraph 12.18(5)“e,” the report shall not be available to any cashier’s cage personnel.

g. Unless the internal controls provide for the forwarding of the original requests and original slips from the cashier’s cage directly to the accounting department, the original requests and original slips recorded or to be recorded on the master game report shall be transported from the count room directly to the accounting department.

h. The originals and copies of the master game report, requests, slips, table inventory slips, and the test receipts

from the currency counting equipment shall, on a daily basis in the accounting department, be:

(1) Compared for agreement with each other on a test basis if the originals are received from the count room by persons with no recording responsibilities and, if applicable, to triplicates or stored data.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers, if applicable.

(4) Verified for proper calculation, summarization, and recording.

(5) Recorded.

(6) Maintained and controlled by the accounting department as a permanent accounting record.

**12.18(6) Slot machines.**

a. Moneys shall not be removed from the count room after commencement of the count until the moneys total has been verified and accepted by a cashier. At the conclusion of the count, all moneys removed from the containers shall be counted by a cashier in the presence of a count team member prior to the recording of information on the slot drop sheet. The cashier shall attest to the accuracy of the amount of moneys received from the slot machines by signature on the slot drop sheet, after which a count team member shall sign the slot drop sheet evidencing the fact that both the cashier and count team have agreed on the total amount of moneys counted. The verified funds shall remain in the custody of the cashier.

b. The slot drop sheet and supporting documents shall be transported directly to the accounting department and shall not be available, except for signing, to any cashier’s cage or slot personnel or shall be maintained in locked storage until they can be delivered to the accounting department.

c. The preparation of the slot drop sheet shall be completed by accounting employees as follows:

(1) Compare the amount of moneys counted and the drop meter reading for agreement for each slot machine.

(2) Record the hopper fills for each slot machine.

(3) Record for each slot machine the payouts and compare for agreement the payouts to the manual jackpot meter reading recorded on the slot meter sheet.

(4) Calculate and record the win or loss for each slot machine.

(5) Explain and report for corrections of apparent meter malfunctions to the slot department all significant differences between meter readings and amounts recorded.

(6) Calculate statistics by slot machine.

d. The slot drop sheet, the slot meter sheet, payouts, and hopper fills shall be:

(1) Compared for agreement with each other and to triplicates or stored data on a test basis.

(2) Reviewed for the appropriate number and propriety of signatures on a test basis.

(3) Accounted for by series numbers, if applicable.

(4) Verified for proper calculation, summarization, and recording.

(5) Recorded.

(6) Maintained and controlled by accounting employees. These rules are intended to implement Iowa Code chapter 99F.

**ITEM 9. Rescind 491—Chapters 22, 24 and 26.**



## NOTICE—USURY

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

August 1, 1999 — August 31, 1999	8.00%
September 1, 1999 — September 30, 1999	8.00%
October 1, 1999 — October 31, 1999	8.00%

November 1, 1999 — November 30, 1999	8.00%
December 1, 1999 — December 31, 1999	8.00%
January 1, 2000 — January 31, 2000	8.00%
February 1, 2000 — February 29, 2000	8.25%
March 1, 2000 — March 31, 2000	8.75%
April 1, 2000 — April 30, 2000	8.50%
May 1, 2000 — May 31, 2000	8.25%
June 1, 2000 — June 30, 2000	8.00%
July 1, 2000 — July 31, 2000	8.50%
August 1, 2000 — August 31, 2000	8.00%
September 1 — September 30, 2000	8.00%



## ARC 0108B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 159.5(11) and 203C.5, the Department of Agriculture and Land Stewardship hereby amends Chapter 90, "State Licensed Warehouses and Warehouse Operators," Iowa Administrative Code.

These rules allow warehouse operators to store corn in polyethylene bags or in a ground pile to accommodate the 2000 corn harvest.

Current storage facilities are anticipated to be inadequate for the upcoming harvest. Therefore, emergency storage space will be required. These rules will allow the Department to approve and license emergency storage space under certain conditions.

The Department of Agriculture and Land Stewardship finds that notice and public participation are impracticable because the 2000 harvest is imminent. There is not adequate time to implement the regular rule-making process to accommodate the record corn crop harvest. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these rules, 35 days after publication, should be waived and the rules made effective upon filing with the Administrative Rules Coordinator. These rules confer a benefit on the public and the grain industry by providing additional storage space for the 2000 corn harvest. No waiver provision is included in these rules because an existing rule allows for waivers in appropriate cases. That waiver rule also applies to the rules adopted in this filing.

These rules are being simultaneously published under Notice of Intended Action as **ARC 0107B**.

These rules are intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

These rules became effective August 18, 2000.

The following rules are adopted.

ITEM 1. Rescind 21—90.31(203C) and adopt the following **new** rule:

**21—90.31(203C) Emergency ground pile storage space.** Emergency storage space may, in the discretion of the department, be approved and licensed on the following bases:

**90.31(1)** Licenses for emergency ground pile storage space shall be effective only for the storage of corn from August 1 to January 31 of the following year.

**90.31(2)** The warehouse operator shall either purchase the grain stored in the emergency ground pile storage space or remove the corn from the emergency ground pile storage space prior to February 1. Any corn remaining in such space after this date will not be included in grain inventory measurements made by the department, and such corn may not be used to cover storage obligations.

**90.31(3)** Before any corn can be placed in the emergency ground pile storage space, the department shall receive either an irrevocable letter of credit or a surety bond in the amount of \$2 for each bushel to be placed in emergency ground pile storage space. The irrevocable letter of credit or surety bond will expire on April 1. The irrevocable letter of credit or surety bond filed with the department under this rule shall

not be canceled by the issuer on less than 45 days' notice by certified mail to the department and the licensee. When the department receives notice from an issuer that it has canceled the irrevocable letter of credit or surety bond, the department shall automatically suspend the license if a replacement irrevocable letter of credit or surety bond is not received by the department within 30 days of the issuance of the notice of cancellation. If a replacement irrevocable letter of credit or surety bond is not filed within another 10 days following the suspension, the warehouse license shall be automatically revoked.

**90.31(4)** All emergency ground pile storage space shall have an asphalt base, concrete base, or a compacted limestone base which meets the following minimum specifications.

a. Base shall be of a depth and compaction to permit trucks or other equipment used in loading or unloading the pad to move around over the base without breaking through or unduly scuffing the surface.

b. Depth of limestone top shall be not less than four inches.

c. The slope from the center of the base shall not be less than one-fourth inch per linear foot to edge of base.

d. Adequate drainage away from the base shall be provided to prevent any water from standing or backing up under the grain.

**90.31(5)** All emergency ground pile storage space shall be licensed before any corn to be stored is placed in it.

**90.31(6)** Emergency licensed ground pile storage space may not exceed 30 percent of permanent licensed storage capacity.

**90.31(7)** A separate daily position record shall be maintained on all corn placed in the emergency licensed ground pile storage space.

**90.31(8)** Corn containing more than 15 percent moisture shall not be stored in emergency ground pile storage space.

**90.31(9)** Corn which does not grade No. 2 or better using the Official Grade Standards shall not be stored in emergency ground pile storage space.

**90.31(10)** The bureau chief or examiner shall issue written notice to the licensed warehouse operator for any emergency ground pile storage space which no longer meets these requirements. Failure of the warehouse operator to place the emergency ground pile storage space in a suitable condition within a reasonable length of time shall result in the emergency ground pile storage space's being eliminated from coverage from the warehouse license.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

ITEM 2. Adopt the following **new** rule:

**21—90.32(203C) Polyethylene (polyvinyl) bag storage space.** Polyvinyl bag storage space may, in the discretion of the department, be approved and licensed on the following bases:

**90.32(1)** Licenses for polyvinyl bag storage space shall be effective for the storage of corn only from August 1 to May 1 of the following year. Polyvinyl bag storage space shall terminate May 1 unless the licensee requests and obtains an extension. Extension shall be requested 45 days prior to the expiration of the original licensing period or extension then in effect.

**90.32(2)** An extension to the original licensing period of polyvinyl bag storage space or an additional extension may

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

be granted only if all of the following requirements are satisfied:

a. The licensee has requested an original extension or an additional extension no later than 45 days prior to the expiration of the licensing period or extension then in effect.

b. The bureau shall have completed an examination of the licensee's polyvinyl bag storage space.

c. The licensee shall have paid the bureau for the cost of the examination of its polyvinyl bag storage space. The payment shall include the equipment cost, sampling cost, labor cost and any additional costs incurred by the bureau in examining a licensee's polyvinyl bag storage space. Payment shall be made and received by the bureau before any extension may be granted.

**90.32(3)** The warehouse operator shall either purchase the corn stored in the polyvinyl bag storage space or remove the corn from the polyvinyl bag storage space prior to May 1 or prior to the expiration of a granted extension.

**90.32(4)** All polyvinyl bag storage space shall comply with the following specifications:

a. The polyvinyl bag shall be a minimum of 8.5 mil or thicker.

b. The polyvinyl bag shall be white in color.

c. The polyvinyl bag site shall be firm and free of objects that could puncture the polyvinyl bag. Gravel base will not be an approved surface.

d. Approved surfaces:

(1) Asphalt base.

(2) Concrete base.

(3) Compacted limestone base.

(4) On turf or hay ground that has been mowed to height (not more than 2.5 inches) not to puncture the polyvinyl bag.

(5) Bladed dirt.

e. Adequate drainage away from the base shall be provided to prevent any water from standing or backing up under the polyvinyl bags.

f. The polyvinyl bag site shall be free of any spilled grain and tall grass.

**90.32(5)** Polyvinyl bags must be licensed before any corn to be stored is placed in them.

**90.32(6)** Corn stored in polyvinyl bags may not exceed 30 percent of permanent licensed storage capacity.

**90.32(7)** Corn containing more than 14 percent moisture shall not be stored in polyvinyl bags.

**90.32(8)** Corn which does not grade No. 2 or better using the Official U.S. Standards for Grain shall not be stored in polyvinyl bags.

**90.32(9)** The bureau chief or examiner shall issue written notice to the licensed warehouse operator for any polyvinyl bag which no longer meets these requirements. Failure of the warehouse operator to place the polyvinyl bag in a suitable condition within a reasonable length of time shall result in the polyvinyl bag's being eliminated from coverage from the warehouse license. Any polyvinyl bag found which has deteriorated to the point that it is unsuitable for storage shall be immediately removed from the warehouse license until the time that it meets the requirements and has been reinstated.

**90.32(10)** The polyvinyl bag must be closed in accordance with the manufacturer's written instructions or so that no deterioration of the stored corn can occur.

**90.32(11)** A weekly log shall be maintained on the condition of the polyvinyl bags. This weekly log shall be made available upon request by the bureau.

This rule is intended to implement Iowa Code sections 203C.2, 203C.7, 203C.8, 203C.12, 203C.16, and 203C.18.

[Filed Emergency 8/18/00, effective 8/18/00]

[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

## ARC 0114B

## CORRECTIONS DEPARTMENT[201]

## Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 904.701, the Department of Corrections hereby amends Chapter 37, "Iowa State Industries," Iowa Administrative Code.

This amendment was suggested by the Labor Services Division so that the ten-hour OSHA training could be provided by authorized trainers in the private sector. This amendment will allow greater flexibility for employers providing maintenance or construction services under contract with the Department of Corrections or under the General Services Department. This amendment will also eliminate any inconsistency with Workforce Development/Board Services Division 877—subrule 1.6(4).

In compliance with Iowa Code section 17A.4(2), the Department of Corrections finds that notice and public participation are impracticable due to the brief period between the approval of this amendment and the effective date of rule 201—37.6(904).

The Department of Corrections also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and the amendment made effective upon filing on August 18, 2000, so that the amendment takes effect as soon as possible because rule 201—37.6(904) became effective August 2, 2000. This amendment confers a benefit to the public by allowing more individuals to provide the ten-hour OSHA training to offenders.

The Department of Corrections Board adopted this amendment on August 4, 2000.

This amendment became effective August 18, 2000.

This amendment is intended to implement Iowa Code section 904.701.

The following amendment is adopted.

Rescind subrule 37.6(5) and adopt the following **new** subrule in lieu thereof:

**37.6(5)** Safety training. The employer shall document that all offenders employed in construction and maintenance projects receive a ten-hour safety course provided free of charge by the department of workforce development by a trainer with the appropriate authorization from the Occupational Safety and Health Administration Training Institute.

[Filed Emergency 8/18/00, effective 8/18/00]

[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0122B****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby rescinds Chapter 20, "Accelerated Career Education (ACE) Program," and adopts a new Chapter 20, "Accelerated Career Education (ACE) Program," Iowa Administrative Code.

The new rules implement the Accelerated Career Education (ACE) Program as authorized by Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439, and 2000 Iowa Acts, Senate File 2453. The rules establish guidelines, application procedures, and evaluation criteria for the capital costs and program job credits components of the ACE Program.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because, in order to allow applicants to receive program benefits in time for the fall 2000 school year, rules must be in effect so that applications can be accepted prior to the start of the fall semester. In addition, applications for the capital costs component are pending. To permit eligible projects to move forward, funding decisions need to be made in a timely manner.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the rules, 35 days after publication, should be waived and the rules be made effective on August 18, 2000. These rules confer a benefit on the public by ensuring that eligible applicants have access to ACE Program resources in time for the 2000 school year.

Notice of Intended Action regarding these rules is published herein as **ARC 0121B** to solicit public comment.

The Department is taking the following steps to notify potentially affected parties of the effective date of the rules: publishing the rules in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

The IDEB Board adopted the new rules on August 17, 2000.

These rules are intended to implement Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439, and 2000 Iowa Acts, Senate File 2453.

These rules became effective on August 18, 2000.

The following amendment is adopted.

Rescind 261—Chapter 20 and adopt in lieu thereof the following new chapter:

CHAPTER 20  
ACCELERATED CAREER EDUCATION (ACE)  
PROGRAM

DIVISION I - GENERAL PROVISIONS

**261—20.1(260G) Purpose.** The ACE program has three parts: the capital costs component, the program job credits component, and the accelerated career education grants program. The Iowa department of economic development administers the first two components. The college student aid commission administers the career education grants portion

of the ACE program as described in the commission's administrative rules. The goal of the ACE program is to provide an enhanced skilled workforce in Iowa.

**261—20.2(260G) Definitions.**

"Accelerated career education program" or "ACE" means the program established pursuant to Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439.

"Agreement" means a program agreement referred to in Iowa Code Supplement section 260G.3 as amended by 2000 Iowa Acts, Senate File 2439, between an employer and a community college.

"Allotment" means the distribution of job credits based upon need as determined by the community colleges.

"Community college" means a community college established under Iowa Code chapter 260C or a consortium of two or more community colleges.

"Employee" means a person employed in a program job.

"Employer" means a business or consortium of businesses engaged in interstate or intrastate commerce for the purposes of manufacturing, processing or assembling products; construction; conducting research and development; or providing services in interstate or intrastate commerce, but excluding retail services.

"Highly skilled job" means a job with a broadly based, high-performance skill profile including advanced computation and communication skills, technology skills and workplace behavior skills, and for which an applied technical education is required.

"IDED" or "department" means the Iowa department of economic development.

"IDED board" means the Iowa economic development board authorized under Iowa Code section 15.103.

"Participant" means an individual who is enrolled in an accelerated career education program at a community college.

"Participant position" means the individual student enrollment position available in an accelerated career education program.

"Program capital cost" means classroom and laboratory renovation, new classroom and laboratory construction, site acquisition or preparation.

"Program job" means a highly skilled job available from an employer pursuant to a program agreement.

"Program job credit" means a credit that an employer may claim against all withholding taxes due in an amount up to 10 percent of the gross program job wage of a program job position as authorized in an agreement between a community college and an employer.

"Program job position" means a job position which is planned or available for an employee by the employer pursuant to a program agreement.

"Program operating costs" means all necessary and incidental costs of providing program services.

"Program services" means services that include all of the following provided they are pursuant to a program agreement: program needs assessment and development, job task analysis, curriculum development and revision, instruction, instructional materials and supplies, computer software and upgrades, instructional support, administrative and student services, related school to career training programs, skill or career interest assessment services and testing and contracted services.

"Vertical infrastructure" means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

and recreation trails. Vertical infrastructure does not include equipment; routine, recurring maintenance or operational expenses; or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

**261—20.3(260G) ACE program eligibility and designation.**

**20.3(1)** In order to receive financial assistance under the capital projects program, tax credits from withholding under the program job credits component or financial assistance through the college student aid commission's accelerated career education grants program, a program must be designated by a community college as an eligible ACE program. All programs must demonstrate increased capacity to enroll additional students. To be eligible, a program must be either:

a. A credit career, vocational, or technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree; or

b. A credit-equivalent career, vocational, or technical education program consisting of not less than 540 contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential.

**20.3(2)** By resolution of a community college board of directors, an eligible program may be approved and designated as an ACE program. The respective community college board(s) of directors shall ensure compliance with Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439, and 2000 Iowa Acts, Senate File 2453. In designating ACE programs, the respective community college board(s) shall give priority to targeted industries as designated by the department.

**20.3(3)** A copy of the designated ACE program shall be submitted to the department. The department will review the ACE program designation to ensure compliance with Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439. The department will maintain a record of all approved ACE programs.

**261—20.4(260G) Funding allocation.****20.4(1) Base allocation.**

a. Funds for ACE program job credits and capital costs projects shall be allocated among the community colleges in the state for the fiscal years and in the amounts specified in 2000 Iowa Acts, Senate Files 2439 and 2453, and these rules.

b. Community colleges shall submit program agreements to access allotted funds. The program agreement shall document the findings of the community college that all ACE eligibility requirements have been met.

**20.4(2) Alternate allotment.** If a community college fails to commit any of its allotment by April 1 of the fiscal year, the funds for that community college will be allocated to other community colleges based upon need as described in these rules. Program job credits are considered to be committed if there is a signed program agreement in place or if there is a statement of intent in place that states that a signed program agreement will be in place by May 1 of the fiscal year.

**261—20.5(260G) Eligible and ineligible business.**

**20.5(1) Eligible business.** An eligible business is a business engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products; construction; conducting research and development; or providing services in interstate or intrastate commerce.

**20.5(2) Ineligible business.** A business engaged in retail services is ineligible to receive ACE program assistance.

**261—20.6(260G) Program agreements.**

**20.6(1)** Program agreements will be developed by an employer, a community college and any employee of an employer representing a program job. The development of the agreements may be facilitated by an entity representing a group of employers. Any community college that has an employer from its merged area involved in an ACE project must enter into the agreement. If a bargaining unit is in place with the employer pledging the jobs, a representative of the bargaining unit shall take part in the development of the program agreement. All participating parties must sign the program agreement. The agreement must include employer certification of contributions that are made toward the program costs.

**20.6(2)** A program agreement shall include, at a minimum, the following terms: match provided by the employer; tuition, student fees, or special charges fixed by the community college board of directors; guarantee of employer payments; type and amount of funding sources that will be used to pay for program costs; description of program services and implementation schedule; the term of the agreement, not to exceed five years; the employer's agreement to interview graduates for full-time positions and provide hiring preference; for employers with more than four sponsored participants, certification that a job offer will be made to at least 25 percent of those participants that complete the program; an agreement by the employer to provide a wage level of no less than 200 percent of the federal poverty guideline for a family of two; a provision that the employer does not have to fulfill the job offer requirement if the employer experiences an economic downturn; a provision that the participants will agree to interview with the employer following completion of the program; and default procedures.

**20.6(3)** Projects that cross community college boundaries, or projects that involve employers from multiple community college areas, must be conducted pursuant to an agreement or agreements with each college.

**261—20.7(260G) Administration.** The department will administer the statewide allocations and will consult with representatives of the community colleges to promulgate necessary forms and collect necessary information. The department will monitor program agreements for the purposes of preparing a study of the needs and performance of approved programs for submission to the general assembly by the department by December 31, 2002.

**261—20.8(260G) Customer tracking system.** Participants in the ACE program shall be included in the customer tracking system implemented by Iowa workforce development. In order to achieve this, social security numbers of all ACE program trainees will be required.

**261—20.9(260G) Program costs recalculation.** Program costs shall be calculated or recalculated on an annual basis based on the required program services for a specific number of participants. Agreement updates reflecting this recalculation must be submitted to IDED annually to review compliance with program parameters.

## DIVISION II - CAPITAL COSTS COMPONENT

**261—20.10(260G) Threshold requirements.** To be considered for funding, the following threshold requirements shall be met:

1. The agreement must provide for pledged program positions paying at least 200 percent of the poverty level for a family of two. If the wage designated is to become effective after a training or probationary period, the employer

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must document that there is a plan in place regarding time frames for transition to the permanent full-time wage, and the employer must provide documentation that these time frames are reasonable and that the employer has previously adhered to the time schedule.

2. The agreement must demonstrate that the program meets the definition of an eligible ACE program.

3. The agreement must demonstrate that the project builds the capacity of the community college to train additional students for available jobs.

4. The agreement must establish a 20 percent employer cash or in-kind match for program operating funds.

5. The agreement shall describe how the project enhances geographic diversity of project offerings across the state.

6. The agreement must document that other private or public sources of funds are maximized prior to ACE program capital cost funding.

7. ACE program capital cost projects must enhance the geographic diversity of state investment in Iowa. The IDED board will continuously review projects to ensure that there is statewide impact. The IDED board will prioritize projects to ensure geographic diversity.

8. Funds shall be used only for ACE program capital costs for projects that meet the definition of vertical infrastructure. Building repair, renovation and construction for purposes of ACE program equipment installation shall be allowed.

**261—20.11(260G) Application procedures.**

**20.11(1)** Final application. Applicants shall submit a final agreement to IDED to request capital funds.

**20.11(2)** Staff review and recommendation. A committee of IDED staff will review and rate applications based upon the rating criteria stated in 261—20.12(260G). Based upon this review, a decision will be made regarding submittal of the application to the IDED board for action.

**20.11(3)** IDED board action. The IDED board will review ACE program capital costs projects meeting the requirements prescribed in these rules. A program agreement, which is approved by the community college board of directors, serves as the final application. Approval or denial of submitted applications that are complete and in final form shall be made no later than 60 days following receipt of the application by the department. Subsequent to board approval, an award letter will be sent. The award letter will be followed by a contract. After a signed contract is in place, funding for a project may be requested.

**261—20.12(260G) Evaluation criteria for competitive awards—capital costs projects.** Applications and accompanying program agreements meeting all ACE eligibility requirements will be prioritized and rated using the following point criteria:

1. The degree to which the applicant adequately demonstrates a lack of existing public or private infrastructure for development of the partnership. There must be a demonstration that the project will build capacity in order for the project to be considered. Capacity will be measured in terms of jobs that are pledged, students that are interested in the program area and the capacity that is built at the community college to undertake the programming. Up to 33 points will be awarded.

2. Demonstration that the jobs that would result from the partnership would include wages, benefits and other attributes that would improve the quality of employment within the region. Projects where the average wage for the pledged

jobs exceeds the regional or county average wage, whichever is lower for the location where the training is to be provided, will be awarded points based upon the percentage that the average wage of the pledged jobs exceeds the applicable average wage. Up to 33 points will be awarded.

3. Evidence of local, public or private contributions that meet the requirements of Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439. Projects will be rated based upon the percentage of match that is pledged to the ACE program capital cost for the project. Up to 34 points will be awarded.

Applications that do not receive at least 66 out of 100 points will not be forwarded to the IDED board for review. Projects will be competing against each other for IDED board approval, and the number of points that a project receives will be considered in the award process.

## DIVISION III - PROGRAM JOB CREDITS

**261—20.13(260G) Threshold requirements—program job credits.** To be eligible to receive program job credits, the following threshold requirements shall be met:

1. The agreement must provide for pledged program positions paying at least 200 percent of the poverty level for a family of two. If the wage designated is to become effective after a training or probationary period, the employer must document that there is a plan in place regarding time frames for transition to the permanent full-time wage, and the employer must provide documentation that these time frames are reasonable and that the employer has previously adhered to the time schedule.

2. The agreement must provide that the program meets the definition of an eligible ACE program.

3. The agreement must establish a 20 percent employer cash or in-kind match for program operating funds.

4. The agreement shall describe how the project enhances geographic diversity of project offerings across the state.

5. The executed agreement or a statement of intent must be submitted within the time periods described in these rules in order to establish a commitment of program job credits by the community college.

**261—20.14(260G) Job credits allocation.**

**20.14(1)** The department shall allot the total amount of program job credits authorized and available for the fiscal year to each community college based upon need ratios as follows:

Merged Area	Need Based Proportionate Allotment Minimum \$80,000 to Each Community College
I. Northeast Iowa Community College	4.63%
II. North Iowa Area Community College	4.63%
III. Iowa Lakes Community College	2.67%
IV. Northwest Iowa Community College	2.67%
V. Iowa Central Community College	4.64%

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VI. Iowa Valley Community College District	4.38%
VII. Hawkeye Community College	6.62%
IX. Eastern Iowa Community College District	8.68%
X. Kirkwood Community College	17.00%
XI. Des Moines Area Community College	19.00%
XII. Western Iowa Tech Community College	5.13%
XIII. Iowa Western Community College	6.51%
XIV. Southwestern Community College	2.67%
XV. Indian Hills Community College	7.13%
XVI. Southeastern Community College	3.64%
	100.00%

Agreements for the first \$80,000 in job credits will be reviewed by the department to determine if the project meets eligibility requirements for the program prior to allocation of the job credit. For any job credits awarded above the \$80,000 base allocation, a review of the quality of the project will be performed as described in rule 20.16(260G). Job credits will not be considered allocated until eligibility and quality criteria have been met.

**20.14(2)** For purposes of allotment, the foregoing ratios shall be applied to commitments made by community colleges pursuant to three cycle periods during the fiscal year, beginning on the following cycle dates: August 1, December 1, and May 1.

**20.14(3)** A commitment for a cycle period is established by filing a copy of an executed agreement or a statement of intent with the department not later than ten days prior to the next cycle date. Each community college may commit all or a portion of its proportionate allotment during each cycle period. Any amount uncommitted as of the cycle date shall be reported in the statement of intent and will carry over to the next cycle period and be reallocated by the department to the other community colleges based upon the same proportionate allotment ratios set out in subrule 20.14(1).

**20.14(4)** Notwithstanding subrule 20.14(3), it is recognized that 2000 Iowa Acts, Senate File 2439, section 5, requires that any portion of an allocation to a community college uncommitted on April 1 of a fiscal year may be available for use by other community colleges. As of April 1, each college shall have either an agreement or a statement of intent indicating that the college will enter into an agreement by May 1 to retain the college's current fiscal year allotment. Any job credit allotments that do not have accompanying agreements as of the May 1 cycle date will be available for proportional reallocation to other community colleges with signed agreements that have not received all of the tax credits that are needed under the agreement.

**20.14(5)** Beginning with the May 1 cycle, the department will accept program agreements or statements of intent for the first cycle of the following fiscal year's tax credit allotment. For the fiscal year beginning July 1, 2002, proportionate allocation ratios as described in subrule 20.14(1) will be reviewed and examined for possible modification based upon need in the respective merged areas throughout the state. Such review shall take place immediately following the August 1, 2001, cycle period allocation of credits.

**20.14(6)** The department shall calculate and report to each community college the number of job credits available

for distribution each cycle period during the fiscal year based upon the proportionate allocation ratios set out in subrule 20.14(1) and subrule 20.14(4). Ratios in subrule 20.14(1) will be updated every two years beginning July 1, 2002.

**20.14(7)** So long as job credits are available for a cycle period, if an agreement provides for a two-year student program, the commitment shall be deemed to include the full amount of credits necessary to fund the entire two-year program and the duration of the agreement even though allocations for more than one fiscal year may be required.

**20.14(8)** Allocation credits, once received, may be retroactively applied to eligible programs during the fiscal year so long as the amount to be received does not exceed the proportionate allocation for each cycle period.

**261—20.15(260G) Determination of job credits, notice, and certification.**

**20.15(1)** Determination of job credit amounts. If a program provides that part of the program costs are to be met by receipt of program job credits, the method to be used shall be as follows:

a. Program job credits shall be based upon the program job positions identified and agreed to in the agreement.

b. Eligibility for program job credits shall be based on certification of program job positions and program job wages by the employer at the time established in the agreement.

c. An amount up to 10 percent of the gross program job wages as certified by the employer in the agreement shall be credited from the total payment made by an employer pursuant to Iowa Code section 422.16.

d. The employer shall remit the amount of the credit quarterly, in the same manner as withholding payments are reported to the department of revenue and finance, to the community college to be allocated to and, when collected, paid into a special fund of the community college to pay, in part, the program costs.

e. When the program costs have been paid, the employer credits shall cease and any moneys received after the program costs have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

**20.15(2)** Notice to revenue and finance department. The employer shall certify to the department of revenue and finance that the program job credit is in accordance with the agreement and shall provide other information the department may require.

**20.15(3)** Certification of amount of job credits. A community college shall certify to the department of revenue and finance that the amount of the program job credits is in accordance with an agreement and shall provide other information the department may require.

**261—20.16(260G) Evaluation criteria for quality assurance—program job credits.** Agreements submitted for funding greater than the minimum allocation set forth in 2000 Iowa Acts, Senate File 2439, section 5, will be reviewed and rated based on the following criteria:

1. The quality of the program . . . . . up to 17 points.
2. The number of program participant placements . . . . . up to 17 points.
3. The wages and benefits in program jobs . . . . . up to 17 points.
4. The level of employer contributions . . . . . up to 17 points.
5. The industrial cluster into which the program falls . . . . . up to 17 points.

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6. The geographic location of the employers ..... up to 15 points.

Agreements that receive at least 65 points out of 100 points will be approved to receive tax credits above the base allocation. An award letter will be issued, followed by a contract.

261—20.17(260G) Committed funds. The department shall maintain an annual record of the proposed program job credits under each agreement for each cycle of each fiscal year. When the total available program job credits have been allocated for a fiscal year, the department shall inform all community colleges that the maximum amount has been allocated and that further program job credits will not be available for the remainder of the fiscal year. If any committed credits become uncommitted after the above-mentioned notice has been issued, the department will inform all community colleges that some job credits are again available and applications will be accepted for those job credits until they are again committed.

These rules are intended to implement Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, Senate File 2439, and 2000 Iowa Acts, Senate File 2453.

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[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

ARC 0124B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development amends Chapter 53, "Community Economic Betterment Program," and adopts a new Chapter 65, "Brownfield Redevelopment Program," Iowa Administrative Code.

The new chapter implements a new program authorized by 2000 Iowa Acts, House File 2423. The rules describe the purpose of the Brownfield Redevelopment Program, eligibility requirements, evaluation criteria, and the application process. The amendment to the CEBA program adds a rating criterion for remediation or redevelopment of a brownfield site.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because several Iowa communities and private developers have expressed very strong interest in applying for the competitive funding provided through the Brownfield Redevelopment Fund for acquiring, remediating, and redeveloping brownfield sites. These amendments will enable funding to be made available for eligible applicants and facilitate related site preparation work for brownfield sites through the fall and early winter weather months.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments, 35 days after publication, should be waived and the amendments be made effective on August 18, 2000. These amendments confer a benefit on the public by ensuring that eligible applicants have access to Brownfield Redevelop-

ment Program resources through the fall and early winter weather months.

These amendments are also published herein under Notice of Intended Action as ARC 0123B to solicit public comment.

The agency is taking the following steps to notify potentially affected parties of the effective date of the amendments: publishing the final amendments in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

The IDED Board adopted these amendments on August 17, 2000.

These amendments are intended to implement 2000 Iowa Acts, House File 2423.

These amendments became effective August 18, 2000. The following amendments are adopted.

ITEM 1. Amend subparagraph 53.8(3)"f"(3) as follows: (3) Economic impact. Maximum — 40 points. Higher points to be awarded for base economic activities, e.g.:

- Greater percentage of sales out of state, or import substitution;
Higher proportion of in-state suppliers;
Greater diversification of state economy;
Fewer in-state competitors;
Potential for future growth of industry;
Consistency with the state strategic plan for economic development prepared in compliance with Iowa Code section 15.104(2);
Increased value to agricultural commodities;
Degree of utilization of agricultural or value-added technology research from an Iowa educational institution;
A project which is not a retail operation;
A project which includes remediation or redevelopment of a brownfield site.
Maximum preliminary points for project impact — 120 points.

ITEM 2. Adopt the following new chapter:

CHAPTER 65 BROWNFIELD REDEVELOPMENT PROGRAM

261—65.1(78GA,HF2423) Purpose. The brownfield redevelopment program is designed to provide financial and technical assistance for the acquisition, remediation, or redevelopment of brownfield sites.

261—65.2(78GA,HF2423) Definitions. When used in this chapter, unless the context otherwise requires:

- "Acquisition" means the purchase of brownfield property.
"Advisory council" means a brownfield redevelopment advisory council as established in 2000 Iowa Acts, House File 2423, section 4, consisting of five members.
"Board" means the Iowa department of economic development board.
"Brownfield site" means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site shall not include property which has been placed, or is proposed to be included, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 et seq.



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

“CERCLA” means Comprehensive Environmental Response, Compensation, and Liability Act as defined at 42 U.S.C. 9601 et seq.

“Characterization” means determination of both the nature and extent of contamination in the various media of the environment.

“Community” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“Contaminant” means any hazardous substance found in the various media of the environment.

“Department” or “IDED” means the Iowa department of economic development.

“Fund” means the brownfield redevelopment fund established pursuant to 2000 Iowa Acts, House File 2423, section 3.

“Grant” means the donation or contribution of funds with no expectation or requirement that the funds be repaid.

“Hazardous substance” means “hazardous substance” as defined in 567—Chapter 137 and includes petroleum substances not addressed in 567—Chapter 135.

“Loan” means an award of assistance with the requirement that the award be repaid, and with term, interest rate, and any other conditions specified as part of the award. A deferred loan is one for which the payment of principal or interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A loan guarantee is a third-party commitment to repay all or a portion of the loan in the event that the borrower defaults on the loan.

“Redevelopment” means projects that result in the elimination of blighting characteristics as defined by Iowa Code section 403.2.

“Remediation” includes characterization, risk assessment, removal and cleanup of environmental contaminants located on and adjacent to a brownfield site. Funding awards used for remediation must comply with appropriate Iowa department of natural resources requirements and guidelines.

“Risk evaluation” means assessment of risks to human health and environment by way of guidelines established in 567—Chapter 137, Iowa Administrative Code.

“Sponsorship” means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program in which the city or county agrees to offer assistance or guidance to the applicant. Sponsorship is not required if the applicant is a city or county.

**261—65.3(78GA, HF2423) Eligible applicants.** To be eligible to apply for program assistance, an applicant must meet the following eligibility requirements:

**65.3(1) Site owner.** A person owning a site is an eligible applicant if the site for which assistance is sought meets the definition of a brownfield site and the applicant has secured a sponsor prior to applying for program assistance.

**65.3(2) Nonowner of site.** A person who is not an owner of a site is an eligible applicant if the site meets the definition of a brownfield site and the applicant has secured a sponsor prior to applying for program assistance.

**65.3(3) Agreement executed.** Prior to applying for financial assistance under this program, an applicant shall enter into an agreement with the owner of the brownfield site for which financial assistance is sought. The agreement shall at a minimum include:

1. The total cost for remediating the site.
2. Agreement that the owner shall transfer title of the property to the applicant upon completion of the remediation of the property.

3. Agreement that upon the subsequent sale of the property by the applicant to a person other than the original owner, the original owner shall receive not more than 75 percent of the estimated total cost of the remediation, acquisition or redevelopment.

**261—65.4(78GA, HF2423) Eligible forms of assistance and limitations.**

**65.4(1) Financial assistance.** Eligible forms of financial assistance under this program include grants, interest-bearing loans, forgivable loans, loan guarantees, and other forms of assistance under the brownfield redevelopment program established in 2000 Iowa Acts, House File 2423.

**65.4(2) Technical assistance.** Technical assistance under this program is available in the form of providing an applicant with assistance in identifying alternative forms of assistance for which the applicant may be eligible.

**65.4(3) Limitation on amount.** An applicant shall not receive financial assistance of more than 25 percent of the agreed-upon estimated total cost of remediation.

**65.4(4) Exclusions.** Program funds shall not be used for the remediation of contaminants being addressed under Iowa’s leaking underground storage tank (LUST) program. However, a site’s being addressed under the LUST program does not necessarily exclude that site from being addressed under the Iowa brownfield redevelopment Act if other non-petroleum contaminants or petroleum substances not addressed under 567—Chapter 135 are present.

**261—65.5(78GA, HF2423) Repayment to IDED.** Upon the subsequent sale of the property by an applicant to a person other than the original owner, the applicant shall repay the department for financial assistance received by the applicant. The repayment shall be in an amount equal to the sales price less the amount paid to the original owner pursuant to the agreement between the applicant and the original owner. The repayment amount shall not exceed the amount of financial assistance received by the applicant.

**261—65.6(78GA, HF2423) Application and award procedures.** Subject to availability of funds, applications will be reviewed and rated by IDED staff on an ongoing basis and reviewed quarterly by the advisory council. Brownfield redevelopment funds will be awarded on a competitive basis. Applications will be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. Recommendations from the advisory council will be submitted to the board. The board may approve, deny or defer an application.

**261—65.7(78GA, HF2423) Application contents.** An application for assistance shall include, but not be limited to, the following information:

1. A business plan which includes a remediation plan. The business plan should, at a minimum, include a project contact/applying agency, a project overview (which would include the background of the project area, goals and objectives of the project, and implementation strategy), and a project/remediation budget.

2. A statement of purpose describing the intended use of and proposed repayment schedule for any financial assistance received by the applicant.

3. Evidence of sponsorship.

**261—65.8(78GA, HF2423) Application forms.** Application forms for the brownfield redevelopment program shall be available upon request from IDED, 200 East Grand Avenue, Des Moines, Iowa 50309. IDED may provide technical



## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

assistance as necessary to applicants. IDED staff may conduct on-site evaluations of proposed activities.

**261—65.9(78GA, HF2423) Application review criteria.** Brownfield redevelopment funds will be awarded on a competitive basis. Applications will be reviewed and prioritized based on the following criteria:

1. Whether the project meets the definition of a brown-field site.
2. Whether alternative forms of assistance have been explored and used by the applicant.
3. The level of distress or extent of the problem on the site has been identified.
4. Whether the site is on or proposed to be added to the U.S. Environmental Protection Agency's list of CERCLA sites.
5. The degree to which awards secured from other sources are committed to the subject site.
6. The leveraging of other public and private resources beyond the 75 percent minimum required.
7. Type and terms of assistance requested.
8. Rationale that the project serves a public purpose.
9. The level of economic and physical distress within the project area.
10. Past efforts of the community/owner to resolve the problem.
11. Ability of the applicant to outline the goals and objectives of the project and describe the overall strategy for achieving the goals and objectives.
12. Ancillary off-site development as a result of site remediation.

**261—65.10(78GA, HF2423) Administration of awards.**

**65.10(1)** A contract shall be executed between the recipient and IDED. These rules and applicable state laws and regulations shall be part of the contract.

**65.10(2)** The recipient must execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for the board to terminate the award.

**65.10(3)** Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

**65.10(4)** Awards may be conditioned upon commitment of other sources of funds necessary to complete the activity.

**65.10(5)** Awards may be conditioned upon IDED's receipt and approval of an implementation plan for the funded activity.

[Filed Emergency 8/18/00, effective 8/18/00]

[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

## ARC 0103B

### NATURAL RESOURCE COMMISSION[571]

#### Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 91, "Waterfowl and Coot Hunting Seasons," Iowa Administrative Code.

These rules give the regulations for hunting waterfowl and coot and include season dates, bag limits, possession limits, shooting hours, and areas open to hunting. These amendments update season dates and hunting zones for the 2000 hunting season.

State hunting seasons on migratory birds must be set within frameworks established annually by the Fish and Wildlife Service, U.S. Department of the Interior. These frameworks specify shooting hours, bag limits and possession limits, as well as season lengths and outside dates. These frameworks were finalized by the Service in early August. Therefore, adoption of these amendments by the Department could not take place prior to this time.

Notice of Intended Action was published in the March 8, 2000, Iowa Administrative Bulletin as **ARC 9719A**. The only changes from the Notice of Intended Action are as follows:

1. The early September Canada geese season in a portion of the north waterfowl zone which was open in 1999 was reinstated for 2000.

2. The youth waterfowl season was changed from one day to two consecutive days due to changes in federal regulations.

The Department finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that these amendments confer a benefit on a segment of the public by becoming effective upon filing with the Administrative Rules Coordinator on August 18, 2000, and that the usual effective date of these amendments would unnecessarily restrict the public by delaying the opening of the waterfowl and coot hunting seasons.

These amendments became effective August 18, 2000.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

The following amendments are adopted.

ITEM 1. Amend rule 571—91.1(481A), introductory paragraph, as follows:

**571—91.1(481A) Ducks (split seasons).** Open season for hunting ducks shall be September ~~18 23~~ to September ~~22,~~ ~~1999 27,~~ ~~2000;~~ October ~~16 14~~ to December ~~9,~~ ~~1999 7,~~ ~~2000,~~ in that portion of the state lying north of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border; and September ~~18 23~~ to September ~~22,~~ ~~1999 27,~~ ~~2000;~~ October ~~16 14~~ to December ~~9,~~ ~~1999 7,~~ ~~2000,~~ in that portion of the state lying south of a line beginning on the Nebraska-Iowa border at State Highway 175, southeast to State Highway 37, east to U.S. Highway 59, south to I-80 and along I-80 east to the Iowa-Illinois border. Shooting hours are one-half hour before sunrise to sunset each day.

ITEM 2. Amend rule 571—91.3(481A) as follows:

**571—91.3(481A) Geese.** The north goose hunting zone is that part of Iowa north of a line beginning on the Nebraska-Iowa border at State Highway 175, east to State Highway 37, southeast to U.S. Highway 59, south to I-80 and along I-80 to the Iowa-Illinois border. The south goose hunting zone is the remainder of the state. The open season for hunting Canada geese only is September ~~11 9~~ and ~~12 10,~~ ~~1999 2000,~~ west of State Highway 63 in the north goose hunting zone only, except on the Big Marsh Wildlife Area where the season will remain closed. The open season for hunting Canada geese, white-fronted geese and brant, *collectively referred to as dark geese*, is ~~October 2 September 30~~ to December ~~10,~~ ~~1999 8,~~ ~~2000,~~ in the north goose hunting zone and ~~October 2 September 30~~ to October ~~10 15~~ and ~~October 16 November 4~~ to De-

## NATURAL RESOURCE COMMISSION[571](cont'd)

ember 15, 1999 27, 2000, in the south goose hunting zone. The open season for hunting ~~snow white- and blue-phase snow geese and Ross' geese, collectively referred to as light geese, is October 2~~ September 30, 2000, to ~~December 27, 1999~~ January 14, 2001, statewide, ~~and will reopen statewide from February 19 to March 10, 2000.~~ Light geese may also be taken under the conservation order from the U.S. Fish and Wildlife Service from February 15, 2001, through April 15, 2001. Shooting hours are one-half hour before sunrise to sunset, *except that during the conservation order shooting hours will be extended to one-half hour after sunset each day.*

**91.3(1)** Bag limit. Daily bag limit is 2 Canada geese, 2 white-fronted geese, 2 brant and 20 ~~snow~~ light geese.

**91.3(2)** Possession limit. Possession limit is twice the daily bag limit and no possession limit on ~~snow~~ light geese.

ITEM 3. Amend subrule **91.4(2)**, paragraphs "m" and "o," as follows:

m. Area thirteen. Portions of Van Buren and Davis Counties bounded as follows: Beginning at the junction of Iowa Highway 16 and Iowa Highway 98 in Van Buren County; thence east and south along Highway 16 (*including the right-of-way*) to ~~County Road W40~~ Iowa Highway 1 in Van Buren County; thence south and west along Iowa Highway 1 (*including the right-of-way*) to County Road ~~W40~~ J40; thence east along County Road J40 (*including the right-of-way*) to Iowa Highway 2 in Van Buren County; thence south and east along Highway 2 (*including the right-of-way*) to Iowa Highway 81 in Van Buren County; thence south and west along Highway 81 (*including the right-of-way*) to the Iowa-Missouri border; thence west along the Iowa-Missouri border to Iowa Highway 15 in Van Buren County; thence north along Highway 15 (*including the right-of-way*) to ~~County Road J56~~ Iowa Highway 2 in Van Buren County; thence west along ~~County Road J56~~ Iowa Highway 2 (*including the right-of-way*) to County Road V42 in Davis County; thence north along County Road V42 (*including the right-of-way*) to County Road J40 in Davis County; thence east and south along County Road J40 (*including the right-of-way*) to County Road V64 in Van Buren County; thence north along County Road V64 (*including the right-of-way*) to Iowa Highway 98 in Van Buren County; thence north along Highway 98 (*including the right-of-way*) to the point of beginning.

o. Area fifteen. Portions of Butler County bounded as follows: Beginning at the junction of Iowa Highway 3 and County Road T16, thence south 8 miles on County Road T16 (*including the right-of-way*) to its intersection with County

Road C55, thence east 9 miles on County Road C55 (*including the right-of-way*) to its intersection with Iowa Highway 14, thence north 8 miles on Iowa Highway 14 (*including the right-of-way*) to its intersection with Iowa Highway 3, thence west 9 miles on Iowa Highway 3 (*including the right-of-way*) to the point of beginning; but, excluding those lands within this bounded area east of Jay Avenue managed by the department of natural resources as Big Marsh Management Area that are not posted as closed to Canada goose hunting.

ITEM 4. Amend subrule **91.5(1)**, paragraph "c," subparagraph (2), as follows:

(2) Eight consecutively numbered tags will be issued with each permit. Geese will be tagged around the leg immediately upon being reduced to possession and will remain tagged until delivered to the person's abode. Within one week of the close of hunting within the closed area *during at least the first three years the hunt is permitted*, unused tags must be turned in at the wildlife unit headquarters within the closed area or the permittee must report the number of geese killed. Failure to turn in unused tags or report the number of geese killed within the specified time period may result in the permittee's forfeiting the opportunity to hunt within the closed area the following year.

ITEM 5. Amend rule 571—91.6(481A) as follows:

**571—91.6(481A) Youth waterfowl hunt.** A special youth waterfowl hunt will be held statewide on October 9, 1999 7 and 8, 2000. Youth hunters must be 15 years old or younger. Each youth hunter must be accompanied by an adult 18 years old or older. The youth hunter does not need to have a hunting license or stamps. The adult must have a valid hunting license and habitat stamp if normally required to have them to hunt and a state waterfowl stamp. Only the youth hunter may shoot ducks, coots and Canada geese. The adult may hunt for any other game birds for which the season is open. The daily bag limits are the same as for the regular waterfowl season, as defined in subrule 91.1(1), except the season for ~~snow~~ light geese will not be open. The possession limit is the same as the daily bag limit. All other hunting regulations in effect for the regular waterfowl season apply to the youth hunt.

[Filed Emergency After Notice 8/18/00, effective 8/18/00]  
[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

## ARC 0111B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1, the Department of Agriculture and Land Stewardship adopts amendments to Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

These rules implement a voluntary chronic wasting disease (CWD) surveillance program for Cervidae. The surveillance program is being adopted at the request of the Iowa Elk Breeders Association. Chronic wasting disease (CWD) is a form of transmissible spongiform encephalopathy that is fatal to Cervidae. Numerous states have developed voluntary and mandatory surveillance programs, and many states have import restrictions for Cervidae originating in states without a surveillance program. Cervidae, as defined in these rules, means elk, red deer, fallow deer, sika deer, and related species and hybrids of these species.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 12, 2000, as **ARC 9980A**. The only public comment received was in support of the rules. These rules are identical to those published under Notice of Intended Action.

These rules become effective October 11, 2000.

These rules are intended to implement Iowa Code chapter 163.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [64.104 to 64.120] is being omitted. These rules are identical to those published under Notice as **ARC 9980A**, IAB 7/12/00.

[Filed 8/18/00, effective 10/11/00]  
[Published 9/6/00]

[For replacement pages for IAC, see IAC Supplement 9/6/00.]

## ARC 0109B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

### Adopted and Filed

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1, the Department of Agriculture and Land Stewardship adopts amendments to Chapter 66, "Livestock Movement," Iowa Administrative Code.

These amendments are intended to clarify the permitting requirements for a person engaged in the business of buying, selling, or assembling livestock for resale. These individuals are currently permitted as livestock dealers or livestock dealer's agents. These amendments require that the licensee must maintain a bond and clarify other requirements in the permitting process. The amendments also add domestically raised deer, elk, and moose to the definition of livestock.

The amendments do not contain any waiver provisions because the Department does not believe that waiver is appropriate for these requirements. However, the proposed

bonding requirement is waived, if the licensee can show proof of a comparable bond provided to the United States Packers and Stockyards Administration.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9941A**. No public comment was received. The adopted amendments are substantially similar to those published under Notice. The only change, in subrule 66.1(2), paragraphs "a" and "b," clarifies that a person who operates solely as a packer agent or a feeder pig dealer is not required to be licensed as a livestock dealer.

These amendments will become effective on October 11, 2000.

These amendments are intended to implement Iowa Code chapter 163.

The following amendments are adopted.

ITEM 1. Amend **21—Chapter 66** by rescinding the introductory note.

ITEM 2. Rescind rule 21—66.1(163) and adopt in lieu thereof the following **new** rule:

### **21—66.1(163) Definitions and permits.**

**66.1(1) Definition.** As used in this chapter, the following term is defined to have the following meaning:

"Livestock" means cattle, horses, sheep, goats, swine (other than feeder swine), or any other animals of the bovine, equine, ovine, caprine or porcine species. "Livestock" also includes all species of deer, elk, and moose raised under confinement or agricultural conditions for the production of meat, the production of other agricultural products, sport, or exhibition.

**66.1(2) Livestock dealer permit required.** Any person engaged in the business of buying, selling or assembling livestock by consignment for the purpose of resale, either interstate or intrastate, shall first obtain a permit from the department to conduct business. However, a person is not required to be licensed as a livestock dealer if either of the following applies:

- a. The person is licensed as an agent for a packer operating under Iowa Code chapter 172A, the person only buys for the packer, and the livestock move directly to slaughter; or
- b. The person is licensed as a feeder pig dealer under Iowa Code section 163.30 and does not sell livestock other than feeder pigs.

A separate permit must be obtained for each separate location even though operated under the same management or person.

**66.1(3) Livestock dealer's agent permit required.** An individual working for a person holding a permit required by subrule 66.1(2) shall obtain, in lieu of a livestock dealer permit, a permit as a livestock dealer's agent. A person shall not act as an agent for more than one dealer at the same time. A person shall not act as an agent for a dealer and also hold a livestock dealer permit in the person's own name.

**66.1(4) Permitting period.** A livestock dealer permit and a livestock dealer's agent permit shall be issued for a time period commencing on July 1 and ending June 30 of the following year.

**66.1(5) Fee for permit.** The following nonrefundable fee shall accompany each application for a permit or the renewal of a permit.

1. Livestock dealer permit—\$50
2. Livestock dealer's agent permit—\$10

**66.1(6) Bonding requirement.** An applicant for a livestock dealer permit shall submit a bond to the department

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

with the secretary of agriculture named as trustee. The bond shall be payable for the use and benefit of any person damaged as a result of a violation of this chapter. The amount of the bond shall be calculated in the same manner and contain the same condition clauses as required by the United States Packers and Stockyards Administration as adopted in Sections 201.30 and 201.31 of Title 9, Chapter II, of the Code of Federal Regulations, revised as of May 1, 2000. However, a person applying for a permit is exempt from providing a bond if the person can show that the person has a valid bond on file and maintained with the United States Packers and Stockyards Administration in an amount equivalent to or greater than that required by federal regulations.

**66.1(7)** Information required. An applicant for a livestock dealer permit or a livestock dealer's agent permit or a renewal of a permit shall provide the department with information required on the permit application including, but not limited to, the name, address, and telephone number of the applicant; a listing of any state, country, or province in which the applicant is licensed or permitted to engage in a similar business; and any past or pending legal or administrative action or investigation conducted or ongoing regarding that license or permit.

This rule is intended to implement Iowa Code section 163.1.

[Filed 8/18/00, effective 10/11/00]  
[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0112B****CORRECTIONS DEPARTMENT[201]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 904.108(1)"k," the Department of Corrections hereby rescinds Chapter 28, "Correctional Release Center," and adopts new Chapter 28, "Newton Correctional Facility," Iowa Administrative Code.

These rules provide for the days and hours of visits, tours and offender trips at the Newton Correctional Facility.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9879A** on June 14, 2000.

A public hearing was held on July 5, 2000. No one attended the hearing, and no written or oral comments were received.

One change from the Notice has been made. A subrule has been added to rule 201—28.1(904) to clarify that visitation is additionally governed by provisions in Department policy IN-V-122 and rule 201—20.3(904).

The Department of Corrections Board adopted these rules on August 4, 2000.

These rules will become effective on October 11, 2000.

These rules are intended to implement Iowa Code section 904.512.

The following amendment is adopted.

Rescind 201—Chapter 28 and adopt the following new chapter in lieu thereof:

CHAPTER 28  
NEWTON CORRECTIONAL FACILITY

**201—28.1(904) Visiting: medium security.**

**28.1(1)** Visitation within the Newton correctional facility is additionally governed by the provisions of department of corrections policy IN-V-122 and rule 201—20.3(904).

**28.1(2)** Visiting hours. Visiting hours are from 10 a.m. to 8 p.m. on Sunday, Monday, Thursday, Friday, and Saturday.

a. All visitors must show proof of identification and must submit to a personal search.

b. In the event that the maximum visiting capacity has been reached, visits will be shortened to accommodate new arrivals.

**28.1(3)** General population. Each visitor will be allowed two 3-hour visits per week if the offender is in Level 4 or three 3-hour visits per week if the offender is in Level 5. Offenders are permitted a maximum of five visitors at any given time without advance, written permission of the security director.

**28.1(4)** Close custody. Offenders in close custody, Levels 1 and 2, may receive one 1-hour, noncontact visit per week. Offenders in close custody, Level 3, may receive one 2-hour, contact visit per week.

**28.1(5)** Disciplinary detention. Offenders in disciplinary detention will be allowed one 1-hour, noncontact visit per week, by immediate family only. Children under the age of 18 shall not be permitted to visit any offender in this status.

**28.1(6)** County/federal detainees. County or federal detainees will be permitted one 30-minute, noncontact visit per week, by immediate family only.

**201—28.2(904) Visiting: minimum security (correctional release center).**

**28.2(1)** Visiting hours are from 8:15 a.m. to 4:30 p.m. on Saturdays, Sundays, and holidays and from 5:45 p.m. to 9:45 p.m., Monday through Friday. Visiting hours are scheduled to avoid conflicts with offender work programs/assignments.

**28.2(2)** An approved visitor may visit three times per week for a maximum of three hours per visit.

a. Offenders are permitted to have a maximum of five visitors at any given time without advance written permission from the security director.

b. Offenders on dormitory confinement are permitted one 2-hour visit per week during normal visiting hours by immediate family only.

c. Visiting hours for offenders in administrative/disciplinary segregation are from 10 a.m. to 3 p.m., Monday through Friday. Visits shall be scheduled in advance by the visitor. Visitors shall be immediate family only, and visits shall be limited to one hour and shall be noncontact.

**28.2(3)** Upon arrival, all visitors shall report to the control center. All visitors must be prepared to show proof of identification. In the event that maximum visiting capacity has been exceeded, visits will be shortened to two hours to accommodate new arrivals.

**28.2(4)** Outdoor visits are permitted April 15 through October 15, weather permitting.

**28.2(5)** Visits for offenders in the violator program will be permitted only in conjunction with scheduled support group treatment activities after the fourth week of treatment program participation. These visits must be scheduled with the unit director.

**28.2(6)** Visitors will have access only to designated visiting areas of the institution.

## CORRECTIONS DEPARTMENT[201](cont'd)

**28.2(7)** Visits between an attorney and offender shall be permitted during normal business hours or visiting hours. Such visits during nonbusiness hours shall be by appointment as authorized by the warden or designee.

**28.2(8)** Visitors must report to the control center at the end of the visit prior to leaving the institution.

**201—28.3(904) Tours.**

**28.3(1)** Tours of institutional facilities are available primarily for adult groups. In special cases, tours may be granted for persons under the age of 18 at the discretion of the warden or designee. Tours must be approved by the warden or designee.

**28.3(2)** Prior approval from the warden or designee shall be required for relatives or close friends of offenders to tour the institution.

**201—28.4(904) Trips of offenders.** An outside group wishing to schedule a presentation by a panel of offenders from the correctional release center shall send a written request to the institution's treatment director. Trips are limited to a 100-mile radius. Permission may be granted for longer trips at the discretion of the warden.

These rules are intended to implement Iowa Code section 904.512.

[Filed 8/18/00, effective 10/11/00]  
[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0113B****CORRECTIONS DEPARTMENT[201]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 904.108(1)“k,” the Department of Corrections adopts Chapter 29, “Fort Dodge Correctional Facility,” Iowa Administrative Code.

These rules provide for the days and hours of visits and tours at the Fort Dodge Correctional Facility.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9880A** on June 14, 2000.

A public hearing was held on July 5, 2000. No one attended the hearing. One written comment was received, which requested that the subrule pertaining to visitor searches be deleted. Because language dealing with the use of an electronic detection device to search visitors is covered in the broader visiting rule 201—20.3(904), this change has been incorporated. No other changes were made to the Notice of Intended Action.

The Department of Corrections Board adopted these rules on August 4, 2000.

These rules will become effective on October 11, 2000.

These rules are intended to implement Iowa Code section 904.512.

The following new chapter is adopted.

**CHAPTER 29****FORT DODGE CORRECTIONAL FACILITY****201—29.1(904) Visiting.**

**29.1(1)** Visitation within the Fort Dodge correctional facility is additionally governed by the provisions of depart-

ment of corrections policy IN-V-122 and rule 201—20.3(904).

**29.1(2)** Contact and noncontact visiting areas are available.

**29.1(3)** Visiting hours are from 1 p.m. to 8 p.m. on Thursday, Friday, Saturday, Sunday and Monday as well as New Year's Day, July 4 and Christmas Day.

**29.1(4)** Visits are limited to a maximum of three hours on weekdays and two hours on weekends.

**29.1(5)** All visitors shall present proper identification upon entrance to the institution. Photo identification is required for all visitors 16 years of age and older.

**29.1(6)** Each approved visitor will be allowed eight visits per month. Offenders will be permitted a maximum of five visitors at one time.

**29.1(7)** Attorneys, law enforcement officials and clergy are not required to be placed on an offender's visiting list. However, these visitors are encouraged to make prior arrangements for visitation and shall present proof of identity and appropriate credentials before entrance to the institution. The offender must express a desire to visit with clergy or an attorney before either is admitted to the facility for a visit.

**29.1(8)** County/federal detainees. Detainees will be allowed visitation with immediate family, approved clergy, and legal representatives. In limited circumstances, the names of additional visitors may be submitted by the assigned counselor and approved by the unit manager. Visiting hours for detainees are from 1 p.m. to 8 p.m. on Sunday, Monday, Thursday, Friday, and Saturday. Subject to availability of space, detainees are allowed up to three 1-hour noncontact visits per week. Generally, these visits shall be conducted in the noncontact visitation area of the institution's visiting room. Attorney or legal representative visits may be contact visits and shall take place in the attorney visit area of the visiting room.

**201—29.2(904) Visiting: Unit A.**

**29.2(1)** Offenders housed in Unit A shall visit in the noncontact visiting areas of Unit A. Visitors shall check in at reception and then be escorted to the Unit A visiting area by staff.

**29.2(2)** Visiting is restricted to two adult immediate family members or two clergy members at a time.

**29.2(3)** Offenders are allowed one visit per week. This visit is limited to one hour.

**201—29.3(904) Visiting: administration segregation of disciplinary detention offenders housed outside of Unit A.**

**29.3(1)** The noncontact visiting area in the visiting room shall be used.

**29.3(2)** A maximum of two persons, and one small child per adult who can sit on an adult's lap, will be allowed.

**29.3(3)** Visitors shall be escorted to one of the noncontact visiting rooms located adjacent to the visiting room.

**201—29.4(904) Tours.** Tours of the institution are limited to persons 18 years of age and older having a genuine interest in corrections and for whom the tour might prove beneficial or enlightening. These persons may include prospective employees, college or university student groups, legislators and their staff, employees of other governmental agencies, and civic organizations. Other individuals or groups may be permitted to tour the institution upon the specific approval of the office of the warden.

## CORRECTIONS DEPARTMENT[201](cont'd)

These rules are intended to implement Iowa Code section 904.512.

[Filed 8/18/00, effective 10/11/00]

[Published 9/6/00]

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**ARC 0125B****ECONOMIC DEVELOPMENT,  
IOWA DEPARTMENT OF[261]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapters 62 to 104, Iowa Administrative Code.

The proposed amendments renumber several chapters, reserve chapter numbers for future rule making and add a new Part VIII for the Vision Iowa Board.

Pursuant to the provisions of Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments are merely administrative and do not affect the substance of the existing chapters. These amendments are necessary to allow space in the appropriate parts for the addition of new chapters.

The Department of Economic Development Board adopted these amendments on August 17, 2000.

These amendments will become effective October 11, 2000.

These amendments are intended to implement Iowa Code section 17A.3.

The following amendments are adopted.

ITEM 1. Amend the Part II caption as follows:

## PART II

*WORKFORCE DEVELOPMENT COORDINATION*

ITEM 2. Reserve **Chapters 62 to 64 and 66 to 100** in Part IV and renumber existing **Chapters 62 to 104** as follows:

## PART V

## DIVISION OF TOURISM

CHAPTER ~~62~~ 101

## DIVISION RESPONSIBILITIES

CHAPTER ~~63~~ 102

## WELCOME CENTER PROGRAM

## CHAPTER 64 103

## TOURISM PROMOTION—LICENSING PROGRAM

## CHAPTER 65 211

RECREATION, ENVIRONMENT, ART AND  
CULTURAL HERITAGE INITIATIVE (REACH)—  
COMMUNITY ATTRACTION AND TOURISM  
DEVELOPMENT PROGRAMCHAPTER ~~66~~ 104

Reserved

*CHAPTERS 105 to 130*

*Reserved*

## PART VI

## INTERNATIONAL DIVISION

CHAPTER ~~67~~ 131

## DIVISION RESPONSIBILITIES

CHAPTER ~~68~~ 132

## IOWA EXPORT TRADE ASSISTANCE PROGRAM

CHAPTERS ~~69 and 70~~ 133 to 162

*Reserved*

## PART VII

## DIVISION OF ADMINISTRATION

CHAPTER ~~71~~ 163

## DIVISION RESPONSIBILITIES

CHAPTER ~~72~~ 164

## USE OF MARKETING LOGO

CHAPTERS ~~73 and 74~~

*Reserved*

CHAPTER ~~75~~ 8

## WORKFORCE DEVELOPMENT FUND

CHAPTERS ~~76 to 79~~ 165 to 167

*Reserved*

CHAPTER ~~80~~ 168

## ADDITIONAL PROGRAM REQUIREMENTS

CHAPTERS ~~81 to 99~~

*Reserved*

CHAPTER ~~100~~ 169PUBLIC RECORDS AND  
FAIR INFORMATION PRACTICESCHAPTER ~~101~~ 170

## DEPARTMENT PROCEDURE FOR RULE MAKING

CHAPTER ~~102~~ 171

## PETITION FOR RULE MAKING

CHAPTER ~~103~~ 172

## PETITION FOR DECLARATORY ORDER

CHAPTER ~~104~~ 173

## UNIFORM WAIVER AND VARIANCE RULES

*CHAPTERS 174 to 199*

*Reserved*

## PART VIII

## VISION IOWA BOARD

## CHAPTERS 200 to 210

*Reserved*

CHAPTER ~~65~~ 211

## RECREATION, ENVIRONMENT, ART AND

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

CULTURAL HERITAGE INITIATIVE (REACH)—  
COMMUNITY ATTRACTION AND TOURISM  
DEVELOPMENT PROGRAM

CHAPTER 212\*  
VISION IOWA PROGRAM  
Reserved

CHAPTER 213\*  
VISION IOWA BOARD: UNIFORM WAIVER  
AND VARIANCE RULES  
Reserved

[Filed Without Notice 8/18/00, effective 10/11/00]  
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\*See Notice ARC 0118B, page 407 herein.

**ARC 0087B**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services hereby amends Chapter 75, "Conditions of Eligibility," appearing in the Iowa Administrative Code.

The Seventy-eighth General Assembly directed the Department to increase the medical assistance eligibility income limit for pregnant women and infants under the Mothers and Children Program to 200 percent of the federal poverty level effective July 1, 2000. Federal law does not allow an increase in the current eligibility income limit of 185 percent of the federal poverty level, but does allow additional deductions.

This amendment allows pregnant women and infants Medicaid eligibility up to 200 percent of the federal poverty level by providing a deduction equal to 15 percent of the federal poverty level for the family size.

This amendment does not provide for waiver in specified situations because it confers a benefit by allowing the Department of Human Services to provide for coverage of medical services for more pregnant women and infants under the Mothers and Children Program.

This amendment was previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9902A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9867A**.

The Council on Human Services adopted this amendment August 9, 2000.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement 2000 Iowa Acts, Senate File 2435, section 8, subsection 12, and Iowa Code section 249A.3(1)"k" as amended by 2000 Iowa Acts, Senate File 2435, section 41.

This amendment shall become effective November 1, 2000, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule 75.1(28), paragraph "a," subparagraph (1), as follows:

(1) Family income shall not exceed 185 percent of the federal poverty level for pregnant women when establishing initial eligibility under these provisions and for infants (under one year of age) when establishing initial and ongoing eligibility. Family income shall not exceed 133 percent of the federal poverty level for children who have attained one year of age but who have not attained 19 years of age. Income to be considered in determining eligibility for pregnant women, infants, and children shall be determined according to family medical assistance program (FMAP) methodologies except that the three-step process for determining initial eligibility and the two-step process for determining ongoing eligibility, as described at rule 441—75.57(249A), shall not apply. Family income is the income remaining after disregards and deductions have been applied in accordance with the provisions of rule 441—75.57(249A).

*In determining eligibility for pregnant women and infants, after the aforementioned disregards and deductions have been applied, an additional disregard equal to 15 percent of the applicable federal poverty level shall be applied to the family's income.*

[Filed 8/9/00, effective 11/1/00]  
[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0088B**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, and section 11; Senate File 2193, section 21; and Senate File 2435, section 8, subsection 16, section 31, subsection 15, and section 44, the Department of Human Services hereby amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 81, "Nursing Facilities," appearing in the Iowa Administrative Code.

These amendments implement the following changes to the Medicaid program as mandated by the General Assembly:

- Policy is revised to allow for Medicaid reimbursement for family and pediatric nurse practitioners who are employed by a hospital and are providing services in a hospital-owned facility or in another location that is not on or part of the hospital's licensed premises.

Currently, hospitals employing family and pediatric nurse practitioners are not reimbursed for services provided by these practitioners, when the practitioners are providing services in a satellite location (i.e., not on the licensed premises of the hospital). This amendment would allow hospitals employing family and pediatric nurse practitioners to receive



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

reimbursement for the practitioners' services where these practitioners are providing services in a setting in which the hospital cannot receive reimbursement for "outpatient hospital services" (e.g., a satellite clinic) and where these practitioners are not able to bill for their services "incident-to" their supervising physician (i.e., because they are not employed by that physician and because "incident-to" billing is a function of an employment relationship between a physician and auxiliary practitioner, such as a nurse practitioner, not an employment relationship between a hospital and an auxiliary practitioner).

- The rule governing the telemedicine pilot program is removed. The Seventy-seventh General Assembly directed the Department to implement a three-year telemedicine pilot project effective July 1, 1997. Under this pilot, payment was made to physicians participating in a federally funded telemedicine waiver program for consultations done using the electronic transfer of medical information by interactive audiovisuals and to hospitals participating in a federally funded telemedicine waiver program for costs associated with the provision of the teleconsultative medical services.

The Seventy-eighth General Assembly directed the Department to discontinue the telemedicine pilot program on July 1, 2000.

- All of the reimbursement rates for the following non-institutional providers are increased by 7/10 of 1 percent (hereinafter referred to as "0.7 percent" or "0.7%"): ambulances; area education agencies; birth centers; certified registered nurse anesthetists; community mental health centers; durable medical equipment, prosthetic devices and medical supply dealers; family planning clinics; hearing aid dealers; lead inspection agencies; maternal health centers; opticians; orthopedic shoe dealers; rehabilitation agencies; and screening centers.

- The reimbursement rate for the following noninstitutional providers, excluding anesthesia and dental services, is increased to the rate in effect on January 1, 2000, under the fee schedule established for Iowa under the federal Medicare program, which incorporates the resource-based relative value scale (hereinafter referred to as "RBRVS methodology"): audiologists, chiropractors, clinics, family and pediatric nurse practitioners, nurse midwives, optometrists, physical therapists, physicians, podiatrists, and psychologists.

The Seventy-eighth General Assembly directed the Department to adopt the RBRVS methodology based on a report prepared by the Department in consultation with the Iowa Medical Society, the Iowa Osteopathic Medical Association, and the Iowa Academy of Family Physicians.

At the current time, Medicaid fees for the above providers are the result of an outdated payment methodology and inconsistent provider increases. This is the result of the current Medicaid fee schedule being an outgrowth of the "usual, customary and reasonable" payment approach that is currently being used by fewer and fewer payors. Medicare's RBRVS payment methodology is being increasingly used by commercial and private payors as well as other states' Medicaid programs.

The cornerstone of the RBRVS plan was to base physician reimbursement on the amount of work it takes physicians to diagnose and treat patients, instead of paying based on physicians' charge histories, which vary widely. By tying payments to work adjusted by costs of practicing medicine in different parts of the country, the assumption was that Medicare would more equitably reimburse physicians across specialties and geographic areas. The RBRVS payment methodology reapportions payments to providers in such a way as

to increase payments for primary and preventive care services, at the expense of specialty and procedure-related services.

The Iowa-specific, RBRVS-based Medicare fee schedule is released to the public in mid-November of each year and implemented by Medicare on January 1. These changes adopt the January 1, 2000, Medicare rates.

- The reimbursement rate for dentists is increased to 75 percent of the "usual and customary rate."

- The dispensing fee for pharmacists is increased by 0.7 percent.

- The reimbursement rate for community mental health centers is increased by 16.63 percent and the 0.7 percent increase provided above for noninstitutional providers, for a total of 17.33 percent.

- Home health agency providers shall be paid the maximum Medicare rate.

- The reimbursement rate for psychiatric medical institutions for children is increased to rates based on actual costs on June 30, 2000, not to exceed a maximum of \$147.20 per day.

- The reimbursement rate for hospitals is increased by 3 percent.

- The maximum reimbursement rate for nursing facilities is increased by changing the maximum from the seventieth percentile of facility costs based on 1999 cost reports to the same percentile based on June 30, 2000, cost reports. The maximum Medicaid nursing facility rate increased from \$85.93 to \$88.50 effective July 1, 2000.

- Nursing facilities are required to include expenses attributable to the home or principal office or headquarters in their cost reports. They are also required to conduct prior to admission a resident assessment of all persons seeking nursing facility placement. The assessment information shall be similar to the data in the minimum data set (MDS) resident assessment tool.

- A case-mix add-on factor is added for nursing facilities providing intermediate and skilled care. Participating nursing facilities with higher than average patient care service expenses and higher than average aggregate care needs of residents will receive an add-on of \$5.20 per day to their reimbursement rate. Participating nursing facilities with lower than average patient care service expenses and higher than average aggregate care needs of residents will receive an add-on of \$2.60 per day to their reimbursement rate. Freestanding nursing facilities providing skilled care that exceeds the Iowa case-mix nursing facility average will receive an add-on of \$5.20 per day to their reimbursement rate.

The current reimbursement system for Iowa nursing facilities provides a facility rate and maximum rate based only on costs. Many states, with federal encouragement, have adopted reimbursement systems which factor in the care needs of residents, providing a higher rate of reimbursement to facilities that care for residents with greater care needs. The Department, with the support of the Iowa nursing home industry, plans to begin moving the Iowa reimbursement system in this direction.

It is believed this change will encourage facilities to accept and retain more difficult-to-care-for residents. A consultant has been hired on contract to make recommendations for further changes in the reimbursement system. Additional changes to the reimbursement system will likely be sought for the next fiscal year.

These amendments combine two Notices of Intended Action. Items 1 and 3 through 6, with the exception of the changes implementing the RBRVS methodology in Item 3,



HUMAN SERVICES DEPARTMENT[441](cont'd)

were previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9905A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9882A**. Notice of Intended Action to solicit comments on Item 2 eliminating the rule on the telemedicine pilot program was published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9899A**.

No revisions were made to the amendment noticed as **ARC 9899A**. The following revisions were made to the amendments noticed as **ARC 9882A**:

Subrule 79.1(2), physician reimbursement provider category, was revised in response to public comment to exclude providers of anesthesia services from the RBRVS methodology. Anesthesia services will be reimbursed at the Iowa Medicaid fee schedule rate in effect June 30, 2000, plus 0.7 percent.

Subrule 81.6(16), paragraph "f," subparagraph (1), was revised to specify that the Department, and not the United States Health Care Financing Administration, calculates the case-mix index for each facility and the statewide average case-mix index.

The Council on Human Services adopted these amendments August 9, 2000.

The amendments noticed as **ARC 9882A** do not provide for waiver in specified situations because they confer a benefit on providers by allowing additional Medicaid reimbursement for family and pediatric nurse practitioners and increasing reimbursement to affected providers. The General Assembly directed the Department to implement these changes, with no provisions for exceptions. All providers of the same category should be reimbursed on the same basis.

The amendment noticed as **ARC 9899A** does not provide for waiver in specified situations because the General Assembly directed the Department to implement this change, with no provisions for exceptions.

These amendments are intended to implement Iowa Code section 249A.4 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraphs "a," "b," "e," "f," and "j," and section 7; Senate File 2193, sections 12 and 20, subsection 3; and Senate File 2435, section 8, subsection 10, paragraph "a," and subsection 16, and section 31, subsection 1, paragraph "h," subsection 2, paragraph "c," and subsection 13, and section 39.

These amendments shall become effective November 1, 2000, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule 441—78.31(249A) as follows:  
Amend subrule 78.31(1), introductory paragraph, as follows:

**78.31(1)** Covered hospital outpatient services. Payment will be approved only for the following outpatient hospital services and medical services when provided on the licensed premises of the hospital *or pursuant to subrule 78.31(5)*. Hospitals with alternate sites approved by the department of inspections and appeals are acceptable sites. All outpatient services listed in paragraphs "g" to "m" are subject to a random sample retrospective review for medical necessity by the Iowa Foundation for Medical Care. All services may also be subject to a more intensive retrospective review if abuse is suspected. Services in paragraphs "a" to "f" shall be provided in hospitals on an outpatient basis and are subject to no further limitations except medical necessity of the service.

Adopt the following **new** subrule:

**78.31(5)** Services rendered by family or pediatric nurse practitioners employed by a hospital. Hospitals may be reimbursed for services rendered by family or pediatric nurse practitioners who are employed by the hospital and providing services in a facility or other location that is owned by the hospital, but is not on or part of the hospital's licensed premises, if reimbursement is not otherwise available for the services rendered by these employed nurse practitioners. As a condition of reimbursement, employed family and pediatric nurse practitioners rendering these services must enroll with the Medicaid program, receive a provider number, and designate the employing hospital to receive payment. Claims for services shall be submitted by the employed family or pediatric nurse practitioner. Payment shall be at the same fee-schedule rates as those in effect for independently practicing family or pediatric nurse practitioners under 441—subrule 79.1(2).

ITEM 2. Rescind and reserve rule **441—78.45(249A)**.

ITEM 3. Amend rule 441—79.1(249A) as follows:

Amend subrule **79.1(2)**, Basis of reimbursement provider categories "Ambulance," "Area education agencies," "Audiologists," "Birth centers," "Certified registered nurse anesthetists," "Chiropractors," "Clinics," "Community mental health centers," "Dentists," "Durable medical equipment, prosthetic devices and medical supply dealers," "Family planning clinics," "Family or pediatric nurse practitioner," "Hearing aid dealers," "Home health agencies," "Hospitals (Inpatient)," "Hospitals (Outpatient)," "Intermediate care facilities for the mentally retarded," "Lead inspection agency," "Maternal health centers," "Nurse-midwives," "Nursing facilities," "Opticians," "Optometrists," "Orthopedic shoe dealers," "Physical therapists," "Physicians (doctors of medicine or osteopathy)," "Podiatrists," "Prescribed drugs," "Psychiatric medical institutions for children," "Psychologists," "Rehabilitation agencies," and "Screening centers," as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Ambulance	Fee schedule	Ground ambulance: Fee schedule in effect <del>6/30/99</del> 6/30/00 plus 2% 0.7%. Air ambulance: A base rate of \$208.08 \$209.54 plus \$7.80 \$7.85 per mile for each mile the patient is carried.
Area education agencies	Fee schedule	Fee schedule in effect <del>6/30/99</del> 6/30/00 plus 2% 0.7%

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

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Audiologists	Fee schedule	<del>Fee schedule in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Birth centers	Fee schedule	Fee schedule in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Certified registered nurse anesthetists	Fee schedule	Fee schedule in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Chiropractors	Fee schedule	<del>Fee schedule in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Clinics	Fee schedule	<del>Fees as determined by the physician fee schedule</del> Maximum physician reimbursement rate
Community mental health centers	Fee schedule	Reimbursement rate for center in effect <del>6/30/99</del> 6/30/00 plus $\leq$ 17.33%
Dentists	Fee schedule	<del>Fee schedule in effect 6/30/99 plus 2%</del> 75% of usual and customary rate
Durable medical equipment, prosthetic devices and medical supply dealers	Fee schedule. See 79.1(4)	Fee schedule in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Family or pediatric nurse practitioner	Fee schedule	<del>Fee schedule in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Family planning clinics	Fee schedule	Fees in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Hearing aid dealers	Fee schedule plus product acquisition cost	Fee schedule in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Home health agencies (Encounter services-intermittent services)	Retrospective cost-related	Maximum <del>Medicaid</del> Medicare rate in effect on <del>6/30/99</del> plus <del>2%</del>
(Private duty nursing or personal care and VFC vaccine administration for persons aged 20 and under)	Interim fee schedule with retrospective cost settling based on <del>Medicaid</del> Medicare methodology	Retrospective cost settling according to <del>Medicaid</del> Medicare methodology <del>not to exceed the rate in effect on 6/30/99 plus 2%</del>
Hospitals (Inpatient)	Prospective reimbursement. See 79.1(5)	Reimbursement rate in effect <del>6/30/99</del> 6/30/00 increased by <del>2%</del> 3%
Hospitals (Outpatient)	Prospective reimbursement for providers listed at 441—paragraphs 78.31(1)“a” to “f.” See 79.1(16) Fee schedule for providers listed at 441—paragraphs 78.31(1)“g” to “n.” See 79.1(16)	Ambulatory patient group rate (plus an evaluation rate) and assessment payment rate in effect on <del>6/30/99</del> 6/30/00 increased by <del>2%</del> 3% Rates in effect on <del>6/30/99</del> 6/30/00 increased by <del>2%</del> 3%

HUMAN SERVICES DEPARTMENT[441](cont'd)

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Intermediate care facilities for the mentally retarded	Prospective reimbursement. See 441—82.5(249A)	Eightieth percentile of facility costs as calculated from <del>12/31/98</del> 12/31/99 cost reports
Lead inspection agency	Fee schedule	Fee schedule in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Maternal health centers	Reasonable cost per procedure on a prospective basis as determined by the department based on financial and statistical data submitted annually by the provider group	Fee schedule in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Nurse-midwives	Fee schedule	<del>Fee schedule in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Nursing facilities		
1. Nursing facility care	Prospective reimbursement. See 441—subrule 81.10(1) and 441—81.6(249A)	Seventieth percentile of facility costs as calculated from all <del>6/30/99</del> 6/30/00 cost reports
2. Skilled nursing care	No change.	
Opticians	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	Reimbursement rate for provider in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Optometrists	Fee schedule. Fixed fee for lenses and frames; other optical materials at product acquisition cost	<del>Reimbursement rate for provider in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Orthopedic shoe dealers	Fee schedule	Reimbursement rate for provider in effect <del>6/30/99</del> 6/30/00 plus <del>2%</del> 0.7%
Physical therapists	Fee schedule	<del>Fee schedule in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Physicians (doctors of medicine or osteopathy)	Fee schedule. See 79.1(7)	<del>Fee schedule in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology, excluding anesthesia services. Anesthesia services will be reimbursed at the Iowa Medicaid fee schedule rate in effect 6/30/00 plus 0.7%.

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

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Podiatrists	Fee schedule	<del>Fee schedule in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Prescribed drugs	See 79.1(8)	<del>\$4.10 \$4.13 or \$6.38 \$6.42</del> dispensing fee (See 79.1(8)“a” and “e”)
Psychiatric medical institutions for children (Inpatient)	Prospective reimbursement	Reimbursement rate for provider based on per diem rates for actual costs on <del>6/30/99 6/30/00</del> , not to exceed a maximum of <del>\$145.74 \$147.20</del> per day
(Outpatient day treatment)	Fee schedule	Fee schedule in effect <del>6/30/99 6/30/00</del> plus <del>2% 0.7%</del>
Psychologists	Fee schedule	<del>Reimbursement rate for provider in effect 6/30/99 plus 2%</del> Rate in effect on 1/1/00 under the fee schedule established for Iowa under the federal Medicare program, incorporating the resource-based relative value scale (RBRVS) methodology
Rehabilitation agencies	Retrospective cost-related	Reimbursement rate for agency in effect <del>6/30/99 6/30/00</del> plus <del>2% 0.7%</del>
Screening centers	Fee schedule	Reimbursement rate for center in effect <del>6/30/99 6/30/00</del> plus <del>2% 0.7%</del>

Amend subrule **79.1(8)**, paragraph “a,” second and third unnumbered paragraphs, as follows:

The basis of payment for prescribed drugs for which the MAC has been established shall be the lesser of the MAC plus a professional dispensing fee of ~~\$4.10 \$4.13~~ or the pharmacist’s usual and customary charge to the general public.

The basis of payment for drugs for which the MAC has not been established shall be the lesser of the EAC plus a professional dispensing fee of ~~\$6.38 \$6.42~~ or the pharmacist’s usual and customary charge to the general public.

Amend subrule **79.1(9)** by adopting the following **new** paragraph:

j. Freestanding skilled facilities with a case-mix index above the statewide average for the previous reporting period shall receive a case-mix adjustment of \$5.20 added to their daily rate for a six-month period. The case-mix index of each facility and the statewide average case-mix index are calculated by the United States Health Care Financing Administration from the minimum data set (MDS) report submitted by each facility pursuant to 441—subrule 81.13(9).

ITEM 4. Amend rule **441—81.1(249A)** by adopting the following **new** definitions in alphabetical order:

“Case-mix add-on” means additional Medicaid reimbursement based on the acuity and care need level of residents of a nursing facility.

“Minimum data set” or “MDS” refers to a federally required resident assessment tool. Information from the MDS is used by the federal Health Care Financing Administration to determine the facility’s case-mix index for purposes of the

case-mix add-on provided by paragraph 81.6(16)“f.” MDS is described in subrule 81.13(9).

ITEM 5. Amend rule 441—81.6(249A) as follows:

Amend subrule **81.6(16)**, paragraphs “c” and “e,” as follows:

c. For non-state-owned nursing facilities, the reimbursement rate shall be established by determining, on a per diem basis, the allowable cost plus the established inflation factor ~~plus~~ and the established incentive factor, subject to the maximum allowable cost ceiling, *plus any applicable case-mix add-on*.

e. Effective ~~January 1, 1999 July 1, 2000~~, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities’ per diem rates as calculated from the ~~December 31, 1998 June 30, 2000~~, report of “unaudited compilation of various costs and statistical data.”

~~Beginning July 1, 1999, the basis for establishing the maximum reimbursement rate for non-state-owned nursing facilities shall be the seventieth percentile of participating facilities’ per diem rates as calculated from the June 30, 1999, report of “unaudited compilation of various costs and statistical data” submitted by each facility on medical assistance cost reports. A facility which does not have a current cost report on file with the department as of June 30, 1999, shall continue to receive the per diem rate in effect for that facility on June 30, 1999, until the facility’s costs are above that rate or until June 30, 2000, whichever is earlier.~~

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

Further amend subrule **81.6(16)** by relettering paragraphs "f" and "g" as "g" and "h," respectively, and adopting the following **new** paragraph "f":

f. Notwithstanding paragraph "e," a semiannual case-mix factor shall be calculated and applied to the payment rates for certain facilities as follows:

(1) A case-mix index for each facility and the statewide average case-mix index are calculated by the department from the minimum data set (MDS) report submitted by each facility pursuant to 441—subrule 81.13(9). A patient care cost per patient day is calculated by the department from the facility's most recent financial and statistical cost report by dividing the facility's patient care costs by patient days. This is compared to the statewide average for patient care costs computed as of every June 30 and December 31.

(2) Facilities with a case-mix index derived from MDS reports that exceeds the Iowa nursing facility average and with a patient care service cost that exceeds the average for all participating nursing facilities for the previous reporting period shall receive an addition of \$5.20 to their payment rate for a six-month period.

(3) Facilities with a case-mix index that exceeds the Iowa nursing facility average and with a patient care service cost that is less than the average for all participating facilities for the previous reporting period shall receive an addition of \$2.60 to their payment rate for a six-month period.

Amend subrule 81.6(17), introductory paragraph, as follows:

**81.6(17)** Cost report documentation. ~~Beginning July 1, 1999, all~~ All nursing facilities shall submit semiannual cost reports based on the closing date of the facility's fiscal year and the midpoint of the facility's fiscal year, that incorporate ~~additional~~ documentation as set forth below. ~~Initially, the additional documentation shall provide baseline information by describing the status of the facility with reference to the information requested as of July 1, 1999, and subsequently the additional documentation shall describe the status of the facility for the period of the cost report. The additional documentation to be incorporated in the cost reports shall include~~ all of the following information:

Further amend subrule **81.6(17)** by adopting the following **new** paragraph:

c. An itemization of expenses attributable to the home or principal office or headquarters of the nursing facility included in the administrative cost line item.

ITEM 6. Amend subrule **81.13(9)** by adopting the following **new** paragraph:

g. Preadmission resident assessment. The facility shall conduct prior to admission a resident assessment of all persons seeking nursing facility placement. The assessment information gathered shall be similar to the data in the minimum data set (MDS) resident assessment tool.

[Filed 8/9/00, effective 11/1/00]

[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0089B**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 252D.22 and 2000 Iowa Acts, House File 2135, section 3, the Department of Human Services hereby amends Chapter 95, "Collections," appearing in the Iowa Administrative Code.

These amendments require the Collection Services Center (CSC) to use the date of withholding, e.g., the employee's payday, rather than the day CSC receives the payment when crediting a support payment made by income withholding. These changes conform the rules to a recent amendment to state statute.

1998 Iowa Acts, chapter 1170, section 8, amended the income withholding statute to remove, as of October 1, 1999, the requirement that a payor of income (e.g., the employer) report the payday to CSC when the payment of income was submitted to CSC. In 1999, the Department adopted a rule change to implement that 1998 change in state statute. The rule would have used the date CSC received the support payment rather than the date the employer withheld the support from the wages as the date of the payment. However, the Administrative Rules Review Committee (ARRC) disagreed with the change and decided to delay implementation of the change until the legislature could revisit the issue. The Seventy-eighth General Assembly agreed with ARRC and adopted 2000 Iowa Acts, House File 2135, to continue the policy of using the obligor employee's payday to credit a payment made by income withholding. House File 2135 also directed the Department to rescind any rules in conflict with House File 2135 and provided that the Act's changes would be effective upon enactment. House File 2135 was enacted on April 20, 2000.

With two exceptions, these amendments replace the rescinded rules with the same language in effect before the 1999 rule change. The exceptions are that (1) these rules no longer refer to rebates since the \$50 rebate payments to families in the Family Investment Program were removed from state law in July 1998, and (2) these rules retain an exception for payments received at the end of the month from payors of income as well as obligors.

These amendments do not provide for waiver in specified situations because they confer a benefit on obligors. By requiring the CSC to use the date of withholding, the obligor will receive credit as of the date the obligor is paid and loses control of the funds.

These amendments were previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9907A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9870A**.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments August 9, 2000.

These amendments are intended to implement Iowa Code sections 252B.15 and 252D.17 as amended by 2000 Iowa Acts, House File 2135, section 2.

These amendments shall become effective November 1, 2000, at which time the Adopted and Filed Emergency rules are hereby rescinded.

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

The following amendments are adopted.

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

“Date of collection” shall mean the date that a support payment is received by the ~~unit~~ *department or the legal entity of any state or political subdivision actually making the collection, or the date that a support payment is withheld from the income of a responsible person by an employer or other income provider, whichever is earlier.*

ITEM 2. Rescind rule 441—95.3(252B) and adopt the following **new** rule in lieu thereof:

**441—95.3(252B) Crediting of current and delinquent support.** The amounts received as support from the obligor shall be credited as the required support obligation for the month in which they are collected. Any excess shall be credited as delinquent payments and shall be applied to the immediately preceding month, and then to the next immediately preceding month until all excess has been applied. Funds received as a result of federal tax offsets shall be credited according to rule 441—95.7(252B).

The date of collection shall be determined as follows:

**95.3(1) Payments from income withholding.** Payments collected as the result of income withholding are considered collected in the month in which the income was withheld by the income provider. The date of collection shall be the date on which the income was withheld.

a. For the purpose of reporting the date the income was withheld, the department shall notify income providers of the requirement to report the date income was withheld and shall provide Form 470-3221, “Income Withholding Return Document,” to those income providers who manually remit payments. When reported on this form or through other electronic means or multiple account listings, the date of collection shall be used to determine support distributions. When the date of collection is not reported, support distributions shall initially be issued based on the date of the check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

b. When the collection services center (CSC) is notified or otherwise becomes aware that a payment received from an income provider pursuant to 441—Chapter 98, Division II, includes payment amounts such as vacation pay or severance pay, these amounts are considered irrevocably withheld in the months documented by the income provider.

**95.3(2) Payments from state or political subdivisions.** Payments collected from any state or political subdivision are considered collected in the same month the payments were actually received by that legal entity or the month withheld by an income provider, whichever is earlier. Any state or political subdivision transmitting payments to the department shall be responsible for reporting the date the payments were collected. When the date of collection is not reported, support distributions shall be initially issued based on the date of the state’s or political subdivision’s check. If proof of the date of collection is subsequently provided, any additional payments due the recipient shall be issued.

**95.3(3) Additional payments.** An additional payment in the month which is received within five calendar days prior to the end of the month shall be considered collected in the next month if:

a. CSC is notified or otherwise becomes aware that the payment is for the next month, and

b. Support for the current month is fully paid.

This rule is intended to implement Iowa Code section 252B.15 and section 252D.17 as amended by 2000 Iowa Acts, House File 2135, section 2.

[Filed 8/9/00, effective 11/1/00]

[Published 9/6/00]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0090B**

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 217.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44, the Department of Human Services hereby amends Chapter 130, “General Provisions,” and Chapter 170, “Child Care Services,” appearing in the Iowa Administrative Code.

These amendments update income guidelines and the fees parents pay for child care services based on their monthly gross income to be consistent with the federal poverty guidelines for 2000 and implement new provider rate ceilings, except for nonregistered family day care homes.

The Seventy-eighth General Assembly directed the Department to set provider reimbursement rates based on the rate reimbursement survey completed in December 1998, and to set rates in a manner so as to provide incentives for a nonregistered provider to become registered.

These amendments do not provide for any waivers in specific situations because these changes confer a benefit on consumers, by providing an increase in the income eligibility guidelines, and on providers, by increasing reimbursement rates. In addition, these changes were mandated by the legislature, with no provisions for exceptions.

These amendments were previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9908A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9871A**.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments August 9, 2000.

These amendments are intended to implement Iowa Code section 234.6, Iowa Code section 237A.1 as amended by 2000 Iowa Acts, Senate File 2344, section 14, and 2000 Iowa Acts, Senate File 2435, section 31, subsection 12.

These amendments shall become effective November 1, 2000, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **130.3(1)**, paragraph “**d**,” subparagraph (2), as follows:

(2) Income eligible status. The monthly gross income according to family size is no more than the following amounts:

HUMAN SERVICES DEPARTMENT[441](cont'd)

Family Size	For Child Care Monthly Gross Income				All Other Services Monthly Gross Income Below			
	A		B		C			
1 Member	\$ 687	\$ 696	\$ 961	\$ 974	\$1,202	\$1,219		\$ 583
2 Members	922	938	1,290	1,313	1,613	1,641		762
3 Members	1,157	1,179	1,619	1,651	2,024	2,064		942
4 Members	1,392	1,421	1,948	1,989	2,435	2,486		1,121
5 Members	1,627	1,663	2,277	2,328	2,847	2,910		1,299
6 Members	1,862	1,904	2,606	2,666	3,258	3,332		1,478
7 Members	2,097	2,146	2,935	3,004	3,669	3,755		1,510
8 Members	2,332	2,388	3,264	3,343	3,766	4,178		1,546
9 Members	2,567	2,629	3,593	3,681	3,863	4,601		1,581
10 Members	2,802	2,871	3,922	4,019	3,960	4,701		1,612

For child care, Column A, add \$235 \$242 for each additional person over 10 members. For child care, Column B, add \$329 \$338 for each additional person over 10 members. For child care, Column C, add \$97 \$100 for each additional person over 10 members. For other services, add \$33 for each additional person over 10 members.

Column A is used to determine income eligibility when funds are insufficient to serve additional families beyond those already receiving services or requiring protective child care and applications are being taken from families who are at or below 100 percent of the federal poverty guidelines and in which the parents are employed at least 28 hours per week or are under the age of 21 and participating in an educational program leading to a high school diploma or equivalent or from parents under the age of 21 with a family income at or below 100 percent of the federal poverty guidelines who are participating, at a satisfactory level, in an approved training or education program. (See 441—paragraphs 170.2(3)“a” and “c.”)

Column B is used to determine income eligibility when funds are insufficient to serve additional families beyond those already receiving services or requiring protective child

care and applications are being taken from families with an income of more than 100 percent but not more than 140 percent of the federal poverty level whose members are employed at least 28 hours per week (see 441—paragraph 170.2(3)“d”) or when there is adequate funding and no waiting lists and applications are being taken from families applying for services, with the exception of families with children with special needs.

Column C is used to determine income eligibility for families with children with special needs.

ITEM 2. Amend subrule 130.4(3), introductory paragraph and “Monthly Income Increment Levels According to Family Size” table, as follows:

**130.4(3) Child care services.** The monthly income chart and fee schedule for child care services in a licensed child care center, an exempt facility, a registered family or group child care home, a nonregistered family child care home, or in-home care, or relative care are shown in the following table:

Monthly Income Increment Levels According to Family Size

Income Increment Levels											Half-Day Fee	
	1	2	3	4	5	6	7	8	9	10		
A	653	877	1100	1323	1546	1770	1993	2216	2440	2663		.00
	661	891	1120	1350	1579	1809	2039	2268	2498	2727		
B	688	923	1158	1393	1628	1863	2098	2333	2568	2803		.50
	696	938	1179	1421	1663	1904	2146	2388	2629	2871		
C	726	974	1222	1471	1719	1967	2215	2464	2712	2960		1.00
	735	990	1245	1500	1756	2011	2266	2521	2776	3032		
D	767	1029	1291	1553	1815	2077	2340	2602	2864	3126		1.50
	776	1045	1315	1584	1854	2123	2393	2662	2932	3201		
E	810	1087	1363	1640	1917	2193	2471	2747	3024	3301		2.00
	819	1104	1389	1673	1958	2242	2527	2811	3096	3381		
F	855	1147	1440	1732	2024	2316	2609	2901	3193	3486		2.50
	865	1166	1466	1767	2067	2368	2668	2969	3269	3570		
G	903	1212	1520	1829	2137	2446	2755	3064	3372	3681		3.00
	914	1231	1548	1866	2183	2500	2818	3135	3453	3770		
H	954	1279	1605	1931	2257	2583	2909	3235	3561	3887		3.50
	965	1300	1635	1970	2305	2641	2976	3311	3646	3981		

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

## Monthly Income Increment Levels According to Family Size

Income  
Increment  
Levels

	1	2	3	4	5	6	7	8	9	10	Half- Day Fee
I	1007 1019	1351 1373	1695 1727	2039 2081	2383 2434	2728 2788	3072 3142	3416 3496	3760 3850	4105 4204	4.00
J	1063 1076	1427 1450	1790 1823	2154 2197	2517 2571	2880 2945	3244 3318	3608 3692	3971 4066	4334 4439	4.50
K	1123 1136	1507 1531	1890 1926	2274 2320	2658 2715	3042 3109	3426 3504	3810 3899	4193 4293	4577 4688	5.00
L	1186 1200	1591 1617	1996 2033	2402 2450	2807 2867	3212 3284	3618 3700	4023 4117	4428 4534	4834 4950	5.50
M	1252 1267	1680 1707	2108 2147	2536 2587	2964 3027	3392 3467	3820 3908	4248 4348	4676 4788	5104 5228	6.00

ITEM 3. Amend subrule 170.4(7), paragraph "a," Table I and Table II, as follows:

Table I  
Half-Day Rate Ceilings for Basic Care

Age Group	Day Care Center	Registered Family Home	Registered Group Home	Nonregistered Family Home
Infant and Toddler	\$11.50	\$9.00	\$8.50	\$8.19
	\$12.45	\$10.00	\$9.00	
Preschool	\$9.50	\$9.00	\$7.88	\$7.19
	\$10.50		\$8.55	
School Age	\$8.50	\$9.00	\$7.88	\$7.36
	\$9.00		\$8.33	

Table II  
Half-Day Rate Ceilings for Special Needs Care

Age Group	Day Care Center	Registered Family Home	Registered Group Home	Nonregistered Family Home
Infant and Toddler	\$28.13	\$11.25	\$11.00	\$10.24
	\$48.00	\$15.75	\$12.38	
Preschool	\$28.55	\$9.72	\$10.28	\$8.99
	\$28.13	\$14.63	\$12.38	
School Age	\$29.93	\$13.50	\$11.47	\$9.20
	\$28.04		\$11.25	

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**ARC 0091B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44; and House File 2555, section 1, subsection 1, and section 11, the Department of Human Services hereby amends Chapter 150, "Purchase of Service," appearing in the Iowa Administrative Code.

These amendments update fiscal year changes and rate increases mandated by the Seventy-eighth General Assembly. Adoption, independent living, home studies, and shelter care providers are given a cost-of-living adjustment of 5 percent.

All current shelter care providers are currently reimbursed by the Department at the maximum rate of \$79.70 per day. In order for the current shelter care providers to realize the full 5 percent increase, it is necessary to apply the 5 percent increase to:

- The current maximum reimbursement per diem rate of \$79.70, raising the maximum to \$83.69.
- Each per diem (combined service and maintenance) provider rate currently reimbursed by the Department, resulting in a per diem increase of \$3.99.
- The provider's actual and allowable unit cost plus inflation based on the most recently submitted and audited financial and statistical report, increasing the cost by \$3.99.
- The statewide average actual and allowable unit cost plus inflation based upon the most recently submitted and audited financial and statistical reports as of May 15, 2000, increasing the rate by \$3.99.



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

These amendments do not provide for a waiver in specific situations because they confer a benefit by increasing reimbursement rates. All independent living, shelter care, and adoption providers should be reimbursed on the same basis.

These amendments were previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9909A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9872A**.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments August 9, 2000.

These amendments are intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraph "d," and Senate File 2435, section 31, subsections 7 and 14.

These amendments shall become effective November 1, 2000, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

**ITEM 1.** Amend subrule **150.3(5)**, paragraph "**p**," as follows:

Amend subparagraph (1) as follows:

(1) Unless otherwise provided for in 441—Chapter 156, rates for shelter care shall not exceed ~~\$79.70~~ 83.69 per day based on a 365-day year.

Amend subparagraph (2), introductory paragraph, and numbered paragraph "**1**," introductory paragraph, as follows:

(2) For the fiscal year beginning July 1, ~~1999~~ 2000, the maximum reimbursement rates for services provided under a purchase of social service agency contract (adoption; local purchase services including adult day care, adult support, adult residential, community supervised apartment living arrangement, sheltered work, work activity, and transportation; shelter care; family planning; and independent living) shall be the same as the rates in effect on June 30, ~~1999~~ 2000, except under any of the following circumstances:

1. If a new service was added after June 30, ~~1999~~ 2000, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

Further amend subparagraph (2), numbered paragraph "**3**," as follows:

3. For the fiscal year beginning July 1, ~~1999~~ 2000, the combined service and maintenance reimbursement rate paid to a shelter care provider shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be ~~\$79.70~~ 83.69 per day. If the department reimburses the provider at less than the maximum rate, but the provider's cost report justifies a rate of at least ~~\$79.70~~ 83.69, the department shall readjust the provider's reimbursement rate to the actual and allowable cost plus the inflation factor or ~~\$79.70~~ 83.69, whichever is less.

Further amend subparagraph (2) by adopting the following **new** numbered paragraph "**4**" and rescinding numbered paragraph "**5**":

4. For the fiscal year beginning July 1, 2000, the purchase of service reimbursement rate for adoption, independent living services, and shelter care shall be increased by 5 percent of the rates in effect on June 30, 2000. The 5 percent increase in shelter care rates results in a per diem increase of

\$3.99. The shelter care provider's actual and allowable cost plus inflation shall be increased by \$3.99. For state fiscal year 2001 beginning July 1, 2000, the established statewide average actual and allowable rate shall be increased by \$3.99.

**ITEM 2.** Amend the implementation clause following **441—Chapter 150, Division I**, as follows:

These rules are intended to implement Iowa Code section 234.6 and ~~1999 Iowa Acts, House File 760, section 33, subsections 6, 8, and 9~~ 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraph "d," and Senate File 2435, section 31, subsection 7.

**ITEM 3.** Amend subrule **150.22(7)**, paragraph "**p**," as follows:

Amend subparagraph (1), introductory paragraph, and numbered paragraph "**1**," introductory paragraph, as follows:

(1) For the fiscal year beginning July 1, ~~1999~~ 2000, the maximum reimbursement rates for local purchase services, including adult day care, adult support, adult residential, community supervised apartment living arrangement, sheltered work, work activity, and transportation shall be the same as the rates in effect on June 30, ~~1999~~ 2000, except under any of the following circumstances:

1. If a new service was added after June 30, ~~1999~~ 2000, the initial reimbursement rate for the service shall be based upon actual and allowable costs. A new service does not include a new building or location or other changes in method of service delivery for a service currently provided under the contract.

**ITEM 4.** Amend the implementation clause following **441—Chapter 150, Division II**, as follows:

These rules are intended to implement Iowa Code section 234.6 and ~~1999 Iowa Acts, House File 760, section 33, subsection 6~~ 2000 Iowa Acts, Senate File 2435, section 31, subsection 7.

[Filed 8/9/00, effective 11/1/00]

[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0092B**

## HUMAN SERVICES DEPARTMENT[441]

### Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 15, and section 44, the Department of Human Services hereby amends Chapter 156, "Payments for Foster Care and Foster Parent Training," and Chapter 201, "Subsidized Adoptions," appearing in the Iowa Administrative Code.

These amendments implement the increases to foster family homes and adoptive homes mandated by the Seventy-eighth General Assembly.

The daily foster family care and adoption payment rates are increased as follows: for a child aged 0 through 5 from \$13.79 to \$14.00, for a child aged 6 through 11 from \$14.54 to \$14.78, for a child aged 12 through 15 from \$16.28 to

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

\$16.53, and for a child aged 16 and over from \$16.32 to \$16.53.

The maximum foster family basic monthly maintenance rate and the maximum adoption subsidy rate for children remain at 70 percent of the United States Department of Agriculture's estimate of the cost to raise a child in the Midwest with a cost-of-living increase added for Fiscal Year 2001.

These amendments do not provide for any waivers in specified situations because these changes confer a benefit on foster parents and adoptive parents by increasing the foster family daily maintenance rate and the maximum adoption subsidy rate.

These amendments were previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9910A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9873A**.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments August 9, 2000.

These amendments are intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 31, subsection 6.

These amendments shall become effective November 1, 2000, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule 441—156.6(234) as follows:

Amend subrule 156.6(1) as follows:

**156.6(1)** Basic rate. A monthly payment for care in a foster family home licensed in Iowa shall be made to the foster family based on the following schedule:

Age of child	Daily rate
0 through 5	\$13.79 \$14.00
6 through 11	14.54 14.78
12 through 15	16.28 16.53
16 and over	16.32 16.53

Further amend rule **441—156.6(234)**, implementation clause, to read as follows:

This rule is intended to implement Iowa Code section 234.38 and ~~1999 Iowa Acts, House File 760, section 33, subsection 5~~ 2000 Iowa Acts, Senate File 2435, section 31, subsection 6.

ITEM 2. Amend **441—Chapter 201**, implementation clause, to read as follows:

These rules are intended to implement Iowa Code sections 600.17 to 600.21 and 600.23; and ~~1999 Iowa Acts, House File 760, section 33, subsection 5~~ 2000 Iowa Acts, Senate File 2435, section 31, subsection 6.

[Filed 8/9/00, effective 11/1/00]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0093B**

**HUMAN SERVICES  
DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of 2000 Iowa Acts, Senate File 2193, sections 4(5), 6(3) and (4), and 21, the Department of Human Services hereby adopts Chapter 161, "Iowa Senior Living Trust Fund," and Chapter 162, "Nursing Facility Conversion and Long-Term Care Services Development Grants," Iowa Administrative Code.

These rules implement provisions of 2000 Iowa Acts, Senate File 2193, the Iowa Senior Living Program Act. The goal of the Iowa Senior Living Program Act is to create a comprehensive long-term care system that is consumer-directed, provides a balance between the alternatives of institutionally and noninstitutionally provided services, and contributes to the quality of the lives of persons who are elderly or adults with disabilities in Iowa.

These rules implement the Iowa Senior Living Trust Fund created in the state treasury under the authority of the Department of Human Services and define and structure nursing facility conversion grants and long-term care services development grants to be made from the Iowa Senior Living Trust Fund by the Department.

The Iowa Senior Living Trust Fund is funded by receipt of federal revenue from public nursing facilities participating in the medical assistance program. The Department shall provide increased reimbursement to the participating public facilities for nursing facility services provided under the Medicaid program. The facilities shall retain \$5,000 of additional reimbursement received per agreement as a processing payment and shall refund the remainder of the additional reimbursement through intergovernmental transfer to the Department. The Department shall deposit the federal share of the refund (less the \$5,000 retained by the nursing facility) in the Iowa Senior Living Trust Fund and shall credit the nonfederal share of the refund to the Department's medical assistance appropriation.

Under these rules, Iowa nursing facilities will be eligible to apply for grants for capital or other one-time expenditure costs to assist with the cost of converting all or a portion of the facility to an assisted living facility or other alternatives to nursing facility care, and providers of long-term care services and nursing homes will be eligible to apply for grants to develop additional needed long-term care alternatives other than assisted living. These alternatives can then be funded through a Medicaid Home- and Community-Based Services (HCBS) waiver.

The rules establish criteria for awarding grants and set limits on funding. The General Assembly appropriated \$20 million from the Senior Living Trust Fund for state fiscal year 2001 to provide these grants.

Conversion grants are limited to \$1 million per facility, with an additional \$100,000 if the provider agrees to also provide adult day care, child care for children with special needs, safe shelter for victims of dependent adult abuse, or respite care. The maximum conversion grant per assisted living unit is \$45,000. Service development grants are limited to \$150,000 for HCBS waiver services. These rules also provide for an architectural and financial feasibility study allowance for conversion or service development grants of up to \$15,000.

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

These rules do not provide for any waivers in specific situations because creation of the trust fund and awarding of grants will confer a benefit on providers and consumers. Participation by public nursing facilities in the creation of the trust fund is voluntary. All participants in the creation of the fund and all grant applicants should be subject to the same rules.

These amendments were previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9911A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9883A**.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments August 9, 2000.

These rules are intended to implement 2000 Iowa Acts, Senate File 2193, sections 4, 5, and 6.

These amendments shall become effective November 1, 2000, at which time the Adopted and Filed Emergency rules are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 161, 162] is being omitted. These rules are identical to those published under Notice as **ARC 9883A**, IAB 6/14/00.

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[For replacement pages for IAC, see IAC Supplement 9/6/00.]

**ARC 0094B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services hereby amends Chapter 163, "Adolescent Pregnancy Prevention and Services to Pregnant and Parenting Adolescents Programs," appearing in the Iowa Administrative Code.

These amendments provide that grants to pregnancy prevention programs that are developed after July 1, 2000, shall be awarded to programs which are comprehensive in scope and which are based on existing models that have demonstrated positive outcomes. Priority in the awarding of grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females aged 13 or older but younger than the age of 18 within the geographic area to be served by the grant.

These amendments do not provide for waivers in specified situations because these changes were mandated by the Seventy-eighth General Assembly.

These amendments were previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9912A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9874A**.

These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments August 9, 2000.

These amendments are intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, Senate File 2435, section 3, subsection 11.

These amendments shall become effective November 1, 2000, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule **441—163.1(234)** by adopting the following **new** definition in alphabetical order:

"Percentage of pregnancies" means the total number of births to mothers aged 13 years of age and older but younger than 18 years of age in the service area for the most recent year for which data is available divided by the total number of births statewide for the same age group and the same year.

ITEM 2. Amend subrule 163.3(1) as follows:

**163.3(1)** Grants will be awarded to eligible applicants for specifically designed projects. Preference in awarding grants shall be given to projects which ~~utilize~~ use a variety of community resources and agencies. *Priority in awarding of points for community grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of pregnancies of females aged 13 years of age or older but younger than the age of 18 within the geographic area to be served by the grant.* Projects selected for the adolescent pregnancy prevention statewide campaign, adolescent pregnancy evaluation grant, and state coalition grants will be eligible for noncompetitive funding for up to three years, pending availability of funds and based upon satisfactory progress toward program goals. Projects which do not make satisfactory progress toward program goals shall be required to competitively bid for refunding. After three years, all projects must competitively bid for refunding.

Projects funded *prior to July 2000* under the community adolescent pregnancy prevention and services grants are eligible for funding for up to nine years, pending availability of funds and based upon satisfactory progress toward program goals if the programs are comprehensive in scope and have demonstrated positive outcomes. *Grants awarded after July 2000 must be comprehensive in scope and be based on existing models that have demonstrated positive outcomes.*

An increasing grantee match will be required. A 5 percent grantee match will be required in year one. The match will increase by 5 percent each subsequent year a project receives funding. In-kind matches may be applied toward the grantee match. Projects which do not make satisfactory progress toward program goals shall be required to competitively bid for refunding.

ITEM 3. Amend subrule **163.4(2)**, paragraph "d," as follows:

d. Statement of problem and need, *including information demonstrating the percentage of pregnancies of females aged 13 years of age or older but younger than the age of 18 within the geographic area to be served.*

ITEM 4. Amend subrule 163.5(3), introductory paragraph, and paragraph "i," as follows:

**163.5(3)** ~~A-weighted~~ **Weighted** scoring criteria will be used to determine grant awards. The maximum ~~amount~~ **number** of points possible is ~~140~~ **125**. Determination of final point awards will be based on the following:

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

i. Overall quality and impact of program ~~and consideration of legislative preference areas~~ —10 points.

Further amend subrule **163.5(3)** by adopting the following new paragraph "k":

k. Consideration of legislative priority area—15 points.

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**ARC 0095B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, and section 11, and Senate File 2435, section 31, subsection 15, and section 44, the Department of Human Services hereby amends Chapter 185, "Rehabilitative Treatment Services," appearing in the Iowa Administrative Code.

This amendment discontinues during state fiscal year 2001 the practice of allowing individual rehabilitative treatment and supportive service (RTSS) rates to be renegotiated and implements a rate increase, both as mandated by the General Assembly. RTSS providers will receive a 5 percent across-the-board cost-of-living adjustment that shall be applied to each individual provider's state-negotiated rate.

This amendment does not provide for any waivers in specific situations because these changes were mandated by the legislature, with no provisions for exceptions.

This amendment was previously Adopted and Filed Emergency and published in the June 28, 2000, Iowa Administrative Bulletin as **ARC 9913A**. Notice of Intended Action to solicit comments on that submission was published in the June 14, 2000, Iowa Administrative Bulletin as **ARC 9875A**.

The Council on Human Services adopted this amendment August 9, 2000.

This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code section 234.6 and 2000 Iowa Acts, House File 2555, section 1, subsection 1, paragraph "c," and Senate File 2435, section 31, subsections 9 and 14.

This amendment shall become effective November 1, 2000, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Amend subrule **185.112(1)**, paragraph "k," as follows:

k. Once a negotiated rate is established based on the provisions of this subrule, it shall not be changed or renegotiated during the time period of this rule except in the following circumstances:

(1) By mutual consent of the provider and the regional administrator of the host region based upon the factors delineated at paragraph 185.112(1)"f," *except that rates shall not be changed or renegotiated for the period of July 1, 2000, through June 30, 2001.*

(2) In accordance with paragraph 185.112(6)"b," *except that rates shall not be changed or renegotiated for services*

*not assumed by a new provider for the period of July 1, 2000, through June 30, 2001.*

(3) ~~When~~ Rates may be changed when funds are appropriated for an across-the-board increase. Effective July 1, 1999 2000, a 2.5 percent across-the-board ~~increase~~ *cost-of-living adjustment* will be applied.

[Filed 8/9/00, effective 11/1/00]

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**ARC 0097B****INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8 and 2000 Iowa Acts, Senate File 2126, the Insurance Division adopts amendments to Chapter 35, "Accident and Health Insurance," Chapter 71, "Small Group Health Benefit Plans," and Chapter 75, "Iowa Individual Health Benefit Plans," Iowa Administrative Code.

The amendments set forth the requirements for providing contraceptive coverage for prescription drugs and devices in large, small group, and individual health insurance plans regulated by the Iowa Insurance Division. Coverage of such prescription drugs and devices is a mandatory benefit in the large and small group health benefit plans. A mandatory offer of such coverage is required in the individual health benefit plans.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9983A** on July 12, 2000.

A public hearing was held on August 1, 2000, at the offices of the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. Comments were received concerning an exemption from coverage for certain groups based upon religious beliefs. Several comments were received suggesting that a listing of the types of contraceptive drugs and devices approved by the Food and Drug Administration be included in the rules. There were comments concerning coverage of physical examinations by plans that do not provide for physical examinations.

Changes to the Noticed rules have been made to clarify that insurance plans that do not provide for physical examinations are not required to cover them in the course of prescribing a contraceptive drug or contraceptive device. In addition, a list of Food and Drug Administration-approved drugs and devices has been included.

The Insurance Division adopted these amendments on August 8, 2000.

These amendments are intended to implement 2000 Iowa Acts, Senate File 2126.

These amendments will become effective on October 11, 2000.

The following amendments are adopted.

ITEM 1. Amend 191—Chapter 35 by adopting the following new rule:

**191—35.39(514C) Contraceptive coverage.**

**35.39(1)** A carrier or organized delivery system that provides benefits for outpatient prescription drugs or devices shall provide benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent concep-

INSURANCE DIVISION[191](cont'd)

tion and are approved by the United States Food and Drug Administration or generic equivalents approved as substitutable by the United States Food and Drug Administration. The covered drugs and devices are as follows:

- a. Oral contraceptives.
- b. Diaphragms.
- c. Subcutaneous contraceptive implants.
- d. Intrauterine devices.
- e. Injectable contraceptives.
- f. Emergency contraception pills.
- g. Cervical caps.

**35.39(2)** A carrier or organized delivery system is not required to provide benefits for over-the-counter contraceptive drugs or contraceptive devices that do not require a prescription for purchase.

**35.39(3)** A contraceptive drug or contraceptive device does not include surgical services intended for sterilization, including, but not limited to, tubal ligation or vasectomy.

**35.39(4)** A carrier or organized delivery system shall be required to provide benefits for services related to outpatient contraceptive services for the purpose of preventing conception if the policy or contract provides benefits for other outpatient services provided by a health care professional.

**35.39(5)** If a carrier or organized delivery system does not provide benefits for a routine physical examination, the carrier or organized delivery system is not required to provide benefits for a routine physical examination provided in the course of prescribing a contraceptive drug or contraceptive device.

This rule is intended to implement 2000 Iowa Acts, Senate File 2126.

ITEM 2. Amend subrule 71.14(6) as follows:

**71.14(6)** ~~Oral Prescription oral contraceptives and contraceptive devices that are approved by the United States Food and Drug Administration are to be covered in both policy forms. Coverage for alternative forms of contraception is to be reviewed based upon medical necessity.~~

ITEM 3. Amend 191—Chapter 71 by adopting the following new rule:

**191—71.24(514C) Contraceptive coverage.**

**71.24(1)** A carrier or organized delivery system that provides benefits for outpatient prescription drugs or devices shall provide benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent conception and are approved by the United States Food and Drug Administration or generic equivalents approved as substitutable by the United States Food and Drug Administration. The covered drugs and devices are as follows:

- a. Oral contraceptives.
- b. Diaphragms.
- c. Subcutaneous contraceptive implants.
- d. Intrauterine devices.
- e. Injectable contraceptives.
- f. Emergency contraception pills.
- g. Cervical caps.

**71.24(2)** A carrier or organized delivery system is not required to provide benefits for over-the-counter contraceptive drugs or contraceptive devices that do not require a prescription for purchase.

**71.24(3)** A contraceptive drug or contraceptive device does not include surgical services intended for sterilization, including, but not limited to, tubal ligation or vasectomy.

**71.24(4)** A carrier or organized delivery system shall be required to provide benefits for services related to outpatient contraceptive services for the purpose of preventing concep-

tion if the policy or contract provides benefits for other outpatient services provided by a health care professional.

**71.24(5)** If a carrier or organized delivery system does not provide benefits for a routine physical examination, the carrier or organized delivery system is not required to provide benefits for a routine physical examination provided in the course of prescribing a contraceptive drug or contraceptive device.

This rule is intended to implement 2000 Iowa Acts, Senate File 2126.

ITEM 4. Amend subrule 75.10(4) as follows:

**75.10(4)** ~~Oral Prescription oral contraceptives and contraceptive devices that are approved by the United States Food and Drug Administration are to be covered in both policy forms. Coverage for alternative forms of contraception is to be reviewed based upon medical necessity.~~

ITEM 5. Amend 191—Chapter 75 by adopting the following new rule:

**191—75.18(514C) Contraceptive coverage.**

**75.18(1)** A carrier or organized delivery system that provides benefits for outpatient prescription drugs or devices shall make available benefits for prescription contraceptive drugs or prescription contraceptive devices which prevent conception and are approved by the United States Food and Drug Administration or generic equivalents approved as substitutable by the United States Food and Drug Administration. The covered drugs and devices are as follows:

- a. Oral contraceptives.
- b. Diaphragms.
- c. Subcutaneous contraceptive implants.
- d. Intrauterine devices.
- e. Injectable contraceptives.
- f. Emergency contraception pills.
- g. Cervical caps.

**75.18(2)** A carrier or organized delivery system is not required to offer benefits for over-the-counter contraceptive drugs or contraceptive devices that do not require a prescription for purchase.

**75.18(3)** A contraceptive drug or contraceptive device does not include surgical services intended for sterilization, including, but not limited to, tubal ligation or vasectomy.

**75.18(4)** A carrier or organized delivery system shall make available benefits for services related to outpatient contraceptive services for the purpose of preventing conception if the policy or contract provides benefits for other outpatient services provided by a health care professional.

**75.18(5)** If a carrier or organized delivery system does not provide benefits for a routine physical examination, the carrier or organized delivery system is not required to provide benefits for a routine physical examination provided in the course of prescribing a contraceptive drug or contraceptive device.

This rule is intended to implement 2000 Iowa Acts, Senate File 2126.

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**ARC 0101B**

**NATURAL RESOURCE  
COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

This amendment adds three areas to established wildlife refuges: the Spring Run and Henderson areas in Dickinson County and the McCausland area in Scott County.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 28, 2000, as **ARC 9946A**. The only change from the Notice of Intended Action was to add the McCausland area in Scott County to the two areas added in the Notice.

This amendment is intended to implement Iowa Code sections 456A.24 and 481A.6.

This amendment shall become effective October 11, 2000.

The following amendment is adopted.

Amend subrule **52.1(2)**, paragraph "a," by adding the following **new** areas to the list of wildlife refuges:

- Henderson ..... Dickinson
- Spring Run ..... Dickinson
- McCausland ..... Scott

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**ARC 0099B**

**NATURAL RESOURCE  
COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 76, "Unprotected Nongame," Iowa Administrative Code.

Chapter 76 removes certain nongame species from the protection normally conferred to all nongame wildlife under Iowa Code section 481A.42. This amendment removes common garter snakes and timber rattlesnakes from Chapter 76 and thereby confers protection to them.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 31, 2000, as **ARC 9859A**. A public hearing on the proposed amendments was held June 21, 2000. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

This amendment will become effective October 11, 2000. The following amendment is adopted.

Rescind and reserve subrule **76.1(2)**.

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[Published 9/6/00]

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**ARC 0102B**

**NATURAL RESOURCE  
COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 94, "Nonresident Deer Hunting," Iowa Administrative Code.

This amendment allows nonresidents who do not draw a deer hunting license to receive a preference which may be used when applying for a deer license the following year.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 3, 2000, as **ARC 9804A**. No public comments were received during the public comment period or at the public hearing. The final adopted amendment is unchanged from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.38 and 481A.48.

This amendment shall become effective October 11, 2000.

The following amendment is adopted.

Amend rule **571—94.8(483A)** by adopting the following **new** unnumbered paragraph after the introductory paragraph:

Applicants who are unsuccessful in the drawing for a nonresident deer license will be given preference in the next year's application process. Applicants who fail to apply in the second year cannot carry their preference into future years. Applicants with preference may apply for any zone in the second year. Licenses for each zone will be drawn first from among applicants with preference. If licenses are still available after the preference drawing, a second drawing will be held from all other applicants. Preference does not guarantee a license.

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**ARC 0117B**

**PROFESSIONAL LICENSURE  
DIVISION[645]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 154A.4, the Board of Examiners for the Licensing and Regulation of Hearing Aid Dealers hereby amends Chapter 120, "Board of Examiners for the Licensing and Regulation of Hearing Aid

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

Dealers," and adopts new Chapter 121, "Continuing Education for Hearing Aid Dealers," Iowa Administrative Code.

The proposed amendments rescind the current continuing education rules; adopt a new chapter for continuing education; renumber the rule regarding licensees and supervision requirements; adopt by reference a code of ethics; and amend cross references to rules that are no longer in use.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 17, 2000, as ARC 9834A. A public hearing was held on June 7, 2000, from 9 to 11 a.m. in the Professional Licensure Conference Room, Fifth Floor, Lucas State Office Building, Des Moines, Iowa. No public comments were received at the hearing. However, a few nonsubstantive changes have been made for clarification.

These amendments were adopted by the Board of Examiners for the Licensing and Regulation of Hearing Aid Dealers on August 7, 2000.

These amendments will become effective October 11, 2000.

These amendments are intended to implement Iowa Code section 154A.4 and chapter 272C.

The following amendments are adopted.

ITEM 1. Adopt new subrule 120.1(5) as follows:

**120.1(5)** The board hereby adopts by reference the Code of Ethics of the International Hearing Society as published by the International Hearing Society, 20361 Middlebelt Road, Livonia, Michigan 48152, revised October 1996.

ITEM 2. Rescind rules **645—120.6(154A)** to **645—120.9(154A)** and renumber rules **645—120.10(154A)** through **645—120.14(154A)** as **645—120.6(154A)** through **645—120.10(154A)**.

ITEM 3. Renumber rule **645—120.212(272C)** as **645—120.11(272C)**.

ITEM 4. Amend renumbered subrule 120.11(16) as follows:

**120.11(16)** Failure to report to the board as provided in ~~rule 645—120.201(272C)~~ **645—Chapter 9** any violation by another licensee of the reasons for disciplinary action as listed in this rule.

ITEM 5. Adopt new 645—Chapter 121 as follows:

CHAPTER 121  
CONTINUING EDUCATION  
FOR HEARING AID DEALERS

**645—121.1(154A) Definitions.** For the purpose of these rules, the following definitions shall apply:

"Active license" means the license of a person who is acting, practicing, functioning, and working in compliance with license requirements.

"Administrator" means the administrator of the board of examiners for the licensing and regulation of hearing aid dealers.

"Approved program/activity" means a continuing education program/activity meeting the standards set forth in these rules, which has received approval by the board pursuant to these rules.

"Approved sponsor" means a person or an organization sponsoring continuing education activities that has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an approved sponsor, all continuing education activities of such organization, educational institution, or person shall be deemed automatically approved.

"Audit" means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period or the selection of providers for verification of adherence to continuing provider requirements during a specified time period.

"Board" means the board of examiners for the licensing and regulation of hearing aid dealers.

"Continuing education" means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee's knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

"Hour of continuing education" means a clock hour spent by a licensee in actual attendance at and completion of approved continuing education activity.

"Inactive license" means the license of a person who is not engaged in practice in the state of Iowa.

"Lapsed license" means a license that a person has failed to renew as required, or the license of a person who has failed to meet stated obligations for renewal within a stated time.

"License" means license to practice.

"Licensee" means any person licensed to practice as a hearing aid dealer in the state of Iowa.

**645—121.2(154A) Continuing education requirements.**

**121.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid dealer in this state shall be required to complete a minimum of 32 hours of continuing education approved by the board.

**121.2(2)** Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 32 hours of continuing education per biennium for each subsequent license renewal.

**121.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be approved by the board or otherwise meet the requirements herein pursuant to statutory provisions and the rules that implement them.

**121.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal.

**121.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

**645—121.3(154A) Standards for approval.**

**121.3(1)** General criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if it is determined by the board that the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. An application must be accompanied by a paper, manual or outline which substantive-



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

ly pertains to the subject matter of the program and reflects program schedule, goals and objectives. The board may request the qualifications of the presenters;

d. Fulfills stated program goals, objectives, or both; and  
e. Provides proof of attendance to licensees in attendance including:

- (1) Date, place, course title, presenter(s);
- (2) Number of program contact hours (One contact hour equals one hour of continuing education credit.); and
- (3) Official signature or verification by program sponsor.

**121.3(2) Specific criteria.**

a. Continuing education hours of credit may be obtained by completing the following:

- (1) Academic coursework if the coursework is offered by an accredited postsecondary educational institution;
- (2) Self-study telnet courses only when an on-site monitor is present;
- (3) Continuing education activities of an approved sponsor;
- (4) Continuing education activities that have prior approval.

b. The maximum number of continuing education hours of credit for academic coursework per biennium is:

- (1) Twelve hours of credit for academic coursework:  
1 academic semester hour = 15 continuing education hours  
1 academic quarter hour = 10 continuing education hours
- (2) Eight hours of credit for participation in technical, business, or professional seminars, workshops or symposiums which enhance a licensee's ability to provide quality hearing health care services.
- (3) Four hours of credit for telnet courses.

**645—121.4(154A) Approval of sponsors, programs, and activities for continuing education.**

**121.4(1) Approval of sponsors.** An applicant who desires approval as a sponsor of courses, programs, or other continuing education activities shall, unless exempted elsewhere in these rules, apply for approval to the board on the form designated by the board stating the applicant's educational history for the preceding two years or proposed plan for the next two years.

- a. The form shall include the following:
- (1) Date(s), location, course title(s) offered and outline of content;
  - (2) Total hours of instruction presented;
  - (3) Names and qualifications of instructors, including résumés or vitae; and
  - (4) Evaluation form(s).
- b. Records shall be retained by the sponsor for four years.

c. Attendance record report. The person or organization sponsoring an approved continuing education activity shall provide a certificate of attendance or verification to the licensee providing the following information:

- (1) Program date(s);
- (2) Course title and presenter;
- (3) Location;
- (4) Number of clock hours attended and continuing education hours earned;
- (5) Name of sponsor and sponsor number;
- (6) Licensee's name; and
- (7) Method of presentation.

d. All approved, accredited sponsors shall maintain a copy of the following:

- (1) The continuing education activity;

(2) List of enrolled licensees' names and license numbers; and

(3) Number of continuing education clock hours awarded for a minimum of four years from the date of the continuing education activity.

e. The sponsor shall submit a report of all continuing education programs conducted in the previous year during the assigned month for reporting designated by the board. The report shall include:

- (1) Date(s), location, course title(s) offered and outline of content;
- (2) Total hours of instruction presented;
- (3) Names and qualifications of instructors including résumés or vitae;
- (4) Evaluation form(s); and
- (5) A summary of the evaluations completed by the licensees.

**121.4(2) Prior approval of programs/activities.** An organization or person other than an approved sponsor that desires prior approval of a course, program or other education activity or that desires to establish approval of such activity prior to attendance shall apply for approval to the board on a form provided by the board at least 60 days in advance of the commencement of the activity. The board shall approve or deny such application in writing within 30 days of receipt of such application. The application shall state:

- a. The date(s);
- b. Course(s) offered;
- c. Course outline;
- d. Total hours of instruction; and
- e. Names and qualifications of speakers and other pertinent information.

The organization or person shall be notified of approval or denial by ordinary mail.

**121.4(3) Review of programs.** Sponsors shall report continuing education programs every year at a time designated by the board. The board may at any time reevaluate an approved sponsor. If, after reevaluation, the board finds there is cause for revocation of the approval of an approved sponsor, the board shall give notice of the revocation to that sponsor by certified mail. The sponsor shall have the right to hearing regarding the revocation. The request for hearing must be sent within 20 days after the receipt of the notice of revocation. The hearing shall be held within 90 days after the receipt of the request for hearing. The board shall give notice by certified mail to the sponsor of the date set for the hearing at least 30 days prior to the hearing. The board shall conduct the hearing in compliance with rule 645—11.9(17A).

**121.4(4) Postapproval of activities.** A licensee seeking credit for attendance and participation in an education activity which was not conducted by an approved sponsor or otherwise approved shall submit to the board, within 60 days after completion of such activity, the following:

- a. The date(s);
- b. Course(s) offered;
- c. Course outline;
- d. Total hours of instruction and credit hours requested;
- e. Names and qualifications of speakers and other pertinent information;
- f. Request for credit which includes a brief summary of the activity; and
- g. Certificate of attendance or verification.

Within 90 days after receipt of such application, the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed. A



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

licensee not complying with the requirements of this subrule may be denied credit for such activity.

**121.4(5)** Voluntary relinquishment. The approved sponsor may voluntarily relinquish sponsorship by notifying the board office in writing.

**645—121.5(154A) Reporting continuing education by licensee.** At the time of license renewal, each licensee shall be required to submit a report on continuing education to the board on a board-approved form.

**121.5(1)** The information on the form shall include:

- a. Title of continuing education activity;
- b. Date(s);
- c. Sponsor of the activity;
- d. Board-approved sponsor number;
- e. Number of continuing education hours earned; and
- f. Teaching method used.

**121.5(2)** Audit of continuing education report. After each educational biennium, the board will audit a percentage of the continuing education reports before granting the renewal of licenses to those being audited.

- a. The board will select licensees to be audited.
- b. The licensee shall make available to the board for auditing purposes a copy of the certificate of attendance or verification for all reported activities that includes the following information:

- (1) Date, location, course title, schedule (brochure, pamphlet, program, presenter(s)), and method of presentation;

- (2) Number of contact hours for program attended; and

- (3) Copy of official transcript of college courses.

- (4) For activities not provided by an approved sponsor, the licensee shall submit a description of the program content which indicates that the content is integrally related to the practice and contributes directly to the provision of services to the public.

- c. For auditing purposes, the licensee must retain the above information for two years after the biennium has ended.

- d. Submission of a false report of continuing education or failure to meet continuing education requirements may cause the license to lapse and may result in formal disciplinary action.

- e. All renewal license applications that are submitted late (after the end of the compliance period) may be subject to audit of the continuing education report.

- f. Failure to receive the renewal application shall not relieve the licensee of responsibility of meeting continuing education requirements and submitting the renewal fee by the end of the compliance period.

**645—121.6(154A) Reinstatement of lapsed license.** Failure of the licensee to renew within 30 days after expiration date shall cause the license to lapse. A person who allows the license to lapse cannot engage in practice in Iowa without first complying with all regulations governing reinstatement as outlined in the board rules. A person who allows the license to lapse may apply to the board for reinstatement of the license. Reinstatement of the lapsed license may be granted by the board if the applicant:

1. Submits a written application for reinstatement to the board;

2. Pays all of the renewal fees then due, up to a maximum of five bienniums;

3. Pays all penalty fees which have been assessed by the board for failure to renew;

4. Pays reinstatement fees; and

5. Provides evidence of satisfactory completion of Iowa continuing education requirements during the period since the license lapsed. The total number of continuing education hours required for license reinstatement is computed by multiplying 32 by the number of bienniums since the license lapsed. If the license has lapsed for three bienniums or less, the applicant for reinstatement may, in lieu of submitting the required continuing education, furnish evidence of successful completion, with a passing grade, of the Iowa license examinations conducted within one year immediately prior to the submission of the application for reinstatement. If the license has lapsed for more than three bienniums, the applicant shall complete 96 hours of approved continuing education.

6. If the applicant for reinstatement holds a current valid hearing aid dealer's license in another state whose requirements meet or exceed the requirements of Iowa, the applicant shall submit:

- A written application on a form provided by that state's board;

- Proof of current valid hearing aid dealer's license;

- The current renewal fee;

- The fee for failure to renew; and

- Proof of continuing education hours obtained equivalent to continuing education required in Iowa.

**645—121.7(154A,272C) Continuing education waiver for active practitioners.** A hearing aid dealer licensed to practice shall be deemed to have complied with the continuing education requirements of this state during the period that the licensee serves honorably on active duty in the military services or as a government employee outside the United States as a practicing hearing aid dealer.

**645—121.8(154A,272C) Continuing education waiver for inactive practitioners.** A licensee who is not engaged in practice in the state of Iowa may be granted a waiver of continuing education compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in practice as a hearing aid dealer in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon forms provided by the board.

**645—121.9(154A,272C) Continuing education waiver for disability or illness.** The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extension of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application therefor is made on forms provided by the board and signed by the licensee and appropriate licensed health care practitioners. The board may grant a waiver of the minimum educational requirements for any period of time not to exceed one calendar year from the onset of disability or illness. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

**645—121.10(154A,272C) Reinstatement of inactive practitioners.** Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in practice as a

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

hearing aid dealer in the state of Iowa, satisfy the following requirements for reinstatement.

**121.10(1)** Submit written application for reinstatement to the board upon forms provided by the board with appropriate reinstatement fee and the current renewal fee.

**121.10(2)** Furnish evidence of completion of 32 hours of approved continuing education per biennium up to a maximum of 64 hours of continuing education. The continuing education hours must be completed within the prior two bienniums of date of application for reinstatement.

**121.10(3)** Furnish in the application evidence of one of the following:

a. Proof of current valid hearing aid dealer's license in another state of the United States or the District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Proof of successful completion, with a passing grade, of the Iowa state license examination conducted within one year immediately prior to the submission of the application for reinstatement.

**645—121.11(272C) Hearings.** In the event of denial, in whole or part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant, licensee or program provider shall have the right within 20 days after the sending of the notification of denial by ordinary mail to request a hearing which shall be held within 90 days after receipt of the request for hearing. The hearing shall be conducted by the board or an administrative law judge designated by the board, in substantial compliance with the hearing procedure set forth in rule 645—11.9(17A).

These rules are intended to implement Iowa Code section 272C.2 and chapter 154A.

[Filed 8/18/00, effective 10/11/00]  
[Published 9/6/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/6/00.

**ARC 0105B****RACING AND GAMING  
COMMISSION[491]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby amends Chapter 4, "Contested Cases and Other Proceedings"; adopts a new Chapter 6, "Occupational and Vendor Licensing"; amends Chapter 8, "Mutuel Department," and Chapter 10, "Thoroughbred Racing"; and rescinds Chapter 12, "Simulcasting," and Chapter 13, "Occupational and Vendor Licensing," Iowa Administrative Code.

Item 1 gives the gaming board and board of stewards the ability to revoke an occupational license.

Item 2 adopts new Chapter 6 which incorporates rules on occupational and vendor licensing from Chapter 13, which is rescinded in Item 9. Many of the rules remain as they were in Chapter 13 but have been reorganized within new Chapter 6. Duplicative rules have been removed and some rules were rewritten to reflect current practice. Substantive changes from rescinded Chapter 13 incorporated into new Chapter 6 are as follows:

- The term "association" was changed to "facility" throughout the chapter.

- The terms "commission representative," "deceptive practice," "facility," and "theft" are defined in rule 491—6.1(99D,99F).

- Paragraph 6.2(1)"c" contains new information required on the occupational license application.

- Paragraph 6.2(1)"g" states that facilities will be directly billed for their employees' license/fingerprint fees. This is current policy of the Commission and is now being incorporated into this subrule.

- Subrule 6.2(6) clarifies when a fee free pass may be used.

- Subparagraph 6.5(1)"d"(3) adds possession of drug paraphernalia as a drug offense.

- Subparagraph 6.5(1)"d"(4) states that a license will be denied if an applicant has a conviction involving theft or fraudulent practice in excess of \$100.

- Paragraph 6.5(3)"e" adds the term deceptive practice.

- Paragraph 6.5(3)"m" adds the term gambling game.

- Rule 491—6.6(99D,99F) outlines the conditions that must be satisfied before an individual who has had a license denied, revoked or suspended may reapply for a license.

- Subrule 6.9(2) requires the facility to provide a weekly list of new employees who currently hold a license. This is the current policy of the Commission and is now being incorporated into this rule.

- Paragraph 6.16(5)"b" clarifies that a temporary license is valid for a maximum of one start per horse in an official race.

- Subrule 6.23(2) is a new apprentice jockey rule to mirror the Association of Racing Commissioners International uniform rule.

- Rule 491—6.26(99D,99F) states that a practicing veterinarian must have an unrestricted license issued by the state of Iowa veterinary regulatory authority.

- Rule 491—6.27(99D,99F), which reflects a change in alcohol and drug testing, applies to restricted areas in racing facilities only.

Item 3 changes the title of Chapter 8 from "Mutuel Department" to "Wagering and Simulcasting."

Item 4 added definitions for "authorized receiver," "guest association," "host association," "interstate simulcasting," "intrastate simulcasting," "pari-mutuel output date," and "sales transaction data" to rule 491—8.1(99D).

Item 5 clarifies the rule with a reference to paragraph 8.2(4)"g."

Item 6 incorporates into Chapter 8 rules about simulcasting from rescinded Chapter 12. No substantive changes were made to the rules.

Item 7 outlines a new jockey mount fee schedule.

Item 8 rescinds 491—Chapter 12.

Item 9 rescinds 491—Chapter 13.

Notice of Intended Action was published in the July 12, 2000, Iowa Administrative Bulletin as **ARC 9948A**. The following changes have been made to the Notice:

In rule 6.1(99D,99F), definition of "licensee," the phrase "excursion riverboat gambling" was changed to "excursion boat gambling."

In subrule 6.4(2), the phrase "the facility's system of internal controls" was removed as that wording is found in another chapter.

The phrase "racing and gaming commission" was changed to "commission" each time it appears in rules 491—6.11(99D,99F,252J) and 491—6.12(99D,99F,261).

References to "stewards" were changed to "gaming representative" in subrule 6.23(2).

## RACING AND GAMING COMMISSION[491](cont'd)

A public hearing was held on August 1, 2000. No comments were received.

These amendments will become effective October 11, 2000.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

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 [4.7, Ch 6, 8.1, 8.2(3), 8.4, 8.5, 10.4(2), rescind Chs 12, 13] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 9948A**, IAB 7/12/00.

[Filed 8/18/00, effective 10/11/00]  
[Published 9/6/00]

[For replacement pages for IAC, see IAC Supplement 9/6/00.]

**ARC 0096B****WORKERS' COMPENSATION  
DIVISION[876]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 8, "Substantive and Interpretive Rules," Iowa Administrative Code.

This amendment specifies the amount of transportation expense allowed for the use of a private auto for medical treatment or examination for a work-related injury. The amendment changes the rate from 24 to 29 cents per mile.

This amendment was previously Adopted and Filed Emergency and published in the July 12, 2000, Iowa Administrative Bulletin as **ARC 9957A**. Notice of Intended Action to solicit comments on that submission was published simultaneously as **ARC 9958A**.

Written comments were solicited until August 1, 2000. No written comments on this amendment were received. The adopted amendment is identical to that published under Notice of Intended Action.

This amendment will become effective October 11, 2000, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

This amendment is intended to implement Iowa Code sections 85.27 and 85.39.

The following amendment is adopted.

Amend rule **876—8.1(85)**, paragraph "2," as follows:

2. All mileage incident to the use of a private auto. The per-mile rate for use of a private auto shall be ~~24~~ 29 cents per mile.

[Filed 8/17/00, effective 10/11/00]  
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