



IOWA ADMINISTRATIVE BULLETIN

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State House
Des Moines, Iowa 50319

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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Schedule for Rule Making 2001

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 22 '00	Jan. 10 '01	Jan. 30 '01	Feb. 14 '01	Feb. 16 '01	Mar. 7 '01	Apr. 11 '01	July 9 '01
Jan. 5	Jan. 24	Feb. 13	Feb. 28	Mar. 2	Mar. 21	Apr. 25	July 23
Jan. 19	Feb. 7	Feb. 27	Mar. 14	Mar. 16	Apr. 4	May 9	Aug. 6
Feb. 2	Feb. 21	Mar. 13	Mar. 28	Mar. 30	Apr. 18	May 23	Aug. 20
Feb. 16	Mar. 7	Mar. 27	Apr. 11	Apr. 13	May 2	June 6	Sept. 3
Mar. 2	Mar. 21	Apr. 10	Apr. 25	Apr. 27	May 16	June 20	Sept. 17
Mar. 16	Apr. 4	Apr. 24	May 9	May 11	May 30	July 4	Oct. 1
Mar. 30	Apr. 18	May 8	May 23	May 25	June 13	July 18	Oct. 15
Apr. 13	May 2	May 22	June 6	June 8	June 27	Aug. 1	Oct. 29
Apr. 27	May 16	June 5	June 20	June 22	July 11	Aug. 15	Nov. 12
May 11	May 30	June 19	July 4	July 6	July 25	Aug. 29	Nov. 26
May 25	June 13	July 3	July 18	July 20	Aug. 8	Sept. 12	Dec. 10
June 8	June 27	July 17	Aug. 1	Aug. 3	Aug. 22	Sept. 26	Dec. 24
June 22	July 11	July 31	Aug. 15	Aug. 17	Sept. 5	Oct. 10	Jan. 7 '02
July 6	July 25	Aug. 14	Aug. 29	Aug. 31	Sept. 19	Oct. 24	Jan. 21 '02
July 20	Aug. 8	Aug. 28	Sept. 12	Sept. 14	Oct. 3	Nov. 7	Feb. 4 '02
Aug. 3	Aug. 22	Sept. 11	Sept. 26	Sept. 28	Oct. 17	Nov. 21	Feb. 18 '02
Aug. 17	Sept. 5	Sept. 25	Oct. 10	Oct. 12	Oct. 31	Dec. 5	Mar. 4 '02
Aug. 31	Sept. 19	Oct. 9	Oct. 24	Oct. 26	Nov. 14	Dec. 19	Mar. 18 '02
Sept. 14	Oct. 3	Oct. 23	Nov. 7	Nov. 9	Nov. 28	Jan. 2 '02	Apr. 1 '02
Sept. 28	Oct. 17	Nov. 6	Nov. 21	Nov. 23	Dec. 12	Jan. 16 '02	Apr. 15 '02
Oct. 12	Oct. 31	Nov. 20	Dec. 5	Dec. 7	Dec. 26	Jan. 30 '02	Apr. 29 '02
Oct. 26	Nov. 14	Dec. 4	Dec. 19	Dec. 21	Jan. 9 '02	Feb. 13 '02	May 13 '02
Nov. 9	Nov. 28	Dec. 18	Jan. 2 '02	Jan. 4 '02	Jan. 23 '02	Feb. 27 '02	May 27 '02
Nov. 23	Dec. 12	Jan. 1 '02	Jan. 16 '02	Jan. 18 '02	Feb. 6 '02	Mar. 13 '02	June 10 '02
Dec. 7	Dec. 26	Jan. 15 '02	Jan. 30 '02	Feb. 1 '02	Feb. 20 '02	Mar. 27 '02	June 24 '02
Dec. 21	Jan. 9 '02	Jan. 29 '02	Feb. 13 '02	Feb. 15 '02	Mar. 6 '02	Apr. 10 '02	July 8 '02
Jan. 4 '02	Jan. 23 '02	Feb. 12 '02	Feb. 27 '02	Mar. 1 '02	Mar. 20 '02	Apr. 24 '02	July 22 '02

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
14	Friday, December 22, 2000	January 10, 2001
15	Friday, January 5, 2001	January 24, 2001
16	Friday, January 19, 2001	February 7, 2001

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.

1. To facilitate the processing of rule-making documents, we request a 3.5" High Density (not Double Density) IBM PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, First Floor South, Grimes State Office Building or included with the documents submitted to the Governor's Administrative Rules Coordinator.

2. Alternatively, if you have Internet E-mail access, you may send your document as an attachment to an E-mail message, addressed to both of the following:

bcarr@legis.state.ia.us
kbates@legis.state.ia.us

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies by the Governor's office, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

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Guide to Rule Making, June 1995 Edition, available upon request to the Iowa Administrative Code Division, Grimes State Office Building, First Floor South, 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
CORRECTIONS DEPARTMENT[201]		
Sex offender management and treatment, 38.2, 38.3 IAB 12/13/00 ARC 0339B	Conference Room—2nd Floor 420 Watson Powell Jr. Way Des Moines, Iowa	January 2, 2001 11 a.m. to 1 p.m.
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
New jobs and income program, 58.2, 58.4(3) IAB 12/13/00 ARC 0340B	IDED Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	January 2, 2001 3:30 p.m.
Enterprise zones, 59.2, 59.3, 59.6(3), 59.7(2) IAB 12/13/00 ARC 0341B	IDED Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	January 3, 2001 3:30 p.m.
EDUCATION DEPARTMENT[281]		
Waivers or variances from administrative rules, ch 4 IAB 12/13/00 ARC 0346B	State Board Room Grimes State Office Bldg. Des Moines, Iowa	January 2, 2001 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Animal feeding operations, ch 65, amendments to be proposed IAB 11/15/00 ARC 0278B	First National Bank Bldg. 211 First Ave. NW Hampton, Iowa	December 13, 2000 7 p.m.
	Room 101 Iowa Western Community College 906 Sunnyside Ln. Atlantic, Iowa	December 18, 2000 6:30 p.m.
	Conference Room—2nd Floor Wallace State Office Bldg. Des Moines, Iowa	December 19, 2000 1 p.m.
	Marland Room, Iowa Hall—2nd Floor Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	December 20, 2000 1:30 p.m.
HUMAN SERVICES DEPARTMENT[441]		
Child care assistance program, 7.1, 7.5(9), 11.1, 93.151, 170.1, 170.9 IAB 11/29/00 ARC 0310B	Seventh Floor Conference Room Suite 600, Iowa Bldg. 411 Third St. SE Cedar Rapids, Iowa	December 21, 2000 10 a.m.
	CPI Conference Room 417 E. Kaneshville Blvd. Council Bluffs, Iowa	December 21, 2000 8 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

	Large Conference Room Fifth Floor, Bicentennial Bldg. 428 Western Davenport, Iowa	December 20, 2000 10 a.m.
	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	December 20, 2000 10 a.m.
	Liberty Room, Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	December 20, 2000 10 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	December 20, 2000 1 p.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	December 20, 2000 1:30 p.m.
	Conference Room 420 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	December 20, 2000 3 p.m.
Home- and community-based (HCBS) waiver programs, amendments to chs 77 to 79 and 83 IAB 12/13/00 ARC 0344B	Sixth Floor Conference Room Suite 600, Iowa Bldg. 411 Third St. SE Cedar Rapids, Iowa	January 4, 2001 10 a.m.
	Administrative Conference Room 417 E. Kanesville Blvd. Council Bluffs, Iowa	January 5, 2001 10 a.m.
	Large Conference Room Fifth Floor, Bicentennial Bldg. 428 Western Davenport, Iowa	January 4, 2001 1:30 p.m.
	Conference Room 104 City View Plaza 1200 University Des Moines, Iowa	January 3, 2001 10 a.m.
	Liberty Room, Mohawk Square 22 N. Georgia Ave. Mason City, Iowa	January 4, 2001 11 a.m.
	Conference Room 3 120 E. Main Ottumwa, Iowa	January 4, 2001 10 a.m.
	Fifth Floor 520 Nebraska St. Sioux City, Iowa	January 4, 2001 1:30 p.m.
	Conference Room 420 Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	January 3, 2001 11 a.m.

INFORMATION TECHNOLOGY DEPARTMENT[471]

Contested cases, ch 6 IAB 11/29/00 ARC 0297B	Director's Conference Room Level B Hoover State Office Bldg. Des Moines, Iowa	December 19, 2000 9 to 10 a.m.
Waivers, ch 7 IAB 11/29/00 ARC 0328B	Director's Conference Room Level B Hoover State Office Bldg. Des Moines, Iowa	December 19, 2000 9 to 10 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Quality-based inspections, ch 66 IAB 12/13/00 ARC 0345B (ICN Network)	Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	January 4, 2001 10 a.m.
	Bettendorf Public Library Information Center 2950 Learning Campus Dr. Bettendorf, Iowa	January 4, 2001 10 a.m.
	Burlington Public Library 501 N. Fourth St. Burlington, Iowa	January 4, 2001 10 a.m.
	Cedar Rapids Public Library 500 First St. SE Cedar Rapids, Iowa	January 4, 2001 10 a.m.
	Luther College 700 College Dr. Decorah, Iowa	January 4, 2001 10 a.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	January 4, 2001 10 a.m.
	Iowa City Public Library 123 S. Linn St. Iowa City, Iowa	January 4, 2001 10 a.m.
	National Guard Armory 1160 19th St. SW Mason City, Iowa	January 4, 2001 10 a.m.
	Sioux City Public Library 529 Pierce St. Sioux City, Iowa	January 4, 2001 10 a.m.
	Waterloo Public Library 415 Commercial St. Waterloo, Iowa	January 4, 2001 10 a.m.

INSURANCE DIVISION[191]

Financial information regulation, ch 90 IAB 11/29/00 ARC 0325B (See also ARC 0334B)	330 Maple Des Moines, Iowa	December 19, 2000 10 a.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Cosmetology arts and sciences examiners—licensure, fees, chs 60 and 62 IAB 11/29/00 ARC 0319B	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	December 20, 2000 9 to 11 a.m.
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Cosmetology arts and sciences examiners—continuing education, discipline, ch 64, 65.1, 65.12 IAB 11/29/00 ARC 0320B	Board Conference Room—5th Floor Lucas State Office Bldg. Des Moines, Iowa	December 20, 2000 9 to 11 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Authority of emergency medical care personnel, 132.1, 132.2 IAB 11/29/00 ARC 0326B (ICN Network)	Public Library 21 E. Third St. Spencer, Iowa	December 19, 2000 1 to 2 p.m.
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National Guard Armory 1712 LaClark Rd. Carroll, Iowa	December 19, 2000 1 to 2 p.m.
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National Guard Armory 315 12th Ave. NW Hampton, Iowa	December 19, 2000 1 to 2 p.m.
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ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	December 19, 2000 1 to 2 p.m.
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National Guard Armory 195 Radford Rd. Dubuque, Iowa	December 19, 2000 1 to 2 p.m.
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National Guard Armory 501 Hwy. 1 South Washington, Iowa	December 19, 2000 1 to 2 p.m.
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SUBSTANCE ABUSE COMMISSION[643]

Regions for substance abuse prevention and treatment, ch 9 IAB 11/29/00 ARC 0324B	Room 417 Lucas State Office Bldg. Des Moines, Iowa	January 4, 2001 1 p.m.
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TRANSPORTATION DEPARTMENT[761]

Consent for the sale of goods and services, 26.1, 26.4(2) IAB 11/29/00 ARC 0300B	Small Materials Conference Room 800 Lincoln Way Ames, Iowa	December 21, 2000 1 p.m. (If requested)
Special permits for operation and movement of vehicles and loads of excess size and weight, 511.1 to 511.16 IAB 11/29/00 ARC 0299B	Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	December 21, 2000 10 a.m. (If requested)

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).

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

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:

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Soil Conservation Division[27]

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AUDITOR OF STATE[81]

BEEF INDUSTRY COUNCIL, IOWA[101]

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ARC 0339B

CORRECTIONS DEPARTMENT[201]

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 Supplement section 692A.13A, the Department of Corrections gives Notice of Intended Action to amend Chapter 38, "Sex Offender Management and Treatment," Iowa Administrative Code.

These amendments provide for the risk assessment and appeal process for offenders within 45 days of release from custody or upon placement on probation, parole, or work release.

Any interested person may make written suggestions or comments on the proposed amendments on or before January 2, 2001. Such written materials should be sent to the Director of Legal and Policy Services, Corrections Department, 420 Watson Powell Jr. Way, Des Moines, Iowa 50309.

There will be a public hearing on January 2, 2001, from 11 a.m. to 1 p.m. in the Second Floor Conference Room, Corrections Department, 420 Watson Powell Jr. Way, Des Moines, Iowa 50309, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements should contact the Department of Corrections and advise of special needs.

These amendments are intended to implement Iowa Code Supplement section 692A.13A.

The following amendments are proposed.

ITEM 1. Amend rule 201—38.2(692A,903B) by adopting the following new definitions in alphabetical order:

"Aggravated offense" means a conviction for any of the following offenses:

1. Sexual abuse in the first degree in violation of Iowa Code section 709.2.
2. Sexual abuse in the second degree in violation of Iowa Code section 709.3.
3. Sexual abuse in the third degree in violation of Iowa Code section 709.4, subsection 1.
4. Lascivious acts with a child in violation of Iowa Code section 709.8, subsection 1.
5. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.

6. Burglary in the first degree in violation of Iowa Code section 713.3, subsection 1, paragraph "d."

7. Kidnapping, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

8. Murder, if sexual abuse as defined in Iowa Code section 709.1 is committed during the offense.

"Criminal offense against a minor" means any of the following criminal offenses or conduct:

1. Kidnapping of a minor, except for the kidnapping of a minor in the third degree committed by a parent.
2. False imprisonment of a minor, except if committed by a parent.

3. Any indictable offense involving sexual conduct directed toward a minor.
4. Solicitation of a minor to engage in an illegal sex act.
5. Use of a minor in a sexual performance.
6. Solicitation of a minor to practice prostitution.
7. Any indictable offense against a minor involving sexual contact with the minor.

8. An attempt to commit an offense enumerated in this rule.

9. Incest committed against a minor.

10. Dissemination and exhibition of obscene material to minors in violation of Iowa Code section 728.2.

11. Admitting minors to premises where obscene material is exhibited in violation of Iowa Code section 728.3.

12. Stalking in violation of Iowa Code section 708.11, subsection 3, paragraph "b," subparagraph (3), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.

13. Sexual exploitation of a minor in violation of Iowa Code section 728.12, subsection 2 or 3.

14. An indictable offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "13" of this definition.

"Offender" means a person who is required to register with the Iowa sex offender registry.

"Other relevant offense" means any of the following offenses:

1. Telephone dissemination of obscene materials in violation of Iowa Code section 728.15.

2. Rental or sale of hard-core pornography in violation of Iowa Code section 728.4.

3. Indecent exposure in violation of Iowa Code section 709.9.

4. A criminal offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "3" of this definition if committed in this state.

"Sexual exploitation" means sexual exploitation by a counselor or therapist under Iowa Code section 709.15.

"Sexually violent offense" means any of the following indictable offenses:

1. Sexual abuse as defined under Iowa Code section 709.1.

2. Assault with intent to commit sexual abuse in violation of Iowa Code section 709.11.

3. Sexual misconduct with offenders in violation of Iowa Code section 709.16.

4. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.

5. A criminal offense committed in another jurisdiction which would constitute an indictable offense under numbered paragraphs "1" through "4" of this definition if committed in this state.

ITEM 2. Rescind rule 201—38.3(692A) and adopt the following new rule in lieu thereof:

201—38.3(692A) Sex offender risk assessment.

38.3(1) Risk assessment instrument. All required risk assessments shall be conducted utilizing the "Iowa Sex Offender Risk Assessment Instrument and Companion Guide" as approved by the department of corrections, division of criminal investigation of the department of public safety (DCI), and the department of human services. Upon request, these documents will be made available by the department of corrections. The risk assessment score will be determined

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following a review of the following documents which include, but are not limited to: presentence investigation report, court documents, clinical assessments, treatment records, polygraph reports, plethysmograph reports, employee records, school records, military records, and child protection services records of the department of human services. The risk assessment score is used to determine the level of risk for community notification purposes as follows:

- a. The assessed individual is low risk to the community.
- b. The assessed individual is at risk to the community.

38.3(2) Offenses requiring completion of risk assessment. The department of corrections, department of human services, and the division of criminal investigation of the department of public safety shall complete the risk assessment on all offenders under each agency's authority in accordance with the requirements of Iowa Code Supplement section 692A.13A.

A risk assessment shall be conducted on all offenders who have a conviction of a criminal offense against a minor, an aggravated offense, sexual exploitation, an other relevant offense, or a sexually violent offense in this state or in another state, or in a federal, military, tribal, or foreign court, or on a person required to register in another state under the state's sex offender registry. The risk assessment should be completed within 45 days prior to release from custody or upon placement on probation, parole, or work release.

38.3(3) Risk assessment completion procedures.

a. Institution risk assessments. Risk assessments should be conducted on offenders and forwarded to DCI within 45 days prior to (and only if) the offender is being released from the institution. Risk assessments conducted for any other purpose should not be forwarded to DCI.

b. Judicial district risk assessments. Judicial district departments should complete risk assessments on probation offenders within 45 days of receipt of the case and forward the assessments to DCI. Additional risk assessments conducted during the supervision period should not be forwarded to DCI unless the offender's risk level has changed. This also applies when the offender is discharged. When any offender is revoked or discharged, DCI should be notified that the offender is either incarcerated or no longer under supervision in the community.

c. Parole/work release risk assessments. Risk assessments should be conducted by the institution prior to release. Community supervision officers are not required to conduct reassessments unless they believe the risk level has changed. If the risk assessment is not included in the parole/work release packet, the officer should contact the institution for a copy. If, for some reason, a risk assessment was not completed prior to release, the risk assessment shall be completed by the supervising probation/parole officer in conjunction with institution staff.

38.3(4) Notification of right to appeal.

a. When a risk assessment has been completed, the department of corrections shall notify, or cause to be notified, the offender of the finding, by providing to the offender copies of the risk assessment and the "Notice of Risk Assessment Findings" and "Appeal Form."

b. Judicial district department of correctional services shall notify the offender by personal service or certified mail of the risk assessment finding. The notification shall include the risk assessment and the "Notice of Risk Assessment Findings" and "Appeal Form." No additional notice is required.

Notice is deemed provided even if the offender refuses delivery or if mail is undeliverable because the offender has not

complied with registry requirements to provide a current address. If the notice is returned to the DOC as undeliverable, the assessment shall be forwarded to the DCI sex offender registry within 48 hours.

The notice shall contain the following information:

- (1) A copy of the completed risk assessment.
- (2) The result of the risk assessment.
- (3) A description of the scope of affirmative public notification, which may result from the risk assessment.
- (4) That unless a written appeal is received on or before the date mentioned in the notice, affirmative public notification may take place at any time thereafter while the person remains a registrant.

(5) That the offender may appeal the risk assessment decision by filing a written appeal and mailing or serving it on the department of corrections at an address prescribed on the notice, so that it is received on or by the date mentioned in the notice.

(6) That if appeal is made and received by the department by 4:30 p.m. on or by the date mentioned in the notice, there will be no affirmative public notification until and unless the result of the risk assessment is affirmed or is modified through the appeal process.

The appeal shall be in writing and shall fully address each issue challenged.

(7) The appeal shall be limited to the following issues:

1. Whether the risk assessment factors have been properly applied; or
2. Accuracy of the information relied upon to support the assessment findings; or
3. Errors in the procedure.

(8) If the department does not receive a written appeal within the time guidelines set forth in this rule, the department shall notify the division of criminal investigation of the results of the risk assessment by providing a copy of the risk assessment and "Notice of Risk Assessment Findings/Public Notification" to the division of criminal investigation.

38.3(5) Appeal process.

a. When the department receives a written appeal, the department shall refer the matter to a designated presiding officer. The department shall submit all written documents supporting the initial findings to the presiding officer with the written appeal. The presiding officer may review the appeal at any time within the 14 calendar days and at any location. The presiding officer shall issue a written response within 14 calendar days affirming, reversing, or modifying the result of the risk assessment. A copy of the response shall be promptly mailed to each party. The response itself shall remain confidential. Under Iowa Code chapter 17A, neither the risk assessment nor the appeal process is a contested case and does not require a personal hearing. The presiding officer's decision shall constitute final agency action.

b. The department shall have the burden of proof by a preponderance of the evidence to support the result of the risk assessment.

c. Upon disposition of the appeal, all information including the risk assessment, "Notice of Risk Assessment Findings/Public Notification" and appeal information, and any other documentation, shall be forwarded within seven calendar days to the department of public safety sex offender registry program.

38.3(6) Public notification. Affirmative public notification procedures are published in department of public safety rules, 661—Chapter 8.

38.3(7) Training requirements. All agency personnel conducting sex offender risk assessments shall complete the

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training program as developed and provided cooperatively by the responsible agencies.

38.3(8) Reporting requirements. Assessment completion and notification of results to the department of public safety sex offender registry program shall be completed within 45 days of anticipated release or supervision placement as follows:

- a. Submission of completed original "Iowa Sex Offender Risk Assessment."
- b. Form F-1 (Notification of Sex Offender Risk Assessment Findings/Public Notification).
- c. Forms F-2 and F-3 if applicable (Appeal and Appeal Response Forms).

d. Pertinent assessment/appeal findings documentation.

e. Forward to:

Iowa Division of Criminal Investigation

Attn: Iowa Sex Offender Registry

Wallace State Office Building

Des Moines, Iowa 50319

(515)281-4976 or fax (515)281-4898

38.3(9) Records maintenance.

a. Original sex offender registration and risk assessment documents shall be sent to the department of public safety sex offender registry program.

b. Copies of the sex offender registration and risk assessment documents shall be permanently maintained in the offender master file maintained by the responsible agency.

38.3(10) Additional rules. Department of public safety rules regarding the Iowa sex offender registry are published in Division III of 661—Chapter 8.

ARC 0340B**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 58, "New Jobs and Income Program," Iowa Administrative Code.

The proposed amendments add a definition of "eligible business," "tax credit certificate" and "value-added agricultural products"; allow a refund of unused investment tax credit for value-added agricultural projects; make real property an eligible capital expenditure for the insurance premium tax credit; define how refunds of investment tax credit will be administered; and allow insurance companies which increase their employment by at least 10 percent to receive a new jobs tax credit on Iowa's insurance premium tax.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 2, 2001. Interested persons may submit written or oral comments by contacting Amy Johnson, Business Development Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515) 242-4815.

A public hearing to receive comments about the proposed amendments will be held on January 2, 2001, at 3:30 p.m. at the above address in the IDED Main Conference Room. Individuals interested in providing comments at the hearing should contact Amy Johnson by 4 p.m. on December 29, 2000, to be placed on the hearing agenda.

These amendments are intended to implement 2000 Iowa Acts, chapter 1213.

The following amendments are proposed

ITEM 1. Amend rule **261—58.2(15)** by adopting the following **new** definitions in alphabetical order:

"Eligible business" means a business which meets the requirements of rule 261—58.7(15).

"Tax credit certificate" means a document issued by the department to an eligible business which indicates the amount of unused investment tax credit that the business is requesting to receive in the form of a refund. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit certificate, the tax year for which the credit will be claimed and any other information required by DRF or the department.

"Value-added agricultural products" means agricultural products which, through a series of activities or processes, can be sold at a higher price than the original purchase price.

ITEM 2. Amend paragraph **58.4(3)"a"** as follows:

a. Investment tax credit. **A** *An eligible business* may claim an investment tax credit as provided in Iowa Code section 15.333. A corporate income tax credit may be claimed of up to a maximum of 10 percent of the new investment which is directly related to new jobs created by the location or expansion of the business. If the business is a partnership, subchapter S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. Any credit in excess of tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first. *Subject to prior approval by the department in consultation with DRF, an eligible business whose project primarily involves the production of value-added agricultural products may elect to apply for a refund for all or a portion of an unused tax credit. The refund may be used against a tax liability imposed for individual income tax, corporate income tax, or franchise tax.*

ITEM 3. Amend paragraph **58.4(3)"c"** as follows:

c. For purposes of this rule, the capital expenditures eligible for the investment tax credit or the insurance premium tax credit under the program are the costs of machinery and equipment as defined in Iowa Code section 427A.1(1)"e" and "j" purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, **and**. *For the investment tax credit, the cost of improvements made to real property which is used in the operation of the eligible business and which receives a partial property tax exemption for the actual value added as described in Iowa Code section 15.332 is an eligible capital expenditure. For the insurance premium tax credit, the cost of improvements made to real property which is used in the operation of the eligible business is an eligible capital expenditure.*

ITEM 4. Amend paragraph **58.4(3)"d"** as follows:

d. Real property. For business applications received on or after July 1, 1999, for purposes of the investment tax cred-

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it claimed under Iowa Code *Supplement* section 15.333 as amended by 1999 Iowa Acts, chapter 172, section 1, and for business applications received on or after May 26, 2000, for purposes of the insurance premium tax credit claimed under Iowa Code section 15.333A, subsection 1, as amended by 2000 Iowa Acts, chapter 1213, section 2, the purchase price of real property and any existing buildings and structures located on the real property will also be considered a new investment in the location or expansion of an eligible business. However, if within five years of purchase, the eligible business sells or disposes of, razes or otherwise renders unusable the land, buildings, or other existing structures for which tax credit was claimed under Iowa Code *Supplement* section 15.333 as amended by 1999 Iowa Acts, chapter 172, section 1, or under Iowa Code section 15.333A, subsection 1, as amended by 2000 Iowa Acts, chapter 1213, section 2, the income tax liability or, where applicable, the insurance premium tax liability, of the eligible business for the year in which the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- (1) One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- (4) Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- (5) Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five full years after being placed in service.

ITEM 5. Amend subrule 58.4(3) by adopting the following new paragraph:

e. Refunds. An eligible business whose project primarily involves the production of value-added agricultural products and whose application was approved by the department on or after May 26, 2000, may elect to receive as a refund all or a portion of an unused investment tax credit.

(1) The department will determine whether a business's project primarily involves the production of value-added agricultural products. Effective July 1, 2001, an eligible business that elects to receive a refund shall apply to the department for a tax credit certificate.

(2) The business shall apply for a tax credit certificate using the form provided by the department. Requests for tax credit certificates will be accepted between May 1 and May 15 of each fiscal year. Only those eligible businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate.

(3) The department will make public by June 1 of each year the total number of requests for tax credit certificates and the total amount of requested tax credit certificates that have been submitted. By June 15 of each year any business that has submitted a request for a tax credit certificate for that year may be allowed to amend or withdraw any such request. The department will issue tax credit certificates by June 30 of each fiscal year.

(4) The department shall not issue tax credit certificates which total more than \$4 million during a fiscal year. If the department receives applications for tax credit certificates in excess of \$4 million, the applicants shall receive certificates

for a prorated amount. In such a case, the tax credit requested by an eligible business will be prorated based upon the total amount of requested tax credit certificates received during the fiscal year. This proportion will be applied to the amount requested by each eligible business to determine the amount of the tax credit certificate that will be distributed to each business for the fiscal year. For example, if an eligible business submits a request in the amount of \$1 million and the total amount of requested tax credit certificates equals \$8 million, the business will be issued a tax credit certificate in the amount of \$500,000:

$$\frac{\$4 \text{ million}}{\$8 \text{ million}} = 50\% \times \$1 \text{ million} = \$500,000.$$

(5) Tax credit certificates shall not be valid until the tax year following project completion. The tax credit certificates shall not be transferred. Tax credit certificates shall be used in tax years beginning on or after July 1, 2001. A business shall not claim a refund of unused investment tax credit unless a tax credit certificate issued by the department is attached to the taxpayer's tax return for the tax year during which the tax credit is claimed. Any unused investment tax credit in excess of the amount of the tax credit certificate issued by the department may be carried forward for up to seven years after the qualifying asset is placed in service or until depleted, whichever occurs first.

(6) An eligible business may apply for tax credit certificates once each year for up to seven years after the qualifying asset is placed in service or until the eligible business's unused investment tax credit is depleted, whichever occurs first. For example, an eligible business which completes a project in October 2001 and has an investment tax credit of \$1 million may apply for a tax credit certificate in May 2002. If, because of the proration of the \$4 million of available credits for the fiscal year, the business is awarded a tax credit certificate in the amount of \$300,000, the business may claim the \$300,000 refund and carry forward the unused investment tax credit of \$700,000 for up to seven years or until the credit is depleted, whichever occurs first.

ITEM 6. Amend subrule 58.4(3) by adopting the following new paragraph:

f. New jobs insurance premium tax credit. If the eligible business is an insurance company, the business may claim an insurance premium tax credit as provided in Iowa Code section 15.333A. This new jobs insurance premium tax may be taken by an eligible business which has entered into a chapter 260E agreement with a vocational school or community college, and which has increased its base employment level in Iowa by at least 10 percent within the time set in the 260E training agreement. In the case of an eligible business without a base employment level, if the business adds new jobs within the time set in the 260E agreement, it is entitled to this new jobs insurance premium tax credit for the tax period to be selected by the business. In determining if the business has increased its base employment by 10 percent, only those new jobs resulting from the project covered by the 260E agreement shall be counted.

The new jobs insurance premium tax credit as provided in Iowa Code section 15.333A is determined by multiplying the qualifying taxable wages of new employees by 6 percent. For purposes of this credit, "qualifying taxable wages" is the amount of taxable wages upon which an employer is required to pay state of Iowa unemployment compensation fund taxes for new employees in new jobs. This insurance premium tax credit may be claimed in any reporting period which either begins or ends during the period beginning with

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the date of the 260E agreement and ending with the date by which the 260E training agreement is to be completed. Any credit in excess of the insurance premium tax liability for the year may be credited to the tax liability for the following seven years, or until depleted, whichever is earlier. This new jobs insurance premium tax credit is in lieu of, and not in addition to, the new jobs tax credit as stated in Iowa Code section 422.11A.

ARC 0341B**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 59, "Enterprise Zones," Iowa Administrative Code.

The proposed amendments add definitions of "eligible business," "tax credit certificate" and "value-added agricultural products," extend the deadline to establish Enterprise Zones to July 1, 2003, and allow for the establishment of Enterprise Zones in counties which contain areas of distress and in communities that experience a significant business closure. The proposed amendments also allow for a refund of unused investment tax credit for value-added agricultural products, make real property an eligible capital expenditure for the insurance premium tax credit, define how refunds of the investment tax credit will be administered, and allow insurance companies that increase their employment by at least 10 percent to receive a new jobs tax credit on Iowa's insurance premium tax.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on January 3, 2001. Interested persons may submit written or oral comments by contacting Amy Johnson, Business Development Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515) 242-4815.

A public hearing to receive comments about the proposed amendments will be held on January 3, 2001, at 3:30 p.m. at the above address in the IDIED Main Conference Room. Individuals interested in providing comments at the hearing should contact Amy Johnson by 3 p.m. on January 2, 2001, to be placed on the hearing agenda.

These amendments are intended to implement 2000 Iowa Acts, chapter 1213.

The following amendments are proposed.

ITEM 1. Amend rule **261—59.2(15E)** by adopting the following **new** definitions in alphabetical order:

"Eligible business" means a business which meets the requirements of rule 261—59.5(15E).

"Tax credit certificate" means a document issued by the department to an eligible business which indicates the amount of unused investment tax credit that the business is requesting to receive in the form of a refund. A tax credit certificate shall contain the taxpayer's name, address, tax

identification number, the date of project completion, the amount of the tax credit certificate, the tax year for which the credit will be claimed, and any other information required by DRF or the department.

"Value-added agricultural products" means agricultural products which, through a series of activities or processes, can be sold at a higher price than the original purchase price.

ITEM 2. Amend rule 261—59.3(15E), introductory paragraph, as follows:

261—59.3(15E) Enterprise zone certification. An eligible county or a city may request the board to certify an area meeting the requirements of the Act and these rules as an enterprise zone. Zone designations will remain in effect for a period of ten years from the date of the board's certification as a zone. A county or city may request zone designation *under subrules 59.3(1) or 59.3(2)* at any time prior to July 1, ~~2000~~ **2003**.

ITEM 3. Amend paragraph **59.3(3)"d"** as follows:

d. Amendments and decertification. A certified enterprise zone may be amended or decertified upon application of the city or county originally applying for the zone designation. However, an amendment shall not extend the zone's ten-year expiration date, as established when the zone was initially certified by the board. After July 1, ~~2000~~ **2003**, the statutory deadline for cities and counties to request zone certification, an amendment shall not add area to a certified enterprise zone. An amendment or decertification request shall include, but is not limited to, the following information: reason(s) for the amendment or decertification and confirmation that the amended zone meets the requirements of the Act and these rules. The board will review the request and may approve, deny, or defer the proposed amendment or decertification.

ITEM 4. Amend rule 261—59.3(15E) by adopting the following **new** subrules 59.3(4) and 59.3(5):

59.3(4) County not eligible under subrule 59.3(1).

a. Requirements. A county which is not eligible under the requirements in subrule 59.3(1) may designate an enterprise zone within an area located in one or more contiguous census tracts or other geographic units of the county that meets at least two of the following distress criteria:

(1) The area has a per capita income of \$9,600 or less based on the 1990 census.

(2) The area has a family poverty rate of 12 percent or higher based on the 1990 census.

(3) Ten percent or more of the housing units in the area are vacant.

(4) The valuations of each class of property in the designated area is 75 percent or less of the countywide average for that classification based upon the most recent valuations for property tax purposes.

(5) The area is a blighted area, as defined in Iowa Code section 403.17.

b. Zone parameters. A county with an area that meets the requirements in paragraph "a" may designate only one enterprise zone. The enterprise zone designated under this subrule shall not be subject to the area limitation defined in Iowa Code section 15E.192, subsection 3.

c. Certification procedures. All requests for certification shall be made using the application provided by the department. The board will review requests for enterprise zone certification and may approve, deny, or defer a request for zone certification. The board shall not certify more than five enterprise zones pursuant to this subrule prior to July 1, 2001.

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59.3(5) City or county with business closure.

a. Requirements. A city of any size or any county may designate an enterprise zone at any time prior to July 1, 2010, when a business closure occurs involving the loss of full-time employees, not including retail employees, at one place of business totaling at least 1,000 employees or four percent of the county's resident labor force based upon the most recent annual resident labor force statistics from the department of workforce development, whichever is lower.

b. Zone parameters. The enterprise zone may be established on the property of the place of business that has closed and the enterprise zone may include an area up to an additional one mile adjacent to the property. The area meeting the requirements for enterprise zone eligibility under this subrule shall not be included for the purpose of determining the area limitation pursuant to Iowa Code section 15E.192, subsection 3.

c. Certification procedures. All requests for certification shall be made using the application provided by the department. The board will review requests for enterprise zone certification. The board may approve, deny, or defer a request for zone certification.

ITEM 5. Amend paragraph **59.6(3)“c”** as follows:

c. Investment tax credit and insurance premium tax credit.

(1) Investment tax credit. *A An eligible business may claim an investment tax credit as provided in Iowa Code section 15.333. A corporate income tax credit may be claimed of up to a maximum of 10 percent of the new investment which is directly related to new jobs created by the location or expansion of the business in the enterprise zone. If the business is a partnership, subchapter S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. Any credit in excess of tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first. Subject to prior approval by the department in consultation with DRF, an eligible business whose project primarily involves the production of value-added agricultural products may elect to apply for a refund for all or a portion of an unused tax credit. The refund may be used against a tax liability imposed for individual income tax, corporate income tax, or franchise tax. The business participating in the enterprise zone may not claim an investment tax credit for capital expenditures above the amount stated in the agreement described in 261—59.12(15E). An eligible business may instead seek to amend the contract, allowing the business to receive an investment tax credit for additional capital expenditures, or may elect to submit a new application within the enterprise zone.*

(2) No change.

(3) Eligible capital expenditures. For purposes of this rule, the capital expenditures eligible for the investment tax credit or the insurance premium tax credit under the enterprise zone program are the costs of machinery and equipment ~~used~~ *as defined in Iowa Code section 427A.1(1)“e” and “j” purchased for use in the operation of the eligible business, the purchase prices of which have been depreciated in accordance with generally accepted accounting principles. and For the investment tax credit, the cost of improvements made to real property which is used in the operation of the eligible business and which receives a partial property tax exemption for the actual value added as described in Iowa Code section 15.332 is an eligible capital expenditure. For the insurance premium tax credit, the cost of*

improvements made to real property which is used in the operation of the eligible business is an eligible capital expenditure.

(4) Real property. For business applications received on or after July 1, 1999, for purposes of the investment tax credit claimed under Iowa Code *Supplement* section 15.333 as ~~amended by 1999 Iowa Acts, chapter 172, section 1, and for business applications received on or after May 26, 2000, for purposes of the insurance premium tax credit claimed under Iowa Code section 15.333A, subsection 1, as amended by 2000 Iowa Acts, chapter 1213, section 2,~~ the purchase price of real property and any *existing* buildings and structures located on the real property will also be considered a new investment in the location or expansion of an eligible business. However, if within five years of purchase, the eligible business sells or disposes of, razes or otherwise renders unusable the land, buildings, or other existing structures for which tax credit was claimed under Iowa Code *Supplement* section 15.333 as ~~amended by 1999 Iowa Acts, chapter 172, section 1 or under Iowa Code section 15.333A, subsection 1, as amended by 2000 Iowa Acts, chapter 1213, section 2,~~ the income tax liability, or where applicable the insurance premium tax liability, of the eligible business for the year in which the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

1. One hundred percent of the tax credit claimed *under this section* if the property ceases to be eligible for the tax credit within one full year after being placed in service.

2. Eighty percent of the tax credit claimed *under this section* if the property ceases to be eligible for the tax credit within two full years after being placed in service.

3. Sixty percent of the tax credit claimed *under this section* if the property ceases to be eligible for the tax credit within three full years after being placed in service.

4. Forty percent of the tax credit claimed *under this section* if the property ceases to be eligible for the tax credit within four full years after being placed in service.

5. Twenty percent of the tax credit claimed *under this section* if the property ceases to be eligible for the tax credit within five full years after being placed in service.

(5) Refunds. *An eligible business whose project primarily involves the production of value-added agricultural products and whose application was approved by the department on or after May 26, 2000, may elect to receive as a refund all or a portion of an unused investment tax credit.*

1. *The department will determine whether a business's project primarily involves the production of value-added agricultural products. Effective July 1, 2001, an eligible business that elects to receive a refund shall apply to the department for a tax credit certificate.*

2. *The business shall apply for a tax credit certificate using the form provided by the department. Requests for tax credit certificates will be accepted between May 1 and May 15 of each fiscal year. Only those eligible businesses that have completed projects before the May 1 filing date may apply for a tax credit certificate.*

3. *The department will make public by June 1 of each year the total number of requests for tax credit certificates and the total amount of requested tax credit certificates that have been submitted. By June 15 of each year any business that has submitted a request for a tax credit certificate for that year may be allowed to amend or withdraw any such request. The department will issue tax credit certificates by June 30 of each fiscal year.*

4. *The department shall not issue tax credit certificates*

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

which total more than \$4 million during a fiscal year. If the department receives applications for tax credit certificates in excess of \$4 million, the applicants shall receive certificates for a prorated amount. In such a case, the tax credit requested by an eligible business will be prorated based upon the total amount of requested tax credit certificates received during the fiscal year. This proportion will be applied to the amount requested by each eligible business to determine the amount of tax credit certificate that will be distributed to each business for the fiscal year. For example, if an eligible business submits a request in the amount of \$1 million and the total amount of requested tax credit certificates equals \$8 million, the business will be issued a tax credit certificate in the amount of \$500,000:

$$\frac{\$4 \text{ million}}{\$8 \text{ million}} = 50\% \times \$1 \text{ million} = \$500,000.$$

5. Tax credit certificates shall not be valid until the tax year following project completion. The tax credit certificates shall not be transferred. Tax credit certificates shall be used in tax years beginning on or after July 1, 2001. A business shall not claim a refund of unused investment tax credit unless a tax credit certificate issued by the department is attached to the taxpayer's tax return for the tax year during which the tax credit is claimed. Any unused investment tax credit in excess of the amount of the tax credit certificate issued by the department may be carried forward for up to seven years after the qualifying asset is placed in service or until depleted, whichever occurs first. An eligible business may apply for tax credit certificates once each year for up to seven years after the qualifying asset is placed in service or until the eligible business's unused investment tax credit is depleted, whichever occurs first. For example, an eligible business which completes a project in October 2001 and has an investment tax credit of \$1 million may apply for a tax credit certificate in May 2002. If, because of the proration of the \$4 million of available credits for the fiscal year, the business is awarded a tax credit certificate in the amount of \$300,000, the business may claim the \$300,000 refund and carry forward the unused investment tax credit of \$700,000 for up to seven years or until the credit is depleted, whichever occurs first.

ITEM 6. Amend subrule 59.6(3) by adopting the following new paragraph "f":

f. New jobs insurance premium tax credit. If the eligible business is an insurance company, the business may claim an insurance premium tax credit as provided in Iowa Code section 15.333A. This new jobs insurance premium tax credit may be taken by an eligible business which has entered into an Iowa Code chapter 260E agreement with a vocational school or community college, and which has increased its base employment level in Iowa by at least 10 percent within the time set in the 260E training agreement. In the case of an eligible business without a base employment level, if the business adds new jobs within the time set in the 260E agreement, it is entitled to this new jobs insurance premium tax credit for the tax period to be selected by the business. In determining if the business has increased its base employment by 10 percent, only those new jobs resulting from the project covered by the 260E agreement shall be counted.

The new jobs insurance premium tax credit as provided in Iowa Code section 15.333A is determined by multiplying the qualifying taxable wages of new employees by 6 percent. For purposes of this credit, "qualifying taxable wages" is the amount of taxable wages upon which an employer is required to pay state of Iowa unemployment compensation

fund taxes for new employees in new jobs. This insurance premium tax credit may be claimed in any reporting period which either begins or ends during the period beginning with the date of the 260E agreement and ending with the date by which the 260E training agreement is to be completed. Any credit in excess of the insurance premium tax liability for the year may be credited to the tax liability for the following seven years, or until depleted, whichever is earlier. This new jobs insurance premium tax credit is in lieu of, and not in addition to, the new jobs tax credit as stated in Iowa Code section 422.11A.

ITEM 7. Amend subrule 59.7(2) by adopting the following new paragraph "f":

f. A new jobs insurance premium tax credit as described in paragraph 59.6(3)"f."

ARC 0346B

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7, the State Board of Education hereby gives Notice of Intended Action to adopt Chapter 4, "Waivers or Variances from Administrative Rules," Iowa Administrative Code.

Proposed Chapter 4 establishes uniform rules providing for waivers or variances from administrative rules. This rule making implements Executive Order Number 11 signed by the Governor on September 14, 1999, and 2000 Iowa Acts, chapter 1176. It provides for increased flexibility of administrative rule enforcement as applied to the general public.

Any interested person may make written comments or suggestions on or before January 2, 2001. Such written comments or suggestions should be directed to Ann McCarthy, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146.

A public hearing will be held on January 2, 2001, at 1 p.m. in the State Board Room, Grimes State Office Building, Des Moines, Iowa.

This amendment is intended to implement Iowa Code chapters 17A and 256 and 2000 Iowa Acts, chapter 1176.

The following new chapter is proposed.

CHAPTER 4

WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

281—4.1(17A,ExecOrd11) Definitions. For purposes of this chapter:

"Board" means the state board of education.

"Department" means the department of education.

"Director" means the director of the department of education.

"Person" means an individual, school corporation, government or governmental subdivision or agency, nonpublic school, partnership or association, or any legal entity.

"Waiver or variance" means action by the director which suspends in whole or in part the requirements or provisions

EDUCATION DEPARTMENT[281](cont'd)

of a rule as applied to an identified person on the basis of the particular circumstances of that person. For simplicity, the term "waiver" shall include both a "waiver" and a "variance."

281—4.2(17A,ExecOrd11) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules 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 chapter with respect to any waiver from that rule.

281—4.3(17A,ExecOrd11) Applicability of chapter. A waiver from a rule may be granted only if the department has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. Statutory duties or requirements created by statute may not be waived.

281—4.4(17A,ExecOrd11) Criteria for waiver. In response to a petition completed pursuant to rule 281—4.6(17A,ExecOrd11), the director may in the director's sole discretion issue an order waiving in whole or in part the requirements of a rule if the director finds, based on clear and convincing evidence, all of the following:

1. The application of the rule to the person at issue would result in an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirement of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law;
4. 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; and
5. The waiver from the requirements of the rule in the specific case would not have a negative impact on the student achievement of any person affected by the waiver.

281—4.5(17A,ExecOrd11) Filing of petition. All petitions for waiver must be submitted in writing to the Director, Department of Education, Grimes State Office Building, Des Moines, Iowa 50319-0146. 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.

281—4.6(17A,ExecOrd11) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address and telephone number of the person for whom a waiver is being requested, and the case number of any related contested case.
2. A description and citation of the specific rule from which a waiver is requested.
3. The specific waiver or variance requested, including the precise scope and duration.
4. The relevant facts that the petitioner believes would justify a waiver under each of the five criteria described in rule 281—4.4(17A,ExecOrd11). 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.
5. A history of any prior contacts between the board, the department and the petitioner relating to the regulated activi-

ty, license, or grant affected by the proposed waiver, including a description of each affected item held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the regulated activity, license, or grant within the last five years.

6. A detailed statement of the impact on student achievement for any person affected by the grant of a waiver.

7. Any information known to the requester regarding the board's or department's treatment of similar cases.

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

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

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

281—4.7(17A,ExecOrd11) Additional information. Prior to issuing an order granting or denying a waiver, the department 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 department may on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the department.

281—4.8(17A,ExecOrd11) Notice. The department shall acknowledge a petition upon receipt. The department 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 department may give notice to other persons. To accomplish this notice provision, the department 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 department attesting that notice has been provided.

281—4.9(17A,ExecOrd11) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply in three situations: (1) to any petition for a waiver filed within a contested case; (2) when provided by rule or order; or (3) when required to do so by statute.

281—4.10(17A,ExecOrd11) 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 and the reasons upon which the action is based, and a description of the precise scope and operative period of the waiver if one is issued.

4.10(1) Discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the director, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the director based on the unique, individual circumstances set out in the petition.

4.10(2) Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the director should exercise the director's discretion to grant a waiver from a rule.

4.10(3) Narrowly tailored. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

EDUCATION DEPARTMENT[281](cont'd)

4.10(4) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the director shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

4.10(5) Conditions. The director may place any condition on a waiver that the director finds desirable to protect the public health, safety, and welfare.

4.10(6) 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 director, a waiver may be renewed if the director finds that grounds for a waiver continue to exist.

4.10(7) Time for ruling. The director 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 director shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

4.10(8) When deemed denied. Failure of the director to grant or deny a petition within the required time period shall be deemed a denial of that petition by the director. However, the director shall remain responsible for issuing an order denying a waiver.

4.10(9) Service of order. Within seven days of its issuance, any order issued under this uniform 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.

281—4.11(17A,ExecOrd11) Public availability. All orders granting 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. The director may accordingly redact confidential information from petitions or orders prior to public inspection.

281—4.12(17A,ExecOrd11) Summary reports. Semi-annually, the department 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 board'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 the report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

281—4.13(17A,ExecOrd11) Cancellation. A waiver issued pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the director issues an order finding any of the following:

1. 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; or

2. 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

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

281—4.14(17A,ExecOrd11) Violations. Violation of conditions in the waiver approval is the equivalent of violation of the particular rule for which the waiver is granted. As a result, the recipient of a waiver under this chapter 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.

281—4.15(17A,ExecOrd11) Defense. After the director 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.

281—4.16(17A,ExecOrd11) Judicial review. Judicial review of the director's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

281—4.17(17A,ExecOrd11) Exception. This rule does not apply to 281—Chapters 36 and 37 or to specific waiver provisions adopted in other chapters.

These rules are intended to implement 2000 Iowa Acts, chapter 1176.

ARC 0338B

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 217.6, the Department of Human Services proposes to amend Chapter 60, “Refugee Cash Assistance,” and Chapter 61, “Refugee Service Program,” appearing in the Iowa Administrative Code.

These amendments make the following revisions to the refugee cash assistance and service programs to correspond with revised federal regulations:

- The definition of “refugee” is modified to agree with the Immigration and Nationality Act.
- Policy governing available services is revised to clarify that all services provided to the refugee and family have self-sufficiency as the goal and to add assistance in obtaining Employment Authorization Documentation as an available service.
- Policy regarding limitations on eligibility is revised to provide that citizenship and naturalization services, in addition to referral and interpretation services, may be provided to the extent feasible past the first 60 months of resettlement in accordance with federal requirements.
- Policy governing application for services is revised to expand consumer access.

These amendments do not provide for waiver in specified situations because federal law governing refugees does not allow for any waivers.

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 January 3, 2001.

These amendments are intended to implement Iowa Code section 217.6.

The following amendments are proposed.

ITEM 1. Rescind subrule 60.1(1) and adopt the following **new** subrule in lieu thereof:

60.1(1) Immigration status. A refugee is a person whose immigration status is one of the following statuses as issued by the United States Immigration and Naturalization Service:

- a. Granted asylum under Section 208 of the Immigration and Nationality Act.
- b. Admitted as a refugee under Section 207 of the Act.
- c. Paroled as a refugee or asylee under Section 212(d)(5) of the Act.
- d. Cuban and Haitian entrants in accordance with requirements in 45 CFR Part 401, as amended to March 22, 2000.
- e. Certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1988, as contained in Section 101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law 100-461).
- f. Admitted for permanent residence, provided the individual previously held one of the statuses identified above.

ITEM 2. Amend rule **441—61.1(217)**, definition of “refugee,” as follows:

“Refugee” means a person whose immigration status is one of the following statuses as issued by the United States Immigration and Naturalization Service:

1. Granted asylum under Section 208 of the Immigration and Nationality Act.
2. ~~Admitted as a conditional entrant under Section 203(a)(7) of the Act.~~
3. ~~Admitted as a refugee under Section 207 of the Act.~~
4. ~~Admitted with an immigration status that entitled the person to refugee assistance prior to enactment of the Refugee Act of 1980.~~
5. ~~Admitted for permanent residence, provided the person previously held one of the statuses identified in “1” to “4” above.~~
6. ~~Admitted as an Amerasian to the United States from Vietnam in immigrant status or as a U.S. citizen, but who is statutorily eligible for the same benefits as refugees.~~
7. Paroled as a refugee or asylee under Section 212(d)(5) of the Act, ~~provided that the person has been issued an I-94 immigration document that specifically states “paroled as a refugee” or “paroled as an asylee.”~~ Individuals admitted or paroled under Section 212(d)(5) whose I-94 immigration document includes the words “humanitarian” or “public interest parolee” (PIP) are not eligible for refugee-specific services, refugee cash assistance, or refugee medical assistance.
8. ~~Admitted as a spouse or minor child of an alien previously admitted to the United States as an asylee or as a Visa 92 beneficiary whose immigration documentation is inscribed with the words “Visa 92” and is also generally inscribed with the words “Section 208.”~~

9. ~~Admitted as a spouse or minor child of an alien previously admitted to the United States as a refugee or a Visa 93 beneficiary whose immigration documentation is inscribed with the words “Visa 93” and is also generally inscribed with the words “Section 207.”~~

4. Cuban and Haitian entrants in accordance with requirements in 45 CFR Part 401, as amended to March 22, 2000.

5. Certain Amerasians from Vietnam who are admitted to the U.S. as immigrants pursuant to Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1988, as contained in Section 101(e) of Public Law 100-202 and amended by the 9th proviso under Migration and Refugee Assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Public Law 100-46).

6. Admitted for permanent residence, provided the individual previously held one of the statuses identified above.

ITEM 3. Amend rule 441—61.5(217) as follows:

Amend the introductory paragraph as follows:

441—61.5(217) Services of the department available for refugees. ~~The department’s direct services~~ All services provided to the refugee and family have self-sufficiency as the goal. Direct and contracted services may include, but are not limited to, the areas of following:

Amend subrule **61.5(11)** by adopting the following **new** paragraph “k”:

k. Assistance in obtaining employment authorization documentations (EADs).

ITEM 4. Amend subrule 61.6(2) as follows:

61.6(2) Limitations on eligibility. ~~Services, except referral and interpretation services, are limited to refugees who have been in the United States 60 months or less.~~ Services as described in rule 441—61.5(217) may be provided in the first 60 months of resettlement. Referral, interpretation, citizenship, and naturalization services may be provided to the extent feasible past 60 months of resettlement for refugees, except that refugees who are receiving employability services, as defined in 441—subrule ~~61.5(12)~~ 61.5(11), as part of an employability plan, as of September 30, 1995, may continue to receive those services through September 30, 1996, or until the services are completed, whichever occurs first, regardless of their length of residence in the United States. *In any case, services shall first be provided for those refugees who are in the first two years of resettlement and who are in need of assistance in securing self-sufficiency.*

ITEM 5. Amend rule 441—61.7(217) as follows:

441—61.7(217) Application for services. Any person refugee wishing to do so shall have an opportunity to apply for services by contacting the bureau ~~in Des Moines or any of its affiliated offices~~ either in person, by telephone, by fax, or in writing, or ~~contact~~ by contacting any of the bureau staff members. The bureau shall determine the eligibility of each person refugee for services. Applicants for refugee cash assistance shall automatically be considered as applicants for services. The bureau shall ensure that refugee women have the same opportunities as refugee men to participate in all services, including job placement services.

ARC 0344B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," 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 83, "Medicaid Waiver Services," appearing in the Iowa Administrative Code.

These proposed amendments implement the following changes to the Home- and Community-Based Services (HCBS) waiver programs:

- Home-delivered meals, nutritional counseling, home and vehicle modification, and personal emergency response system are added as service options to the Ill and Handicapped waiver.

- Adult day service providers enrolled to provide consumer-directed attendant care services are no longer required to submit a detailed cost report.

- Persons with durable power of attorney for medical care are added to the list of people who can agree to consumer-directed attendant care services on behalf of a consumer, in accordance with the Code of Iowa. Definitions are added to all waivers for "attorney in fact under a durable power of attorney for health care" and "guardian."

- Who may be a home and vehicle modification service provider is redefined under the Brain Injury, Elderly, Mental Retardation, and Physical Disability waivers to add community businesses as a provider type and to make language in all waivers similar. Who may be a nursing provider is redefined under the Mental Retardation waiver to be agencies that are certified to participate in the Medicare program as home health agencies. Who may be a family counseling and treatment provider and a behavioral programming provider in the Brain Injury waiver is expanded.

- The definition of "qualified brain injury professional" is moved from 441—subrule 77.39(21) to rule 441—83.81(249A).

- Policy governing consumer-directed attendant care services for all waivers is revised to allow the assistance of consumers with job-related tasks at the direction of the Health Care Financing Administration.

- Policy is revised to require only quarterly, instead of monthly, usage of service to remain eligible for the Elderly waiver.

- The monthly maximum on transportation is eliminated for the Elderly waiver to make the waiver more functional for consumers and more like the other waivers that have transportation as a service.

- Policy is added to the Ill and Handicapped waiver and revised under the Brain Injury, Elderly, Mental Retardation, and Physical Disability waivers to specifically define covered home and vehicle modifications. Only the modifications listed will be covered.

- The terms "individual comprehensive plan" and "case plan" are replaced by "service plan" throughout the rules.

- Supported employment services in the Mental Retardation and Brain Injury waivers are redefined to meet the needs of the consumers served. Policy regarding reimbursement rates and payment methodology is also revised.

- Policy is revised under the Ill and Handicapped waiver to no longer require children under the age of 21 to be ineligible for Supplemental Security Income to be eligible for the waiver. Interim medical monitoring and treatment services are added to the list of alternative services a person must access per calendar quarter to remain eligible for the Ill and Handicapped waiver. In-home health-related care may now be used in conjunction with the Ill and Handicapped waiver.

- Policy governing the 180-day process for accessing payment slots under the Ill and Handicapped and Mental Retardation waivers is revised to allow quicker access to the waivers and to reduce the number of exceptions to policy.

- Policy governing eligibility in the Mental Retardation waiver is revised to provide that persons need only have a diagnosis of mental retardation, rather than a primary diagnosis of mental retardation, to qualify for the waiver. Consumers in the Mental Retardation waiver also no longer need to have their names placed on a referral list.

- Policy allowing persons who are receiving the Medically Needy program to qualify for the Brain Injury waiver is removed as that policy has not been approved by the Health Care Financing Administration. Currently there are no persons on the Brain Injury waiver who qualify by being Medically Needy recipients.

These amendments do not provide for waivers in specified situations because access to services is simplified and, therefore, increased. Persons may request a waiver of specific policy under the Department's general rule on exceptions at rule 441—1.8(217).

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 January 3, 2001.

Oral presentations may be made by persons appearing at the following meetings. Written comments will also be accepted at these times.

Cedar Rapids - January 4, 2001 Cedar Rapids Regional Office Iowa Building - Suite 600 Sixth Floor Conference Room 411 Third St., S.E. Cedar Rapids, Iowa 52401	10 a.m.
Council Bluffs - January 5, 2001 Administrative Conference Room Council Bluffs Regional Office 417 E. Kanesville Boulevard Council Bluffs, Iowa 51501	10 a.m.
Davenport - January 4, 2001 Davenport Area Office Bicentennial Building - Fifth Floor Large Conference Room 428 Western Davenport, Iowa 52801	1:30 p.m.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Des Moines - January 3, 2001 10 a.m.
Des Moines Regional Office
City View Plaza
Conference Room 104
1200 University
Des Moines, Iowa 50314

Mason City - January 4, 2001 11 a.m.
Mason City Area Office
Mohawk Square, Liberty Room
22 North Georgia Avenue
Mason City, Iowa 50401

Ottumwa - January 4, 2001 10 a.m.
Ottumwa Area Office
Conference Room 3
120 East Main
Ottumwa, Iowa 52501

Sioux City - January 4, 2001 1:30 p.m.
Sioux City Regional Office
Fifth Floor
520 Nebraska St.
Sioux City, Iowa 51101

Waterloo - January 3, 2001 11 a.m.
Waterloo Regional Office
Pinecrest Office Building
Conference Room 420
1407 Independence Avenue
Waterloo, Iowa 50703

Any persons who intend to attend a public hearing and have special requirements such as hearing or vision impairments should contact the Office of Policy Analysis at (515)281-8440 and advise of special needs.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend rule 441—77.30(249A) as follows:

Amend subrule 77.30(7), paragraph “h,” as follows:

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27 20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. ~~The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.~~

Adopt the following new subrules 77.30(9) to 77.30(12).

77.30(9) Home and vehicle modification providers. The following providers may provide home and vehicle modification:

a. Area agencies on aging as designated in 321—4.4(231).

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Providers eligible to participate as home and vehicle modification providers under the elderly waiver, enrolled as home and vehicle modification providers under the physical disability waiver, or certified as home and vehicle modification providers under the mental retardation or brain injury waiver.

d. Community businesses that have all necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations, and that submit verification

of current liability and workers' compensation coverage.

77.30(10) Personal emergency response system providers. Personal emergency response system providers shall be agencies that meet the conditions of participation set forth in subrule 77.33(2).

77.30(11) Home-delivered meals. The following providers may provide home-delivered meals:

a. Area agencies on aging as designated in 321—4.4(231). Home-delivered meals providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide home-delivered meals services may also provide home-delivered meals services.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

d. Restaurants licensed and inspected under Iowa Code chapter 137B.

e. Hospitals enrolled as Medicaid providers.

f. Home health aide providers meeting the standards set forth in subrule 77.33(3):

g. Medical equipment and supply dealers certified to participate in the Medicaid program.

h. Home care providers meeting the standards set forth in subrule 77.33(4).

77.30(12) Nutritional counseling. The following providers may provide nutritional counseling by a licensed dietitian:

a. Hospitals enrolled as Medicaid providers.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

d. Home health agencies certified by Medicare.

e. Licensed dietitians approved by an area agency on aging.

ITEM 2. Amend rule 441—77.33(249A) as follows:

Amend subrule 77.33(9) as follows:

77.33(9) Home and vehicle modification providers. The following providers may provide home and vehicle modification:

a. Area agencies on aging as designated in 321—4.4(231). ~~Home and vehicle modification providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide home and vehicle modification services may also provide home and vehicle modification services.~~

b. No change.

c. ~~Home and vehicle modification providers~~ *Providers eligible to participate as home and vehicle modification providers under the ill and handicapped waiver, enrolled as home and vehicle modification providers under the physical disability waiver, or certified under the HCBS MR waiver as home and vehicle modification providers under the mental retardation or brain injury waiver.*

d. *Community businesses that have all necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations, and that submit verification of current liability and workers' compensation coverage.*

Amend subrule 77.33(15), paragraph “h,” as follows:

h. Adult day service providers which meet the conditions of participation for adult day care providers as speci-

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fied at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27 20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. ~~The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.~~

ITEM 3. Amend subrule 77.34(8), paragraph “h,” as follows:

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27 20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. ~~The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.~~

ITEM 4. Amend rule 441—77.37(249A) as follows:

Amend subrule 77.37(12), paragraph “d,” as follows:

d. During the course of the review, if a team member encounters a situation ~~which that~~ places a consumer in immediate jeopardy, the team member shall immediately notify the provider, the department, and other team members. “Immediate jeopardy” refers to circumstances where the life, health, or safety of a consumer will be severely jeopardized if the circumstances are not immediately corrected. ~~The situation shall be corrected by the provider shall correct the situation~~ within 24 to 48 hours. If the situation is not corrected within the prescribed time frame, that portion of the provider’s services ~~which were that was~~ the subject of the notification shall not be certified. The department, the county of residence, and the central point of coordination shall be notified immediately to discontinue funding for that provider’s service. If this action is appealed and the consumer, or legal guardian, or attorney in fact under a durable power of attorney for health care wants to maintain the provider’s services, funding can be reinstated. At that time the provider shall take appropriate action to ensure the life, health, and safety of the consumers deemed to be at risk as a result of the provider’s inaction.

Amend subrules 77.37(17) and 77.37(19) as follows:

77.37(17) Home and vehicle modification providers. ~~A home and vehicle modification provider shall be an approved HCBS MR supported community living service provider and shall meet the following standards The following providers may provide home and vehicle modification:~~

a. ~~The provider shall obtain a binding contract with community business(es) to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, the company or individual’s work to be performed, cost, time frame for work completion, employer’s liability coverage, and workers’ compensation coverage. Providers certified to participate as supported community living service providers under the mental retardation or brain injury waiver.~~

b. ~~The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.41(4). Providers eligible to participate as home and vehicle modification providers under the elderly or ill and handicapped waiver, enrolled as home and vehicle modification providers under the physical~~

~~disability waiver, or certified as home and vehicle modification providers under the brain injury waiver.~~

c. ~~The business, or the business’s parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations. Community businesses that have all necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations and that submit verification of current liability and workers’ compensation insurance.~~

d. ~~The business, or the business’s parent company or corporation, shall be in compliance with all legislation relating to prohibition of discriminatory practices.~~

77.37(19) Nursing providers. ~~The following nursing providers may provide HCBS MR nursing services: Nursing providers shall be agencies that are certified to participate in the Medicare program as home health agencies.~~

a. ~~Providers which are certified to participate in the Medicare program as home health agencies and which have an HCBS agreement with the department.~~

b. ~~Individuals who meet the standards and requirements set forth in nursing board rules 655—Chapter 3, work under the direct orders of the HCBS MR consumer’s physician, and have an HCBS agreement with the department.~~

Amend subrule 77.37(21), paragraph “h,” as follows:

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 and has submitted a detailed cost account. ~~The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.~~

ITEM 5. Amend rule 441—77.39(249A) as follows:

Amend subrule 77.39(10), paragraph “d,” as follows:

d. During the course of the review, if a team member encounters a situation ~~which that~~ places a consumer in immediate jeopardy, the team member shall immediately notify the provider, the department, and other team members. “Immediate jeopardy” refers to circumstances where the life, health, or safety of a consumer will be severely jeopardized if the circumstances are not immediately corrected. ~~The situation shall be corrected by the provider shall correct the situation~~ within 24 to 48 hours. If the situation is not corrected within the prescribed time frame, that portion of the provider’s services ~~which were that was~~ the subject of the notification shall not be certified. The department, the county of residence, and the central point of coordination shall be notified immediately to discontinue funding for that provider’s service. If this action is appealed and the consumer, or legal guardian, or attorney in fact under a durable power of attorney for health care wants to maintain the provider’s services, funding can be reinstated. At that time the provider shall take appropriate action to ensure the life, health, and safety of the consumers deemed to be at risk as a result of the provider’s inaction.

Amend subrule 77.39(16) as follows:

77.39(16) Home and vehicle modification providers. ~~A home and vehicle modification provider shall be an approved HCBS brain injury waiver supported community living service provider and shall meet the following standards The following providers may provide home and vehicle modification:~~

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a. ~~The provider shall obtain a binding contract with community businesses to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, cost, time frame for work completion, employer's liability coverage, and workers' compensation coverage. Providers eligible to participate as home and vehicle modification providers under the elderly or ill and handicapped waiver, enrolled as home and vehicle modification providers under the physical disability waiver, or certified as home and vehicle modification providers under the physical disability waiver.~~

b. ~~The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.43(5). Community businesses that have all necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations and that submit verification of current liability and workers' compensation insurance.~~

c. ~~The business, or the business's parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.~~

Amend subrules 77.39(21) and 77.39(23) as follows:

77.39(21) Family counseling and training providers. Family counseling and training providers shall be one of the following:

a. ~~Providers which are certified under the community mental health center standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and III, and that employ staff to provide family counseling and training who meet the definition of qualified brain injury professional as set forth in rule 441—83.81(249A).~~

b. ~~Providers which are licensed as meeting the hospice standards and requirements set forth in department of inspections and appeals rules in 481—Chapter 53 or which are certified to meet the standards under the Medicare program for hospice programs, and that employ staff who meet the definition of qualified brain injury professional as set forth in rule 441—83.81(249A).~~

c. ~~Providers which are accredited under the mental health service provider standards established by the mental health and developmental disabilities commission, set forth in 441—Chapter 24, Divisions I and IV, and that employ staff to provide family counseling and training who meet the definition of qualified brain injury professional as set forth in rule 441—83.81(249A).~~

d. ~~Providers which are qualified brain injury professionals Individuals who meet the definition of qualified brain injury professional as set forth in rule 441—83.81(249A). A qualified brain injury professional shall be one of the following who meets the educational and licensure or certification requirements for the profession as required in the state of Iowa and who has two years' experience working with people living with a brain injury: a psychologist; psychiatrist; physician; registered nurse; certified teacher; social worker; mental health counselor; physical, occupational, recreational, or speech therapist; or a person with a bachelor of arts or science degree in psychology, sociology, or public health.~~

e. ~~Agencies certified as brain injury waiver providers pursuant to rule 441—77.39(249A) that employ staff to provide family counseling who meet the definition of a qualified brain injury professional as set forth in rule 441—83.81(249A).~~

77.39(23) Behavioral programming providers. Behavioral programming providers shall be required to have experience with or training regarding the special needs of persons with a brain injury. In addition, they must meet the following requirements.

a. Behavior assessment, and development of an appropriate intervention plan, and periodic reassessment of the plan, and training of staff who shall implement the plan must be done by a qualified brain injury professional *as defined in rule 441—83.81(249A)*. Formal assessment of the consumers' intellectual and behavioral functioning must be done by a licensed psychologist or a psychiatrist who is certified by the American Board of Psychiatry.

~~A qualified brain injury professional is defined in paragraph 77.39(21)“d.”~~

b. Implementation of the plan and training and supervision of caregivers, including family members, must be done by behavioral aides who have been trained by a qualified brain injury professional with the qualifications described in ~~paragraph 77.39(21)“d” as defined in rule 441—83.81(249A)~~ and who are employees of one of the following:

(1) to (4) No change.

(5) ~~Supported community living providers certified under rules 441—77.39(13). Brain injury waiver providers certified pursuant to rule 441—77.39(249A).~~

Amend subrule **77.39(24)**, paragraph “h,” as follows:

h. Adult day service providers ~~which that~~ meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and ~~which that~~ have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 ~~and has submitted a detailed cost account. The cost account shall provide a methodology for determining the cost of consumer-directed attendant care.~~

ITEM 6. Amend rule 441—77.41(249A) as follows:

Amend subrule **77.41(2)**, paragraph “h,” as follows:

h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(27 20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25.

Amend subrule 77.41(3) as follows:

77.41(3) Home and vehicle modification providers. ~~A home and vehicle modification provider shall be either The following providers may provide home and vehicle modifications:~~

a. ~~An approved HCBS brain injury or mental retardation supported community living service provider that meets all of the following standards: Providers eligible to participate as home and vehicle modification providers under the elderly or ill and handicapped waiver or certified as home and vehicle modification providers under the mental retardation or brain injury waiver.~~

(1) ~~The provider shall obtain a binding contract with a community business to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, cost, time frame for work completion, employer's liability coverage, and workers' compensation coverage.~~

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~~(2) The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.46(2).~~

~~(3) The business, or the business's parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.~~

~~b. A community business that performs the work and meets all the following standards: Community businesses that have all necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations and that submit verification of current liability and workers' compensation insurance.~~

~~(1) The community business shall enter into binding contracts with consumers to perform the work at the reimbursement provided by the department without additional charge. The contract shall include, at a minimum, cost, time frame for work completion, employer's liability coverage, and workers' compensation coverage.~~

~~(2) The business shall provide physical or structural modifications to homes or vehicles according to service descriptions listed in 441—subrule 78.46(2).~~

~~(3) The business, or the business's parent company or corporation, shall have the necessary legal authority to operate in conformity with federal, state and local laws and regulations.~~

ITEM 7. Amend rule 441—78.34(249A) as follows:

Amend subrule **78.34(7)**, paragraph "a," subparagraph (9), as follows:

(9) Assistance needed to go to or return from a place of employment. ~~Assistance and assistance with job-related tasks~~ while the consumer is on the job site. ~~and the~~ The cost of transportation for the consumer ~~and assistance with understanding or performing the essential job functions~~ are not included in consumer-directed attendant care services.

Further amend subrule **78.34(7)**, paragraphs "d," "e," and "g" to "i," as follows:

d. The consumer, parent, ~~or~~ guardian, ~~or~~ attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency who will provide the components of the attendant care services to be provided.

e. The consumer, parent, ~~or~~ guardian, ~~or~~ attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the consumer.

g. The consumer, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete and sign Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, which is signed by the service worker prior to the initiation of services, and kept in the consumer's and department's records.

h. If the consumer has a guardian ~~or~~ attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the consumer's needs are being adequately met.

i. If the consumer has a guardian ~~or~~ attorney in fact under a durable power of attorney for health care, the guardian ~~or~~ attorney in fact shall sign the claim form in place of the consumer, indicating that the service has been provided as presented on the claim.

Adopt the following **new** subrules 78.34(9) to 78.34(12) as follows:

78.34(9) Home and vehicle modifications. Covered home and vehicle modifications are those permanently installed physical modifications to the consumer's home or vehicle listed below that directly address the consumer's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the consumer and enable the consumer to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the consumer's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, roof repair, or adding square footage to the residence, are excluded. Repairs are also excluded.

b. Only the following modifications are covered:

(1) Kitchen counters, sink space, cabinets, special adaptations to refrigerators, stoves, and ovens.

(2) Bathtubs and toilets to accommodate transfer, special handles and hoses for shower heads, water faucet controls, and accessible showers and sink areas.

(3) Grab bars and handrails.

(4) Turnaround space adaptations.

(5) Ramps, lifts, and door, hall and window widening.

(6) Fire safety alarm equipment specific for disability.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the consumer's disability.

(8) Vehicle lifts, driver-specific adaptations, remote-start systems, including such modifications already installed in a vehicle.

(9) Keyless entry systems.

(10) Automatic opening device for home or vehicle door.

(11) Special door and window locks.

(12) Specialized doorknobs and handles.

(13) Plexiglas replacement for glass windows.

(14) Modification of existing stairs to widen, lower, raise or enclose open stairs.

(15) Motion detectors.

(16) Low-pile carpeting or slip-resistant flooring.

(17) Telecommunications device for the deaf.

(18) Exterior hard-surface pathways.

(19) New door opening.

(20) Pocket doors.

(21) Installation or relocation of controls, outlets, switches.

(22) Air conditioning and air filtering if medically necessary.

(23) Heightening of existing garage door opening to accommodate modified van.

c. A unit of service is the completion of needed modifications or adaptations.

d. All modifications and adaptations shall be provided in accordance with applicable federal, state, and local building and vehicle codes.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the consumer.

f. The contract shall include, at a minimum, the work to be performed, cost, time frame for work completion, and assurance of liability and workers' compensation coverage.

g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the en-

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rolled home and vehicle modification provider following completion of the approved modifications.

h. Services shall be included in the consumer's service plan and shall exceed the Medicaid state plan services.

78.34(10) Personal emergency response system. A personal emergency response system is an electronic device that transmits a signal to a central monitoring station to summon assistance in the event of an emergency when the consumer is alone.

a. The required components of the system are:

(1) An in-home medical communications transmitter and receiver.

(2) A remote, portable activator.

(3) A central monitoring station with backup systems staffed by trained attendants at all times.

(4) Current data files at the central monitoring station containing response protocols and personal, medical, and emergency information for each consumer.

b. The service shall be identified in the consumer's service plan.

c. A unit of service is a one-time installation fee or one month of service.

d. Maximum units per state fiscal year are the initial installation and 12 months of service.

78.34(11) Home-delivered meals. Home-delivered meals means meals prepared elsewhere and delivered to a waiver recipient at the recipient's residence. Each meal shall ensure the recipient receives a minimum of one-third of the daily recommended dietary allowance as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. The meal may also be a liquid supplement that meets the minimum one-third standard. When a restaurant provides the home-delivered meal, the recipient is required to have a nutritional consultation. The nutritional consultation includes contact with the restaurant to explain the dietary needs of the client and what constitutes the minimum one-third daily dietary allowance.

A maximum of 14 meals is allowed per week. A unit of service is a meal.

78.34(12) Nutritional counseling. Nutritional counseling services may be provided for a nutritional problem or condition of such a degree of severity that nutritional counseling beyond that normally expected as part of the standard medical management is warranted. A unit of service is 15 minutes.

ITEM 8. Amend rule 441—78.37(249A) as follows:

Amend the introductory paragraph as follows:

441—78.37(249A) HCBS elderly waiver services. Payment will be approved for the following services to ~~clients~~ *consumers* eligible for the HCBS elderly waiver services as established in 441—Chapter 83. The ~~client~~ *consumer* shall have a billable waiver service each ~~month~~ *calendar quarter*. Services must be billed in whole units.

Amend subrule 78.37(9) as follows:

78.37(9) Home and vehicle modification. Covered home and vehicle modifications are those ~~set forth in subrule 78.41(4), paragraphs "a" to "d."~~ *permanently installed physical modifications to the consumer's home or vehicle listed below that directly address the consumer's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the consumer and enable the consumer to function with greater independence in the home or vehicle.*

a. *Modifications that are necessary or desirable without regard to the consumer's medical or remedial need and that would be expected to increase the fair market value of the*

home or vehicle, such as furnaces, fencing, roof repair, or adding square footage to the residence, are excluded. Repairs are also excluded.

b. *Only the following modifications are covered:*

(1) *Kitchen counters, sink space, cabinets, special adaptations to refrigerators, stoves, and ovens.*

(2) *Bathtubs and toilets to accommodate transfer, special handles and hoses for shower heads, water faucet controls, and accessible showers and sink areas.*

(3) *Grab bars and handrails.*

(4) *Turnaround space adaptations.*

(5) *Ramps, lifts, and door, hall and window widening.*

(6) *Fire safety alarm equipment specific for disability.*

(7) *Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the consumer's disability.*

(8) *Vehicle lifts, driver-specific adaptations, remote-start systems, including such modifications already installed in a vehicle.*

(9) *Keyless entry systems.*

(10) *Automatic opening device for home or vehicle door.*

(11) *Special door and window locks.*

(12) *Specialized doorknobs and handles.*

(13) *Plexiglas replacement for glass windows.*

(14) *Modification of existing stairs to widen, lower, raise or enclose open stairs.*

(15) *Motion detectors.*

(16) *Low-pile carpeting or slip-resistant flooring.*

(17) *Telecommunications device for the deaf.*

(18) *Exterior hard-surface pathways.*

(19) *New door opening.*

(20) *Pocket doors.*

(21) *Installation or relocation of controls, outlets, switches.*

(22) *Air conditioning and air filtering if medically necessary.*

(23) *Heightening of existing garage door opening to accommodate modified van.*

c. *A unit of service is the completion of needed modifications or adaptations.*

d. *All modifications and adaptations shall be provided in accordance with applicable federal, state, and local building and vehicle codes.*

e. *Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the consumer.*

f. *The contract shall include, at a minimum, the work to be performed, cost, time frame for work completion, and assurance of liability and workers' compensation coverage.*

g. *Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications.*

h. *Services shall be included in the consumer's service plan and shall exceed the Medicaid state plan services.*

Amend subrule 78.37(11) as follows:

78.37(11) Transportation. Transportation services may be provided for recipients to conduct business errands, essential shopping, to receive medical services not reimbursed through medical transportation, and to reduce social isolation. A unit of service is per mile, per trip, or rate established by area agency on aging. ~~When paying the rate established by an area agency on aging, the monthly payment shall not exceed \$200 per month for wheelchair or other handicapped~~

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transportation, or \$100 per month for nonhandicapped transportation.

Amend subrule 78.37(15), paragraph "a," subparagraph (9), as follows:

(9) Assistance needed to go to or return from a place of employment.—~~Assistance and assistance with job-related tasks~~ while the consumer is on the job site. ~~and the~~ The cost of transportation for the consumer ~~and assistance with understanding or performing the essential job functions~~ are not included in consumer-directed attendant care services.

Further amend subrule 78.37(15), paragraphs "d," "e," and "g" to "i," as follows:

d. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency who will provide the components of the attendant care services to be provided.

e. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the consumer.

g. The consumer, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete and sign Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, which is signed by the service worker prior to the initiation of services, and kept in the consumer's and department's records.

h. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the consumer's needs are being adequately met.

i. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the consumer, indicating that the service has been provided as presented on the claim.

ITEM 9. Amend subrule 78.38(8) as follows:

Amend paragraph "a," subparagraph (9), as follows:

(9) Assistance needed to go to or return from a place of employment.—~~Assistance and assistance with job-related tasks~~ while the consumer is on the job site. ~~and the~~ The cost of transportation for the consumer ~~and assistance with understanding or performing the essential job functions~~ are not included in consumer-directed attendant care services.

Amend paragraphs "d," "e," and "g" to "i" as follows:

d. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency who will provide the components of the attendant care services to be provided.

e. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the consumer.

g. The consumer, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete and sign Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, which is signed by the service worker prior to the initia-

tion of services, and kept in the consumer's and department's records.

h. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the consumer's needs are being adequately met.

i. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the consumer, indicating that the service has been provided as presented on the claim.

ITEM 10. Amend rule 441—78.41(249A) as follows:

Amend the introductory paragraph as follows:

441—78.41(249A) HCBS MR waiver services. Payment will be approved for the following services to consumers eligible for the HCBS MR waiver services as established in 441—Chapter 83 and as identified in the consumer's individual comprehensive service plan (ICP). All services include the applicable and necessary instruction, supervision, assistance and support as required by the consumer in achieving the consumer's life goals. The services, amount and supports provided under the HCBS MR waiver shall be delivered in the least restrictive environment and in conformity with the consumer's individual comprehensive service plan.

Amend subrule 78.41(1), introductory paragraph, as follows:

78.41(1) Supported community living services. Supported community living services are provided by the provider within the consumer's home and community, according to the individualized consumer need as identified in the individual comprehensive plan (ICP) or department case service plan pursuant to rule 441—83.67(249A).

Further amend subrule 78.41(1), paragraph "a," introductory paragraph, as follows:

a. ~~The basic~~ Available components of the service may include, but are not limited to, are personal and home skills training services, individual advocacy services, community skills training services, personal environment support services, transportation, and treatment services.

Rescind subrule 78.41(4) and adopt the following **new** subrule in lieu thereof:

78.41(4) Home and vehicle modifications. Covered home and vehicle modifications are those permanently installed physical modifications to the consumer's home or vehicle listed below that directly address the consumer's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the consumer and enable the consumer to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the consumer's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, roof repair, or adding square footage to the residence, are excluded. Repairs are also excluded.

b. Only the following modifications are covered:

(1) Kitchen counters, sink space, cabinets, special adaptations to refrigerators, stoves, and ovens.

(2) Bathtubs and toilets to accommodate transfer, special handles and hoses for shower heads, water faucet controls, and accessible showers and sink areas.

(3) Grab bars and handrails.

(4) Turnaround space adaptations.

(5) Ramps, lifts, and door, hall and window widening.

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- (6) Fire safety alarm equipment specific for disability.
 - (7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the consumer's disability.
 - (8) Vehicle lifts, driver-specific adaptations, remote-start systems, including such modifications already installed in a vehicle.
 - (9) Keyless entry systems.
 - (10) Automatic opening device for home or vehicle door.
 - (11) Special door and window locks.
 - (12) Specialized doorknobs and handles.
 - (13) Plexiglas replacement for glass windows.
 - (14) Modification of existing stairs to widen, lower, raise or enclose open stairs.
 - (15) Motion detectors.
 - (16) Low-pile carpeting or slip-resistant flooring.
 - (17) Telecommunications device for the deaf.
 - (18) Exterior hard-surface pathways.
 - (19) New door opening.
 - (20) Pocket doors.
 - (21) Installation or relocation of controls, outlets, switches.
 - (22) Air conditioning and air filtering if medically necessary.
 - (23) Heightening of existing garage door opening to accommodate modified van.
- c. A unit of service is the completion of needed modifications or adaptations.
- d. All modifications and adaptations shall be provided in accordance with applicable federal, state, and local building and vehicle codes.
- e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the consumer.
- f. The contract shall include, at a minimum, the work to be performed, cost, time frame for work completion, and assurance of liability and workers' compensation coverage.
- g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications.
- h. Services shall be included in the consumer's service plan and shall exceed the Medicaid state plan services.

Rescind subrule 78.41(7) and adopt the following **new** subrule in lieu thereof:

78.41(7) Supported employment services. Supported employment services are individualized services associated with obtaining and maintaining competitive paid employment in the least restrictive environment possible, provided to individuals for whom competitive employment at or above minimum wage is unlikely and who, because of their disability, need intense and ongoing support to perform in a work setting. Individual placements are the preferred service model. Covered services are those listed in paragraphs "a" and "b" that address the disability-related challenges to securing and keeping a job.

a. Activities to obtain a job.

(1) Covered services provided to or on behalf of the consumer associated with obtaining competitive paid employment are the following:

- 1. Initial vocational and educational assessment to develop interventions with the consumer or employer that affect work.
- 2. Job development activities.

3. On-site vocational assessment prior to employment.

4. Disability-related support for vocational training or paid internships.

5. Assistance in helping the consumer learn the skills necessary for job retention including skills to arrange and use supported employment transportation and job exploration.

(2) Except as provided in subparagraph (3), all services provided to an individual for the purpose of obtaining employment during a 12-month period are one unit of service.

(3) An individual may receive more than one unit of service for obtaining competitive employment during a 12-month period only if the individual has been in competitive paid employment for a minimum of 30 consecutive days between units of service.

(4) A unit of service is one job placement. A maximum of three units of service for obtaining employment is available per 12-month period.

b. Supports to maintain employment.

(1) Covered services provided to or on behalf of the consumer associated with maintaining competitive paid employment are the following:

- 1. Individual work-related behavioral management.
- 2. Job coaching.
- 3. On-the-job or work-related crisis intervention.

4. Assisting the consumer to use skills related to sustaining competitive paid employment, including assistance with communication skills, problem solving, and safety.

5. Consumer-directed attendant care services as defined in subrule 78.41(8).

6. Assistance with time management.

7. Assistance with appropriate grooming.

8. Employment-related supportive contacts.

9. Employment-related transportation between work and home and to or from activities related to employment and disability. Other forms of community transportation (including car pools, coworkers, self or public transportation, families, and volunteers) must be attempted before transportation is provided as a supported employment service.

10. On-site vocational assessment after employment.

11. Employer consultation.

(2) Services for maintaining employment may include services associated with sustaining consumers in a team of no more than eight individuals with disabilities in a team-work or "enclave" setting.

(3) A unit of service is one hour.

(4) A maximum of 40 units may be received per week.

c. The following requirements apply to all supported employment services:

(1) Employment-related adaptations required to assist the consumer within the performance of the consumer's job functions shall be provided by the provider as part of the services.

(2) Employment-related transportation between work and home and to or from activities related to employment and disability shall be provided by the provider as part of the services. Other forms of community transportation (car pools, coworkers, self or public transportation, families, volunteers) must be attempted before the service provider provides transportation.

(3) The majority of coworkers at any employment site with more than two employees where consumers seek, obtain, or maintain employment must be persons without disabilities. In the performance of job duties at any site where consumers seek, obtain, or maintain employment, the consumer must have daily contact with other employees or

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members of the general public who do not have disabilities, unless the absence of daily contact with other employees or the general public is typical for the job as performed by persons without disabilities.

(4) All supported employment services shall provide individualized and ongoing support contacts at intervals necessary to promote successful job retention. Each provider contact shall be documented.

(5) Documentation that services provided are not currently available under a program funded under the Rehabilitation Act of 1973 or Public Law 94-142 shall be maintained in the provider file of each consumer.

(6) All services shall be identified in the consumer's service plan maintained pursuant to rule 441—83.67(249A).

(7) The following services are not covered:

1. Services involved in placing or maintaining consumers in day activity programs, work activity programs or sheltered workshop programs;

2. Supports for volunteer work or unpaid internships;

3. Tuition for education or vocational training; or

4. Individual advocacy that is not consumer specific.

(8) Services to maintain employment shall not be provided simultaneously with day activity programs, work activity programs, sheltered workshop programs, other HCBS services, or other Medicaid services. However, services to obtain a job and services to maintain employment may be provided simultaneously for the purpose of job advancement or job change.

Amend subrule **78.41(8)**, paragraph "a," subparagraph (9), as follows:

(9) Assistance needed to go to or return from a place of employment.—~~Assistance and assistance with job-related tasks~~ while the consumer is on the job site. ~~and the~~ *The cost of transportation for the consumer and assistance with understanding or performing the essential job functions* are not included in consumer-directed attendant care services.

Further amend subrule **78.41(8)**, paragraphs "d," "e," and "g" to "i," as follows:

d. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency who will provide the components of the attendant care services to be provided.

e. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the consumer.

g. The consumer, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete and sign Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, which is signed by the service worker or case manager prior to the initiation of services, and kept in the consumer's and department's records.

h. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the consumer's needs are being adequately met.

i. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the consumer, indicating that the service has been provided as presented on the claim.

ITEM 11. Amend rule 441—78.43(249A) as follows:

Rescind subrule 78.43(4) and adopt the following **new** subrule in lieu thereof:

78.43(4) Supported employment services. Supported employment services are individualized services associated with obtaining and maintaining competitive paid employment in the least restrictive environment possible, provided to individuals for whom competitive employment at or above minimum wage is unlikely and who, because of their disability, need intense and ongoing support to perform in a work setting. Individual placements are the preferred service model. Covered services are those listed in paragraphs "a" and "b" that address the disability-related challenges to securing and keeping a job.

a. Activities to obtain a job.

(1) Covered services provided to or on behalf of the consumer associated with obtaining competitive paid employment are the following:

1. Initial vocational and educational assessment to develop interventions with the consumer or employer that affect work.

2. Job development activities.

3. On-site vocational assessment prior to employment.

4. Disability-related support for vocational training or paid internships.

5. Assistance in helping the consumer learn the skills necessary for job retention including skills to arrange and use employment-related transportation and job exploration.

(2) Except as provided in subparagraph (3), all services provided to an individual for the purpose of obtaining employment during a 12-month period are one unit of service.

(3) An individual may receive more than one unit of service for obtaining competitive employment during a 12-month period only if the individual has been in competitive paid employment for a minimum of 30 consecutive days between units of service.

(4) A unit of service is one job placement. A maximum of three units of service for obtaining employment is available per 12-month period.

b. Supports to maintain employment.

(1) Covered services provided to or on behalf of the consumer associated with maintaining competitive paid employment are the following:

1. Individual work-related behavioral management.

2. Job coaching.

3. On-the-job or work-related crisis intervention.

4. Assisting the consumer to use skills related to sustaining competitive paid employment, including assistance with communication skills, problem solving, and safety.

5. Consumer-directed attendant care services as defined in subrule 78.43(13).

6. Assistance with time management.

7. Assistance with appropriate grooming.

8. Employment-related supportive contacts.

9. Employment-related transportation between work and home and to or from activities related to employment and disability. Other forms of community transportation (including car pools, coworkers, self or public transportation, families, and volunteers) must be attempted before transportation is provided as a supported employment service.

10. On-site vocational assessment after employment.

11. Employer consultation.

(2) Services for maintaining employment may include services associated with sustaining consumers in a team of no more than eight individuals with disabilities in a team-work or "enclave" setting.

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- (3) A unit of service is one hour.
- (4) A maximum of 40 units may be received per week.
- c. The following requirements apply to all supported employment services:
- (1) Employment-related adaptations required to assist the consumer within the performance of the consumer's job functions shall be provided by the provider as part of the services.
- (2) Employment-related transportation between work and home and to or from activities related to employment and disability shall be provided by the provider as part of the services. Other forms of community transportation (car pools, coworkers, self or public transportation, families, volunteers) must be attempted before the service provider provides transportation.
- (3) The majority of coworkers at any employment site with more than two employees where consumers seek, obtain, or maintain employment must be persons without disabilities. In the performance of job duties at any site where consumers seek, obtain, or maintain employment, the consumer must have daily contact with other employees or members of the general public who do not have disabilities, unless the absence of daily contact with other employees or the general public is typical for the job as performed by persons without disabilities.
- (4) All supported employment services shall provide individualized and ongoing support contacts at intervals necessary to promote successful job retention. Each provider contact shall be documented.
- (5) Documentation that services provided are not currently available under a program funded under the Rehabilitation Act of 1973 or Public Law 94-142 shall be maintained in the provider file of each consumer.
- (6) All services shall be identified in the consumer's service plan maintained pursuant to rule 441—83.67(249A).
- (7) The following services are not covered:
1. Services involved in placing or maintaining consumers in day activity programs, work activity programs or sheltered workshop programs;
 2. Supports for volunteer work or unpaid internships;
 3. Tuition for education or vocational training; or
 4. Individual advocacy that is not consumer specific.
- (8) Services to maintain employment shall not be provided simultaneously with day activity programs, work activity programs, sheltered workshop programs, other HCBS services, or other Medicaid services. However, services to obtain a job and services to maintain employment may be provided simultaneously for the purpose of job advancement or job change.
- Rescind subrule 78.43(5) and adopt the following new subrule in lieu thereof:
- 78.43(5) Home and vehicle modifications.** Covered home and vehicle modifications are those permanently installed physical modifications to the consumer's home or vehicle listed below that directly address the consumer's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the consumer and enable the consumer to function with greater independence in the home or vehicle.
- a. Modifications that are necessary or desirable without regard to the consumer's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, roof repair, or adding square footage to the residence, are excluded. Repairs are also excluded.
 - b. Only the following modifications are covered:

- (1) Kitchen counters, sink space, cabinets, special adaptations to refrigerators, stoves, and ovens.
 - (2) Bathtubs and toilets to accommodate transfer, special handles and hoses for shower heads, water faucet controls, and accessible showers and sink areas.
 - (3) Grab bars and handrails.
 - (4) Turnaround space adaptations.
 - (5) Ramps, lifts, and door, hall and window widening.
 - (6) Fire safety alarm equipment specific for disability.
 - (7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the consumer's disability.
 - (8) Vehicle lifts, driver-specific adaptations, remote-start systems, including such modifications already installed in a vehicle.
 - (9) Keyless entry systems.
 - (10) Automatic opening device for home or vehicle door.
 - (11) Special door and window locks.
 - (12) Specialized doorknobs and handles.
 - (13) Plexiglas replacement for glass windows.
 - (14) Modification of existing stairs to widen, lower, raise or enclose open stairs.
 - (15) Motion detectors.
 - (16) Low-pile carpeting or slip-resistant flooring.
 - (17) Telecommunications device for the deaf.
 - (18) Exterior hard-surface pathways.
 - (19) New door opening.
 - (20) Pocket doors.
 - (21) Installation or relocation of controls, outlets, switches.
 - (22) Air conditioning and air filtering if medically necessary.
 - (23) Heightening of existing garage door opening to accommodate modified van.
 - c. A unit of service is the completion of needed modifications or adaptations.
 - d. All modifications and adaptations shall be provided in accordance with applicable federal, state, and local building and vehicle codes.
 - e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the consumer.
 - f. The contract shall include, at a minimum, the work to be performed, cost, time frame for work completion, and assurance of liability and workers' compensation coverage.
 - g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications.
 - h. Services shall be included in the consumer's service plan and shall exceed the Medicaid state plan services.
- Amend subrule **78.43(13)**, paragraph "a," subparagraph (9), as follows:
- (9) Assistance needed to go to or return from a place of employment.—~~Assistance and assistance with job-related tasks~~ while the consumer is on the job site. ~~and the~~ *The cost of transportation for the consumer and assistance with understanding or performing the essential job functions* are not included in consumer-directed attendant care services.
- Further amend subrule **78.43(13)**, paragraphs "d," "e," and "g" to "i," as follows:
- d. The consumer, parent, ~~or~~ guardian, *or attorney in fact under a durable power of attorney for health care* shall be responsible for selecting the person or agency who will pro-

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vide the components of the attendant care services to be provided.

e. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the consumer.

g. The consumer, parent, guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete and sign Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, which is signed by the service worker or case manager prior to the initiation of services, and kept in the consumer's and department's records.

h. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the consumer's needs are being adequately met.

i. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the consumer, indicating that the service has been provided as presented on the claim.

ITEM 12. Amend rule 441—78.46(249A) as follows:

Amend subrule 78.46(1), paragraph "a," subparagraph (9), as follows:

(9) Assistance needed to go to, or return from, a place of employment ~~but not and assistance to the consumer with job-related tasks~~ while the consumer is on the job site. *The cost of transportation for the consumer and assistance with understanding or performing the essential job functions are not included in consumer-directed attendant care services.*

Further amend subrule 78.46(1), paragraphs "d," "e," and "g" to "i," as follows:

d. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall be responsible for selecting the person or agency who will provide the components of the attendant care services to be provided.

e. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care shall determine the components of the attendant care services to be provided with the person who is providing the services to the consumer.

g. The consumer, parent, ~~or~~ guardian, or attorney in fact under a durable power of attorney for health care and the provider shall complete and sign Form 470-3372, HCBS Consumer-Directed Attendant Care Agreement. A copy of the completed agreement shall be attached to the service plan, which is signed by the service worker prior to the initiation of services, and kept in the consumer's and department's records.

h. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the care plan shall address how consumer-directed attendant care services will be monitored to ensure the consumer's needs are being adequately met.

i. If the consumer has a guardian or attorney in fact under a durable power of attorney for health care, the guardian or attorney in fact shall sign the claim form in place of the consumer, indicating that the service has been provided as presented on the claim.

Rescind subrule 78.46(2) and adopt the following new subrule in lieu thereof:

78.46(2) Home and vehicle modifications. Covered home and vehicle modifications are those permanently installed physical modifications to the consumer's home or vehicle listed below that directly address the consumer's medical or remedial need. Covered modifications must be necessary to provide for the health, welfare, or safety of the consumer and enable the consumer to function with greater independence in the home or vehicle.

a. Modifications that are necessary or desirable without regard to the consumer's medical or remedial need and that would be expected to increase the fair market value of the home or vehicle, such as furnaces, fencing, roof repair, or adding square footage to the residence, are excluded. Repairs are also excluded.

b. Only the following modifications are covered:

(1) Kitchen counters, sink space, cabinets, special adaptations to refrigerators, stoves, and ovens.

(2) Bathtubs and toilets to accommodate transfer, special handles and hoses for shower heads, water faucet controls, and accessible showers and sink areas.

(3) Grab bars and handrails.

(4) Turnaround space adaptations.

(5) Ramps, lifts, and door, hall and window widening.

(6) Fire safety alarm equipment specific for disability.

(7) Voice-activated, sound-activated, light-activated, motion-activated, and electronic devices directly related to the consumer's disability.

(8) Vehicle lifts, driver-specific adaptations, remote-start systems, including such modifications already installed in a vehicle.

(9) Keyless entry systems.

(10) Automatic opening device for home or vehicle door.

(11) Special door and window locks.

(12) Specialized doorknobs and handles.

(13) Plexiglas replacement for glass windows.

(14) Modification of existing stairs to widen, lower, raise or enclose open stairs.

(15) Motion detectors.

(16) Low-pile carpeting or slip-resistant flooring.

(17) Telecommunications device for the deaf.

(18) Exterior hard-surface pathways.

(19) New door opening.

(20) Pocket doors.

(21) Installation or relocation of controls, outlets, switches.

(22) Air conditioning and air filtering if medically necessary.

(23) Heightening of existing garage door opening to accommodate modified van.

c. A unit of service is the completion of needed modifications or adaptations.

d. All modifications and adaptations shall be provided in accordance with applicable federal, state, and local building and vehicle codes.

e. Services shall be performed following department approval of a binding contract between the enrolled home and vehicle modification provider and the consumer.

f. The contract shall include, at a minimum, the work to be performed, cost, time frame for work completion, and assurance of liability and workers' compensation coverage.

g. Service payment shall be made to the enrolled home and vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home and vehicle modification provider following completion of the approved modifications.

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h. Services shall be included in the consumer's service plan and shall exceed the Medicaid state plan services.

ITEM 13. Amend rule 441—79.1(249A) as follows:

Amend subrule 79.1(2), basis of reimbursement provider category of "HCBS AIDS/HIV waiver service providers," provider grouping number "8," as follows:

8. Consumer-directed attendant care:

Agency provider	Fee agreed upon by consumer and provider	\$18.49 per hour <i>not to exceed the daily rate of \$106.82 per day</i>
Individual provider	Fee agreed upon by consumer and provider	\$12.33 per hour <i>not to exceed the daily rate of \$71.90 per day</i>

Further amend subrule 79.1(2), basis of reimbursement provider category of "HCBS brain injury waiver service providers," by rescinding provider grouping number "5" and adopting the following new grouping number "5" and amending provider grouping number "8" as follows:

5. Supported employment:

<i>Activities to obtain a job</i>	<i>Fee schedule</i>	<i>\$500 per unit not to exceed \$1,500 per calendar year</i>
<i>Activities to maintain a job</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>Maximum of \$32.64 per hour for all activities other than personal care and services in an enclave setting. Maximum of \$18.49 per hour for personal care. Maximum of \$5.78 per hour for services in an enclave setting. Total not to exceed \$2,772 per month. Maximum of 40 units per week.</i>

8. Consumer-directed attendant care:

Agency provider	Fee agreed upon by consumer and provider	\$18.49 per hour <i>not to exceed the daily rate of \$106.82 per day</i>
Individual provider	Fee agreed upon by consumer and provider	\$12.33 per hour <i>not to exceed the daily rate of \$71.90 per day</i>

Further amend subrule 79.1(2), basis of reimbursement provider category of "HCBS elderly waiver service providers," provider grouping number "15," as follows:

15. Consumer-directed attendant care:

Agency provider other than an assisted living program	Fee agreed upon by consumer and provider	\$18.49 per hour <i>not to exceed the daily rate of \$106.82 per day</i>
Assisted living provider	Fee agreed upon by consumer and provider	\$1,052 per calendar month. Rate must be prorated per day for a partial month, at a rate not to exceed \$34.60 per day
Individual provider	Fee agreed upon by consumer and provider	\$12.33 per hour <i>not to exceed the daily rate of \$71.90 per day</i>

Further amend subrule 79.1(2), basis of reimbursement provider category of "HCBS ill and handicapped waiver service providers," by amending provider grouping number "7" and adopting the following new provider groupings "9" to "12":

7. Consumer-directed attendant care:

Agency provider	Fee agreed upon by consumer and provider	\$18.49 per hour <i>not to exceed the daily rate of \$106.82 per day</i>
Individual provider	Fee agreed upon by consumer and provider	\$12.33 per hour <i>not to exceed the daily rate of \$71.90 per day</i>
9. Home and vehicle modification	<i>Fee schedule</i>	<i>\$500 per month, not to exceed \$6,000 per year</i>
10. Personal emergency response system	<i>Fee schedule</i>	<i>Initial one-time fee of \$46.22. Ongoing monthly fee of \$35.95.</i>
11. Home-delivered meal providers	<i>Fee schedule</i>	<i>\$7.19 per meal. Maximum of 14 meals per week.</i>
12. Nutritional counseling	<i>Fee schedule</i>	<i>\$7.70 per quarter hour</i>

Further amend subrule 79.1(2), basis of reimbursement provider category of "HCBS MR waiver service providers," by rescinding provider grouping number "3" and adopting the following new grouping number "3" and by amending provider grouping number "8":

3. Supported employment:

<i>Activities to obtain a job</i>	<i>Fee schedule</i>	<i>\$500 per unit not to exceed \$1,500 per calendar year</i>
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<i>Activities to maintain a job</i>	<i>Retrospectively limited prospective rates. See 79.1(15)</i>	<i>Maximum of \$32.64 per hour for all activities other than personal care and services in an enclave setting. Maximum of \$18.49 per hour for personal care. Maximum of \$5.78 per hour for services in an enclave setting. Total not to exceed \$2,772 per month. Maximum of 40 units per week.</i>
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8. Consumer-directed attendant care:

Agency provider	Fee agreed upon by consumer and provider	\$18.49 per hour <i>not to exceed the daily rate of \$106.82 per day</i>
Individual provider	Fee agreed upon by consumer and provider	\$12.33 per hour <i>not to exceed the daily rate of \$71.90 per day</i>

Further amend subrule 79.1(2), basis of reimbursement provider category of "HCBS physical disability waiver service providers," provider grouping number "1," as follows:

1. Consumer-directed attendant care:

Agency provider	Fee agreed upon by consumer and provider	\$18.49 per hour <i>not to exceed the daily rate of \$106.82 per day</i>
Individual provider	Fee agreed upon by consumer and provider	\$12.33 per hour <i>not to exceed the daily rate of \$71.90 per day</i>

Amend subrule 79.1(15), paragraph "a," subparagraph (1), as follows:

(1) Providers shall submit cost reports for each waiver service provided using Form SS-1703-0 470-0664, Financial and Statistical Report for Purchase of Service, and Form 470-3449, Supplemental Schedule. The cost reporting period is from July 1 to June 30. The completed cost reports shall be submitted to the department, division of medical services, Ryun, Givens, Wenthe, and Company, 1601 48th St., Suite 150, West Des Moines, Iowa 50266-6722, by September 30 of each year.

ITEM 14. Amend rule 441—83.1(249A) by adopting the following **new** definitions in alphabetical order:

"Attorney in fact under a durable power of attorney for health care" means an individual who is designated by a durable power of attorney for health care, pursuant to Iowa Code chapter 144B, as an agent to make health care decisions on behalf of an individual and who has consented to act in that capacity.

"Guardian" means a guardian appointed in probate court.

"Service plan" means a written consumer-centered, outcome-based plan of services developed using an interdisciplinary process, which addresses all relevant services and supports being provided. It may involve more than one provider.

ITEM 15. Amend rule 441—83.2(249A) as follows:

Amend subrule 83.2(1), paragraphs "a," "b," and "g," as follows:

a. The person must be ~~determined to be one of the following:~~

~~(1) Blind under the age of 65 and blind or disabled as determined by the receipt of social security disability benefits, or by a disability determination made through the division of medical services. Disability determinations are made according to supplemental security guidelines as per Title XVI of the Social Security Act.~~

~~(2) Aged 65 or over and residing in a county that is not served by the HCBS elderly waiver.~~

b. ~~The person must be ineligible for medical assistance under other Medicaid programs or coverage groups with the exception of: the medically needy program, the in-home, health-related program when the person chooses the ill and handicapped waiver instead of the in-home, health-related~~

~~program, the HCBS MR waiver when the person is a child under the age of 18 with mental retardation and meets the skilled nursing level of care, cases approved by the intradepartmental board for supplemental security income deeming determinations between 1982 and 1987, and children eligible for supplemental security income under Section 8010 of Public Law 101-239. The person must be ineligible for supplemental security income if the person is 21 years of age or over.~~

g. The person must have service needs that can be met by this waiver program. At a minimum a person must receive a unit of adult day care, consumer-directed attendant care, counseling, home health aid, homemaker, *interim medical monitoring and treatment*, nursing, or respite service per calendar quarter.

Amend subrule 83.2(2), paragraph "a," as follows:

a. The consumer shall have a service plan approved by the department which is developed by the ~~county social service worker~~ as identified by the county of residence. This service plan must be completed prior to services provision and annually thereafter.

The ~~social service~~ worker shall establish the interdisciplinary team for the consumer and, with the team, identify the consumer's need for service based on the consumer's needs and desires as well as the availability and appropriateness of services using the following criteria:

(1) This service plan shall be based, in part, on information in the completed Home- and Community-Based Services Assessment or Reassessment, Form 470-0659. Form 470-0659 is completed annually, or more frequently upon request or when there are changes in the ~~client's~~ consumer's condition. *The service worker shall have a face-to-face visit with the consumer at least annually.*

(2) Service plans for persons aged 20 or under shall be developed ~~or reviewed after the child's individual education plan and EPSDT plan, if applicable, are developed to reflect use of all appropriate nonwaiver Medicaid services and so as not to replace or duplicate those services covered by those plans. The service worker shall list all nonwaiver Medicaid services in the service plan.~~

(3) ~~Those service~~ Service plans for persons aged 20 or under which ~~that~~ include home health, homemaker, or nursing, or respite services shall not be approved until a home health

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agency has made a request to cover the consumer's service needs through ~~EPSDT~~ *nonwaiver Medicaid services*.

ITEM 16. Amend rule 441—83.3(249A) as follows:

Amend subrule **83.3(2)**, paragraphs "**a**" and "**b**," as follows:

a. The county *department* office shall contact the division of medical services for all applicants for the waiver to determine if a payment slot is available.

(1) For persons not currently receiving Medicaid, the county *department* office shall contact the division of medical services by the end of the second working day after receipt of a completed Form ~~PA-1107-0~~ 470-0442, Application for Medical Assistance or State Supplementary Assistance, or within two working days after receipt of disability determination, whichever is later.

(2) For current *Medicaid* recipients, the county *department* office shall contact the division of medical services by the end of the second working day after receipt of either Form 470-0660, Home- and Community-Based Service Report, signed and dated by the recipient or a written request, signed and dated by the recipient.

(3) A payment slot shall be assigned to the applicant upon confirmation of an available slot.

(4) Once a payment slot is assigned, the county *department* office shall give written notice to the applicant and the payment slot shall be held for the applicant for 180 days to arrange services unless the person has been determined ineligible for the program. If services are not initiated within 180 days of the county *department's* written notice to the applicant, the slot shall revert for use by the next applicant on the waiting list, if applicable. The applicant must reapply for a new slot.

b. ~~By the end of the third day after the receipt of the completed Form PA-1107-0 or 470-0660, if~~ If no payment slot is available, persons shall be entered on a waiting list by the division of medical services according to the following:

(1) Persons not currently eligible for Medicaid shall be entered on the waiting list on the basis of the date a completed Form ~~PA-1107-0~~ 470-0442, Application for Medical Assistance or State Supplementary Assistance, is signed ~~or~~ date-stamped in the county *department* office or upon the county *department* office's receipt of disability determination, whichever is later.

(2) ~~Clients Consumers~~ Consumers currently eligible for Medicaid shall be added to the waiting list on the basis of the date ~~Form 470-0660, or a written request as specified in 83.3(2) "a"(2), is signed and dated or~~ date-stamped in the county *department* office, whichever is later.

(3) In the event that more than one application is received at one time, persons shall be entered on the waiting list on the basis of the month of birth, January being month one and the lowest number.

(2 4) Persons who do not fall within the available slots shall have their application rejected and their names shall be maintained on the waiting list. They shall be contacted to reapply as slots become available based on their order on the waiting list so that the number of approved persons on the program is maintained. *The division of medical services shall contact the county department office when a slot becomes available.*

(3 5) Once a payment slot is assigned, ~~the county department office shall give written notice shall be given~~ to the applicant, and the payment slot shall be held for 180 days to arrange services unless the person has been determined ineligible for the program. If services are not initiated within 180 days of the county *department's* written notice to the appli-

cant, the slot reverts for use by the next applicant on the waiting list, if applicable. The applicant must reapply for a new slot.

Further amend subrule **83.3(2)** by adopting the following new paragraph "**c**":

c. The county *department* office shall notify the division of medical services within two working days of a denial or withdrawal of an application.

Amend subrule **83.3(3)**, paragraph "**c**," as follows:

c. A ~~client~~ consumer must be given the choice between HCBS ill and handicapped waiver services and institutional care. The income maintenance or service worker shall have the ~~client~~ consumer, parent, or guardian, or attorney in fact under a durable power of attorney for health care complete and sign Form 470-0660, Home- and Community-Based Service Report, indicating the ~~client's~~ consumer's choice of home- and community-based services or institutional care.

ITEM 17. Amend rule 441—83.6(249A) as follows:

441—83.6(249A) Allowable services. Services allowable under the ill and handicapped waiver are homemaker services, home health services, adult day care services, respite care services, nursing services, counseling services, consumer-directed attendant care services, and interim medical monitoring and treatment services, home and vehicle modification services, personal emergency response system, home-delivered meals, and nutritional counseling as set forth in rule 441—78.34(249A).

ITEM 18. Amend rule 441—83.7(249A) as follows:

441—83.7(249A) Case Service plan. A case service plan shall be prepared for ill and handicapped waiver clients consumers in accordance with rule 441—130.7(234) except that case service plans for both children and adults shall be completed every 12 months or when there is significant change in the person's situation or condition. In addition, the case service plan shall include the frequency of the ill and handicapped waiver services and the types of providers who will deliver the services. *The service plan shall also list all non-waiver services.*

ITEM 19. Amend rule **441—83.21(249A)** by adopting the following new definitions in alphabetical order:

"Attorney in fact under a durable power of attorney for health care" means an individual who is designated by a durable power of attorney for health care, pursuant to Iowa Code chapter 144B, as an agent to make health care decisions on behalf of an individual and who has consented to act in that capacity.

"Guardian" means a guardian appointed in probate court.

"Service plan" means a written consumer-centered, outcome-based plan of services developed using an interdisciplinary process, which addresses all relevant services and supports being provided. It may involve more than one provider.

ITEM 20. Amend subrule **83.23(3)**, paragraph "**c**," as follows:

c. An applicant must be given the choice between elderly waiver services and institutional care. The ~~client~~ consumer, or guardian, or attorney in fact under a durable power of attorney for health care shall sign Form 470-3156, Long-Term Care Coordinating Unit Common Care Plan, indicating the ~~client's~~ consumer's choice of caregiver.

ITEM 21. Amend rule 441—83.27(249A) as follows:

HUMAN SERVICES DEPARTMENT[441](cont'd)

441—83.27(249A) Case Service plan. Form 470-3156, Long-Term Coordinating Unit Common Care Plan, shall be completed jointly by the area agency on aging case management program for the frail elderly and department service worker.

ITEM 22. Amend rule **441—83.41(249A)** by adopting the following **new** definitions in alphabetical order:

“Attorney in fact under a durable power of attorney for health care” means an individual who is designated by a durable power of attorney for health care, pursuant to Iowa Code chapter 144B, as an agent to make health care decisions on behalf of an individual and who has consented to act in that capacity.

“Guardian” means a guardian appointed in probate court.

“Service plan” means a written consumer-centered, outcome-based plan of services developed using an interdisciplinary process, which addresses all relevant services and supports being provided. It may involve more than one provider.

ITEM 23. Amend rule 441—83.43(249A) as follows:

Rescind and reserve subrule **83.43(3)**, paragraph “a,” subparagraph (3).

Further amend subrule **83.43(3)**, paragraphs “b” and “c,” as follows:

b. Decisions shall be mailed or given to the applicant on the date when income maintenance eligibility and level of care determinations and the ~~client~~ *consumer service plan* are completed.

c. A ~~client~~ *consumer* must be given the choice between HCBS AIDS/HIV waiver services and institutional care. The income maintenance or service worker shall have the ~~client~~ *consumer, parent, or guardian, or attorney in fact under a durable power of attorney for health care* complete and sign Form 470-0660, Home- and Community-Based Service Report, indicating the ~~client's~~ *consumer's* choice of home- and community-based services or institutional care.

Amend subrule **83.43(4)**, paragraphs “a” to “d,” as follows:

a. The effective date of eligibility for the AIDS/HIV waiver for persons who are already determined eligible for Medicaid is the date on which the income and resource eligibility and level of care determinations and the *consumer service plan* are completed.

b. The effective date of eligibility for the AIDS/HIV waiver for persons who qualify for Medicaid due to eligibility for the waiver services and to whom 441—subrule 75.1(7) and rule 441—75.5(249A) do not apply is the date on which income and resource eligibility and level of care determinations and the *consumer service plan* are completed.

c. Eligibility for the waiver continues until the recipient has been in a medical institution for 30 consecutive days for other than respite care or fails to meet eligibility criteria listed in rule 441—83.42(249A). Recipients who are inpatients in a medical institution for 30 or more consecutive days for other than respite care shall be reviewed for eligibility for other Medicaid coverage groups and terminated from AIDS/HIV waiver services if found eligible under another coverage group. The recipient will be notified of that decision through Form ~~SS-1104-0~~ *470-0602*, Notice of Decision. If the ~~client~~ *consumer* returns home before the effective date of the notice of decision and the person's condition has not substantially changed, the denial may be rescinded and eligibility may continue.

d. The effective date of eligibility for the AIDS/HIV waiver for persons who qualify for Medicaid due to eligibil-

ity for the waiver services and to whom the eligibility factors set forth in 441—subrule 75.1(7) and, for married persons, in rule 441—75.5(249A) have been satisfied, is the date on which the income eligibility and level of care determinations and the *consumer service plan* are completed, but shall not be earlier than the first of the month following the date of application.

ITEM 24. Amend rule 441—83.46(249A) as follows:

441—83.46(249A) Allowable services. Services allowable under the AIDS/HIV waiver are counseling services, home health aide services, homemaker services, nursing services, respite care services, home-delivered meals, *adult day care service*, and consumer-directed attendant care services as set forth in rule 441—78.38(249A).

ITEM 25. Amend rule 441—83.47(249A) as follows:

441—83.47(249A) Case Service plan. A *consumer service plan* shall be prepared for AIDS/HIV waiver ~~clients~~ *consumers* in accordance with rule 441—130.7(234) except that *consumer service plans* for both children and adults shall be completed every 12 months or when there is significant change in the person's situation or condition. In addition, the *consumer service plan* shall include the frequency of the AIDS/HIV waiver services and the types of providers who will deliver the services.

Service plans for consumers aged 20 or under must be developed to reflect use of all appropriate nonwaiver Medicaid services and so as not to replace or duplicate those services.

ITEM 26. Amend rule **441—83.60(249A)** by adopting the following **new** definitions in alphabetical order:

“Attorney in fact under a durable power of attorney for health care” means an individual who is designated by a durable power of attorney for health care, pursuant to Iowa Code chapter 144B, as an agent to make health care decisions on behalf of an individual and who has consented to act in that capacity.

“Guardian” means a guardian appointed in probate court.

“Service plan” means a written consumer-centered, outcome-based plan of services developed using an interdisciplinary process, which addresses all relevant services and supports being provided. It may involve more than one provider.

Further amend rule **441—83.60(249A)** by rescinding the definitions of “individual comprehensive plan (ICP)” and “individual treatment plan (ITP).”

ITEM 27. Amend rule 441—83.61(249A) as follows:

Amend subrule **83.61(1)**, paragraph “a,” introductory paragraph, as follows:

a. Have a ~~primary~~ diagnosis of mental retardation ~~which shall be updated on the following time lines:~~

Amend subrule **83.61(1)**, paragraph “c,” by rescinding subparagraphs (1) to (3).

Amend subrule **83.61(1)**, paragraphs “e,” “f,” and “h,” as follows:

e. Have service needs that can be met by this waiver program. At a minimum, an adult must receive one unit of either consumer-directed attendant care, supported community living, respite, or supported employment service per calendar quarter. Children shall, at a minimum, receive one unit of either consumer-directed attendant care, *interim medical monitoring and treatment service*, respite service or supported community living service per calendar quarter under this program.

HUMAN SERVICES DEPARTMENT[441](cont'd)

f. ~~Have an individual comprehensive a service plan completed annually and approved by the department in accordance with rule 441—83.67(249A).~~

h. ~~Have an individual comprehensive plan or service plan approved by the department. Choose HCBS MR waiver services rather than ICF MR services.~~

Further amend subrule **83.61(1)** by adopting the following **new** paragraph “j”:

j. Be assigned an HCBS MR payment slot pursuant to subrule 83.61(4).

Amend subrule **83.61(2)**, paragraph “g,” subparagraphs (2) and (4), as follows:

(2) ~~Service plans or individual comprehensive plans (ICPs) for consumers aged 20 or under must be developed or reviewed after the individual education plan (IEP) and early periodic screening, diagnosis and treatment (EPSDT) plan, if applicable, are developed to reflect use of all appropriate nonwaiver Medicaid services so as not to replace or duplicate those services covered by those plans.~~

(4) ~~Service plans or ICPs for consumers aged 20 or under which include supported community living services beyond intermittent shall be approved (signed and dated) by the division of medical services’ designee or the county board of supervisors’ designee. The service worker, department QMRP, or Medicaid case manager shall attach a written request for a variance from the maximum for intermittent supported community living with a summary of services and service costs. The written request for the variance shall provide a rationale for requesting supported community living beyond intermittent. The rationale shall contain sufficient information for the division of medical services’ designee or the county board of supervisors’ designee to make a decision regarding the need for supported community living beyond intermittent.~~

Further amend **83.61(2)**, paragraph “g,” by rescinding and reserving subparagraph (3).

Amend subrule **83.61(4)**, paragraph “a,” subparagraphs (1), (2), and (4), as follows:

(1) For persons not currently receiving Medicaid, the county department office shall contact the division of medical services or the county by the end of the second working day after receipt of a completed Form ~~PA-1107-0 470-0442~~, Application for Medical Assistance or State Supplementary Assistance, or *within two working days after receipt of disability determination, whichever is later.*

(2) For current Medicaid recipients, the county department office shall contact the division of medical services or the county by the end of the second working day after receipt of a ~~signed and dated either~~ Form ~~SS-1645-0 470-0660~~, Home- and Community-Based Service Report, *signed and dated by the recipient or a written request signed and dated by the recipient.*

(4) *Once a payment slot is assigned, the county department office shall give written notice shall be given to the applicant, and the payment slot shall be held for the applicant for 180 days to arrange services unless the person has been determined ineligible for the program. If services are not initiated within 180 days of the date on the county department’s written notice to the applicant, the slot reverts for use by the next applicant on the waiting list, if applicable. The applicant must reapply for a new slot.*

Further amend subrule **83.61(4)**, paragraph “b,” as follows:

b. ~~On the third day after the receipt of the completed Form PA-1107-0 or SS-1645-0, if no payment slot is avail-~~

able, persons shall be entered on a waiting list by the division of medical services or county according to the following:

(1) Persons not currently eligible for Medicaid shall be entered on the waiting list on the basis of the date a completed Form ~~PA-1107-0 470-0442~~, Application for Medical Assistance or State Supplementary Assistance, is date-stamped in the county department office *or upon county department office receipt of disability determination, whichever is later.*

(2) Consumers currently eligible for Medicaid shall be added to the waiting list on the basis of the date the ~~consumer requests HCBS MR program services as documented by the date of the consumer’s signature on Form SS-1645-0 request as specified in 83.61(4) “a” (2) is date-stamped in the county department office.~~

(3) In the event that more than one application is received at one time, persons shall be entered on the waiting list on the basis of the month of birth, January being month one and the lowest number.

(2 4) Persons who do not fall within the available slots shall have their application rejected, ~~but~~ *and* their names shall be maintained on the waiting list. As slots become available, persons shall be selected from the waiting list to maintain the number of approved persons on the program based on their order on the waiting list. The county central point of coordination administrator for adults and the division of medical services for children and adults with state case status shall contact the county department when a slot becomes available.

(5) *Once a payment slot is assigned, the county department office shall give written notice to the applicant, and the payment slot shall be held for the applicant for 180 days to arrange services unless the person has been determined ineligible for the program. If services are not initiated within 180 days of the date on the county department’s written notice to the consumer, the slot reverts for use by the next applicant on the waiting list, if applicable.*

Further amend subrule **83.61(4)** by adopting the following **new** paragraph “c”:

c. The county department office shall notify the division of medical services for state cases and children or the central point of coordination administrator for the county of legal settlement for adults within two working days of a denial or withdrawal of an application.

ITEM 28. Amend subrule **83.62(4)**, paragraph “e,” as follows:

e. Eligibility and service reimbursement are effective through the last day of the month of the previous annual ~~ICP service plan~~ staffing meeting and the corresponding long-term care need determination.

ITEM 29. Amend rule 441—83.67(249A), introductory paragraph and subrules 83.67(8) and 83.67(9), as follows:

~~441—83.67(249A) Individual comprehensive plan or service Service plan. An individual comprehensive plan (ICP) or A service plan shall be prepared and utilized for each HCBS MR waiver consumer. The ICP or service plan shall be developed by the interdisciplinary team, which includes the consumer, and, if appropriate, the legal representative, consumer’s family, case manager or service worker, service providers, and others directly involved. The ICP service plan shall be stored by the case manager for a minimum of three years. The ICP staffing interdisciplinary team meeting shall be conducted before the current ICP service plan expires. The service plan or ICP shall incorporate the concept of managed care. The plan shall be in accordance with rule 441—~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

~~24.44(225C)~~ 441—*subrule 24.4(4)* and shall additionally include the following information to assist in evaluating the program:

83.67(8) Documentation. The Medicaid case manager shall ensure that the consumer's case file contains the consumer's ICP or service plan, the county or department's final approval of services and service costs, *documentation supporting diagnosis of mental retardation*, and the following completed forms:

a. Eligibility for Medicaid ~~Waiver Home- and Community-Based Services~~, Form ~~RS-1238~~ 470-0563.

b. Home- and Community-Based Service Report, Form ~~SS-1645-0~~ 470-0660.

c. ~~Medicaid Home- and Community-Based Payment Agreement~~, Form ~~MA-2171~~ 470-0379.

d. *Consumer Data Entry*, Form 470-3280.

83.67(9) Approval of plan. The administrator of the division of medical services' designee for children and state cases, or the county board of supervisors' designee for adults, shall review the availability and appropriateness of services as specified in the ~~individual comprehensive plan or service plan~~ and may, based on a written determination, request the ~~individual comprehensive plan or service plan~~ be modified so that the services are cost-effective.

a. A summary of the services and service costs specified in the proposed service plan ~~or ICP~~ must be received and date-stamped by the HCBS MR unit in the department or the county central point of coordination ten working days prior to the planned implementation date.

b. The department or county has 15 working days after receipt of the summary and service costs in which to approve the services and service cost or request modification of the service plan ~~or ICP~~ unless the parties mutually agree to extend that time frame.

c. and d. No change.

ITEM 30. Amend rule 441—83.68(249A) as follows:

Amend subrule **83.68(1)**, paragraph "e," as follows:

e. The HCBS MR service is not identified in the applicant's ~~individual comprehensive plan (ICP) service plan~~.

Amend subrule **83.68(3)**, paragraph "c," as follows:

c. The HCBS MR service is not identified in the consumer's annual ~~ICP service plan~~.

ITEM 31. Amend rule 441—83.69(249A) as follows:

441—83.69(249A) Appeal rights. Notice of adverse action and right to appeal shall be given in accordance with 441—Chapter 7 and rule 441—130.5(234). The applicant or consumer is entitled to have a review of the level of care determination by the Iowa Foundation for Medical Care by sending a letter requesting a review to the foundation. If dissatisfied with that decision, the applicant or consumer may file an appeal with the department.

The applicant or consumer for whom the county has legal payment responsibility shall be entitled to a review of adverse decisions by the county by appealing to the county pursuant to 441—25.21(331). ~~441—paragraph 25.13(2)"j."~~ If dissatisfied with the county's decision, the applicant or consumer may file an appeal with the department pursuant to rule 441—83.69(249A).

ITEM 32. Amend rule **441—83.81(249A)** by adopting the following new definitions in alphabetical order:

"Attorney in fact under a durable power of attorney for health care" means an individual who is designated by a durable power of attorney for health care, pursuant to Iowa Code chapter 144B, as an agent to make health care deci-

sions on behalf of an individual and who has consented to act in that capacity.

"Guardian" means a guardian appointed in probate court.

"Qualified brain injury professional" means one of the following who meets the educational and licensure or certification requirements for the profession as required in the state of Iowa and who has two years' experience working with people living with a brain injury: a psychologist; psychiatrist; physician; registered nurse; certified teacher; social worker; mental health counselor; physical, occupational, recreational, or speech therapist; or a person with a bachelor of arts or science degree in psychology, sociology, or public health or rehabilitation services.

"Service plan" means a written consumer-centered, outcome-based plan of services developed using an interdisciplinary process, which addresses all relevant services and supports being provided. It may involve more than one provider.

Further amend rule **441—83.81(249A)** by rescinding the definitions of "Individual comprehensive plan (ICP)" and "Individual treatment plan (ITP)."

ITEM 33. Amend rule 441—83.82(249A) as follows:

Amend subrule **83.82(1)**, paragraphs "b" and "h," as follows:

b. Be eligible for Medicaid under SSI, SSI-related, FMAP, or FMAP-related coverage groups; *or be eligible under the special income level (300 percent) coverage group consistent with a level of care in a medical institution; or be eligible for medically needy.*

h. At a minimum, receive a waiver service each quarter *in addition to case management.*

Further amend subrule **83.82(1)** by adopting the following new paragraphs "k" and "l":

k. Receive services in a community, not an institutional, setting.

l. Be assigned a state slot within the yearly total approved by Health Care Financing Administration.

Amend subrule **83.82(2)**, paragraph "a," as follows:

a. The consumer shall have ~~an individual comprehensive plan a service plan~~ approved by the department *which that is developed by the certified case manager for this waiver as identified by the county of residence. This must be completed prior to services provision and annually thereafter.*

The case manager shall establish the interdisciplinary team for the consumer and, with the team, identify the consumer's "need for service" based on the consumer's needs and desires as well as the availability and appropriateness of services using the following criteria:

(1) No change.

(2) ~~Individual comprehensive plans (ICPs) for consumers aged 20 or under. Service plans must be developed or reviewed after the child's individual education plan (IEP) and early periodic screening, diagnosis and treatment (EPSDT) plan, if applicable, are developed to reflect use of all appropriate nonwaiver Medicaid state services so as not to replace or duplicate those services covered by those plans.~~

(3) ~~ICPs Service plans~~ for consumers aged 20 or under which include supported community living services beyond intermittent shall not be approved until a home health provider has made a request to cover the service through ~~EPSDT and receives a determination of whether EPSDT is appropriate all nonwaiver Medicaid services.~~

(4) ~~ICPs Service plans~~ for consumers aged 20 or under which include supported community living services beyond intermittent must be approved (signed and dated) by the divi-

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sion of medical services designee. The Medicaid case manager must request in writing more than intermittent supported community living with a summary of services and service costs, and submit a written justification with the *ICP service plan*. The rationale must contain sufficient information for the division of medical services designee, or for an ICF/MR level of care consumer, the designee of the county of legal settlements board of supervisors, to make a decision regarding the need for supported community living beyond intermittent.

ITEM 34. Amend subrule **83.83(2)**, paragraphs “a,” “c,” and “d,” as follows:

a. Applications for the determination of ability of the consumer to have all medically necessary service needs met within the scope of this waiver shall be initiated on behalf of the consumer and with the consumer’s consent or with the consent of the consumer’s legal representative by the discharge planner of the medical facility where the consumer resides at the time of application *or the case manager*. The discharge planner *or case manager* shall provide to the Iowa Foundation for Medical Care (IFMC) review coordinator all appropriate information needed regarding all the medically necessary service needs of the consumer. After completing the determination of ability to have all medically necessary service needs met within the scope of this waiver, the IFMC review coordinator shall inform the discharge planner *or case manager* on behalf of the consumer or the consumer’s legal representative and send to the income maintenance worker a copy of the decision as to whether all of the consumer’s service needs can be met in a home- or community-based setting.

c. A consumer shall be given the choice between waiver services and institutional care. The consumer or legal representative shall complete and sign Form 470-0660, Home- and Community-Based Service Report, indicating the consumer’s choice of caregiver. This shall be arranged by the medical facility discharge planner *or case manager*.

d. The medical facility discharge planner, *if there is one involved*, shall contact the appropriate case manager for the consumer’s county of residence to initiate development of the consumer’s *ICP service plan* and initiation of waiver services.

ITEM 35. Amend rule 441—83.87(249A) as follows:

Amend the introductory paragraph as follows:

441—83.87(249A) Individual comprehensive plan Service plan. ~~An individualized comprehensive plan (ICP) A service plan shall be prepared and utilized for each HCBS BI waiver consumer. The ICP service plan shall be developed by an interdisciplinary team, which includes the consumer, and, if appropriate, the legal representative, consumer’s family, case manager, providers, and others directly involved. The ICP service plan shall be stored by the case manager for a minimum of three years. The ICP service plan staffing shall be conducted before the current ICP service plan expires.~~

Amend subrule 83.87(1), introductory paragraph, as follows:

83.87(1) Information in plan. The plan shall be in accordance with ~~rule 441—24.44(225C)~~ *441—subrule 24.4(4)* and shall additionally include the following information to assist in evaluating the program:

Amend subrule 83.87(2) as follows:

83.87(2) Case plans for consumers aged 20 or under Use of nonwaiver services. ~~Case plans or individual comprehensive plans (ICPs) for consumers aged 20 or under Service plans must be developed or reviewed after the child’s indi-~~

~~vidual education plan (IEP) and early periodic screening, diagnosis and treatment plans (EPSDT) plan, if applicable, are developed to reflect use of all appropriate nonwaiver Medicaid services and so as not to replace or duplicate those services covered by those programs.~~

Case plans ~~or ICPs~~ for consumers aged 20 or under which include supported community living services beyond intermittent must be approved (signed and dated) by the division of medical services designee, or when a county voluntarily chooses to participate, by the county board of supervisors, designee or the division of medical services designee. The Medicaid case manager shall attach a written request for a variance from the limitation on supported community living to intermittent.

Amend subrule 83.87(4), introductory paragraph, as follows:

83.87(4) Case Service file. The Medicaid case manager must ensure that the consumer ~~case service~~ file contains the consumer’s *ICP service plan* and, if the county is voluntarily participating, the county’s final approval of service costs and the following completed forms:

ITEM 36. Amend rule 441—83.88(249A) as follows:

Amend subrule **83.88(1)**, paragraph “e,” as follows:

e. The brain injury waiver service is not identified in the consumer’s ~~individual comprehensive plan (ICP) service plan~~.

Amend subrule **83.88(3)**, paragraph “c,” as follows:

c. The brain injury waiver service is not identified in the consumer’s annual ~~(ICP) service plan~~.

ITEM 37. Amend rule 441—83.89(249A) as follows:

441—83.89(249A) Appeal rights. Notice of adverse actions and right to appeal shall be given in accordance with 441—Chapter 7 and rule 441—130.5(234). The applicant or consumer is entitled to have a review of the level of care determination by the Iowa Foundation for Medical Care by sending a letter requesting a review to the foundation. If dissatisfied with that decision, the applicant or consumer may file an appeal with the department.

The applicant or consumer for whom the county has legal payment responsibility shall be entitled to a review of adverse decisions by the county by appealing to the county pursuant to ~~rule 441—25.21(331)~~ *441—paragraph 25.13(2) “j.”* If dissatisfied with the county’s decision, the applicant or consumer may file an appeal with the department *pursuant to rule 441—83.69(249A)*.

ITEM 38. Amend rule **441—83.101(249A)** by adopting the following new definition in alphabetical order:

“Attorney in fact under a durable power of attorney for health care” means an individual who is designated by a durable power of attorney for health care, pursuant to Iowa Code chapter 144B, as an agent to make health care decisions on behalf of an individual and who has consented to act in that capacity.

ITEM 39. Amend subrule **83.102(1)**, paragraph “d,” as follows:

d. Have the ability to hire, supervise, and fire the provider as determined by the service worker, and be willing to do so, or have a *parent or guardian* named by probate court, *or attorney in fact under a durable power of attorney for health care* who will take this responsibility on behalf of the consumer.

ITEM 40. Amend subrule **83.103(2)**, paragraphs “a” to “e,” as follows:

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a. Applications for this waiver shall be initiated on behalf of the applicant who is a resident of a medical institution with the applicant's consent or with the consent of the applicant's legal representative by the discharge planner of the medical facility where the applicant resides at the time of application. The discharge planner shall complete Form 470-3502, Physical Disability Waiver Assessment Tool, and submit it to the Iowa Foundation for Medical Care (IFMC) review coordinator. After completing the determination of the level of care needed by the applicant, the IFMC review coordinator shall inform the income maintenance worker and the discharge planner ~~on behalf of the applicant or the applicant's guardian~~ of its decision.

b. Applications for this waiver shall be initiated by the applicant, ~~or by the applicant's parent or legal guardian, or the applicant's attorney in fact under a durable power of attorney for health care~~ on behalf of the applicant who is residing in the community. The applicant ~~or, the applicant's parent, the applicant's legal guardian, or the applicant's attorney in fact under a durable power of attorney for health care~~ shall complete Form 470-3502, Physical Disability Waiver Assessment Tool, and submit it to the Iowa Foundation for Medical Care (IFMC) review coordinator. After completing the determination of the level of care needed by the applicant, the IFMC review coordinator shall inform the income maintenance worker and the applicant, ~~or the applicant's parent or legal guardian, or the applicant's attorney in fact under a durable power of attorney for health care.~~

c. Eligibility for this waiver shall be effective as of the date when both the eligibility criteria in subrule 83.102(1) and need for services in subrule 83.102(2) have been established. Decisions shall be mailed or given to the ~~consumer or the consumer's applicant, the applicant's parent or legal guardian, or the applicant's attorney in fact under a durable power of attorney for health care~~ on the date when each eligibility determination is completed.

d. An applicant shall be given the choice between waiver services and institutional care. The applicant ~~or the applicant's parent, legal guardian, or attorney in fact under a durable power of attorney for health care~~ shall complete and sign Form 470-0660, Home- and Community-Based Service Report, indicating the ~~consumer's applicant's~~ choice of caregiver.

e. ~~The consumer or the consumer's applicant, the applicant's parent or guardian, or the applicant's attorney in fact under a durable power of attorney for health care~~ shall cooperate with the service worker in the development of the service plan, which must be approved by the department service worker prior to the start of services.

ARC 0345B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135C.14, the Department of Inspections and Appeals gives Notice of

Intended Action to adopt Chapter 66, "Quality-Based Inspection," Iowa Administrative Code.

The proposed rules are intended to implement 2000 Iowa Acts, chapter 1180, which established a quality-based inspection system for health care facilities which are licensed only by the state pursuant to Iowa Code chapter 135C. These rules establish the program's participation guidelines and criteria affecting a participating facility's survey cycle.

Any interested person may make written comments or suggestions on the proposed chapter on or before January 4, 2001. Written comments should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, East 12th and Grand Avenue, Des Moines, Iowa 50319-0083, or faxed to (515)242-6863. E-mail may be sent to jennifer.fiihr@dia.state.ia.us.

A public hearing will be held via the ICN at 10 a.m. on January 4, 2001, 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 Notice. The sites for the ICN hearing are as follows:

Department of Public Health
Lucas State Office Building, 6th Floor
East 12th and Grand Avenue
Des Moines

Bettendorf Public Library Information Center
2950 Learning Campus Drive
Bettendorf

Burlington Public Library
501 North Fourth Street
Burlington

Cedar Rapids Public Library
500 1st Street, SE
Cedar Rapids

Luther College
700 College Drive
Decorah

Carnegie-Stout Public Library
360 West 11th Street
Dubuque

Iowa City Public Library
123 South Linn Street
Iowa City

Mason City National Guard Armory
1160 19th Street, SW
Mason City

Sioux City Public Library
529 Pierce Street
Sioux City

Waterloo Public Library
415 Commercial Street
Waterloo

These rules are intended to implement 2000 Iowa Acts, chapter 1180.

The following **new** chapter is proposed.

**CHAPTER 66
QUALITY-BASED INSPECTION****481—66.1(135C) Definitions.**

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

"Department" means the department of inspections and appeals.

"Division" means the division of health facilities.

"Health care facility" or "facility" means a nursing facility, a residential care facility, a residential care facility for persons with mental illness, or a residential care facility for persons with mental retardation.

"Provider" means a health care facility licensed by the department of inspections and appeals under Iowa Code chapter 135C.

"Quality-based inspection" means a nonstandard inspection to be conducted during the time period of July 1, 2000, through September 1, 2001. This quality-based inspection is not a substitute for the standard survey and will not be combined with a standard survey, complaint investigation or dependent adult abuse investigation. The quality-based inspection constitutes a review of the facility's efficiency and effectiveness and involves a review of identified performance criteria.

"Quality-based self-assessment form" means the form used by participating facilities to complete a quality-based self-assessment.

"Quality review report" means the findings of the department of inspections and appeals following a validation review.

"Standard survey" means an unannounced inspection performed every 30 months.

"Statement of deficiency" means a written statement of any administrative rule violations found during a survey.

"Validation review" means the department's on-site review to assess the accuracy of a provider's quality-based self-assessment.

481—66.2(135C) Participation. Participation in a quality-based inspection is limited to health care facilities which are licensed only by the state and are selected for participation by the department. The department shall select a facility based upon the facility's history of compliance, the facility's willingness to participate in such an inspection, and information collected during the two previous survey cycles. Facilities participating shall then receive a quality-based inspection in their first inspection to be performed during the time period of July 1, 2000, through September 1, 2001. Participation in a quality-based inspection does not relieve a facility of its obligation to operate in compliance with state law and rules.

481—66.3(135C) Self-assessment. The department will supply participating facilities with quality-based self-assessment forms. Participating facilities must annually complete a self-assessment based on quality management criteria and return the completed self-assessment to the department electronically or via the postal service within 30 calendar days after initial receipt. A participating facility that fails to submit a scheduled self-assessment shall be subject to a standard survey.

481—66.4(135C) Validation review. Within 30 calendar days of receiving the facility's self-assessment, the department will conduct a scheduled validation review. During the validation review, the department will apply the same quality management criteria used by the facility in the self-assessment. The validation review will include an assessment of those requirements fundamental to health, safety, welfare and rights of the persons served by the facility.

66.4(1) Following a participating facility's validation review, the department will submit to the facility a quality review report. The quality review report will examine findings in relation to the quality management criteria.

66.4(2) Following the receipt of the quality review report, each participating facility must submit an improvement plan within 30 calendar days.

66.4(3) A participating facility that fails to submit an improvement plan within 30 calendar days shall be subject to a standard survey.

481—66.5(135C) Program survey cycle. Participating facilities shall be subject to a standard survey not later than 30 months after the date of the previous standard survey.

66.5(1) The department shall develop a process for identifying the survey cycle for participating facilities licensed only by the state based upon the following:

- a. Compliance history of the facility.
- b. Facility's completed quality-based self-assessment.
- c. Information collected during the facility's previous two survey cycles.
- d. Deficiencies issued as a result of a survey or complaint investigation.
- e. Information obtained from facility residents and family members.
- f. Information obtained from facility employees.
- g. Information obtained from the state ombudsman.

66.5(2) The department shall provide public notice of the classification process and shall identify the selected survey cycles for each participating facility.

66.5(3) The department shall alter the survey cycle for a participating facility based on findings identified through the completion of:

- a. A survey.
- b. A validation review.
- c. A complaint investigation.

481—66.6(135C) The initiation of standard survey. The initiation of a standard survey out of a validation review must receive the consensus of the department's applicable program coordinator, bureau chief and division administrator. Upon administrative approval, the department shall conduct a standard survey as an extension of a validation review if a violation of health, safety, welfare, or rights of the residents is alleged.

481—66.7(135C) Statement of deficiencies. Within 10 calendar days of completing the standard survey, the department will mail a statement of deficiencies to the provider. Within 20 calendar days of receiving the statement of deficiencies, the provider must mail a plan of correction to the department. The plan of correction shall state how the provider will correct the deficient practices observed during the survey and address any system changes necessary to avoid future recurrence of the deficient practices.

481—66.8(135C) Training. The department, through quality-based inspection, shall expand training and educational efforts for the participating facilities, residents and family members, long-term care ombudsman, and the general public.

481—66.9(135C) Evaluation. The department shall develop a process for the evaluation of the effectiveness of the quality-based inspection program. The evaluation will be conducted annually and will be made available to the governor, the general assembly and the general public. Wherever possible, the information should be available via electronic means.

These rules are intended to implement 2000 Iowa Acts, chapter 1180.

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:

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, 2000 — September 30, 2000	8.00%
October 1, 2000 — October 31, 2000	7.75%
November 1, 2000 — November 30, 2000	7.75%
December 1, 2000 — December 31, 2000	7.75%

ARC 0343B

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 adopts amendments to Chapter 20, "Accelerated Career Education (ACE) Program," Iowa Administrative Code.

The amendments are in response to comments from the College Student Aid Commission. Community college representatives were consulted prior to the adoption of these amendments and concurred with the revisions.

The College Student Aid Commission administers the Career Education Grants portion of the Accelerated Career Education (ACE) Program. The Department administers the capital projects and tax credits components of the ACE program. These amendments are designed to ensure that the Department's ACE rules are compatible with the College Student Aid Commission's ACE rules.

Item 1 amends subrule 20.3(3) and specifies that a copy of the ACE program agreement must be submitted to the Department. The agreement shall state which of the three program components (capital projects, tax credits or education grants), or combination thereof, is included in the agreement.

Item 2 establishes a new Division IV, Accelerated Career Education Grants Component, and a new rule, 261—20.18(260G). The new rule states that the College Student Aid Commission administers the career education grants portion of the ACE program. The Department will report to the College Student Aid Commission those ACE programs which service demand occupations within targeted industries as designated by the Department in consultation with the Department of Workforce Development.

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 these amendments do not affect program eligibility; the amendments clarify the joint procedural steps the agencies will take to administer the programs. An emergency filing is necessary to coordinate the effective date of the Department's rules with the November 22, 2000, effective date of the Commission's ACE rules.

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 November 17, 2000. These amendments confer a benefit on the public by clarifying what is required to be in an agreement and how the Department's ACE program rules and the College Student Aid Commission's program rules interrelate.

The Department is taking the following steps to notify potentially affected parties of the effective date of the amendments: publishing the 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 IDEB Board adopted the amendments on November 16, 2000.

These amendments are intended to implement 2000 Iowa Acts, chapter 1225, and Iowa Code Supplement chapter 260G as amended by 2000 Iowa Acts, chapter 1196.

These amendments became effective on November 17, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule 20.3(3) as follows:

20.3(3) A copy of the designated ACE program agreement shall be submitted to the department. *The agreement shall state which of the three program components (capital projects, tax credits or education grants), or combination thereof, is included in the agreement.* The department will maintain a record of all approved ACE programs.

ITEM 2. Adopt new Division IV and rule 261—20.18(260G) as follows:

DIVISION IV

ACCELERATED CAREER EDUCATION GRANTS COMPONENT

261—20.18(260G) ACE program serving demand occupations. The college student aid commission administers the career education grants portion of the ACE program. The department will report to the college student aid commission those ACE programs which service demand occupations within targeted industries as designated by the department in consultation with the workforce development department.

[Filed Emergency 11/17/00, effective 11/17/00]

[Published 12/13/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/13/00.

ARC 0342B

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 adopts amendments to Chapter 42, "Rural Resource Coordination Programs for Fire Services," Iowa Administrative Code.

Item 1 amends subrule 42.3(3) and clarifies that documentation of local match is required. Item 2 amends rule 261—42.7(78GA,chs1225,1230) and permits recipients to receive payment of 50 percent of the funds upon the execution of a contract between the recipient and the Department. The amendments confer a benefit upon program recipients by allowing access to recipient grant awards immediately upon completion of an executed contract with the Iowa Department of Economic Development.

In compliance with Iowa Code section 17A.4(2), the Department finds that public notice and participation are impracticable and contrary to the public interest because the distribution of program funds would be unduly delayed. The program is ready to proceed and timely award is an advantage to potential grant recipients.

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 rules be made effective on November 17, 2000. These amendments confer a benefit on the public by allowing immediate availability of grant funds to recipients upon completion of a contract with the Department.

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

The IDED Board adopted these amendments on November 16, 2000.

The Department is taking the following steps to notify potentially affected parties of the effective date of the rule: publishing the final 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.

These amendments are intended to implement Iowa Code section 15.108(3) and 2000 Iowa Acts, chapter 1225, section 4, subsection 3, and 2000 Iowa Acts, chapter 1230, section 1, subsection 3, paragraph "c."

These amendments became effective on November 17, 2000.

The following amendments are adopted.

ITEM 1. Amend subrule 42.3(3) as follows:

42.3(3) All applicants must provide *documentation of 25 percent local match* for the project. Match may be cash, in-kind services or a combination of the two.

ITEM 2. Amend rule 261—42.7(78GA,chs1225,1230) as follows:

261—42.7(78GA,chs1225,1230) Disbursement of funds. Upon the execution of a contract between the award recipient and the Iowa department of economic development, ~~recipients may request funds on a reimbursement basis for funds awarded under the Response 2020 program. For funds awarded to dry hydrant projects,~~ 50 percent of the funds may be paid in advance of completed work activities subject to approval by the department of revenue and finance. Remaining funds *for the dry hydrant portion of the program* will be paid by the Iowa department of economic development upon receipt of the following: certification of training, proof of installation, and submission of a work plan to maintain the dry hydrants. *Remaining funds for the Response 2020 portion of the program will be paid by the Iowa department of economic development upon completion of the project.*

ITEM 3. Amend **261—Chapter 42**, implementation clause, as follows:

These rules are intended to implement Iowa Code section 15.108(3) (3) and 2000 Iowa Acts, ~~Senate File 2453 chapter 1225, section 4, subsection 3, and 2000 Iowa Acts, Senate File 2428 chapter 1230, section 1, subsection 3, paragraph "c."~~

[Filed Emergency 11/17/00, effective 11/17/00]

[Published 12/13/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/13/00.

ARC 0348B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 455B.200, the Environmental Protection Commission hereby amends Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

This amendment extends until July 1, 2002, the period during which the owner of a confinement feeding operation may remove and apply manure from a manure storage structure in accordance with a manure management plan that has been submitted but not yet approved by the Department of Natural Resources.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are impracticable because many owners of confinement feeding operations need to land apply manure during the winter and early spring months; normal rule-making procedures would preclude land application after December 31, 2000, until the proposed amendment could become effective. Notice and public participation are also contrary to the public interest in that a delay in extending the manure application date may result in overflow from manure storage structures and other improper manure disposal practices.

In compliance with Iowa Code section 17A.5(2)"b"(2), the Commission finds that this amendment confers a benefit on a portion of the public and that the normal effective date of the amendment should be waived and this amendment should be made effective upon filing on November 22, 2000.

This amendment is intended to implement Iowa Code section 455B.203.

This amendment became effective November 22, 2000.

The following amendment is adopted.

Amend subrule 65.16(3) as follows:

65.16(3) Manure shall not be removed from a manure storage structure, which is part of a confinement feeding operation required to submit a manure management plan, until the department has approved the plan. As an exception to this requirement, until ~~December 31, 2000~~ *July 1, 2002*, the owner of a confinement feeding operation may remove and apply manure from a storage structure in accordance with a manure management plan which has been submitted to the department, but which has not been approved within the required 60-day period. Manure shall be applied in compliance with rule 65.2(455B).

[Filed Emergency 11/22/00, effective 11/22/00]

[Published 12/13/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/13/00.

ARC 0347B**BANKING DIVISION[187]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 524.213, the Banking Division of the Commerce Department hereby adopts Chapter 3, "Examinations," Iowa Administrative Code.

The new chapter clarifies which examination reports may satisfy the statutory examination requirements for state chartered banks set forth in Iowa Code section 524.217(1)"a."

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 18, 2000, as **ARC 0200B**. A public hearing was held on November 7, 2000, at 10 a.m. in the Banking Division Conference Room at 200 East Grand Avenue, Suite 300, Des Moines, Iowa. No parties attended the public hearing and no written comments were received prior to the hearing. This amendment is identical to the amendment published under Notice of Intended Action.

The new chapter does not provide for waivers in specified situations because the requirement that a bank be examined at least once in every two-year period is statutory and cannot be waived.

This amendment is intended to implement Iowa Code section 524.217.

This amendment will become effective January 17, 2001.

The following **new** chapter is adopted.

**CHAPTER 3
EXAMINATIONS**

187—3.1(524) Satisfaction of examination requirements. The requirement for an examination of state-chartered banks at least once during each two-year period set forth in Iowa Code section 524.217(1)"a" may be satisfied by an examination conducted by the banking division, the Federal Deposit Insurance Corporation, or the Federal Reserve System when such examinations address the statutory requirements of Iowa Code section 524.217(1)"a."

This rule is intended to implement Iowa Code section 524.217.

[Filed 11/22/00, effective 1/17/01]

[Published 12/13/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/13/00.

ARC 0349B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby rescinds Chapter 81, "Public Water Supply Systems and Wastewater Treatment Plants," and adopts new Chapter 81, "Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 14, 2000, as **ARC 9886A**. Six

public hearings were held, with notice of the hearings sent to various individuals, organizations, associations, and interest groups. In addition, written comments were accepted through July 26, 2000. Forty-three individuals or organizations provided comments during the public comment period and these comments have been addressed in a responsiveness summary. A copy of the responsiveness summary may be obtained from the Department of Natural Resources.

The adopted rules have been modified from those published under Notice of Intended Action. Modifications include a new chapter title, citation corrections, adding subrule titles, reinstating an inadvertently omitted subrule on upgrading certificates, the addition of tables for the conversion of existing certificates, phasing in the elimination of the double credit for post-high school education, and requiring that CEUs be earned in both water treatment and water distribution. Specific changes made in response to comments received are detailed in the responsiveness summary.

This amendment was adopted by the Environmental Protection Commission on November 20, 2000.

These rules are intended to implement Iowa Code sections 455B.211 to 455B.224 and chapter 272C.

These rules will become effective January 17, 2001.

The following amendment is adopted.

Rescind **567—Chapter 81** and adopt the following **new** Chapter 81 in lieu thereof:

**CHAPTER 81
OPERATOR CERTIFICATION:
PUBLIC WATER SUPPLY SYSTEMS AND
WASTEWATER TREATMENT SYSTEMS**

567—81.1(455B) Definitions. In addition to the definitions in Iowa Code section 455B.211, the following definitions shall apply to this chapter.

"Activated sludge" means a biological wastewater treatment process in which a mixture of wastewater and sludge floc, produced in a raw or settled wastewater by the growth of microorganisms, is agitated and aerated in the presence of a sufficient concentration of dissolved oxygen, followed by sedimentation.

"Aerated lagoon system" means a lagoon system which utilizes aeration to enhance oxygen transfer and mixing in the cell.

"Aeration" means the process of initiating contact between air and water. This definition includes but is not limited to: spraying the water in the air, bubbling air through the water, or forcing the air into the water by pressure.

"Average daily pumpage" means the total quantity of water pumped during the most recent one-year period of record divided by 365 days.

"Chlorination" means the addition of a chlorine compound or chlorine gas to water to inactivate pathogenic organisms.

"Classification" means the type of plant or distribution system: wastewater treatment plants, water treatment plants, or water distribution systems.

"Coagulation" means a process using coagulation chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

"Community water system (CWS)" means a public water supply system which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Continuing education unit (CEU)" means ten contact hours of participation in an organized education experience

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

approved by an accredited college, university, technical institute, or issuing agency, or by the department, and must be directly related to the subject matter of the particular certificate to which the credit is being applied.

“Directly related post-high school education” means post-high school education in chemistry, microbiology, biology, math, engineering, water, wastewater, or other curriculum pertaining to plant and distribution system operation.

“Director” means the director of the department of natural resources or a designee.

“Direct responsible charge (DRC)” means, where shift operation is not required, accountability for and performance of active, daily on-site operation of the plant or distribution system, or of a major segment of the plant or distribution system. Where shift operation is required, “direct responsible charge” means accountability for and performance of active, daily on-site operation of an operating shift, or a major segment of the plant or distribution system. A city manager, superintendent of public works, city clerk, council member, business manager, or other administrative official shall not be deemed to have direct responsible charge of a plant or distribution system unless this person’s duties include the active, daily on-site operation of the plant or distribution system. On-site operation may not necessarily mean full-time attendance at the plant or distribution system.

“Direct surface water filtration” means a water treatment system that applies surface water and groundwater under the influence (influenced groundwater as defined in rule 567—40.2(455B)) directly to the filters after chemical treatment consisting of coagulation and flocculation or chemical treatment consisting of coagulation. This type of system eliminates the sedimentation unit process.

“Disinfection” means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

“Electrodialysis” means the demineralization of water by the removal of ions through special membranes under the influence of a direct-current electric field.

“Fixed film biological treatment” means a treatment process in which wastewater is passed over a media onto which are attached biological organisms capable of oxidizing the organic matter, normally followed by sedimentation. This definition includes but is not limited to: trickling filters, rotating biological contactors, packed towers and activated filters.

“Fluoridation” means the addition of fluoride to produce the optimum fluoride concentration in water.

“Grade” means one of seven certification levels, designated as A, I, IL, II, IIL, III, or IV.

“Ion exchange” means the process of using ion exchange materials such as resin or zeolites to remove undesirable ions from water and substituting acceptable ions, for example, ion exchange for nitrate removal or ion exchange for softening.

“Issuing agency” means a professional, technical/educational organization authorized by the department to provide continuing education for certification renewal or upgrade in accordance with the commitments and guidelines detailed in the written issuing agency agreement and procedures.

“Nontransient noncommunity water system (NTNC)” means a public water system other than a community water system which regularly serves at least 25 of the same persons four hours or more per day for four or more days per week for 26 or more weeks per year.

“Operator-in-charge” means person or persons on site in direct responsible charge for a plant or distribution system. A city manager, superintendent of public works, city clerk, council member, business manager, or other administrative official shall not be deemed to be the operator-in-charge of a plant or distribution system unless this person’s duties include the active, daily on-site operation of the plant or distribution system. On-site operation may not necessarily mean full-time attendance at the plant or distribution system.

“Plant” means those facilities which are identified as either a water treatment plant or wastewater treatment plant as defined in Iowa Code section 455B.211.

“Population equivalent” for a wastewater treatment plant means the calculated number of people which would contribute the same biochemical oxygen demand (BOD) per day as the system in question, assuming that each person contributes 0.167 pounds of five-day, 20°C, BOD per day.

“Post-high school education” means credit received for completion of courses given or cosponsored by an accredited college, university, technical institute, or issuing agency. Courses offered by regulatory agencies may also be recognized as post-high school education. One year of post-high school education is 30 semester hours or 45 quarter hours or 45 CEUs of credit.

“Primary treatment” means a treatment process designed to remove organic and inorganic settleable solids from wastewater by the physical process of sedimentation.

“Public water system certificate” means a certificate issued by the department certifying that an operator has successfully completed the certification requirements of this chapter. The certificate specifies the grades and classifications for which the certificate is valid.

“Reverse osmosis” means the process in which external pressure is applied to mineralized water against a semipermeable membrane to effectively reduce total dissolved solids (TDS) and radionuclides content as the water is forced through the membrane.

“Rural water district” means a water supply incorporated and organized as such pursuant to Iowa Code chapter 357A or 504A.

“Stabilization” means the addition of chemical compounds to water to maintain an ionic equilibrium whereby the water is not in a depository or corrosive state.

“Waste stabilization lagoon” means an excavation designed and constructed to receive raw or pretreated wastewater in which stabilization is accomplished by several natural self-purification processes. This definition includes both anaerobic and aerobic lagoons.

“Wastewater treatment plant” means the facility or group of units used for the treatment of wastewater from public sewer systems and for the reduction and handling of solids removed from such wastes.

“Water distribution system” means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer, including storage facilities and pumping stations. For the purposes of this chapter, a water distribution system does not include individual service lines to the premises of the consumer, which are not under the control of the system.

“Water supply system” means the system of pipes, structures, and facilities through which water for a public water supply is obtained, treated, sold or distributed for human consumption or household use.

“Water treatment plant” means that portion of the water supply system which in some way alters the physical, chemical, or microbiological quality of the water.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

567—81.2(455B) General.

81.2(1) Plant grade for system with multiple treatment processes. A plant having a combination of treatment processes that are in different grades shall be assigned the highest numerical plant grade of that combination.

81.2(2) Increase in facility grade for complex systems. The director may increase a plant or water distribution system grade above that indicated in rules 81.3(455B) to 81.6(455B) for those systems which in the judgment of the director include unusually complex treatment processes, complex distribution systems, or which present unusual operation or maintenance conditions.

81.2(3) Operator-in-charge certification requirement. The operator-in-charge shall hold a certificate of the same classification of the plant or water distribution system and of equal or higher grade than the grade designated for that plant or distribution system.

81.2(4) Shift operator certification. Any person who is responsible for the operation of an operating shift of a plant or distribution system or major segment of the plant or distribution system and is under the supervision of the operator-in-charge identified in 81.2(3) shall be certified in a grade no less than a Grade II level for Grade III and IV plants and distribution systems and Grade I for Grade I and II plants and distribution systems.

81.2(5) Public water system certificate requirement. The operator who is designated by the owner to be the operator-in-charge of both the water treatment plant and the water dis-

tribution system shall hold a public water system (PWS) certificate valid for water treatment and water distribution in accordance with 81.2(3) and 81.2(6).

81.2(6) PWS certificate. A PWS certificate shall be issued to an operator successfully completing water treatment or water distribution certification. The PWS certificate shall specify the grade and classification for which the certificate is valid. An operator successfully completing both water treatment and water distribution certification shall be issued a PWS certificate valid for both classifications. For purposes of renewal, all renewal fees and CEU requirements shall be applied as one certification. The number of CEUs required shall be determined by the highest certification grade on the operator's public water system certificate.

81.2(7) PWS certificate issuance. An operator who holds a valid water treatment or water distribution certificate on March 31, 2001, and who renews the certificate for the July 1, 2001, through June 30, 2003, renewal period shall be issued a PWS certificate as follows:

a. Grades I and II water treatment certificate holder. A Grade I or II water treatment certificate holder shall be issued a PWS certificate valid for the appropriate water treatment and water distribution classifications providing that the certificate holder requests the water distribution certification and certifies on the renewal application that the certificate holder has at least one year of distribution experience. The following table shows the appropriate conversion.

Operator Certification Conversion for Water Treatment Certifications for Grades I and II

Current Certificate Type*	Current Certificate Grade*	New WT Grade	WD certification requested by operator?	Did operator certify at least one year of WD experience?	New WD Certification
WT	I	I	Yes	Yes	Grade II
				No	Grade I
WT	II	II	Yes	Yes	Grade III
				No	Grade II

*As of March 31, 2001.

WT = Water Treatment

WD = Water Distribution

b. Grade III and IV water treatment certificate holder. A Grade III or IV water treatment certificate holder shall be issued a PWS certificate valid for the appropriate water treatment and water distribution classifications providing that the certificate holder requests the distribution system certification on the renewal application and certifies on the renewal application that the certificate holder has at least two years of operating experience in a water distribution system. The following table shows the appropriate conversion.

Operator Certification Conversion for Water Treatment Certifications for Grades III and IV

Current Certificate Type*	Current Certificate Grade*	New WT Grade	WD certification requested by operator?	Did operator certify one year of direct responsible charge?	Did operator certify at least two years of WD experience?	New WD Certification
WT	III	III	Yes	Yes	Yes	Grade IV
				No	No	Grade III
WT	IV	IV	Yes	Yes	Yes	Grade IV
				No	Yes	Grade III

*As of March 31, 2001.

WT = Water Treatment

WD = Water Distribution

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

c. Water distribution certificate holder. A water distribution certificate holder shall be issued a PWS certificate valid for the appropriate water distribution classification as listed in the following table:

Operator Certification Conversion for Water Distribution Certifications

Current Certificate Type*	Current Certificate Grade*	WD experience?	New WD Certification
WD	I	Yes	Grade II
WD	II	Yes	Grade III
WD	III	Yes	Grade IV

*As of March 31, 2001.
WD = Water Distribution

d. PWS certificate renewal. Upon renewal of the operator's certificate in accordance with the criteria of this subrule, the operator shall be issued a PWS certificate. For purposes of renewal, all renewal fees and CEU requirements shall be applied as one certification. The number of CEUs required shall be determined by the highest certification grade on the operator's PWS certificate.

81.2(8) Notification requirements for a personnel change in the operator-in-charge. The owner of a plant or distribution system must notify the department of a change in operator(s)-in-charge within 30 days after the change.

81.2(9) Change of address or employment. Certified operators must report to the department a change in address or employment within 30 days after the change.

81.2(10) Owner reporting requirements. All owners of plants and distribution systems must report, when requested by the department, the method of treatment provided, the average daily pumpage, and the operator(s)-in-charge.

81.2(11) Compliance plan. When the director allows the owner of a plant or distribution system required to have a certified operator time to obtain an operator, the owner must submit a compliance plan indicating what action will be taken to obtain a certified operator. The plan must be on Form 52, Compliance Plan 542-3120, provided by the department and must be submitted within 30 days of the facility owner's receipt of a notice of violation.

567—81.3(455B) Wastewater treatment plant grades.

81.3(1) Classifications. The wastewater treatment plant classifications are listed in the following table:
Wastewater Treatment Plant Classifications

Treatment Type	Grade				
	Based on Design Pounds of BOD ₅ /day				
	less than 334	334-835	836-2,505	2,506-8,350	more than 8,350
	Based on Design Population Equivalent				
	less than 2,000	2,000-5,000	5,001-15,000	15,001-50,000	more than 50,000
1. Primary Treatment	I	I	II	III	IV
2. Waste Stabilization Lagoon	IL	IL	IL	IL	IL
3. Aerated Lagoon System	IL	IL	IIL	IIL	IIL
4. Fixed Film Biological Treatment	II	II	III	III	IV
5. Activated Sludge	II	III	III	IV	IV

81.3(2) Unknown design BOD₅ loading. When the design BOD₅ loading is unknown, the plant BOD₅ loading shall be determined by using the average pounds of BOD₅ of the 24-hour composite samples taken in the last 12 months. If no 24-hour composite samples were taken, then grab samples shall be used.

81.3(3) IL and IIL wastewater operator requirements. A Grade I, II, III, or IV wastewater treatment certificate will satisfy the certification requirements for a Grade IL plant. A Grade II, III, or IV wastewater treatment certificate will satisfy the certification requirements for a Grade IIL plant.

567—81.4(455B) Water treatment plant grades.

81.4(1) Classifications. The water treatment plant classifications are listed in the following table:
Water Treatment Plant Classifications

Treatment Type	Grade*			
	Average Daily Pumpage in MGD			
	0-0.1	>0.1-0.5	>0.5-1.5	>1.5
1. Iron or manganese removal; aeration; chlorination; fluoridation; stabilization; any other chemical addition; or any combination of these processes	I	II	II	III
2. Ion exchange	II	II	III	III
3. Direct surface water filtration	II	II	III	III

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Treatment Type	Grade*			
	Average Daily Pumpage in MGD			
	0-0.1	>0.1-0.5	>0.5-1.5	>1.5
4. Utilization of lime, soda ash or other chemical addition for pH adjustment in the precipitation and coagulation of iron or manganese	II	II	III	III
5. Complete surface water clarification or lime softening of surface water or groundwater	III	III	III	IV
6. Reverse osmosis and electrodialysis	II	II	III	IV
7. Activated carbon for THM or synthetic organics removal	III	III	III	IV

*For Grade A water supply classification, see subrule 81.6(1).

81.4(2) Average daily pumpage. When the average daily pumpage is unknown, the plant grade will be determined from the population of the most recent census and an evaluation of commercial, industrial, and other users.

567—81.5(455B) Water distribution system grades.

81.5(1) Classifications. The water distribution plant classifications are listed in the following table:

Water Distribution System Classifications*

System Type	Grade**			
	Average Daily Pumpage in MGD			
	0-0.1	>0.1-1.5	>1.5-5	>5
All municipal water systems	I	II	III	IV
Community water systems not classified as a Grade A water system	I	II	III	IV
Nontransient noncommunity water systems not classified as a Grade A water system	I	II	III	IV
Rural water districts	Miles of Pipe			
	0-100	>100-1,000	>1,000-2,500	>2,500
	II	II	III	IV

*Note: A public water system with a well, storage, and a distribution system shall be classified as a water distribution system if no treatment is provided.

**For Grade A water system classification, see subrule 81.6(1).

81.5(2) Average daily pumpage. When the average daily pumpage is unknown, the system grade will be determined from the population of the most recent census and an evaluation of commercial, industrial, and other users.

81.5(3) IR certificate holders. Operators with a IR certificate issued before July 1, 1999, may be issued a Grade I water distribution certificate restricted to the specific system(s) at which the IR certificate holder has been designated as the operator-in-charge. No fee or examination shall be required for the reclassification. The certificate issued shall be subject to renewal, continuing education requirements, and all other provisions of this chapter.

567—81.6(455B) Grade A classification.

81.6(1) Grade A water system classification.

a. Community water system. A community water system, other than a municipal or rural water system, which serves a population of 250 persons or less and provides no treatment other than hypochlorination or treatment which does not require any chemical addition, process adjustment, backwashing or media regeneration by an operator shall be classified as a Grade A water system.

b. Nontransient noncommunity water system. A nontransient noncommunity water system which serves a population of 500 persons or less and provides no treatment other than hypochlorination or treatment which does not require

any chemical addition, process adjustment, backwashing or media regeneration by an operator shall be classified as a Grade A water system.

81.6(2) Certification requirements for Grade A water systems. Any grade of water treatment certification will satisfy the certification requirements for a Grade A water system with hypochlorination. Any grade of water distribution certification will satisfy the certification requirements for a Grade A water system without hypochlorination.

567—81.7(455B) Operator education and experience qualifications.

81.7(1) Education and experience requirements. All applicants shall meet the education and experience requirements for the grade of certificate shown in the table below prior to being allowed to take the examination. Experience shall be in the same classification for which the applicant is applying except that partial credit may be given in accordance with 81.7(2) and 81.7(3). Directly related post-high school education shall be in the same subject matter as the classification in which the applicant is applying. Directly related post-high school education will be granted education credit 2.0 times the number of semester, quarter or CEU credits until January 1, 2006. The director will determine which courses qualify as "directly related" in cases which are not clearly defined.

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Operator Education and Experience Qualifications

Grade	Education	Substitution for Education	Experience	Substitution for Experience
A	High school diploma or GED	None	Completion of an IDNR-approved training course	None
I	High school diploma or GED	None	1 year	See 81.7(3)"b"(1), (3) to (5)
II	High school diploma or GED	None	1 year	See 81.7(3)"b"(1), (3) to (5)
II	High school diploma or GED	None	3 years	See 81.7(3)"b"(2) to (5)
III	High school diploma or GED	None	3 years	See 81.7(3)"b"(2) to (5)
III	High school diploma or GED and 2 years of post-high school education (1 year must be directly related)	See 81.7(3)"a"(1), (3)	4 years of experience in a Grade I or higher	See 81.7(3)"b"(2), (3)
IV	High school diploma or GED and 4 years of post-high school education (2 years must be directly related)	See 81.7(3)"a"(2), (3)	4 years of experience including 2 years of DRC in a Grade III or higher	See 81.7(3)"b"(2), (3) and 81.7(3)"c"

81.7(2) Related work experience. The following substitutions of related work experience for operating experience requirements may be accepted by the director.

a. Laboratory personnel. Laboratory personnel employed in water or wastewater treatment plants may be allowed 50 percent credit for work experience toward meeting the operating experience requirements for Grades I and II certification only. Laboratory experience must be in the same classification for which the applicant is applying.

b. Oversight personnel. Personnel with experience in on-site operation review and evaluation of plants and distribution systems may be allowed 50 percent credit for on-site work experience toward meeting the operating experience requirements for Grades I and II certification only. On-site experience must be in the same classification for which the applicant is applying.

c. Maintenance personnel. Maintenance personnel employed in water or wastewater treatment plants may be allowed 50 percent credit for work experience toward meeting the operating experience requirements for Grades I and II certification only. Maintenance experience may be applied either to the water or to the wastewater experience requirements.

d. Certified operators.

(1) Certified water treatment operators may be allowed 50 percent credit for work experience toward meeting the operating experience requirements for Grades I and II wastewater treatment certification only.

(2) Certified wastewater treatment operators may be allowed 50 percent credit for work experience toward meeting the operating experience requirements for Grades I and II water treatment certification only.

(3) Certified water treatment operators may be allowed 50 percent credit for work experience toward meeting the operating experience requirements for Grades I and II water distribution certification only.

(4) Certified water distribution operators may be allowed 50 percent credit for work experience toward meeting the operating experience requirements for Grades I and II water treatment certification only.

e. Limitation. The portion of related work experience that is substituted for operating experience cannot also be used to substitute for education.

81.7(3) Experience and education substitutions. The following substitutions for experience or education may be accepted by the director.

a. Substitution of experience for education.

(1) One year of operating experience in a Grade II or higher position may be substituted for one year of post-high school education for Grade III certification up to one-half the post-high school education requirement.

(2) One year of operating experience in a Grade III or higher position may be substituted for one year of post-high school education for Grade IV certification up to one-half the post-high school education requirement.

(3) That portion of experience which is applied toward substitution for education cannot also be used for experience.

b. Substitutions of education for experience.

(1) Two semester hours or three quarter hours or three CEUs of directly related post-high school education may be substituted for one-half the experience requirement for Grades I and II.

(2) Thirty semester hours or 45 quarter hours or 45 CEUs of post-high school education may be substituted for one year of experience up to a maximum of one-half the experience requirement for Grades II, IIL, III and IV.

(3) That portion of education which is applied toward substitution for experience cannot also be used for education.

(4) Class hours involving closely supervised on-the-job type training in a pilot or full-scale facility where there are clearly defined educational objectives may be applied to the on-the-job experience requirement. The substitution value of such training shall be applicable only toward obtaining a Grade I and Grade II certification and shall not exceed one-half year of on-the-job experience. One hour of on-the-job training is equivalent to three hours of on-the-job experience. One month of on-the-job training consists of 20 eight-hour days. Credit for on-the-job training may be applied only to the examination for the type of system in which the experience was obtained.

(5) That portion of on-the-job training courses which is applied toward substitution for the on-the-job experience requirement cannot also be used for education.

c. Substitution of education for direct responsible charge experience. Thirty semester hours or 45 quarter hours or 45 CEUs of directly related post-high school education may be substituted for one year of direct responsible charge experience up to one-half the requirement for Grade IV certification.

567—81.8(455B) Certification and examination fees.

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81.8(1) Examination fee. The examination fee for each examination shall be \$30.

81.8(2) Oral examination fee. The oral examination fee for each oral examination shall be \$90.

81.8(3) Reciprocity application fee. The reciprocity application fee for each type of classification shall be \$30.

81.8(4) Certification fee. The certification fee shall be \$20 for each one-half year of a two-year period from the date of issuance to June 30 of odd-numbered years.

81.8(5) Renewal fee. The certification renewal fee shall be \$60.

81.8(6) Penalty fee. The certification and renewal penalty fee shall be \$18.

81.8(7) Duplicate certificate fee. The duplicate certificate fee shall be \$20.

81.8(8) Temporary certificate fee. The temporary certificate fee shall be \$60.

81.8(9) Fee adjustments. The department may adjust the fees annually by up to plus or minus 20 percent to cover costs of administering and enforcing these rules and reimbursement for other expenses relating to operator certification. The environmental protection commission must approve any fee increases above those listed in 81.8(1) through 81.8(8). All fees collected shall be retained by the department for administration of the operator certification program.

567—81.9(455B) Examinations.

81.9(1) Examination application. All persons wishing to take the examination required to become a certified operator of a wastewater or water treatment plant or a water distribution system shall complete the Operator Certification Examination Application, Form CFN-542-3118/CPG-63997. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate educational background, training and past experience in water or wastewater operation. The completed application and examination fee shall be sent to Iowa Department of Natural Resources, Operator Certification, 502 East Ninth, Des Moines, Iowa 50319-0034. The completed application and examination fee must be received by the department at least 30 days prior to the date of examination.

81.9(2) Application evaluation. The director shall designate department personnel to evaluate all applications for examination, certification, and renewal of certification and upgrading of certification. The director will review applications when it is indicated the applicant has falsified information or when questions arise concerning an applicant's qualifications of eligibility for examination or certification.

81.9(3) Application expiration. A properly completed application for examination shall be valid for one year from the date the application is approved by the department. An applicant may request only one class and grade of examination with each application. A new application shall be required with each different class or grade of examination desired by the applicant.

81.9(4) Refund of examination fee. An applicant who does not qualify for examination at the time of application will have the examination fee refunded if the applicant cannot qualify for examination within one year. If the applicant will qualify for a scheduled examination within one year, the applicant will be notified when the examination may be taken and the fee will not be refunded.

81.9(5) Reexamination. Upon failure of the first examination, the applicant may be reexamined at the next scheduled examination. Upon failure of the second ex-

amination, the applicant shall be required to wait a period of 180 days between each subsequent examination.

81.9(6) Reexamination fee. Upon each reexamination when a valid application is on file, the applicant shall submit the examination fee to the department at least ten days prior to the date of examination.

81.9(7) Application invalidation. Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

81.9(8) Retention of completed examinations. Completed examinations will be retained by the director for a period of one year after which they will be destroyed.

81.9(9) Oral examination. Upon written request by an applicant for Grade A, I, IL, II or IIL certification, the director will consider the presentation of an oral examination on an individual basis when the plant or distribution system which employs the applicant is not in compliance with Iowa Code section 455B.113; the applicant has failed the written examination at least twice; the applicant has shown difficulty in reading or understanding written questions but may be able to respond to oral questioning; the applicant is capable of communicating in writing with regard to departmental requirements and inquiries; and the director has received a written recommendation for an oral examination from a department staff member attesting to the operational and performance capabilities of the applicant. The director shall designate department personnel to administer the examination. The examination shall contain practical questions pertaining to the operation of the plant or distribution system in which the applicant is employed. Certificates issued to operators through oral examinations shall be restricted to the plant or distribution system where the operator is employed at the time of certification.

81.9(10) Reasonable accommodation. Upon request for certification by an applicant, the director will consider on an individual basis reasonable accommodation to allow administration of the examination without discrimination on the basis of disability. The applicant shall request the accommodation 30 days prior to the date of the examination. The applicant must provide documentation of eligibility for the accommodation. Documentation shall be submitted with the completed examination application. Accommodations based on documentation may include site accessibility, oral examination, extended time, separate testing area, or other concerns.

567—81.10(455B) Certification by examination.

81.10(1) Examination requirement. All applicants not addressed for certification in 81.11(1) shall successfully complete and pass an examination prior to receiving certification.

81.10(2) Certification application time line. Application for certification must be received by the department within 30 days of the date the applicant receives notification of successful completion of the examination. All applications for certification shall be made on a form provided by the department and shall be accompanied by the certification fee.

81.10(3) Late certification application. Applications for certification by examination which are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days' notice of successful completion of the examination will not be certified on the basis of that examination.

567—81.11(455B) Certification by reciprocity.

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81.11(1) Other states' mandatory certification programs. For applicants who have been certified under other states' mandatory certification programs, the equivalency of which has been previously reviewed and accepted by the department, certification in an appropriate classification and grade, without examination, will be recommended. The applicant must have successfully completed an examination generally equivalent to the Iowa examination and must meet the education and experience qualifications established by the director.

81.11(2) Other states' voluntary certification programs. For applicants who have been certified under voluntary certification programs in other states, certification in an appropriate class will be considered. The applicant must have successfully completed an examination generally equivalent to the Iowa examination and must meet the education and experience qualifications established by the director. The director may require the applicant to successfully complete the Iowa examination.

81.11(3) Reciprocity application. Applicants who seek Iowa certification pursuant to subrule 81.11(1) or 81.11(2) shall submit an application for examination accompanied by a letter requesting certification pursuant to these subrules. Application for certification pursuant to 81.11(1) and 81.11(2) shall be received by the director in accordance with these subrules.

567—81.12(455B) Restricted and temporary certification.

81.12(1) Restricted certification. Upon written request by an operator, the director may determine that further education requirements be waived when a plant or distribution system grade has been increased and the operator has been in direct responsible charge of the existing plant or distribution system. An operator successfully completing the examination will be restricted to that plant or distribution system until the education requirements are met.

81.12(2) Temporary certification. Upon written request by the owner of a plant or system not previously required to have a certified operator, the director may issue a temporary certificate of the appropriate grade and classification to the operator(s)-in-charge. The temporary certificate holder will be restricted to that plant or distribution system until all certification requirements, in accordance with rules 81.6(455B), 81.8(455B) and 81.9(455B), are met. The temporary certificate is not renewable and will expire 24 months after issuance. No temporary certificates will be issued to operators of new water plants or distribution systems, as defined in 567—subrule 43.8(1).

567—81.13(455B) Certification renewal.

81.13(1) Renewal period. All certificates shall expire on June 30 of odd-numbered years and must be renewed every two years in order to maintain certification.

81.13(2) Application for renewal. An application for renewal will be mailed to currently certified operators prior to the expiration date of their certificates. Application for renewal must be made in accordance with this rule and the instructions on the form in order to renew the certificate for the next two years. Application for renewal of a certificate without penalty must be received by the director or postmarked prior to the expiration of the certificate, and shall be accompanied by the certification renewal fee.

81.13(3) Late application. A late application for renewal of a certificate may be made provided that the application is received by the director or postmarked within 60 days of the expiration of the certificate on forms provided by the depart-

ment. Such late application shall be accompanied by the penalty fee and the certification renewal fee.

81.13(4) Failure to renew. If a certificate holder fails to renew within 60 days following expiration of the certificate, the right to renew the certificate is automatically terminated. Certification may be allowed at any time following such termination, provided that the applicant successfully completes an examination. The applicant must then apply for certification in accordance with 81.10(455B).

81.13(5) Expired certificate. An operator may not continue as the operator-in-charge of a plant, distribution system, operating shift, or major segment of the plant or distribution system after expiration of a certificate unless the certificate is renewed.

567—81.14(455B,272C) Continuing education.

81.14(1) CEU requirements. Continuing education must be earned during two-year periods between April 1 and March 31 of odd-numbered years. A Grade III or IV certified operator must earn two units or 20 contact hours per certificate during each two-year period. All other certified operators must earn one unit or 10 contact hours per certificate during each two-year period. Newly certified operators (previously uncertified) who become certified after April 1 of a two-year period will not be required to earn CEUs until the next two-year period. If an operator upgrades a certificate after April 1 of a two-year period and that upgrade increases the CEU requirement, the operator will not be required to meet the higher CEU requirement until the next two-year period but must fulfill the lower CEU requirement for that period. For those certified operators holding both a water treatment and a water distribution certification, no more than 75 percent of the required CEUs may be earned in any one area.

81.14(2) Certificate renewal. Only those operators fulfilling the continuing education requirements before the end of each two-year period (March 31) will be allowed to renew their certificate(s). The certificate(s) of operators not fulfilling the continuing education requirements shall expire on June 30 of the applicable biennium.

81.14(3) CEU approval. All activities for which continuing education credit will be granted must be approved by an accredited college, university, technical institute, or issuing agency, or by the department, and must be directly related to the subject matter of the particular certificate to which the credit is being applied.

81.14(4) CEU extensions. The director may, in individual cases involving hardship or extenuating circumstances, grant an extension of up to three months within which the certified operator may fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator which prevent attendance at the required activities. All requests for extensions must be made prior to March 31 of each biennium.

81.14(5) CEU reporting. It is the certified operator's personal responsibility to maintain a written record and to notify the department of the continuing education credit earned during the period. The continuing education credits earned during the period shall be listed on the application for renewal.

567—81.15(455B) Upgrading of certificates. A person holding an unexpired certificate may upgrade the certificate by examination to a higher grade in the same classification in accordance with 81.7(455B), 81.9(455B) and 81.10(455B). The expiration date of the upgraded certificate shall be the

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same as the unexpired certificate. A person who upgrades a certificate during the biennium must also renew the upgraded certificate in accordance with 81.13(455B) and 81.14(455B, 272C) to maintain the person's certification.

567—81.16(455B) Operator by affidavit.

81.16(1) Affidavit allowance. The owner of a plant or distribution system that is required to have a Grade A, I, II, III, IV certified operator may sign an affidavit with a certified operator of the required classification and grade.

81.16(2) Affidavit requirements. This affidavit will verify that the certified operator is the operator-in-charge and has direct responsibility for a plant or distribution system that does not have first rights on the services of that operator. The affidavit form shall be provided by the director and shall require the name and signature of the certified operator, the operator's certification number, class and grade, and the date of last renewal of the operator's certificate. The affidavit form shall be proof that the certified operator has agreed to be directly responsible for the operation and maintenance of the plant or distribution system. The director may specify additional operational and maintenance requirements based on the complexity and size of the plant or distribution system. Four duly notarized copies of the affidavit must be returned to and approved by the director, based upon the ability of the certified operator to properly operate and maintain additional facilities. In event of disapproval, the owner of the plant or distribution system must terminate the agreement with the certified operator and seek the services of another certified operator. Both the owner of the plant or distribution system and the certified operator shall notify the director at least 30 days before the termination of the agreement.

567—81.17(455B,272C) Disciplinary actions.

81.17(1) Reasons for disciplinary action. Disciplinary action may be taken against a certified operator on any of the grounds specified in Iowa Code section 455B.219 and chapter 272C and the following more specific grounds.

a. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator.

(1) Wastewater operator duties. Examples of a wastewater operator's duties are specified in the Water Environment Federation Manual of Practice #11, 1996; California State University—Sacramento (CSUS) Operation of Wastewater Treatment Plants, Volume I, 4th edition, 1998; CSUS Operation of Wastewater Treatment Plants, Volume II, 4th edition, 1998; CSUS Advanced Waste Treatment, 3rd edition, 1998; and 567—Chapters 60 through 64, 67, and 83, Iowa Administrative Code.

(2) Water treatment or distribution operator duties. Examples of a water treatment or distribution operator's duties are specified in the American Water Works Association (AWWA) Manuals of Water Supply Practice (Volumes 1, 3-7, 9, 11-12, 14, 17, 19-38, 41-42, 44-48); AWWA Water Supply Operations Series, 2nd edition: Vol. 1, 1995; Vol. 2, 1995; Vol. 3, 1996; Vol. 4, 1995; and Vol. 5, 1995; AWWA Water Distribution Operator Handbook, 2nd edition, 1976; and California State University—Sacramento (CSUS) Water Treatment Plant Operation, Volume I, 4th edition, 1999; CSUS Water Treatment Plant Operation, Volume II, 3rd edition, 1998; CSUS Small Water System Operation and Maintenance, 4th edition, 1999; CSUS Water Distribution System Operation and Maintenance, 4th edition, 2000; and 567—Chapters 40 through 43 and 83, Iowa Administrative Code.

b. Failure to submit required records of operation or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

c. Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the department.

d. Fraud in procuring a license.

e. Professional incompetence.

f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

g. Habitual intoxication or addiction to the use of drugs.

h. Conviction of a felony related to the profession or occupation of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

i. Fraud in representations as to skill or ability.

j. Use of untruthful or improbable statements in advertisements.

k. Willful or repeated violations of the provisions of Iowa Code chapter 272C or 455B, division III.

81.17(2) Disciplinary sanctions. Disciplinary sanctions may include those specified in Iowa Code section 272C.3(2) and the following:

a. Revocation of a certificate. Revocation may be permanent without chance of recertification or for a specified period of time.

b. Partial revocation or suspension. Revocation or suspension of the practice of a particular aspect of the operation of a plant or distribution system, including the restriction of operation to a particular plant or distribution system, or a particular type of plant or distribution system.

c. Probation. Probation under specified conditions relevant to the specific grounds for disciplinary action.

d. Additional education, training, and examination requirements. Additional education, training, and reexamination may be required as a condition of reinstatement.

e. Penalties. Civil penalties not to exceed \$1,000 may be assessed for causes identified in 81.17(1).

81.17(3) Procedure.

a. Initiation of disciplinary action. The department staff shall initiate a disciplinary action by conducting such lawful investigation as is necessary to establish a legal and factual basis for action. The administrator of the environmental protection commission or designee shall make a decision as to any disciplinary action based on the department staff recommendations. Except as specified by this subrule, the disciplinary action shall be initiated by a notice of intended action in accordance with rule 561—7.16(17A,455A). At any time, the licensee and the department may enter into a settlement agreement, subject to approval by the director, which provides for a disciplinary sanction.

b. Request for hearing. Notwithstanding references in 561—subrule 7.16(4), a licensee shall be deemed to have waived any right to a contested case hearing unless the licensee appeals the action and requests a hearing within 30 days of receipt of the notice of intended action. If a timely appeal is filed, further contested case procedures shall apply in accordance with 561—Chapter 7.

c. Appeal and review of proposed decision. After a contested case hearing conducted in accordance with rule 561—7.14(17A,455A), the director shall review the presiding officer's proposed decision issued in accordance with 561—

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subrule 7.15(3). The proposed decision shall constitute a final decision of the director and the department unless the licensee or the director and department appeal the proposed decision to the environmental protection commission within 30 days of receipt as provided in 561—subrule 7.15(5).

d. Effective date of suspension or revocation. Notwithstanding any contrary interpretation in 561—subrule 7.16(7), suspension, revocation or other disciplinary action shall be effective 30 days after receipt of the notice of intended action if the licensee fails to file a timely appeal and request for hearing. If a contested case hearing is timely requested, the disciplinary action is effective as specified in the presiding officer's proposed decision unless the licensee obtains a stay of the action in accordance with 561—subrule 7.15(7) pending a timely appeal to the environmental protection commission.

e. Emergency disciplinary action. The director may initiate an emergency suspension or other disciplinary action upon such grounds and following those procedures as provided in 561—subrule 7.16(6). The terms of the emergency order shall be effective upon service as provided in 561—subrule 7.16(7). The department shall promptly give notice of an opportunity to appeal and request a contested case hearing following the procedures as specified above.

f. Reinstatement of revoked certificates. Upon revocation of a certificate in accordance with the authority provided in Iowa Code section 455B.219 and chapter 272C, application for certification may be allowed after two years from the date of revocation unless otherwise specified in accordance with 81.17(2). Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

81.17(4) Noncompliance with child support order procedures. Upon receipt of a certification of noncompliance with a child support obligation as provided in Iowa Code section 252J.7, the department will initiate procedures to deny an application for certification or renewal, or to suspend a certification in accordance with Iowa Code section 252J.8(4). The department shall issue to the person a notice by restricted certified mail of its intent to deny or suspend operator certification based on receipt of a certificate of noncompliance. The suspension or denial shall be effective 30 days after receipt of the notice unless the person provides the department with a withdrawal of the certificate of noncompliance from the child support recovery unit as provided in Iowa Code section 252J.8(4)“c.” Pursuant to Iowa Code section 252J.8(4), the person does not have a right to a hearing before the department to contest the denial or suspension action under this subrule but may seek a hearing in district court in accordance with Iowa Code section 252J.9.

These rules are intended to implement Iowa Code sections 455B.211 to 455B.224 and chapter 272C.

[Filed 11/22/00, effective 1/17/01]

[Published 12/13/00]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/13/00.

ARC 0350B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 321L.8, subsection 2, the Department of Public Safety hereby amends Chapter 18, “Handicapped Parking,” Iowa Administrative Code.

The adopted amendments update provisions of the rules regulating the provision of parking spaces for persons with disabilities in Iowa to reflect changes to Iowa Code chapter 321L made by the General Assembly in 1998 and 1999, including substitution of the term “persons with disabilities” for “handicapped.” A provision is also added specifying the required minimum and maximum heights of parking signs for persons with disabilities.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 17, 2000, as **ARC 9840A**. A public hearing was held on June 7, 2000. No comments were received at the public hearing. One written comment was received, requesting that a requirement be added to Chapter 18 for an “accessible route” of at least 36 inches in width adjacent to the parking spaces provided for persons with disabilities. The Department agrees that this is an idea worthy of consideration, but finds that it lies outside the scope of the changes contemplated in the Notice of Intended Action. Therefore, while a requirement for 36-inch accessible routes to parking spaces for persons with disabilities is not included in the language adopted here, the Department will shortly issue a Notice of Intended Action proposing such a requirement, for the purpose of obtaining comment from the public and any interested parties.

These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 321L.

These amendments will become effective February 1, 2001.

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 [Ch 18] is being omitted. These amendments are identical to those published under Notice as **ARC 9840A**, IAB 5/17/00.

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