



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

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

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

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

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

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<b>TREASURER OF STATE</b>		<b>UTILITIES DIVISION[199]</b>	
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**CITATION of Administrative Rules**

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

- 441 IAC 79 (Chapter)
- 441 IAC 79.1(249A) (Rule)
- 441 IAC 79.1(1) (Subrule)
- 441 IAC 79.1(1)"a" (Paragraph)
- 441 IAC 79.1(1)"a"(1) (Subparagraph)

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

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

## Schedule for Rule Making 2004

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
Jan. 2 '04	Jan. 21 '04	Feb. 10 '04	Feb. 25 '04	Feb. 27 '04	Mar. 17 '04	Apr. 21 '04	July 19 '04
Jan. 16	Feb. 4	Feb. 24	Mar. 10	Mar. 12	Mar. 31	May 5	Aug. 2
Jan. 30	Feb. 18	Mar. 9	Mar. 24	Mar. 26	Apr. 14	May 19	Aug. 16
Feb. 13	Mar. 3	Mar. 23	Apr. 7	Apr. 9	Apr. 28	June 2	Aug. 30
Feb. 27	Mar. 17	Apr. 6	Apr. 21	Apr. 23	May 12	June 16	Sept. 13
Mar. 12	Mar. 31	Apr. 20	May 5	May 7	May 26	June 30	Sept. 27
Mar. 26	Apr. 14	May 4	May 19	May 21	June 9	July 14	Oct. 11
Apr. 9	Apr. 28	May 18	June 2	June 4	June 23	July 28	Oct. 25
Apr. 23	May 12	June 1	June 16	June 18	July 7	Aug. 11	Nov. 8
May 7	May 26	June 15	June 30	July 2	July 21	Aug. 25	Nov. 22
May 21	June 9	June 29	July 14	July 16	Aug. 4	Sept. 8	Dec. 6
June 4	June 23	July 13	July 28	July 30	Aug. 18	Sept. 22	Dec. 20
June 18	July 7	July 27	Aug. 11	Aug. 13	Sept. 1	Oct. 6	Jan. 3 '05
July 2	July 21	Aug. 10	Aug. 25	Aug. 27	Sept. 15	Oct. 20	Jan. 17 '05
July 16	Aug. 4	Aug. 24	Sept. 8	Sept. 10	Sept. 29	Nov. 3	Jan. 31 '05
July 30	Aug. 18	Sept. 7	Sept. 22	Sept. 24	Oct. 13	Nov. 17	Feb. 14 '05
Aug. 13	Sept. 1	Sept. 21	Oct. 6	Oct. 8	Oct. 27	Dec. 1	Feb. 28 '05
Aug. 27	Sept. 15	Oct. 5	Oct. 20	Oct. 22	Nov. 10	Dec. 15	Mar. 14 '05
Sept. 10	Sept. 29	Oct. 19	Nov. 3	Nov. 5	Nov. 24	Dec. 29	Mar. 28 '05
Sept. 24	Oct. 13	Nov. 2	Nov. 17	***Nov. 17***	Dec. 8	Jan. 12 '05	Apr. 11 '05
Oct. 8	Oct. 27	Nov. 16	Dec. 1	Dec. 3	Dec. 22	Jan. 26 '05	Apr. 25 '05
Oct. 22	Nov. 10	Nov. 30	Dec. 15	***Dec. 15***	Jan. 5 '05	Feb. 9 '05	May 9 '05
Nov. 5	Nov. 24	Dec. 14	Dec. 29	Dec. 31	Jan. 19 '05	Feb. 23 '05	May 23 '05
***Nov. 17***	Dec. 8	Dec. 28	Jan. 12 '05	Jan. 14 '05	Feb. 2 '05	Mar. 9 '05	June 6 '05
Dec. 3	Dec. 22	Jan. 11 '05	Jan. 26 '05	Jan. 28 '05	Feb. 16 '05	Mar. 23 '05	June 20 '05
***Dec. 15***	Jan. 5 '05	Jan. 25 '05	Feb. 9 '05	Feb. 11 '05	Mar. 2 '05	Apr. 6 '05	July 4 '05
Dec. 31	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 4, 2004	June 23, 2004
1	Friday, June 18, 2004	July 7, 2004
2	Friday, July 2, 2004	July 21, 2004

**PLEASE NOTE:**

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

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

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

## 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 QuickSilver XML Publisher, version 1.5.3, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

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The Administrative Rules Review Committee will hold a special meeting on Monday, June 7, 2004, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### ADMINISTRATIVE SERVICES DEPARTMENT[11]

Contested cases, rescind 401—ch 6, 471—ch 6, 581—ch 26; adopt 11—ch 7, <u>Filed</u> <b>ARC 3338B</b> .....	5/12/04
Accounting, renumber 701—chs 201 to 204 and 210 as 11—chs 40 to 44 and 48; amend 41.1(1), 41.1(2), 41.2(1), 41.4(2), 41.5(4), 41.5(6), 42.1, ch 43 title, 43.4, 43.5, 43.7, 44.11, 48.1, 48.3(2), 48.4, 103.3(1), 103.4(4), 103.4(5), 103.15, <u>Filed</u> <b>ARC 3337B</b> .....	5/12/04
Payroll deduction for additional insurance coverage, rescind 701—ch 206; adopt 11—ch 46, <u>Notice</u> <b>ARC 3365B</b> .....	5/26/04
Parking; capitol complex operations, rescind 401—ch 4; amend 11—100.1, adopt 11—ch 101, <u>Filed</u> <b>ARC 3370B</b> .....	5/26/04

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

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**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

**EDITOR'S NOTE: Terms ending April 30, 2007.**

Senator Michael Connolly  
3458 Daniels Street  
Dubuque, Iowa 52002

Representative Danny Carroll  
244 400th Avenue  
Grinnell, Iowa 50112

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

Representative George Eichhorn  
P.O. Box 140  
Stratford, Iowa 50249

Senator Mary Lundby  
P.O. Box 648  
Marion, Iowa 52302-0648

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

Senator Paul McKinley  
21884 483rd Lane  
Chariton, Iowa 50049

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

Senator Donald Redfern  
415 Clay Street  
Cedar Falls, Iowa 50613

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Governor's Ex Officio Representative  
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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
<b>ADMINISTRATIVE SERVICES DEPARTMENT[11]</b>		
Payroll deduction for additional insurance coverage, adopt 11—ch 46, rescind 701—ch 206 IAB 5/26/04 <b>ARC 3365B</b>	Conference Room 04 Level A-South Hoover State Office Bldg. Des Moines, Iowa	June 15, 2004 11 a.m.
<b>DENTAL EXAMINERS BOARD[650]</b>		
General, amendments to chs 1, 6, 10, 12, 13, 15, 16, 20, 22, 25, 27, 28, 30, 31, 51 IAB 5/12/04 <b>ARC 3347B</b>	Board Conference Room Suite D 400 SW Eighth St. Des Moines, Iowa	June 1, 2004 10 a.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Housing fund, 25.2, 25.4 to 25.9 IAB 5/12/04 <b>ARC 3336B</b>	First Floor Northwest Conference Room 200 E. Grand Ave. Des Moines, Iowa	June 1, 2004 2:30 p.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Open enrollment, 17.2, 17.3, 17.6, 17.8, 17.10, 17.14 IAB 5/12/04 <b>ARC 3331B</b> (ICN Network)	Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 1, 2004 3 p.m.
	West High School 425 E. Ridgeway Ave. Waterloo, Iowa	June 1, 2004 3 p.m.
	Revere Room, Grant Wood AEA 4401 Sixth St. SW Cedar Rapids, Iowa	June 1, 2004 3 p.m.
	Great River AEA 3601 West Avenue Rd. Burlington, Iowa	June 1, 2004 3 p.m.
	Mason City High School 1700 Fourth SE Mason City, Iowa	June 1, 2004 3 p.m.
	Room 209A, Western Hills AEA 1520 Morningside Ave. Sioux City, Iowa	June 1, 2004 3 p.m.
	Loess Hills AEA 24997 Highway 92 Council Bluffs, Iowa	June 1, 2004 3 p.m.
	Room 2, Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	June 1, 2004 3 p.m.

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

	Central High School 1120 Main St. Davenport, Iowa	June 1, 2004 3 p.m.
Educating the homeless, amendments to ch 33 IAB 5/12/04 <b>ARC 3330B</b> <b>(ICN Network)</b>	Second Floor Grimes State Office Bldg. Des Moines, Iowa	June 1, 2004 1 p.m.
	West High School 425 E. Ridgeway Ave. Waterloo, Iowa	June 1, 2004 1 p.m.
	Revere Room, Grant Wood AEA 4401 Sixth St. SW Cedar Rapids, Iowa	June 1, 2004 1 p.m.
	Great River AEA 3601 West Avenue Rd. Burlington, Iowa	June 1, 2004 1 p.m.
	Mason City High School 1700 Fourth SE Mason City, Iowa	June 1, 2004 1 p.m.
	State Room, AEA 267 9184 B 265th St. Clear Lake, Iowa	June 1, 2004 1 p.m.
	Room 103, AEA 4 1382 Fourth Ave. NE Sioux Center, Iowa	June 1, 2004 1 p.m.
	AEA 267 3712 Cedar Heights Dr. Cedar Falls, Iowa	June 1, 2004 1 p.m.
	Turner Room, Green Valley AEA 1405 N. Lincoln Creston, Iowa	June 1, 2004 1 p.m.
	Room 209A, Western Hills AEA 1520 Morningside Ave. Sioux City, Iowa	June 1, 2004 1 p.m.
	Loess Hills AEA 24997 Highway 92 Council Bluffs, Iowa	June 1, 2004 1 p.m.
	Room 2, Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	June 1, 2004 1 p.m.
	Central High School 1120 Main St. Davenport, Iowa	June 1, 2004 1 p.m.
	Prairie Lakes AEA Hwy. 18 and Second St. Cylinder, Iowa	June 1, 2004 1 p.m.

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

Prairie Lakes AEA 330 Avenue M Fort Dodge, Iowa	June 1, 2004 1 p.m.
AEA 267 909 S. 12th St. Marshalltown, Iowa	June 1, 2004 1 p.m.
Southern Prairie AEA 2814 N. Court St. Ottumwa, Iowa	June 1, 2004 1 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Terms used in determination of PSD permit review, 20.2, 22.4(1), 22.5(1), 22.100, 22.120 IAB 4/14/04 <b>ARC 3280B</b> (See also <b>ARC 3155B</b> , IAB 2/4/04)	Rooms A and B Iowa Bldg. Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	June 2, 2004 1 to 3 p.m.
Discarded appliance demanufacturing, amendments to ch 118 IAB 5/12/04 <b>ARC 3359B</b>	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 2, 2004 1 p.m.
Electronics recycling, adopt ch 122 IAB 5/12/04 <b>ARC 3358B</b>	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 1, 2004 1 p.m.

**NATURAL RESOURCES DEPARTMENT[561]**

The Iowa nature store, adopt ch 11 IAB 5/12/04 <b>ARC 3357B</b>	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 3, 2004 11 a.m.
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**PUBLIC HEALTH DEPARTMENT[641]**

Control of lead-based paint hazards, adopt ch 68 IAB 5/26/04 <b>ARC 3373B</b> <b>(ICN Network)</b>	Room 550, Fifth Floor 411 Third St. SE Cedar Rapids, Iowa	June 15, 2004 10 a.m.
	Room T201, University of Dubuque 2000 University Ave. Dubuque, Iowa	June 15, 2004 10 a.m.
	Turner Room, Green Valley AEA 1405 N. Lincoln Creston, Iowa	June 15, 2004 10 a.m.
	Room 304, Kahl Educational Center 326 W. Third St. Davenport, Iowa	June 15, 2004 10 a.m.
	Loess Hills AEA 24997 Hwy 92 Council Bluffs, Iowa	June 15, 2004 10 a.m.

**PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**  
**(ICN Network)**

	Room 106, Activity Center NIACC 500 College Dr. Mason City, Iowa	June 15, 2004 10 a.m.
	Conference Room A Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	June 15, 2004 10 a.m.
	ICN Room Trinity Regional Medical Center 802 Kenyon Rd. Fort Dodge, Iowa	June 15, 2004 10 a.m.
	Public Library 529 Pierce St. Sioux City, Iowa	June 15, 2004 10 a.m.
	Public Library 21 E. Third St. Spencer, Iowa	June 15, 2004 10 a.m.
	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	June 15, 2004 10 a.m.
Special supplemental nutrition program for WIC, amendments to ch 73 IAB 5/26/04 <b>ARC 3371B</b> <b>(ICN Network)</b>	Great River AEA 3601 W. Avenue Rd. Burlington, Iowa	June 21, 2004 8 to 10 a.m.
	Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	June 21, 2004 8 to 10 a.m.
	SSA-Post Office Federal Bldg. 350 W. Sixth St. Dubuque, Iowa	June 21, 2004 8 to 10 a.m.
	Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	June 21, 2004 8 to 10 a.m.
	High School 550 Ninth St. NE Sioux Center, Iowa	June 21, 2004 8 to 10 a.m.
Volunteer health care provider program, 88.1, 88.3, 88.5, 88.6(1) IAB 5/26/04 <b>ARC 3372B</b>	Room 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	June 15, 2004 1 to 2 p.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Fire fighter certification, 54.1 to 54.204 IAB 4/14/04 <b>ARC 3294B</b>	Fire Service Training Bureau 3100 Fire Service Rd. Ames, Iowa	June 3, 2004 9:30 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Junkyard control; outdoor advertising, 116.1 to 116.3, 117.1, 117.3 to 117.6 IAB 5/26/04 <b>ARC 3363B</b>	First Floor South Conference Room 800 Lincoln Way Ames, Iowa	June 17, 2004 10 a.m. (If requested)
Firefighter plates, 401.9 IAB 5/12/04 <b>ARC 3332B</b>	Conference Room, Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	June 3, 2004 10 a.m. (If requested)

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CITIZENS’ AIDE[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
   Alcoholic Beverages Division[185]  
   Banking Division[187]  
   Credit Union Division[189]  
   Insurance Division[191]  
   Professional Licensing and Regulation Division[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
   Savings and Loan Division[197]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
   Arts Division[222]  
   Historical Division[223]  
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
   City Development Board[263]  
   Grow Iowa Values Board[264]  
   Iowa Finance Authority[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ELDER AFFAIRS DEPARTMENT[321]  
 EMPOWERMENT BOARD, IOWA[349]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 GENERAL SERVICES DEPARTMENT[401]  
 HUMAN INVESTMENT COUNCIL[417]  
 HUMAN RIGHTS DEPARTMENT[421]  
   Community Action Agencies Division[427]  
   Criminal and Juvenile Justice Planning Division[428]  
   Deaf Services Division[429]  
   Persons With Disabilities Division[431]  
   Latino Affairs Division[433]  
   Status of African-Americans, Division on the[434]  
   Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]  
INFORMATION TECHNOLOGY DEPARTMENT[471]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[555]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

## ARC 3365B

ADMINISTRATIVE SERVICES  
DEPARTMENT[11]

## 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 8A.104, the Department of Administrative Services hereby proposes to rescind 701—Chapter 206, "Insurance Deductions," and adopt 11—Chapter 46, "Payroll Deduction for Additional Insurance Coverage," Iowa Administrative Code.

The purpose of this rule making is to adopt accounting rules, which were formerly under the authority of and adopted by the Department of Revenue and Finance, and to comply with 2004 Iowa Acts, House File 2262, signed by the Governor on April 26, 2004. 2004 Iowa Acts, House File 2262, reestablishes an optional payroll deduction for the purpose of purchasing insurance when at least 500 state employees request the deduction from the same company for insurance that is not provided by the state and the company has entered into an agreement with the state delineating each party's rights and responsibilities.

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

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on June 15, 2004. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; E-mail [Carol.Stratemeyer@iowa.gov](mailto:Carol.Stratemeyer@iowa.gov).

There will be a public hearing on June 15, 2004, beginning at 11 a.m. in the Administrative Services Conference Room 04, Hoover State Office Building, Level A-South, at which time interested parties may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules. Persons with special needs should contact the Department of Administrative Services prior to the hearing if accommodations are needed.

These amendments are intended to implement 2004 Iowa Acts, House File 2262.

The following amendments are proposed.

ITEM 1. Rescind **701—Chapter 206**.

ITEM 2. Adopt the following **new** chapter:

CHAPTER 46  
PAYROLL DEDUCTION FOR  
ADDITIONAL INSURANCE COVERAGE

**11—46.1(80GA, HF2262) General provisions.** The state of Iowa may grant to qualified insurance companies the right to receive insurance premiums from state employees through

payroll deduction upon presentation of insurance deduction authorization forms signed by state employees.

**11—46.2(80GA, HF2262) Definitions.** For the purpose of this chapter, the following definitions apply.

"Employee" means a permanent state employee.

"Payroll system" means any one of the following:

1. State of Iowa centralized.
2. Department of transportation.
3. Iowa State University of Science and Technology.
4. State University of Iowa.
5. University of Northern Iowa.
6. Iowa Braille and Sight Saving School.
7. Iowa School for the Deaf.
8. Iowa state fair board.

**11—46.3(80GA, HF2262) Insurance company qualifications.** To qualify to receive insurance premiums from state employees through payroll deductions, an insurance company must be authorized to do business in Iowa and must meet the requirements of this rule.

**46.3(1) Minimum number of participating employees.**

a. The insurance company must have and maintain the participation of 500 or more state employees.

b. Notwithstanding subrule 46.3(1), paragraph "a," during the first 12 months of this payroll deduction program an insurance company is considered qualified if it received insurance premium payments through payroll deductions under repealed Iowa Code section 70A.17. All such companies may continue in the program during the first 12 months following the reinstatement of this program. By the end of the twelfth month after the reinstatement of this program, all companies must have and maintain a total of at least 500 participating employees in order to continue participation. Following the end of the twelfth month of participation of an insurance company under this subrule, company participation may be terminated pursuant to rule 11—46.13(80GA, HF2262).

c. For purposes of certifying the required 500 state employees, an insurance company shall not count state employees enrolled in insurance programs authorized by existing Iowa Code sections, by collective bargaining contracts, or by the appropriate governing authority.

**46.3(2) Qualification process.**

a. Written agreement. The company providing the insurance must enter into a written agreement with the state delineating each party's rights and responsibilities. At the same time, the company must provide a template of the company's enrollment form.

b. Forms. The insurance premium payroll deductions for qualified insurance companies must be authorized on forms approved by the program administrator.

c. Payroll deduction requests. The state employee must make the request for the payroll deduction for insurance premiums in writing to the appointing authority.

d. Participating employee list. A company seeking to be qualified must supply the program administrator with a certified list of all state employees for whom insurance premium payroll deductions are sought. The list shall contain, according to affected payroll systems, the names, in alphabetical order, and the social security numbers of state employees for whom insurance premium payroll deductions are being requested and the name of the type of insurance being requested.

**11—46.4(80GA, HF2262) Noneligible types of insurance.** Deductions from salaries and wages will not be authorized for any type of insurance that is not approved by the program ad-



## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ministrator or which is being provided for by the state, such as: health and dental; term life; and long-term sickness or disability.

**11—46.5(80GA,HF2262) Deduction limits and frequency.** Authorized deductions must be a minimum of \$1. The frequency of the deductions must be compatible with the affected payroll system. All payroll deductions must be made in equal amounts on a monthly basis or be made on a basis compatible with the payroll system. The deduction will be made only for the amount of insurance premiums and shall not include amounts for any other purpose, such as organizational dues or membership fees.

**11—46.6(80GA,HF2262) Distribution of literature.** The state of Iowa will not distribute with payroll materials literature soliciting insurance premium deductions or any other matter.

**11—46.7(80GA,HF2262) Number of contributions.** Each payroll system must allow each employee the opportunity to make insurance premium deductions to any combination of up to a maximum of four companies.

**11—46.8(80GA,HF2262) Cash contributions.** No cash contributions will be accepted or administered through the payroll process or system.

**11—46.9(80GA,HF2262) Terminations.** An employee wishing to terminate the deduction shall be required to give 30 days' notice in writing to the appointing authority of the department in which the employee works or, in the case of regents institutions, to the officer in charge of the payroll system through which the employee is paid.

**11—46.10(80GA,HF2262) Remittance.** The officer in charge of the payroll system must send the monthly payment to each company within 20 working days after the last pay date of each calendar month. Support documentation is limited to a listing of employees and the amount deducted for each such employee.

**11—46.11(80GA,HF2262) Unapproved solicitation prohibited.** Salespersons or agents must follow all applicable rules prohibiting solicitation on state property. Company representatives may schedule presentations of marketing and informational materials provided the program administrator approves the materials and applicable rules are followed concerning approval of the date, time, and location of such presentations.

**11—46.12(80GA,HF2262) Annual review of participating employees.** During September of each year, each participating company must supply the program administrator with a certified list of all state employees who have an insurance premium deduction through each payroll system. The list must contain the same information as required in 46.3(2)"d," and will be used by the state to determine if the company has 500 employees participating in the program.

If the minimum qualification is not being maintained, written notification will be provided to the company, giving the company 90 days to meet the minimum qualification. If, at the end of the 90-day period, the minimum qualification has not been attained, the insurance premium deduction for all participating employees in that company will be terminated.

The program administrator will provide a copy of the certified list for each payroll system to the officer in charge of that payroll system for verification of employee status.

**11—46.13(80GA,HF2262) Termination of company participation.** If the program administrator finds a company is not complying with administrative rules in this chapter or the agreement made with the state, or if the company is not operating in a manner the program administrator determines to be in the best interest of the state or its employees, the state reserves the right to terminate an insurance company's participation in the program.

These rules are intended to implement 2004 Iowa Acts, House File 2262.

**ARC 3379B****AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 159.5(11) and 189A.13, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 76, "Meat and Poultry Inspection," Iowa Administrative Code.

The purpose of these amendments is to update references to currently adopted federal regulations necessary for Iowa to retain its requisite "equal to" status for continued federal recognition of the state meat and poultry program. Three new federal regulations are also adopted relating to safe food production. Adoption of the regulations merely codifies existing industry practice. In addition, a new regulation is proposed which requires state-inspected custom meat plants to develop and implement sanitation standard operating procedures for slaughter and processing in the plants.

Any interested persons may make written comments or suggestions on these proposed amendments on or before 4:30 p.m. on June 15, 2004. Such written materials should be directed to Mike Mamminga, Bureau Chief, Bureau of Meat and Poultry Inspection, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-4819. E-mail comments may be sent to [Mike.Mamminga@idals.state.ia.us](mailto:Mike.Mamminga@idals.state.ia.us).

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

The fiscal impact of these proposed amendments is minimal on both the state and the persons impacted by the proposed amendments.

These amendments are intended to implement Iowa Code chapter 189A.

The following amendments are proposed.

ITEM 1. Amend rule 21—76.1(189A), introductory paragraph, as follows:

**21—76.1(189A) Federal Wholesome Meat Act regulations adopted.** Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of October 1, 1998 May 1, 2004, is hereby adopted in its entirety by reference; and in

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

addition thereto, the following subsections shall be expanded to include:

ITEM 2. Amend rule 21—76.2(189A) as follows:

**21—76.2(189A) Federal Wholesome Meat Act regulations adopted.** Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 416, and Part 417, *Part 424, Part 430, and Part 441* of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, are hereby adopted in their entirety by reference. *Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of May 1, 2004, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.*

ITEM 3. Amend rule 21—76.3(189A), introductory paragraph, as follows:

**21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted.** Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, is hereby adopted in its entirety with the following exceptions: 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, 381.128, Subpart R, Subpart T, Subpart V, Subpart W; and in addition thereto, the following subsections shall be expanded to include:

ITEM 4. Amend rule 21—76.4(189A) as follows:

**21—76.4(189A) Inspection required.** Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

ITEM 5. Amend 21—Chapter 76 by adopting a **new** rule as follows:

**21—76.5(189A) Custom/exempt facilities sanitation standard operating procedures.** Iowa inspected custom/exempt facilities shall develop and implement a sanitation standard operating procedure (SSOP) in a manner consistent with Section 416.12, Title 9, Chapter III, Code of Federal Regulations.

ITEM 6. Amend rule 21—76.13(189A) as follows:

**21—76.13(189A) Voluntary inspections of exotic animals.** Every person wishing to obtain voluntary inspection of exotic animals shall comply with the regulations adopted in this rule.

Part 352 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~October 1, 1998~~ *May 1, 2004*, is hereby adopted in its entirety by reference.

This rule is intended to implement Iowa Code chapter 189A.

ITEM 7. Amend rule 21—76.14(189A) as follows:

**21—76.14(189A) Federal Wholesome Meat Act regulations adopted for the regulation of farm deer.**

1. All federal regulations adopted in 21—76.1(189A).

2. All federal regulations adopted in 21—76.2(189A), except Part 303 and Part 307.4(c) of Title 9, Chapter III, of the Code of Federal Regulations, revised as of ~~August 29, 2003~~ *May 1, 2004*.

This rule is intended to implement Iowa Code chapter 189A and ~~2003 Iowa Acts, House File 624~~ *Iowa Code Supplement chapter 170*.

## ARC 3381B

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 10A.104(5), the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 71, "Overpayment Recovery Unit," Iowa Administrative Code.

The proposed amendments clarify the public assistance programs for which the Department seeks overpayments by including the HAWK-I, PROMISE JOBS, and food assistance programs; change references to forms used by the Department of Human Services for the purposes of determining client overpayment; and eliminate obsolete, outdated, and redundant references pursuant to Executive Order Number 8.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 15, 2004. Such written material should be directed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319; or faxed to (515)242-6863. E-mail may be sent to [david.werning@dia.state.ia.us](mailto:david.werning@dia.state.ia.us).

These amendments are intended to implement Iowa Code section 10A.104(5).

The following amendments are proposed.

ITEM 1. Amend rule **481—71.1(10A)** as follows:

Rescind the definitions of "Demand Letter for Child Care Assistance Provider Error Overissuance, (Form 470-3627)," "Demand Letter for FIP/RCA Agency Error Overissuance, (Form 470-2616)," "Demand Letter for Food Stamp Agency Error Overissuance, (Form 470-0338)," and "Demand Letter for Medicaid or State Supplementary Assistance Overpayment (Form 470-2891)."

Amend the following definitions:

"Allotment reduction" means an amount withheld from a financial or food ~~stamp~~ assistance benefit. Specifically, grant reduction refers to the Family Investment Program (FIP) and benefit reduction refers to the Food ~~Stamp~~ Assistance (FA) program.

"Human service assistance" means any program that the DHS administers which confers a financial, medical, or food ~~stamp~~ assistance benefit.

"Offsetting" means the application of a credit against the amount due on a claim in place of a corrective cash payment

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

for FIP and RCA, or a restoration of lost benefits for food stamps assistance, and the recovery of a Transitional Child Care or PROMISE JOBS overpayment by withholding all or a portion of future payments in the same category as defined in Iowa Administrative Code 441—49.13(239) as the payments were originally made.

“Referral form” means the overpayment/recovery information input (Form PA-2228-0 470-0464) completed by DHS. The form tells the program, the amount, the dates, and the reason for the overpayment. It also lists information on the debtor for identification purposes.

“Repayment agreement contract” means the agreement to repay (Form PA-3164-0 470-0495) sent to a debtor to voluntarily complete and return. The form tells the amount and program(s) overpaid and gives the debtor a choice of repayment methods. Failure to return this form may result in further collection actions.

Insert the following new definition in alphabetical order:

“Demand Letter” means the DHS demand letters cited at Iowa Administrative Code 441—Chapter 11. These letters inform the debtor that an overpayment in a human service assistance program has occurred. The letters identify the amount overpaid, the dates of the overpayment, the cause of the overpayment, and the options the debtor has to repay the overpayment. These forms are voluntarily completed by the debtor. Failure to complete and return the form may result in further collection actions.

ITEM 2. Amend rule 481—71.3(10A) as follows:

**481—71.3(10A) Records.** The recovery unit maintains a record an account for each overpayment which that has occurred for a debtor. The record account is filed under the debtor’s name. This information is also listed in the and includes information maintained pursuant to Iowa Administrative Code, 441—11.2(217,421).

ITEM 3. Amend rule **481—71.4(10A)**, first unnumbered paragraph, as follows:

DHS completes an overpayment/recovery supplemental information (Form PA-2229-0 470-0465) for a referral for fraud investigation. No further recovery action will be taken until the economic assistance fraud bureau completes the investigative process. If no referral is made for fraud investigation, the repayment process begins.

ITEM 4. Amend subrule 71.5(1), introductory paragraph, as follows:

**71.5(1) Active cases.** When an overpayment is made in the food stamp assistance, FIP, RCA, Medicaid, SSA, or CCA, PROMISE JOBS or HAWK-I program, a demand letter of overissuance is sent to the debtor. Form 470-3486, 470-3487 or 470-0338 is sent for food stamp overissuances; Form 470-2616 or 470-3490 is sent for FIP and RCA overissuances; Form 470-2891 is sent for Medicaid and SSA overissuances; Form 470-3627 or 470-3628 is sent for CCA overissuances.

ITEM 5. Amend subrule **71.5(1)**, paragraphs “b,” “c” and “g,” as follows:

b. A food stamp assistance overpayment is collected by cash payment, returned food stamps assistance, or benefit reduction. If the debtor chooses not to make payment in cash or food stamps assistance, the benefit reduction amount is determined by DHS. If a debtor chooses cash payment, the amount cannot be less than the benefit reduction amount. The debtor may choose to repay more than the minimum required for benefit reduction.

c. A Medicaid, or State Supplementary Assistance or HAWK-I overpayment is collected by cash payment only.

g. The other human service assistance overpayments are collected by cash payments from the debtor. The agreement to repay repayment contract (Form PA-3164-0 470-0495) is sent to the debtor along with a cover letter explaining the overpayment. A reasonable amount and rate of payment are determined by the debtor and are reviewed by the recovery unit when the form is received.

ITEM 6. Amend subrule 71.5(2) as follows:

**71.5(2) Closed cases.**

a. A demand letter is sent to the debtor; Form 470-3486, 470-3487 or 470-0338 for food stamp overissuances; Form 470-2616 or 470-3490 for FIP and RCA overissuances; Form 470-2891 for Medicaid and SSA overpayments; Form 470-3627 or 470-3628 for CCA overpayments.

b. A repayment agreement contract (Form PA-3164-0 470-0495) is sent to the debtor for other human service assistance overpayments.

ITEM 7. Amend rule 481—71.6(10A) as follows:

**481—71.6(10A) Further collection action.** If complete repayment has not been received by the above methods, further collection action may be taken. This action includes, but is not limited to, the following:

**71.6(1) For all overpayments.**

a. Claims of \$4,000 \$5,000 or less, small claims court action.

b. Claims of more than \$4,000 \$5,000, referral to the attorney general for district court action.

c. State income tax refund in accordance with Iowa Administrative Code 441—Chapter 11 and rule 701—150.4(421,26USC6402) and Iowa Code Supplement section 8A.504.

d. Debtor’s estate or bankruptcy proceedings.

e. From sponsors in special alien cases under Iowa Administrative Code 441—subrule 46.5(4).

f. Income setoff of debts in accordance with Iowa Code Supplement section 421.17(29) 8A.504 and Iowa Administrative Code 441—Chapter 11 and 701—Chapter 150 rule 701—150.4(421,26USC6402).

g. Distress warrants.

h. Liens.

**71.6(2) For food stamp assistance overpayments.** In addition to the actions in subrule 71.6(1), the following may be used for the collection of food stamp assistance overpayments.

a. to c. No change.

The recovery unit may use one or more of the above actions for any overpayment that has occurred.

## NATURAL RESOURCES DEPARTMENT

### NOTICE OF PUBLIC HEARING—DRINKING WATER STATE REVOLVING FUND INTENDED USE PLAN

Iowa’s drinking water state revolving fund program makes loans to drinking water systems for design and construction to ensure public health and provide safe drinking water. The Iowa Department of Natural Resources (DNR) publishes loan priorities and projected use of set-

## NATURAL RESOURCES DEPARTMENT(cont'd)

aside funds each year in its Intended Use Plan (IUP). Scoring criteria address health risks, rule compliance, and infrastructure needs, including criteria for loan eligibility. The criteria include a point system based on Maximum Contaminant Level violations, system vulnerability, infrastructure improvement needs, population, and design deficiencies.

A public hearing on the IUP for state fiscal year 2005 will be held in the DNR Water Supply Offices, West Conference Room, 401 SW 7th Street, Suite M, Des Moines, Iowa, on June 15, 2004, at 9:30 a.m. Comments on the IUP will be accepted at that time and all written comments must be received by the Department on or before June 18, 2004. For questions or to obtain a copy of the draft IUP, contact Jennifer Bunton at (515)725-0298 or by E-mail at [jennifer.bunton@dnr.state.ia.us](mailto:jennifer.bunton@dnr.state.ia.us).

**ARC 3373B****PUBLIC HEALTH  
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.102, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 68, "Control of Lead-Based Paint Hazards," Iowa Administrative Code.

The proposed chapter implements Iowa Code section 135.102, which directs the Department to adopt model regulations for lead hazard remediation to be used in instances in which a child is confirmed as lead poisoned. Iowa Code section 135.102 also directs the Department to make the model regulations available to local boards of health and to promote the adoption of the regulations at the local level, in cities and counties implementing lead hazard remediation programs.

The Department developed the proposed new chapter after consulting with property owners, real estate agents, and local health departments. The proposed chapter is consistent with Chapter 70, "Lead-Based Paint Activities," Iowa Administrative Code, and with federal standards set by the U.S. Environmental Protection Agency and the U.S. Department of Housing and Urban Development for control of lead-based paint hazards. The provisions of this chapter are applicable only in jurisdictions in which a local board has adopted this chapter for the purpose of requiring control of lead-based paint hazards where a child has been identified with an elevated blood lead level. Nothing in this chapter shall be construed as requiring a local board to adopt this chapter as a model regulation.

The Department has determined that this chapter is not subject to waiver or variance because the Department cannot require a local board of health to adopt or enforce this chapter.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before June 15, 2004. Such written materials should be sent to the Lead Poisoning Prevention Program, Department of Public Health, Lucas State Office Building, Des Moines, Iowa

50319; E-mail to [rgergely@idph.state.ia.us](mailto:rgergely@idph.state.ia.us); fax (515)281-4529.

Also, there will be a public hearing on June 15, 2004, at 10 a.m. over the Iowa Communications Network (ICN), at which time persons may present their views. The sites for the public hearing are as follows:

Department of Human Services  
Room 550, Fifth Floor  
411 3rd Street SE  
Cedar Rapids

University of Dubuque  
Room T201  
2000 University Avenue  
Dubuque

Green Valley Area Education Agency 14  
Turner Room  
1405 N. Lincoln  
Creston

Kahl Educational Center  
Room 304  
326 W. 3rd Street  
Davenport

Loess Hills Area Education Agency 13  
24997 Highway 92  
Council Bluffs

North Iowa Area Community College  
Room 106, Activity Center  
500 College Drive  
Mason City

Ottumwa Regional Health Center  
Conference Room A  
1001 E. Pennsylvania  
Ottumwa

Trinity Regional Medical Center  
ICN Room  
802 Kenyon Road  
Fort Dodge

Sioux City Public Library  
529 Pierce Street  
Sioux City

Spencer Public Library  
21 East Third Street  
Spencer

Iowa Department of Public Health  
ICN Room, Sixth Floor  
Lucas State Office Building  
321 E. 12th Street  
Des Moines

These rules are intended to implement Iowa Code section 135.102.

The following **new** chapter is proposed.

**CHAPTER 68****CONTROL OF LEAD-BASED PAINT HAZARDS**

**641—68.1(135) Applicability.** The provisions of this chapter are applicable in jurisdictions in which a local board has adopted this chapter for the purpose of requiring control of lead-based paint hazards where a child has been identified with an elevated blood lead level. Nothing in this chapter

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

shall be construed as requiring a local board to adopt this chapter as a model regulation.

**641—68.2(135) Definitions.**

“Certified elevated blood lead (EBL) inspector/risk assessor” means a person who has met the requirements of Iowa Administrative Code 641—70.5(135) for certification or interim certification and who has been certified by the department.

“Chewable surface” means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew.

“Child-occupied facility” means a building, or portion of a building, constructed prior to 1978, visited by the same child under the age of six years on at least two different days within any week (Sunday through Saturday period, provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours). Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms.

“Clearance testing” means an activity conducted following interim controls, lead abatement, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation to determine that the hazard reduction activities are complete. Clearance testing includes a visual assessment, the collection and analysis of environmental samples, the interpretation of sampling results, and the preparation of a report.

“Department” means the Iowa department of public health.

“Deteriorated paint” means any interior or exterior paint or other coating that is cracking, flaking, chipping, peeling, or chalking, or any paint or coating located on an interior or exterior surface that is otherwise damaged or separated from the substrate of a building component.

“Dripline” means the area within three feet surrounding the perimeter of a building.

“Dust-lead hazard” means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead greater than or equal to 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is greater than or equal to 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property. If dust samples are not taken, it may be assumed that surfaces in rooms with hazardous lead-based paint or where renovation, remodeling, or repainting has occurred recently are dust-lead hazards.

“Elevated blood lead (EBL) child” means any child who has had one venous blood lead level greater than or equal to

20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.

“Elevated blood lead (EBL) inspection” means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the property owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child. A certified elevated blood lead (EBL) inspector/risk assessor shall not determine that a residential dwelling is free of lead-based paint as a result of an elevated blood lead (EBL) inspection.

“Friction surface” means an interior or exterior surface that is subject to abrasion or friction including, but not limited to, certain window, floor, and stair surfaces.

“Hazardous lead-based paint” means lead-based paint that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is equal to or greater than the dust-lead hazard level, lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact, lead-based paint that is present on a chewable surface, or any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of a residential building or child-occupied facility.

“Impact surface” means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of doorframes.

“Lead-based paint” means any paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram of lead per square centimeter or more than 0.5 percent by weight. Lead-based paint is present on any surface that is tested and found to contain lead equal to or in excess of 1.0 milligram per square centimeter or more than 0.5 percent by weight and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

“Lead-based paint hazard” means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.

“Local board” means the local board of health as authorized by Iowa Code chapter 137.

“Mid-yard” means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.

“Occupant” means any person living, sleeping, cooking or eating in, or having any actual possession of, a dwelling or dwelling unit.

“Owner” means any person who, alone or jointly with others: (1) shall have legal title to any dwelling, with or without accompanying actual possession thereof, or (2) shall have charge, care or control of any dwelling by acting as the agent of the owner or as the executor, administrator, trustee, or guardian of the estate of the owner.

“Paint-lead hazard” means the presence of hazardous lead-based paint in a residential dwelling or a child-occupied facility.

“Play area” means an area of frequent soil contact by children of less than six years of age as indicated by, but not limited to, factors including the following: the presence of play equipment (sandboxes, swing sets, and sliding boards), toys, or other children’s possessions; observations of play patterns; or information provided by parents, residents, caregivers, or property owners.

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

“Residential building” means a building containing one or more residential dwellings.

“Residential dwelling” means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including, but not limited to, garages, farm buildings, and fences; or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or part, as the home or residence of one or more persons.

“Retaliation” means harassment, termination of the tenancy, discontinuation of utilities or other services, and any other action taken against the lessee.

“Soil-lead hazard” means bare soil on residential real property or on the property of a child-occupied facility that contains total lead greater than or equal to 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is greater than or equal to 400 parts per million. If soil samples are not taken, it may be assumed that bare soil within three feet of the foundation of a garage or other structure built prior to 1978 is a soil-lead hazard.

**641—68.3(135) Elevated blood lead (EBL) inspections required.** The local board shall appoint a certified elevated blood lead (EBL) inspector/risk assessor to conduct elevated blood lead (EBL) inspections in residential dwellings and child-occupied facilities where an elevated blood lead (EBL) child lives, visits, or has recently lived. All owners and occupants shall allow access to the residential dwellings and child-occupied facilities that the certified elevated blood lead (EBL) inspector/risk assessor desires to inspect.

**641—68.4(135) Refusal of admittance.** If the certified elevated blood lead (EBL) inspector/risk assessor appointed by the local board is refused entry to a property, then the certified elevated blood lead (EBL) inspector/risk assessor may make a complaint under oath to any magistrate of the county. The magistrate may issue a warrant directing the owner or occupant to allow the certified elevated blood lead (EBL) inspector/risk assessor to conduct an elevated blood lead (EBL) inspection and directing a peace officer to accompany the certified elevated blood lead (EBL) inspector/risk assessor during the elevated blood lead (EBL) inspection/risk assessment.

**641—68.5(135) Lead hazard reduction required.**

**68.5(1)** When the certified elevated blood lead (EBL) inspector/risk assessor appointed by the local board determines that hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard is present in a residential dwelling unit or child-occupied facility where an elevated blood lead (EBL) child lives, frequently visits, or has recently resided, the certified elevated blood lead inspector/risk assessor shall issue a written notice to the owner within two weeks of the inspection and receipt of any laboratory results. The written notice shall require the owner to complete lead hazard reduction in a time period determined by the certified elevated blood lead (EBL) inspector/risk assessor. If the occupant who occupies the residential dwelling at the time that this written notice is issued vacates the residential dwelling, the residential dwelling shall not be leased or occupied by any other person until the certified elevated blood lead (EBL) inspector/risk assessor issues a written notice that the lead hazard reduction has been completed.

**68.5(2)** The owner of any residential dwelling or child-occupied facility which has been determined to contain hazardous lead-based paint, a soil-lead hazard, or a dust-lead hazard shall correct these hazards within the time period allowed by the certified elevated blood lead (EBL) inspector/risk assessor in the written notice. The following methods shall be used for lead hazard reduction. These methods shall not require the services of a lead abatement contractor certified in accordance with Iowa Administrative Code 641—70.5(135). However, other local, state, or federal regulations may require the use of a contractor who has completed an eight-hour lead-safe work practices course or a lead abatement contractor or lead abatement worker certified in accordance with Iowa Administrative Code 641—70.5(135).

a. On a surface that contains hazardous lead-based paint, but is not chewable and does not have evidence of impact or friction, the lead-based paint hazard shall be reduced by removing all loose and deteriorated paint from the surface, preparing the surface for repainting, and repainting the surface with a lead-free coating.

b. On a surface that contains hazardous lead-based paint and is chewable or has evidence of impact or friction, the lead-based paint hazard shall be reduced by treating the surface one inch back from the edge or corner through one of the following methods:

(1) All lead-based paint on the treatment area shall be removed to the bare substrate. The surface shall be prepared for repainting and repainted with a lead-free coating.

(2) The treatment area shall be covered with a permanently affixed lead-free material such as plastic, wood, or vinyl. Carpet may be used on floors and stair treads.

c. Dust-lead hazards shall be reduced by thoroughly cleaning the affected surface.

d. Soil-lead hazards shall be reduced by planting grass or groundcover, applying sod, or covering the affected area with six inches of bark, gravel, or other material.

e. Lead hazard reduction shall be conducted using lead-safe work practices to protect the safety of the occupants and workers. Occupants shall not enter the work area while work is underway. The following are prohibited methods of lead hazard reduction:

(1) Open-flame burning or torching of lead-based paint.

(2) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint unless used with high-efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

(3) Uncontained water blasting of lead-based paint.

(4) Dry scraping or dry sanding of lead-based paint except in conjunction with the use of a heat gun or around electrical outlets.

(5) Operating a heat gun at a temperature above 1100 degrees Fahrenheit.

**68.5(3)** The certified elevated blood lead (EBL) inspector/risk assessor shall inspect all areas identified as hazards after lead hazard reduction is complete. The certified elevated blood lead (EBL) inspector/risk assessor may conduct clearance testing pursuant to Iowa Administrative Code 641—Chapter 70 to ensure that no dust-lead hazards exist after the work is complete. Within two weeks of verifying that all lead hazard reduction has been completed as required, the certified elevated blood lead (EBL) inspector/risk assessor shall issue a written notice to the owner and occupant stating that the lead hazard reduction has been completed and that the repaired surfaces must be maintained in good condition.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

**641—68.6(135) Retaliation prohibited.**

**68.6(1)** The lessor of a dwelling, the employees of the lessor, and agents or persons acting on behalf of the lessor shall not retaliate against lessees of residential dwellings and child-occupied facilities whose occupants or visitors have been tested for lead poisoning and shall not discourage the occupants or visitors from being tested for lead poisoning.

**68.6(2)** An action taken against the occupant shall not be considered retaliation if it is supported by reasonable cause unrelated to the testing of an occupant for lead poisoning or if it is shown to have occurred as a result of an accident or mistake and not to be the intentional act of the lessor of a dwelling, the employees of the lessor, or agents or persons acting on behalf of the lessor.

**641—68.7(135) Enforcement.** The certified elevated blood lead (EBL) inspector/risk assessor appointed by the local board shall have the duty and responsibility of enforcing this chapter.

**68.7(1)** Penalties shall be as provided in Iowa Code section 137.21.

**68.7(2)** Upon failure of any person to correct a hazard identified through this chapter in the time specified by the certified elevated blood lead (EBL) inspector/risk assessor appointed by the local board, the local board may direct or cause the correction of said hazards. All expenses incurred thereby may be recovered by suit in the name of the local board, or the local board may certify the amount of said expenses, together with a description of the property, to the county treasurer, who shall enter the same upon the tax books as costs for removing a lead hazard, and said amounts shall be collected as other taxes.

**641—68.8(135) Hearings.** In the event any person is aggrieved by any order of the certified elevated blood lead (EBL) inspector/risk assessor, the person may appeal to the local board in writing within ten days of the date of such order. The appeal shall state the reasons for requesting such order to be rescinded or modified. The local board shall review the action of the certified elevated blood lead (EBL) inspector/risk assessor. The local board shall order compliance with said order or may, with cause, modify or withdraw said order. Any order of the local board may be appealed within ten days to the district court for the county in which the local board is located.

**641—68.9(135) Variances.** The elevated blood lead (EBL) inspector/risk assessor may determine that a surface or condition that would otherwise be identified as a hazard by this chapter is not causing or does not have reasonable potential to cause lead exposure and is not required to be corrected through lead hazard reduction. The elevated blood lead (EBL) inspector/risk assessor shall document the reason for this determination in the inspection report. However, the elevated blood lead (EBL) inspector/risk assessor shall not, under any circumstances, determine that a surface with hazardous lead-based paint does not need to be corrected through lead hazard reduction.

**641—68.10(135) Injunction.** Nothing in this chapter shall prohibit a local board from pursuing injunctive relief or other relief as allowed by law.

**641—68.11(135) Effective date.** This chapter shall be in effect in a jurisdiction after a local board adopts it.

These rules are intended to implement Iowa Code section 135.102.

**ARC 3371B**

**PUBLIC HEALTH  
DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 73, "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)," Iowa Administrative Code.

The purpose of amending Chapter 73 is to update the language and definitions for consistency with the federal guidelines for the Special Supplemental Nutrition Program for Women, Infants, and Children, anticipated changes, and the implementation of a new WIC data system by September 2005.

Any interested person may make written or oral suggestions or comments on the amendments on or before June 21, 2004. Comments should be directed to Julie McMahon, Division Director, Division of Community Health, Iowa Department of Public Health, Lucas State Office Building, Fifth Floor, Des Moines, Iowa 50319-0075, telephone (515)281-3104, or fax (515)281-4913.

There will also be a public hearing on June 21, 2004, from 8 to 10 a.m. utilizing the Iowa Communications Network (ICN). The hearing will be held at the sites listed below. Please call (515)281-4919 to schedule a time to speak at the hearing and to confirm the availability of the requested site.

Great River AEA  
3601 W. Avenue Rd.  
Burlington

Iowa Western Community College  
2700 College Rd.  
Council Bluffs

Department of Public Health  
Sixth Floor  
Lucas State Office Building  
Des Moines

SSA-Post Office  
U.S. Federal Building  
350 West Sixth St.  
Dubuque

Sioux Center High School  
550 Ninth St. NE  
Sioux Center

Persons desiring to make oral presentations at the public hearing should contact Julie McMahon at least one day prior to the date of the public hearing. A written copy of comments must be provided and must be received by the day of the hearing.

These amendments are intended to implement Iowa Code section 135.11.

The following amendments are proposed.

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

ITEM 1. Amend rule 641—73.2(135) as follows:

**641—73.2(135) Adoption by reference.** Federal regulations found at 7 CFR Part 246 (effective as of February 13, 1985, as amended through January 1, 2001 2002, and any additional amendments) shall be the authority for rules governing the Iowa WIC program and are incorporated by reference herein. The WIC state plan provides policy and procedural guidance in the implementation of these regulations to contract agencies administering WIC programs. The WIC state plan as approved by the United States Department of Agriculture is incorporated here by reference.

ITEM 2. Amend rule 641—73.3(135) as follows:

**641—73.3(135) Availability of rules.** Copies of the federal rules and the WIC state plan adopted by reference in 73.2(135) are available from: Chief, Bureau of Nutrition and WIC, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, (515)281-6650.

ITEM 3. Amend rule **641—73.5(135)**, definitions of “competent professional authority” and “division director,” as follows:

“Competent professional authority” or “CPA” means an individual on the staff of the contract agency who, using standardized WIC screening tools and eligibility criteria provided by the department, determines whether an applicant for WIC services is eligible to receive those services. A CPA shall be a member of one of the following categories:

1. A ~~dietician~~ *dietitian* licensed by the Iowa board of dietetic examiners;

2. ~~An individual who has been issued a temporary dietetic license by the Iowa board of dietetic examiners; A nutrition educator as defined in the Iowa WIC Policy and Procedure Manual;~~

3. A physician, registered nurse or licensed physician assistant.

“Division director” means the director of the division of ~~family and~~ community health, Iowa department of public health.

ITEM 4. Amend subrule 73.6(3) as follows:

**73.6(3)** Contract agencies shall maintain on file documentation of qualifications for any individual employed or under contract as a ~~licensed dietitian or nutrition educator~~ *CPA*.

ITEM 5. Rescind subrule 73.7(1) and adopt the following **new** subrule in lieu thereof:

**73.7(1)** Application. Information on identity, address, family incomes, and nutrition risk must be collected in accordance with the Iowa WIC Policy and Procedure Manual.

ITEM 6. Amend subrule **73.7(2)**, paragraph “b,” as follows:

b. Applicants must provide the contract agency written ~~declaration~~ *proof* of their income as part of each certification process, *pursuant to the Iowa WIC Policy and Procedure Manual*.

ITEM 7. Amend subrule **73.7(3)**, paragraph “b,” as follows:

b. Pregnant women shall be certified for the duration of their pregnancy and for up to six weeks postpartum. *Pregnant women precertified with referral data require a full certification within 30 days.*

ITEM 8. Amend subrule 73.7(5) as follows:

**73.7(5)** Documentation of ~~medical health and nutrition~~ *Documentation of health and nutrition information* in individual participant records shall be as described in the Iowa WIC Policy and Procedure Manual.

ITEM 9. Amend subrule 73.7(7) as follows:

**73.7(7)** Transfer of participant information. All ~~medical and nonmedical health and nutrition~~ *information* collected on a program participant, ~~if transferred to other contract agencies, to the department, or retained as is~~ *confidential and* shall be handled in ~~accord~~ *accordance* with procedures described in the Iowa WIC Policy and Procedure Manual.

ITEM 10. Amend subrule **73.8(1)**, paragraph “a,” as follows:

a. Prompt redemption of food instruments. A WIC participant ~~has 30 days from the date of issue in which to cash any WIC food instrument through a vendor. The food instrument becomes invalid after this time. must redeem WIC benefits within the validated date of use.~~

ITEM 11. Amend subrule 73.8(2) as follows:

**73.8(2)** Responsibilities of contract agencies.

a. and b. No change.

c. Use of manual food instruments. Manually written food instruments shall be issued only when: *authorized by the department.*

(1) ~~Computer food instruments arrive damaged or mutilated, or are lost or stolen after being issued to participant.~~

(2) ~~Computer food instruments are not available due to error in entering participant data, delay or loss in shipping, or a need to change the food package.~~

d. Training/monitoring of WIC vendors. The contract agency shall communicate information regarding the Iowa WIC program to vendors, as instructed by the department. Monitoring and training of vendors and ~~biennial~~ *securement* of contracts shall be carried out in ~~accord~~ *accordance* with department directives outlined in the *Iowa WIC Policy and Procedure Manual*.

e. No change.

ITEM 12. Amend subrule 73.8(3), introductory paragraph, as follows:

**73.8(3)** Responsibilities of department. Provision of foods through retail grocers and special purpose vendors is an integral part of the WIC program’s function. It is the responsibility of the department to ensure that there are a sufficient number of stores authorized to provide reasonable access for program participants. The department also has an obligation to ensure that both food and administrative funds are expended in the most efficient manner possible. As with all other purchases made by state government, this means that the number of vendors (retail grocers and special purpose vendors) may be limited and that all vendors must meet minimum criteria for approval. *A store that sells only WIC-approved foods to only WIC participants will not be allowed.* The department shall be responsible for the following:

ITEM 13. Amend subrule 73.8(4), introductory paragraph, as follows:

**73.8(4)** Responsibilities of WIC vendors. A potential vendor shall make application to the Iowa department of public health WIC program and shall accept the obligations imposed by *the* signing of a WIC Vendor Agreement prior to acceptance of any WIC food instrument. The two categories for which any potential vendor may apply are grocery vendors and special purpose vendors. *A potential vendor that in-*



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

tends to do business with only WIC participants will not be considered.

ITEM 14. Amend subrule **73.8(4)**, paragraph “a,” as follows:

a. Grocery vendor agreement. To qualify for a grocery vendor agreement with the Iowa WIC program, a retail outlet shall meet all of the following criteria:

(1) The vendor must stock all of the following categories of items to be defined as a grocery vendor: ~~refrigerated fresh produce (e.g., a minimum of 5 linear feet of raw fruits and vegetables); ; a minimum of 12 linear feet of unbreaded fresh or frozen meats and poultry (prepackaged luncheon meats do not qualify); ; canned and frozen vegetables; ; dairy products; ; and cereals and breadstuffs.~~

(2) to (4) No change.

(5) The vendor must stock ~~the following varieties and minimum quantities the minimum variety and quantity of~~ WIC-approved foods: *as defined in the latest revised version of the Iowa WIC vendor application.*

1.—~~A minimum of two boxes of each of six varieties of cold, ready-to-eat cereals and two boxes of one variety of hot cereal from the current WIC-approved food list.~~

2.—~~A minimum of fifteen 46-ounce containers of 100 percent fruit or vegetable juice and ten 12-ounce containers of concentrated 100 percent fruit or vegetable juice from the current WIC-approved food list. This shall include an assortment of at least three approved canned or bottled (plastic only) varieties of orange, pineapple, grapefruit, apple, grape, vegetable, or tomato, and two concentrated varieties of orange, pineapple, grapefruit, grape or apple.~~

3.—~~A minimum of four gallons of whole fluid milk and four gallons of either low-fat, reduced fat, or fat-free fluid milk, and two pounds each of at least two different varieties of approved cheese in packages weighing one pound or less.~~

4.—~~A minimum of two 1-pound bags of edible dried beans or peas, any variety.~~

5.—~~A minimum of two containers, 18-ounce size or less, of 100 percent peanut butter.~~

6.—~~A minimum of five dozen large fresh eggs, white or brown.~~

7.—~~A minimum of four pounds of raw full-size or baby carrots.~~

8.—~~A minimum of eight containers of tuna, 6-ounce minimum size.~~

9.—~~A minimum of six cans of any current rebate contract powdered formula or a minimum of twenty-four 13-ounce cans of any current rebate contract concentrated formula.~~

10.—~~A minimum of 24 ounces of WIC-approved dry infant cereal.~~

The specific brands of products that are included on the WIC-approved food list shall be made available to the vendor at the time of application and prior to renewal of each agreement.

The variety and quantity in stock are defined as including both inventory on display and in on-premises storage, but not inventory on order from suppliers.

(6) A vendor shall charge a price to WIC participants that is equal to or less than the price charged to all other customers. The prices charged to WIC participants for the average of all WIC items, as reported on the application, at the time of the on-site review, and throughout the agreement period, shall not exceed 105 percent of the average prices of all other WIC vendors in the same peer group. The vendor’s average price for any category of WIC items, as reported on the application, at the time of the on-site review, and throughout the

agreement period, shall not exceed 115 percent of the average *price charged* for the same category by all other WIC vendors in the same peer group. Categories refer to the *broad* groupings of items identified in subparagraph (5), “1” to “10,” ~~above, rather than specific brands.~~ For purposes of making the price comparisons, the average price for all other WIC vendors in the peer group shall be computed from the most recent Price Assessment Reports on file from those vendors. If a vendor intends to comply with this provision by charging WIC participants a lower price than the price charged to other customers, the WIC price for each approved item must be identified on the package or shelf front.

(7) to (12) No change.

ITEM 15. Amend subrule **73.8(4)**, paragraph “b,” subparagraph (4), as follows:

(4) The vendor shall meet the criteria in paragraph “a,” subparagraphs (2) to (4) and (6) to ~~(11)~~ (12), for grocery vendors.

ITEM 16. Amend subrule **73.8(4)**, paragraph “b,” by adopting the following **new** subparagraph (6):

(6) WIC-only vendors are not allowed.

ITEM 17. Amend subrule **73.8(4)**, paragraph “c,” first unnumbered paragraph, as follows:

Vendors must complete a new application and sign a new WIC agreement at least every ~~two~~ *three* years to continue accepting WIC food instruments.

ITEM 18. Amend rule 641—73.9(135), introductory paragraph, as follows:

**641—73.9(135) Food package.** The authorized supplemental foods shall be prescribed for participants by a licensed dietitian *CPA* in the contract agency from food packages outlined in 7 CFR 246.10 and in accord *accordance* with the following rules. :

ITEM 19. Amend subrule 73.9(1) as follows:

**73.9(1) Prescription of foods.** Food packages shall maintain a balance between cost and nutrition integrity. There are two components to this balance: (1) administrative adjustments by the department; and (2) nutrition tailoring by both the department and the licensed dietitians *CPA* in the contract agencies.

a. Administrative adjustments include restrictions in the packaging methods, brands, sizes, types, and forms (but not quantities) of the federally allowable foods in order to establish the approved food list for the state. Administrative adjustments include decisions to eliminate more expensive brands or prohibit more convenient and costly food items allowed by regulations. Criteria for considering foods for inclusion in the approved food list are found in 73.9(3).

b. No change.

c.—~~Additional contract agency tailoring policies shall be submitted to the department for approval before being implemented. Tailoring policies based on reasons such as age or category of participant will not be approved.~~

ITEM 20. Rescind subrule 73.9(2) and adopt the following **new** subrule in lieu thereof:

**73.9(2) Tailoring to meet individual nutrition needs.** Food packages are individually tailored to meet the needs of specific participants according to USDA regulations and the Iowa WIC Policy and Procedure Manual.

ITEM 21. Amend subrule 73.9(3) as follows:

**73.9(3) Criteria for approving products for inclusion in the WIC food package.**

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

a. and b. No change.

c. Changes to the approved food list ~~are made biennially, taking~~ *take* effect on October 1 in years when new vendor contracts are signed. Inquiries from food companies about new and continuing products must be received prior to February 1 of the year vendor contracts expire to be guaranteed consideration.

d. No change.

e. Juices shall meet the federal guidelines for vitamin C content and all of the following conditions:

(1) Juices shall be 100 percent juice and contain no added sugar, sweeteners or artificial sweeteners.

~~(2) Single-strength juice shall be packaged in a 46-ounce container. Concentrated juice shall be marketed in 11.5- or 12-ounce containers.~~

~~(3)~~ (2) The brand shall be carried by current Iowa WIC vendors. Juices are ranked by the six major distributors to Iowa WIC vendors based on volume of total sales. The top two name brands of each flavor of juice (e.g., tomato, orange, grapefruit, grape, apple, or blended) and form of juice (single-strength or concentrated) that meet the selection criteria will be approved. Any private-label (store) brands that meet the selection criteria will also be approved.

~~(4)~~ (3) The product form and marketing approach shall be consistent with the promotion of good nutrition and education.

~~(5)~~ (4) If a group of juices from one manufacturer have similar names and package designs and some do not qualify, the department reserves the right to not approve those types that would otherwise qualify, to reduce the potential for confusion by retail vendors and participants. Single-strength and concentrated varieties of juice with the same brand name will be evaluated separately.

~~(6) Calcium-fortified juices shall not be approved.~~

~~(7)~~ (5) Product shall have been available in retail stores in Iowa for one year prior to the effective date of inclusion in the approved food list.

~~(8)~~ (6) Concentrated juices must be single flavors of juice.

f. and g. No change.

h. Any brand of peanut butter qualifies as long as it does not contain other ingredients such as jelly. Brands may be either refrigerated or nonrefrigerated. ~~No peanut butter spreads are permitted.~~

i. Eggs shall be fresh, Grade A large or smaller chicken eggs. Specialty eggs, including those with health or nutrition claims ~~or~~ *and* significantly higher prices, shall not be approved.

j. No change.

~~k. Carrots must be raw and fresh, not canned or frozen; may be either peeled or unpeeled; and may be either full-size or baby carrots.~~

l. Commercial infant formula shall meet the following conditions:

(1) No change.

(2) It shall comply with the calorie and iron content prescribed by the federal WIC regulations, ~~except as provided for in subrule 73.9(2).~~

(3) to (7) No change.

m. In addition to the criteria specified above, the department reserves the right to further restrict the number of brands of any products in order to contain the cost of the food package through competitive procurement of rebate contracts or other similar means.

ITEM 22. Amend subrule **73.10(1)**, paragraph "e," as follows:

e. Education in normal nutrition, i.e., education in nutrition for life-cycle stages, shall be provided by licensed dietitians, ~~or nutrition educators who are on the staff of or under contract to the contract agency in accordance with the Iowa WIC Policy and Procedure Manual.~~

ITEM 23. Amend subrule 73.10(2) as follows:

**73.10(2)** Education of contract agency personnel. Agencies accepting WIC funds shall be responsible for ensuring that all agency staff or contractors are adequately trained for their responsibilities. At a minimum, training shall include the components described in the Iowa WIC Policy and Procedure Manual.

Continuing education is an allowable WIC administrative expense for contract agency staff and contractors who provide nutrition education, ~~subject to approval through the annual grant application process.~~

ITEM 24. Amend subrule **73.11(1)**, paragraph "b," as follows:

b. Memorandum of understanding. Contract agencies shall maintain a current memorandum of understanding with any health agency designated to provide ongoing health services to WIC participants *and with any agency providing referral data for precertification of infants and pregnant women.*

ITEM 25. Amend subrule **73.12(1)** by adding **new** paragraph "d" as follows:

d. When a vendor does not agree with the validity or appropriateness of selection criteria defined in 73.8(4).

ITEM 26. Amend subrule 73.12(2) as follows:

**73.12(2)** Request for hearing. An appeal is brought by filing a written request for a hearing with the Division Director, Division of Family and Community Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, within ten days of receipt of notification of the adverse action. The written request for hearing shall state the adverse action being appealed.

ITEM 27. Amend subrule 73.13(2) as follows:

**73.13(2)** Notification of appeal rights and right to hearing. Each program participant shall be notified in writing of the participant's right to appeal and the procedures for requesting a hearing at the time of application ~~(on Certification Form)~~ and at the time of denial of eligibility or termination from the program ~~(on Denial or Termination of Eligibility Form)~~. Appeal and hearing notices shall also be written, posted, and immediately available at contract agencies to explain the method by which a hearing is requested, and that the participant may present arguments at the hearing either personally or through a representative such as a relative, friend, legal counsel, or other spokesperson.

ITEM 28. Amend subrule 73.13(9) as follows:

**73.13(9)** Appeal of decision to the department. If either party to a hearing receives an unfavorable decision, that decision may be appealed to the department. Such appeals must be made within 15 days of the mailing date of the decision. Appeals shall be sent to the Division Director, Division of Family and Community Health, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075.

ITEM 29. Amend subrule **73.19(1)**, paragraph "a," as follows:

a. Whenever possible, the participant is counseled in person concerning the violation. Documentation is main-

PUBLIC HEALTH DEPARTMENT[641](cont'd)

tained according to procedures set forth in the Iowa WIC Policy and Procedure Manual. through the use of the Notice of Program Violation. The original is given to the participant and the carbon is maintained on file. The violation number and the point value from the schedule must be entered in the blanks of the form. The blank lines are used to write an explanation of the violation. The bottom section of the form is used only if the participant is to be suspended from the program. To avoid confusion, this part should be crossed out when not applicable. The form must be signed by the contract agency coordinator or other designated staff person. If presented to the participant at a clinic, the participant is asked to sign to acknowledge receipt of the notice. If the participant refuses or the form is mailed, notation to that effect is made on the form.

ITEM 30. Amend subrule 73.19(1), paragraph "b," by adopting new numbered paragraph "6" as follows:

Violation	Points Per Event
6. Redeeming food instruments before the allowable date.	4

ITEM 31. Amend subrule 73.19(1), paragraph "d," as follows:

d. Fifteen days' notice must be given prior to all suspensions. If notice is mailed, it should be received prior to the start of the cycle in which the participant would receive the next set of food instruments in order to comply with the 15-day provision. In all cases, the participant must be informed of the reason for the suspension and of the right to appeal the decision through the fair hearing process.

ITEM 32. Amend subrule 73.19(2), introductory paragraph, as follows:

**73.19(2)** Vendor violations. There are three *five* types of sanctions that are applied to vendors for violations of program regulations: nonpayment of food instruments, issuance of violation points, and suspensions, *permanent disqualification, and civil money penalties.*

ITEM 33. Amend subrule 73.19(2), paragraph "b," as follows:

b. Administrative and procedural violation points. Administrative and procedural violations are offenses to the provisions of the WIC vendor agreement that do not rise to the level of fraud against the program or its participants.

These violations are an indication of a vendor's inattention to or disregard of the requirements of a WIC vendor agreement. It is in the department's interest to record and consider these violations when considering whether to continue its contractual relationship with the vendor.

Vendors are assessed violation points, which are applied as demerits against the vendor's score in the subsequent procurement for WIC vendor agreements in the vendor's area.

In addition, the accumulation of 45 violation points within the first year or 90 violation points within a single agreement period is a major violation subject to a one-year suspension of the WIC agreement for that vendor. *One or more transactions prior to notification of the vendor constitute only one violation if they contain the same error.*

The assignment of violation points does not limit the department's right to effect stronger penalties and sanctions in cases in which there is evidence of an intentional or systematic practice of abusing or defrauding the Iowa WIC program.

Violation	Points Per Event
1. Accepting five food instruments over 30 days old within the agreement period <i>instrument(s) outside the valid dates of use.</i>	5
2. Redeeming five <i>Depositing</i> food instruments <i>instrument(s)</i> more than 15 days after receipt within the agreement period <i>purchase date.</i>	5
3. Accepting five food instruments <i>instrument(s)</i> with no date stamp within the agreement period.	5
4. Refusal to accept valid WIC food instruments from participants.	10
5. <del>Abusive or discriminatory</del> <i>Discriminatory</i> treatment of WIC participants, such as requiring WIC participants to use special checkout lanes or provide extra identification.	10
<del>6. Insufficient number of brands or types in a single food group.</del>	<del>5</del>
6. <i>Failure to maintain minimum quantities of WIC-approved foods as defined in the Iowa WIC vendor application.</i>	10
<del>7. Insufficient quantity of a single food group.</del>	<del>5</del>
<del>8. No stock in a single food group.</del>	<del>5</del>
<del>9. Insufficient number of brands or types in two food groups.</del>	<del>10</del>
<del>10. Insufficient quantity in two food groups.</del>	<del>10</del>
<del>11. No stock in two or more food groups.</del>	<del>10</del>
<del>12. Insufficient number of brands or types in three or more food groups.</del>	<del>10</del>
<del>13. Insufficient quantity in three or more food groups.</del>	<del>15</del>
<del>14. No stock in three or more food groups. (For 6 to 14, food groups are as defined in 73.8(4)"a"(3).)</del>	<del>15</del>
<del>15</del> 7. Failure to carry out corrective action plan developed as a result of monitoring visit.	10
<del>16</del> 8. Allowing the purchase of similar but not approved foods.	10
<del>17</del> 9. Failure to reimburse department for potentially overpaid food instrument or provide reasonable explanation for the cost of the food instrument.	5
<del>18</del> 10. Accepting the return of food purchased with WIC food instruments for cash or credit toward other purchases.	10
<del>19</del> 11. <del>Using a</del> <i>Failure to use the</i> WIC vendor stamp <del>other than the one</del> issued by the Iowa WIC program.	5
<del>20</del> 12. Providing a brand of formula other than the one specified on the food instrument.	10
<del>21</del> 13. Issuing "rain checks" or credit in exchange for WIC food instruments.	10
<del>22</del> 14. Stocking out-of-date, stale, or moldy WIC foods, <del>per type.</del>	10
<del>23</del> 15. Failure to submit vendor price assessment reports as requested.	10
<del>24</del> 16. For vendors that have special WIC prices, failure to post WIC prices on the shelf or on the package.	15

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

Violation	Points Per Event
<del>25</del> 17. Failure to complete <i>Cashing</i> food instrument <i>instrument(s)</i> properly, including filling in correct <i>without</i> amount, and date of purchase, and verifying matching signatures <i>or participant signature</i> .	15
26 18. Contacting WIC participants in an attempt to recover funds not paid by WIC.	15
<del>27.</del> Charging prices to WIC participants that are more than 105 percent of the average prices of all other WIC vendors in the same peer group.	<del>15</del>
28 19. Providing false information on the price assessment report.	15
29 20. Failure to train all employees and ensure their knowledge regarding WIC program procedures set forth in the vendor's current agreement and in the current publication of the Iowa WIC program's vendor instruction booklet.	10
<del>30</del> 21. Requiring WIC participants to purchase a particular brand when other WIC-approved brands are available.	10
<del>34</del> 22. Not allowing WIC participants to use discount coupons or promotional specials to reduce the WIC food instrument amount.	10
<del>32</del> 23. Requiring other cash purchases to redeem WIC food instruments.	15
33 24. Failure to allow purchase of up to the full amount of WIC foods authorized on the food instrument if such foods are available and desired by the WIC participant.	20

ITEM 34. Amend rule **641—73.23(135)**, first unnumbered paragraph, as follows:

Contract agencies are selected on the basis of the grant applications submitted to the department. The department will consider only applications from private nonprofit or public agencies. In the case of competing applications, the contract will be awarded to the agency that scores the highest number of points in the review. Copies of review criteria are available from: Chief, Bureau of Nutrition and WIC, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, (515)281-4913.

## ARC 3372B

### PUBLIC HEALTH DEPARTMENT[641]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code Supplement section 135.24, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 88, "Volunteer Health Care Provider Program," Iowa Administrative Code.

The rules in Chapter 88 describe the eligibility of free clinics and health care providers, providing free health care services through qualified programs, to be defended and indemnified by the State of Iowa. These amendments provide eligibility to nurses practicing in Iowa under the Nurse Licensure Compact, increase application requirements for free clinics applying for defense and indemnification, and expand coverage for participants to include claims involving the volunteer health care provider solely on the basis of the health care provider's participation in the free clinic.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 15, 2004. Such written materials should be directed to Julie McMahon, Director, Division of Community Health, Iowa Department of Public Health, Lucas State Office Building, 312 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515) 242-6384; E-mail [jmcmahon@idph.state.ia.us](mailto:jmcmahon@idph.state.ia.us). Persons who wish to convey their views orally should contact the Community Health Division at (515)281-7016 or at the Community Health Division offices on the fifth floor of the Lucas State Office Building.

Also, there will be a public hearing on June 15, 2004, from 1 to 2 p.m. in Room 518 on the fifth floor of the Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

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

These amendments are intended to implement Iowa Code Supplement section 135.24.

The following amendments are proposed.

ITEM 1. Amend rule **641—88.1(135)**, definition of "volunteer health care provider," as follows:

"Volunteer health care provider" means a physician licensed pursuant to Iowa Code chapter 148, 150 or 150A; a physician assistant licensed pursuant to Iowa Code chapter 148C and practicing under the supervision of a physician; a chiropractor licensed pursuant to Iowa Code chapter 151; an advanced registered nurse practitioner, a licensed practical nurse or a registered nurse licensed pursuant to Iowa Code chapter 152 or 152E; a dentist, dental assistant, or dental hygienist licensed or registered pursuant to Iowa Code chapter 153; a psychologist licensed pursuant to Iowa Code chapter 154B; a bachelor social worker, a master social worker, or an independent social worker licensed pursuant to Iowa Code chapter 154C; a marital and family therapist or mental health counselor licensed pursuant to Iowa Code chapter 154D; or a pharmacist licensed pursuant to Iowa Code chapter 155A, who has executed an eligibility agreement with the VHCPP.

ITEM 2. Amend subrule **88.3(1)**, paragraph "a," introductory paragraph, as follows:

a. The applicant shall hold an active unrestricted license to practice in Iowa under Iowa Code chapter 148, 148C, 150, 150A, 151, 152, 152E, 153, 154B, 154C, 154D, or 155A. The applicant shall provide a sworn statement attesting that the license to practice is free of restrictions. The statement shall describe any disciplinary action that has ever been taken against the health care provider by any professional licensing authority or health care facility, including any voluntary surrender of license or other agreement involving the health care provider's license to practice or any restrictions on practice, suspension of privileges, or other sanctions. The statement shall also describe any malpractice suits that have been filed

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

against the health care provider. The statement provided by a pharmacist volunteer health care provider shall also describe any disciplinary action that has ever been taken against any pharmacy in which the pharmacist has ever been owner, partner, or officer.

ITEM 3. Amend subrule **88.3(2)**, paragraphs “b” and “c,” as follows:

b. The free clinic shall provide a list of all health care providers who ~~volunteer~~ *provide health care services* at the clinic.

c. The free clinic shall submit proof that each health care professional ~~volunteering~~ *providing health care services* at the free clinic either:

(1) Holds a current eligibility agreement with the VHCPP, or

(2) Holds current professional liability insurance coverage and an active unrestricted license to practice in Iowa under Iowa Code chapter 148, 148C, 150, 150A, 151, 152, 152E, 153, 154B, 154C, 154D, or 155A.

ITEM 4. Amend rule 641—88.5(135), introductory paragraph, as follows:

**641—88.5(135) Covered health care services.** A volunteer health care provider holding a current eligibility agreement with the VHCPP shall be afforded the protection of an employee of the state under Iowa Code chapter 669, and a free clinic holding a current eligibility agreement with the VHCPP shall be afforded protection as an agency of the state under Iowa Code chapter 669, only for claims for injury *alleged to have been* proximately caused by a health care provider’s provision of covered health care services *or solely on the basis of the health care provider’s participation in the free clinic.*

ITEM 5. Amend subrule 88.6(1) as follows:

**88.6(1)** The claim involves injury *alleged to have been* proximately caused by covered health care services which were identified and approved in the eligibility agreement with the VHCPP and then only to the extent the health care services were provided by or under the direct supervision of the volunteer health care provider, including claims based on negligent delegation of health care *or the volunteer health care provider is named as a defendant solely because of the volunteer health care provider’s participation in the free clinic.*

## REVENUE DEPARTMENT

### Notice of Electric and Natural Gas Delivery Tax Rate Changes

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the changes to the electric and the natural gas delivery tax rates. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2003 by each taxpayer, for replacement taxes payable in the 2004-2005 fiscal year.

### 2003 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA—RATE CHANGES ONLY

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3213	Bellevue Municipal Utilities	*
3229	Bloomfield Municipal Electric Utility	0.00003352
3230	City of Fredericksburg	0.00000541
3243	Danville Municipal Electric Utility	0.00000384
3245	Denver Municipal Electric Utility	0.00006156
3085	Earlville Municipal Utilities	0.00123246
3231	Glidden Municipal Electric Utility	0.00000204
3095	Greenfield Municipal Utilities	0.00117804
3099	Hinton Municipal Electric/Water	0.00010345
3267	Hopkinton Municipal Utilities	0.00000826
3233	Lake View Municipal Utilities	0.00016566
3276	LaPorte City Utilities	0.00000913
3282	Manilla Municipal Elec. Utilities	0.00010234
3112	Manning Municipal Electric	0.00026914
3285	Maquoketa Municipal Electric	0.00004654
3291	Milford Municipal Utilities	0.00016595
3297	New Hampton Municipal Light Plant	0.00009907
3309	Panora Municipal Electric Utility	0.00008582
3315	Primghar Municipal Light Plant	0.00001803
3321	Sioux Center Municipal Utilities	0.00000105
3327	Story City Municipal Electric Utility	*
3337	Villisca Municipal Power Plant	0.00024841
3345	West Bend Municipal Power Plant	0.00088027
3346	West Liberty Municipal Electric Util.	*

\*No rate was provided to the Department by the Municipal.

CO. #	IOU's - ELECTRIC	DELIVERY TAX RATE
7248	Eldridge Electric & Water Utilities	0.00065666
7272	Interstate Power	0.00103630
7305	Omaha Public Power District	0.00135591

CO. #	REC's	DELIVERY TAX RATE
4235	Clarke Electric Coop	0.00295748
4287	Consumers Energy	0.00221501
4247	Eastern Iowa Light & Power	0.00073432
4251	Federated Rural Electric Association	0.00051646
4253	Franklin Rural Electric Coop	0.00079714
4254	Freeborn-Mower Cooperative	0.00099628
4255	Glidden Rural Electric Coop	0.00067022
4259	Grundy County REC	0.00061655
4261	Guthrie County REC	0.00240245
4262	Hancock Co. REC	0.00128724
4273	Iowa Lakes Electric Coop	0.00089999
4279	Linn County REC	0.00173741
4280	Lyon Rural Electric Coop	0.00073253
4299	Nishnabotna Valley REC	0.00084071
4300	North West Rural Electric Coop	0.00056697
4308	Osceola Electric Coop	0.00048796
4313	Pleasant Hill Community Line	0.00028048
4322	Southern Iowa Electric Coop	0.00151197
4329	T.I.P. Rural Electric Coop	0.00220635
4333	Tri County Electric Coop	0.00129073

## REVENUE DEPARTMENT(cont'd)

CO. #	REC's	DELIVERY TAX RATE
4352	Woodbury County REC	0.00122711
4353	Wright Co. REC	0.00058686

2003 NATURAL GAS DELIVERY TAX RATES  
BY SERVICE AREA—RATE CHANGES ONLY

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5275	Lamoni Municipal Gas	0.00091201
5281	Manilla Municipal Gas	0.00326276
5283	Manning Municipal Gas	0.00021153

CO. #	IOU's - GAS	DELIVERY TAX RATE
5272	Interstate Power	0.01366366

**ARC 3363B**

## TRANSPORTATION DEPARTMENT[761]

### Notice of Intended Action

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 307.10 and 307.12, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 116, "Junkyard Control," and Chapter 117, "Outdoor Advertising," Iowa Administrative Code.

2003 Iowa Acts, chapter 8, sections 1 to 4, limit the Department's regulation of junkyards under Iowa Code chapter 306C, division 1, to interstate highways only. Items 1 to 3 make conforming amendments to Chapter 116.

Iowa Code subsection 306B.2(4) currently allows billboards to be erected in the adjacent area of interstate highways only if the billboards are located:

- In commercial or industrial zones within the boundaries of cities as these boundaries existed on September 21, 1959, or
- In other areas where the land use on September 21, 1959, was clearly established by law for industrial or commercial purposes.

2002 Iowa Acts, chapter 1070, section 1, amended Iowa Code subsection 306B.2(4). This legislation, which will be effective July 1, 2004, strikes the 1959 language and replaces it with language that allows billboards to be erected in the adjacent area of interstate highways if the billboards are located in areas zoned and used for commercial or industrial purposes.

Chapter 117 is amended to implement 2002 Iowa Acts, chapter 1070, to clarify certain rules, to eliminate redundancies, and to rewrite archaic language.

Item 4 adds a definition for "area zoned and used for commercial or industrial purposes." This is the statutory definition. It is being added to the rules to eliminate any possible confusion with the standard for freeway-primary and primary highways, which remains a location in a zoned or unzoned commercial or industrial area.

Item 4 also amends the definition of "on-premise sign" to state that an "on-premise sign" and "on-property sign" have the same meaning.

Item 5 adds a paragraph to explain what advertising devices are allowable beyond the adjacent area of highways in unincorporated areas of the state. This is a statutory requirement. It is being added to assist the reader in understanding the rules.

Item 6 revises rule 761—117.4(306B,306C) to eliminate subrule 117.4(5), which contains language pertaining to the 1959 boundaries that were applicable to billboards adjacent to interstate highways. The amended language in Item 6 also reflects the scope of the revised rule.

Item 7 eliminates unnecessary verbiage.

Item 8 clarifies that certain billboards in existence prior to July 1, 1972, are allowed to remain in existence.

Item 9 strikes language pertaining to the 1959 boundaries that were applicable to billboards adjacent to interstate highways. Item 9 also adds the location standard for interstate highways and eliminates unnecessary or confusing verbiage.

Item 10 corrects a cross reference to rule 761—117.4(306B,306C) and updates archaic language.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address [julie.fitzgerald@dot.state.ia.us](mailto:julie.fitzgerald@dot.state.ia.us).
5. Be received by the Director's Staff Division no later than June 15, 2004.

A meeting to hear requested oral presentations is scheduled for Thursday, June 17, 2004, at 10 a.m. in the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Director's Staff Division at the address listed in this Notice by June 28, 2004.

These amendments are intended to implement Iowa Code chapters 306B and 306C.

Proposed rule-making actions:

ITEM 1. Amend rule **761—116.1(306C)**, definition of "adjacent area," as follows:

"Adjacent area" means an area which is contiguous to and within 1,000 feet of the nearest edge of the right-of-way of an interstate or primary highway.

ITEM 2. Amend rule 761—116.2(306C), introductory paragraph, as follows:

TRANSPORTATION DEPARTMENT[761](cont'd)

**761—116.2(306C) Junkyards prohibited—exceptions.** After July 1, 1972, a person shall not establish, operate, or maintain a junkyard any portion of which is within the adjacent area and is visible from the main traveled way of any interstate or primary highway except:

ITEM 3. Amend subrule 116.3(1) as follows:

**116.3(1)** Lawfully established junkyards that subsequently become nonconforming. Any junkyard, except those junkyards which meet the requirements of rule 116.2(306C), that was lawfully in existence on July 1, 1972, and any junkyard that was lawfully established but subsequently becomes nonconforming due to changed conditions, such as a change in zoning or being located upon land adjacent to any highway or land made an interstate or primary highway after July 1, 1972, shall be screened, if feasible, or removed by the department.

ITEM 4. Amend rule **761—117.1(306B,306C)** by adding a **new** definition of “area zoned and used for commercial or industrial purposes” in alphabetical sequence and by amending the definition of “on-premise sign” as follows:

“Area zoned and used for commercial or industrial purposes” means an area zoned for commercial or industrial purposes in accordance with Iowa Code chapter 414, in the case of city zoning, or in accordance with Iowa Code chapter 335, in the case of county zoning, in which one or more commercial or industrial activities, as defined under the city or county zoning ordinance, are located.

“On-premise sign” or “*on-property sign*” means an advertising device advertising the sale or lease of, or activities being conducted upon, the property where the sign is located. The criteria to be used to determine if an advertising device qualifies as on-premise signing include but are not limited to the following:

1. to 7. No change.

ITEM 5. Amend subrule **117.3(1)** by adopting **new** paragraph “**m**” as follows:

m. An advertising device shall not be constructed or reconstructed beyond the adjacent area in unincorporated areas of the state if the advertising device is visible from the main traveled way of any interstate, freeway-primary, or primary highway except for on-premise signs and municipal, county and school district recognition signs.

ITEM 6. Amend rule 761—117.4(306B,306C) as follows:

**761—117.4(306B,306C) Interstate special provisions for on-premise signs.** This rule applies to advertising devices *on-premise signs* located within the adjacent area of any interstate highway, except that subrules 117.4(1), 117.4(2), 117.4(3), and 117.4(4) do not apply to advertising devices located within those areas exempt from control under Iowa Code section 306B.2(4).

**117.4(1) to 117.4(4)** No change.

**117.4(5)** Interstate advertising devices not subject to control until July 1, 1972. The following advertising devices along interstate highways became subject to control on July 1, 1972, and shall comply with rule 761—117.5(306C):

a.—Advertising devices which are visible from any interstate highway, but which are located beyond the adjacent area of any interstate highway in unincorporated areas.

b.—Within adjacent areas, advertising devices which are located in commercial or industrial zones traversed by segments of the interstate system within the boundaries of incorporated municipalities as these boundaries existed September 21, 1959, where the use of property adjacent to the inter-

state system is subject to municipal regulation and control, or other areas where the land on September 21, 1959, was clearly established by law for industrial or commercial purposes.

ITEM 7. Amend rule 761—117.5(306C), introductory paragraph, as follows:

**761—117.5(306B,306C) Interstate highways not subject to control until July 1, 1972, freeway-primary highways, and primary highways Location, size and spacing requirements.** Subject to the more strict provisions of rule 761—117.4(306B,306C), no advertising device which is visible from any interstate, freeway-primary, or primary highway shall be erected or maintained unless it complies with this rule. This rule does not apply to on-premise signs.

ITEM 8. Amend subrule **117.5(1)**, paragraph “**a**,” as follows:

a. An advertising device that was lawfully in existence prior to July 1, 1972, and is visible from any interstate, freeway-primary or primary highway, *including a device located beyond the adjacent area in unincorporated areas*, may remain in existence without conforming to subrule 117.5(5) as long as the device otherwise conforms to all other applicable statutory and regulatory requirements. The permit provisions of rule 761—117.6(306C) apply.

ITEM 9. Amend subrule **117.5(5)**, introductory paragraph, and paragraphs “**b**,” “**c**” and “**d**,” as follows:

**117.5(5)** Advertising devices erected after July 1, 1972. ~~No~~ *Except as otherwise provided in this chapter*, an advertising device which is visible from any interstate, freeway-primary, or primary highway shall *not* be erected after July 1, 1972, or subsequently maintained within the adjacent area in ~~incorporated areas or within or beyond the adjacent area in unincorporated areas~~ unless *the advertising device* complies with the following:

b. Commercial or industrial area. *An advertising device visible from an interstate highway must be located within an area zoned and used for commercial or industrial purposes. The An* advertising device visible from a freeway-primary or primary highway must be located within a zoned or unzoned commercial or industrial area.

c. Spacing within city—interstate and freeway-primary highway. Within the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from *an interstate or a freeway-primary highway or an advertising device which is located in a commercial or industrial zone traversed by a segment of the interstate system within the boundaries of an incorporated municipality as these boundaries existed on September 21, 1959, where the use of the property adjacent to the interstate system is subject to municipal regulation or control:*

(1) to (3) No change.

d. Spacing outside city—interstate and freeway-primary highway. Outside the corporate limits of a municipality, the following provisions apply to an advertising device which is visible from *an interstate or a freeway-primary highway; an advertising device which is visible from an interstate highway and is located within the adjacent area in a commercial or industrial zone traversed by a segment of the interstate system where the land use as of September 21, 1959, was clearly established by Iowa law as industrial or commercial; or an advertising device which is visible from an interstate highway and is located beyond the adjacent area:*

(1) to (3) No change.

ITEM 10. Amend rule 761—117.6(306C), introductory paragraph, as follows:

TRANSPORTATION DEPARTMENT[761](cont'd)

**761—117.6(306C) Outdoor advertising permits and fees required.** The owner of every an advertising device must apply to the department for an outdoor advertising permit if the device is visible from the main traveled way of any interstate, freeway-primary or primary highway, and the device is regulated by the more restrictive provisions of rule 117.4(306B,306C), except subrules 117.4(2) and 117.4(4), and subrule 117.4(1) or rule 117.5(306B,306C), is required to have made application for a permit to the department

1. If an advertising device was in existence on July 1, 1972, application for a permit must have been made on or before July 31, 1972, if the device was in existence on July 1, 1972;

2. or if the advertising device is erected after After July 1, 1972, the owner of an advertising device is required to first must obtain a permit from the department prior to the erection of the advertising device.

3. Any If an advertising device which is that was lawfully erected which later becomes subject to the provisions of these rules due to an event such as, but not limited to, a change in zoning, the establishment of a new highway or a change in the designation of a highway, the owner of the advertising device so affected shall make application apply to the department for an outdoor advertising permit within 30 days of after the event that made the device nonconforming. A nonconforming advertising device that complies with the permit provisions of rule 117.6(306C) may remain in existence without being in compliance with subrule 117.5(5) as long as the device otherwise complies with all other applicable statutory and regulatory requirements. In the case of advertising devices lawfully in existence in areas adjacent to any highway made an interstate, freeway primary, or primary highway after July 1, 1972, the owner of the advertising device is required to make application for a permit and pay the required fee within 30 days after the highway acquired the designation. Upon timely application for a permit and payment of the required fee, advertising devices lawfully erected which become nonconforming due to such event after July 1, 1972, shall be eligible for permits as if the devices were erected prior to July 1, 1972.

### NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vautd have established today the following rates of interest for public obligations and special assessments. The usury rate for May is 5.75%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

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

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

New official state interest rates, effective May 12, 2004, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

#### TIME DEPOSITS

7-31 days . . . . .	Minimum 0.70%
32-89 days . . . . .	Minimum 0.80%
90-179 days . . . . .	Minimum 0.90%
180-364 days . . . . .	Minimum 1.00%
One year to 397 days . . . . .	Minimum 1.20%
More than 397 days . . . . .	Minimum 1.90%

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

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

### 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:

June 1, 2003 — June 30, 2003	6.00%
July 1, 2003 — July 31, 2003	5.50%
August 1, 2003 — August 31, 2003	5.25%
September 1, 2003 — September 30, 2003	6.00%
October 1, 2003 — October 31, 2003	6.50%
November 1, 2003 — November 30, 2003	6.25%
December 1, 2003 — December 31, 2003	6.25%
January 1, 2004 — January 31, 2004	6.25%
February 1, 2004 — February 29, 2004	6.25%
March 1, 2004 — March 31, 2004	6.25%
April 1, 2004 — April 30, 2004	6.00%
May 1, 2004 — May 31, 2004	5.75%
June 1, 2004 — June 30, 2004	6.25%



## UTILITIES DIVISION

### Notice of Formal Notice and Comment Proceeding

The Utilities Board (Board) hereby gives notice, pursuant to 199 IAC 5.3(3), that on May 7, 2004, the Board issued an order in Docket No. INU-04-1, In re: Deregulation of Local Exchange Services in Competitive Markets, "Order Initiating Formal Notice and Comment Proceeding," pursuant to Iowa Code section 476.1D, to consider whether local exchange service to business and residential customers in certain Iowa communities is subject to effective competition and should be deregulated. The Board will also consider in this proceeding whether residential second line service throughout Iowa is subject to effective competition and should be deregulated.

Copies of the Board's complete order initiating a formal notice and comment proceeding may be obtained from the Board by telephone (515)281-6240 or from the Board's Web page, <http://www.state.ia.us/iub>.

Any interested person may file, on or before June 14, 2004, a statement of position concerning the possible deregulation of local exchange service to business customers in the Sioux City market, business and residential customers in the Council Bluffs market, and business and residential customers in a number of smaller exchanges as described in the Board's order, as well as the possible deregulation of residential second line service throughout Iowa. Comments regarding other issues raised in the Board's order must also be filed

on or before June 14, 2004. Statements of position must substantially comply with 199 IAC 2.2(2). Ten copies must be filed with the original. All written statements should clearly state the author's name and address and should make specific reference to Docket No. INU-04-1.

Any person filing a statement of position may file a counterstatement replying to the comments of other participants no later than July 19, 2004. Ten copies must be filed with the original and copies must be served upon all participants filing statements to which the counterstatement responds. Counterstatements must substantially comply with 199 IAC 2.2(3).

All statements and counterstatements shall be sworn and directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

An oral presentation is scheduled, pursuant to 199 IAC 5.3(4) and 5.5(476), for the purpose of taking sworn testimony concerning the statements and counterstatements. The oral presentation shall be held August 24, 2004, beginning at 10 a.m. in the Board's hearing room at 350 Maple Street, Des Moines, Iowa. All persons filing written statements shall have at least one witness available at the oral presentation who may be cross-examined on the subject matter of the written statement. Cross-examination may be by the Board, Consumer Advocate Division of the Department of Justice, and other participants, as the Board may deem appropriate to develop the record fully. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

## ARC 3370B

### ADMINISTRATIVE SERVICES DEPARTMENT[11]

#### Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 8A.104, the Department of Administrative Services hereby rescinds 401—Chapter 4, “Parking,” and adopts 11—Chapter 101, “Parking,” and amends 11—Chapter 100, “Capitol Complex Operations,” Iowa Administrative Code.

The purpose of these amendments is to update rules of the former Department of General Services regarding parking on the capitol complex and adopt a new chapter under the Department of Administrative Services, pursuant to statutory changes made by the 80th General Assembly in Iowa Code Supplement chapter 8A. Differences between the old and new chapters include:

1. Clarification of the purpose of the chapter and moving definitions to a separate rule.
2. Revising the definition of “capitol complex” to match that used in 11—Chapter 100, “Capitol Complex Operations.”
3. Clarification of designation and assignment of employee and visitor parking areas and adding a reference to the capitol complex parking map on the Department’s Web site.
4. Replacing references to Capitol Police with references to peace officers assigned to the Iowa State Patrol District 16.
5. Adding definitions of “capitol complex parking area,” “delinquent,” “legislative parking area,” “overnight parking,” “reserved parking” and “visitor parking.”
6. Renaming parking coordinators as access coordinators.
7. Replacing quotations of statutory definitions of “persons with a disability” and “persons with a disability parking permit” with references to Iowa Code chapter 321L.
8. Revising and clarifying the definitions of “employee,” “overflow lot,” “parking decal,” and “visitor.”
9. Revising the definition of “habitual violator” to include the ability to end the designation if the vehicle owner or operator does not continue to receive tickets by changing the definition from receipt of six tickets in any given 6-month period to receipt of six tickets in the past 12 months.
10. Adding the provision that an access card will only be issued to an employee by name for access granted to that employee. For security reasons, generic or spare access cards shall not be issued.
11. Revising the rule on employee parking to clarify policy on obtaining, displaying, replacing and removing parking decals, and obtaining and replacing access cards.
12. Requiring vehicles to be moved to designated overnight parking areas only during conditions of snow or ice or when maintenance work on parking areas is required.
13. Clarification of provisions for temporary parking and prohibited parking.
14. Moving appeal-related issues into a separate rule and deleting references to appearance bonds and reimbursement of fees.
15. Raising the base parking fine from \$5 to \$10.
16. Adding a penalty for late payment of parking citations. If the parking citation remains unpaid after 30 days, \$10 is added to each delinquent fine.

17. Eliminating the rule on ride sharing. Ride sharing is one of a number of reasons for which reserved parking spaces may be assigned.

The waiver process set forth in 11—Chapter 9 applies to any request for waiver from these rules.

Notice of Intended Action was published in the March 31, 2004, Iowa Administrative Bulletin as **ARC 3247B**.

A public hearing was held on April 20, 2004. One individual appeared and provided oral comments at the hearing, and one individual sent written comments. A substantial number of comments were received prior to publication of the Notice of Intended Action. After full and fair consideration of comments provided both before and after publication of the Notice, upon its own expertise and in consultation with the Department of Public Safety, the Department has made the following principal changes to these rules:

- In 101.2(8A), clarified the definition of “delinquent.”
- In 101.2(8A), clarified the definition of “reserved parking.”
- In 101.3(1), clarified assignment of parking spaces.
- In 101.7(8A), clarified employee parking.
- In 101.7(2)“b,” clarified registration and decal issuance.
- In 101.7(7), changed the language on replacement of access cards to state that cards that fail and are returned to the Iowa State Patrol District 16 will be replaced free of charge. If a card is lost or stolen, it shall be replaced by application submitted through the access coordinator and payment of the fee established by the Director.
- In 101.8(8A), changed the rule to delete the need for the permission to be in writing for temporary parking in an area where the vehicle is not normally allowed to park.
- In 101.8(3), clarified the subrule on temporary parking by adding cross references.
- In 101.11(10), clarified unauthorized entrance into a parking area.

These amendments will become effective June 30, 2004. The new fine and late fee will be effective for citations issued on or after June 30, 2004.

These amendments are intended to implement Iowa Code Supplement sections 8A.322 and 8A.323.

The following amendments are adopted.

#### ITEM 1. Rescind **401—Chapter 4**.

ITEM 2. Amend **11—100.1(80GA, HF534)**, definition of “capitol complex,” as follows:

“Capitol complex” means an area within the city of Des Moines ~~within~~ in which the Iowa state capitol building is located. This area includes the state capitol building and all real property and appurtenances thereto owned by the state of Iowa within an area bounded on the north by Interstate Highway 235, on the east by East 14th Street, on the south by the northernmost railroad tracks *south of Court Avenue* and on the west by East 6th Street.

#### ITEM 3. Adopt the following **new** chapter:

#### CHAPTER 101 PARKING

#### **11—101.1(8A) Purpose.**

**101.1(1)** The purpose of these rules is to provide citizens with the most convenient access to Iowa state offices on the capitol complex, to provide state employees a parking space within a reasonable distance of their offices, to remove the hazards inherent in unregulated parking, to define prohibited parking, and to set forth fines and the means of enforcement.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

**101.1(2)** Parking spaces or lots will be assigned to three classes of drivers: (1) visitors and employees with disabilities, (2) other visitors, and (3) other employees.

**101.1(3)** Capitol complex parking area designations may be found on the department's Web site at [http://das.gse.iowa.gov/gen\\_info/parking3.pdf](http://das.gse.iowa.gov/gen_info/parking3.pdf).

**11—101.2(8A) Definitions.** The following definitions shall apply to this chapter.

“Access coordinator” means an employee, designated within each agency, with the assigned duties of disseminating information on parking and building access and requesting parking decals and access cards from the department of administrative services, the department of public safety, and the house of representatives or the senate, as appropriate, for employee parking lot assignment and building access.

“Capitol complex” means an area within the city of Des Moines in which the Iowa state capitol building is located. This area includes the state capitol building and all real property and appurtenances thereto owned by the state of Iowa within an area bounded on the north by Interstate Highway 235, on the east by East 14th Street, on the south by the northernmost railroad tracks south of Court Avenue and on the west by East 6th Street.

“Capitol complex parking area” means a parking lot or parking structure for employees or visitors that is within the boundaries of the capitol complex and that is under the control of the executive branch of state government.

“Controlled lot” means a parking area for which access or usage is designated by any of the following: parking gates, vehicle decals, signs, symbols, or markings.

“Delinquent” means a parking fine that has not been paid within 30 days of issuance. If the owner or operator of the vehicle contests the parking citation by filing a written request for hearing within 10 days of the issuance of the citation, the fine will be suspended pending the outcome of the contested case. If the appeal decision upholds the citation, an unpaid fine shall become delinquent 10 days after issuance of the final decision or 31 days after issuance of the ticket, whichever is later.

“Department” means the department of administrative services.

“Director” means the director of the department of administrative services or the director's designee.

“Employee” means any person employed by the state of Iowa and regularly assigned to work on the capitol complex, including legislators, judges, temporary workers and persons who are service contractors or private contractors with the state and their employees who regularly work on the capitol complex. “Employee” shall also mean a full-time appointee of a board, commission, council, or similar group that regularly meets or has offices at the capitol complex.

“Habitual violator” means any owner or operator of a vehicle who has received six or more separate and distinct parking citations in the past 12 months regardless of whether payment for the citations is made in a timely manner.

“Legislative parking area” means a parking lot within the boundaries of the capitol complex that is under the control of the legislative branch of state government.

“Operator” means any person who is in actual physical control of a vehicle.

“Overflow lot” means a lot designated by the department of administrative services for both employees and visitors.

“Overnight parking” means parking on the capitol complex between 11 p.m. and 6 a.m.

“Overtime parking” means parking in a space or parking area longer than the posted time limit.

“Owner” means a person who is named on the legal title of a vehicle as the owner or, in the case of a vehicle without a title certificate, the person who is lawfully seized of the vehicle.

“Parking decal” means a device, such as but not limited to a sticker, card or tag, used to identify a state employee's vehicle, which is distributed by the department of administrative services or the legislative branch upon the request of the access coordinator and used for the purpose of identifying state employees' vehicles in capitol complex and legislative parking areas. Such a device includes:

1. A decal issued by the department of administrative services,

2. A dashboard placard issued for the current year by the chief clerk of the house of representatives or the secretary of the senate for legislative employees, or

3. A hangtag distributed by the department of administrative services for use in certain reserved parking areas while an employee uses a state vehicle.

“Peace officer” means a person defined as a peace officer in Iowa Code section 801.4, who is assigned to the Iowa state patrol district 16 on either a permanent or temporary basis.

“Persons with disabilities parking permit” means a permit as defined in Iowa Code section 321L.2 that bears the international symbol of accessibility and that is issued by the department of transportation or by the corresponding agency of another state that allows the holder to park in a persons with disabilities parking space.

“Persons with disabilities parking sign” means a sign that bears the international symbol of accessibility and that meets the requirements of Iowa Code section 321L.6.

“Persons with disabilities parking space” means a parking space, including the access aisle, that is designated for use only by motor vehicles displaying a persons with disabilities parking permit and that meets the requirements of Iowa Code sections 321L.5 and 321L.6 and 661—Chapter 18.

“Person with a disability,” as defined in Iowa Code section 321L.a, means a person who has a disability that limits or impairs the person's ability to walk as defined in Iowa Code section 321L.1.

“Reserved parking” means a parking area designated by a “reserved” parking sign or other assignment indicator pursuant to subrule 101.3(2), and assigned by the director to a specific agency, vehicle or individual.

“Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. “Vehicle” does not include any device moved by human power.

“Visitor” means a member of the public at the capitol complex who is not included in the definition of employee.

**11—101.3(8A) Parking space assignments.**

**101.3(1)** Each parking space on the capitol complex will be assigned, on an individual or lot basis, by the director, except legislative parking areas which shall be assigned by the chief clerk of the house of representatives or the secretary of the senate or by the legislative council. Parking assignments may be dependent upon factors including, but not limited to, office location, type of vehicle (such as an oversized vehicle or a motorcycle), or the need to park after normal working hours.

**101.3(2)** The assignment of parking spaces will be indicated and designated by traffic control devices including but not limited to signs, instructions, lines or symbols painted on curbs or on parking surfaces, or by curbs, barricades, blocks, and lights. A raised or missing parking control gate at the en-

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

trance to a parking area otherwise restricted does not indicate open parking.

**11—101.4(8A) Parking for persons with disabilities.**

**101.4(1)** Spaces designated for persons with disabilities in visitor parking areas, unless specifically posted for employee parking, shall be used only by visitors with disabilities or by persons transporting visitors with disabilities. Such visitors are required to display a persons with disabilities parking permit in or on their vehicle pursuant to Iowa Code section 321L.4.

**101.4(2)** Spaces designated for employees with disabilities shall be used only by employees with disabilities, or persons who are transporting employees with disabilities, who display a persons with disabilities parking permit in or on their vehicle pursuant to Iowa Code section 321L.4 and who display a capitol complex parking decal.

**11—101.5(8A) Visitor parking.** Visitors to the capitol complex shall park in areas designated for visitor parking, in overflow lots, or on the street where parking is not prohibited. A visitor shall not park in an employee lot unless the lot is specifically posted for open parking.

**11—101.6(8A) Deliveries.** Most buildings on the capitol complex have delivery entrances with limited space for parking while a person loads or unloads a vehicle. Delivery vehicles and employees needing to load or unload their vehicles near the building shall use these entrances. Each of the restrictions and regulations contained in these rules, all traffic control devices, and state laws shall apply to delivery vehicles.

**11—101.7(8A) Employee parking.** Employees shall park only in assigned capitol complex employee parking areas or overflow lots, and not in areas designated solely for visitors.

**101.7(1)** Access card issuance. The director or Iowa state patrol district 16 will issue to each employee an access card, if needed, for access to the employee's assigned lot. An access card shall be assigned to an employee by name for access granted to that employee. Generic or spare access cards shall not be issued.

**101.7(2) Decal issuance.**

a. All employees who park any vehicle, other than a state vehicle, on the capitol complex shall register the vehicle with the department of administrative services through their access coordinator, and obtain a parking decal(s) and space or lot assignment in a capitol complex parking area within five days after beginning employment on the capitol complex or obtaining license plates for said vehicle, whichever is later. The parking decal will be coded and shall be used only in the assigned space or lot(s).

b. Legislative employees must register with the chief clerk of the house of representatives or the secretary of the senate for a placard and a parking space or lot assignment, unless such registration and assignment are delegated by the legislative branch to another entity.

**101.7(3)** Failure to obtain a parking decal. An employee who fails to register a vehicle pursuant to subrule 101.7(2) or fails to obtain a parking decal and a space or lot assignment shall not park in capitol complex parking areas.

**101.7(4) Display of decals.**

a. Parking decals with adhesive backing must be permanently affixed to the lower corner of the vehicle's windshield on the driver's side within 48 hours of issuance. The use of tape or adhesive other than that found on the decal to affix the parking decal is prohibited.

b. Dash placards shall be placed on the vehicle's dashboard so they are visible through the windshield on the driver's side.

c. Hangtags shall be hung from the vehicle's rearview mirror.

**101.7(5) Replacement of decals.**

a. Lost decals. A lost parking decal shall be replaced by the employee's contacting the access coordinator and making application to the department of administrative services or by notifying the chief clerk of the house of representatives or the secretary of the senate, as appropriate.

b. Damaged decals. Parking decals that become damaged or unidentifiable or that are affixed to a vehicle being reassigned to a parking area that requires a different parking decal shall be replaced by the employee's contacting the access coordinator and making application to the department, or legislative branch, as appropriate.

**101.7(6)** Removal of decals. A parking decal affixed to a vehicle that is no longer being driven to the capitol complex by the employee to whom the parking decal was issued shall be removed. When the individual to whom the parking decal was issued is no longer an employee, the parking decal shall be removed from the vehicle.

**101.7(7) Replacement access cards.**

a. Replacement fee. If an access card is lost or stolen, it shall be replaced upon approval of an application submitted through the access coordinator and payment of the fee prescribed by the director. The replacement fee shall be based on the costs of replacing the card.

b. No replacement fee. The first card issued to an individual and any card replacing one that failed and is returned to the Iowa state patrol district 16 shall be issued free of charge.

**11—101.8(8A) Temporary parking.**

**101.8(1)** A request to park temporarily for the purpose of loading or unloading a vehicle in an area where parking is prohibited shall be directed to the Iowa state patrol district 16 at (515)281-5608. The requester shall provide the driver's name, license plate number of the vehicle and where it is parked.

**101.8(2)** An individual who is a visitor on the capitol complex and who drives a vehicle with a parking decal assigned to a specific employee lot may park in a visitor's space provided permission is granted by the Iowa state patrol district 16. The driver shall immediately telephone the Iowa state patrol district 16 at (515)281-5608 and give the driver's name, license plate number of the vehicle and where it is parked. The driver will receive instructions on obtaining permission.

**101.8(3)** An employee who drives a vehicle that has not been registered pursuant to subrule 101.7(2) or is without a parking decal pursuant to subrule 101.7(4) must obtain permission from Iowa state patrol district 16 to temporarily park on the capitol complex. The driver shall immediately telephone Iowa state patrol district 16 at (515)281-5608 and give the driver's name, license plate number of the vehicle and where it is parked. The driver will receive instructions on obtaining permission.

**101.8(4)** Temporary parking permission granted under subrule 101.8(1), 101.8(2), or 101.8(3) shall not constitute a waiver of the rules in this chapter.

**11—101.9(8A) Prohibited parking.** Failure to locate a space where parking is permitted in a designated capitol complex parking area does not entitle the operator to park in a manner prohibited by this chapter or state law.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

**101.9(1)** Vehicles shall not be parked in a manner that violates any of the rules in this chapter or state law.

**101.9(2)** Vehicles shall not be parked in a manner that causes:

- a. More than one space to be occupied by a single vehicle.
- b. A street, parking lot lane or traffic lane within a capitol complex parking lot to be blocked.
- c. A building entrance to be blocked or obstructed.
- d. Access to fire hydrants, emergency equipment or vehicles to be blocked or obstructed.
- e. Obstruction of the egress of another vehicle.
- f. Pedestrian walkways or sidewalks to be obstructed or blocked.
- g. Occupation of an area where vehicle parking is prohibited.
- h. Overtime parking.

**101.9(3)** A vehicle shall not be parked in a space designated for use by visitors with disabilities unless the driver is a visitor with disabilities or is transporting a visitor with disabilities. A vehicle shall not be parked in a space designated for use by employees with disabilities unless the driver is an employee with disabilities or is transporting an employee with disabilities.

**101.9(4)** A vehicle shall not be parked in a space or lot unless that space or lot is designated for use by or assigned to the driver. However, spaces or lots that are not otherwise designated (by sign or symbol that indicates a restricted or continuous reserved status, such as legislator, emergency or delivery vehicle, or persons with disabilities) may be used between 6 p.m. and 6 a.m. and during weekends and state government holidays, except as otherwise specified by this rule.

**101.9(5)** Vehicles shall not be parked on curbs, on grass or in any area not intended for vehicle parking.

**101.9(6)** Delivery vehicles shall not be parked in a manner or for a period of time that does not comply with the restrictions established for those vehicles by the director or with a traffic control device.

**101.9(7)** A vehicle with a delinquent parking ticket shall not be allowed to be parked on the capitol complex.

**101.9(8)** Vehicles of habitual violators shall not be allowed to be parked on the capitol complex.

**101.9(9)** If any vehicle is found stopped, standing or parked in any manner in violation of the provisions of these rules and the identity of the operator cannot be determined, the owner or operator or corporation in whose name the vehicle is registered shall be held responsible for the violation.

**101.9(10)** Vehicles shall not be parked on the capitol complex overnight in parking areas not specifically designated for overnight parking when there are conditions of snow or ice or when the department closes an area for maintenance.

**11—101.10(8A) Waiver.** As the purpose of these rules is to facilitate the system of parking, to encourage compliance and to reduce conflict, any rule contained herein, unless otherwise provided by law, may be suspended or waived by the director to aid law enforcement, to prevent undue hardship in any particular instance or to prevent unnecessary conflict or injustice. All suspensions and waivers shall be in writing. The director may change space and lot designations, excluding those in legislative parking areas, temporarily or permanently, to maintain appropriate availability of parking on the capitol complex. Waiver of these rules shall be requested in accordance with 11—Chapter 9.

**11—101.11(8A) Enforcement.**

**101.11(1)** Peace officers assigned to the Iowa state patrol district 16 shall be primarily responsible for the enforcement of these rules.

**101.11(2)** The Iowa state patrol peace officers may in their discretion enforce these rules by:

- a. Issuing oral or written orders or directions to an owner or operator.
- b. Issuing a citation.
- c. Removing a vehicle or causing a vehicle to be removed in accordance with subrule 101.11(6).

**101.11(3)** The director may rescind the privilege to park on the capitol complex for any vehicle for which there is a delinquent parking ticket.

**101.11(4)** The director may rescind the privilege to park on the capitol complex for any vehicle of a habitual violator.

**101.11(5) Removal of vehicles.**

a. A vehicle may be removed for nonpayment of all parking fines whether or not the vehicle is illegally parked at that time, when there are delinquent parking fines for the vehicle or registration plates.

b. A peace officer shall have the right to remove from the capitol complex the vehicle of a habitual violator.

**101.11(6)** If a peace officer determines that a vehicle is to be removed, the peace officer shall have the vehicle removed by the use of state equipment or by a private towing firm or contractor.

**101.11(7)** The director may contract with an individual or firm to provide services for removing (towing) vehicles found in violation of these rules or state law and to store such vehicles until claimed by the owner or disposed of as abandoned vehicles.

**101.11(8)** A peace officer, upon impounding a vehicle, shall give notice in person, by telephone or by ordinary mail to the owner of the vehicle. The notice shall state the specific violation or other reason for which the vehicle was impounded, its location and the fee for the removal, storage and notice. The towing firm or individual shall release the vehicle to the owner upon notification by the department of administrative services that the owner or operator has paid all outstanding citations and after the service fee has been paid to the towing firm or individual. The amount of this fee will be determined by the agreement between the director and the individual or firm.

**101.11(9)** If an owner or operator returns to the vehicle prior to its removal, but after the towing contractor has been summoned, the peace officer may require that the vehicle remain on the capitol complex until the towing contractor arrives. Upon the towing contractor's arrival, the vehicle may be allowed to be moved after the operator pays the towing contractor the cost of the service call and after the department of administrative services notifies the peace officer that all delinquent parking fines have been paid. The towing firm or individual shall issue a receipt for payment of the cost of the service call to the owner or operator.

**101.11(10)** An operator who enters a parking lot in a manner not consistent with usual parking lot access procedures shall be subject to a parking citation and possible charges for damages. Access to parking lots inconsistent with usual access procedures includes, but is not limited to: closely following another vehicle into a parking lot in a manner that prevents the gate from closing between vehicles; opening a gate for unauthorized persons with another operator's access card; driving over the curb or around the gate; driving through a gate that is not fully raised; or lifting a parking gate without authorization.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

**101.11(11)** In addition to any enforcement action taken under this rule, charges may be filed under other criminal statutes if appropriate.

**11—101.12(8A) Fines.**

**101.12(1)** A fine of \$10 is hereby established for the violation of any of these rules, except those pertaining to persons with disabilities parking.

**101.12(2)** The parking fine shall be increased by \$10 if the fine is not paid within 30 days of the date upon which the violation occurred.

**101.12(3)** Improper use of a persons with disabilities parking space is subject to a fine pursuant to Iowa Code section 321L.4(2).

**101.12(4)** A violator may be notified of a violation by being served with a parking violation ticket which:

a. May be served personally to the operator or placed upon the vehicle that is parked in violation of a rule.

b. Advises the operator of the rule violated.

c. Instructs the operator that the operator is required for each violation to pay \$10 to the department of administrative services within 10 days by submitting the ticket or the ticket number and payment in cash or a check or money order payable to the Department of Administrative Services, Customer Service Center, Hoover State Office Building, Level A, Des Moines, Iowa 50319.

d. Warns the operator that:

(1) The director may rescind the parking privilege of any owner or operator who has a delinquent parking ticket.

(2) The director may rescind the parking privilege of any owner or operator who meets the definition of "habitual violator."

When the parking privilege is rescinded, the vehicle shall not be allowed to be parked in any capitol complex parking area until all fines are paid or the owner or operator no longer meets the definition of "habitual violator." Peace officers may tow any vehicle parked on the capitol complex for which parking privileges have been rescinded.

e. Warns the violator that failure to pay the fine may result in the director's proceeding against the violator in an Iowa district court.

f. Advises the operator of how to obtain a hearing on the charges.

g. Warns that the fine for each separate violation shall be increased by \$10 if the parking ticket is not paid within 30 days of the date upon which the violation occurred.

**11—101.13(8A) Appeals.** Appeals regarding enforcement of parking rules shall be pursuant to 11—Chapter 7, Contested Cases.

If the owner or operator wishes to contest a parking citation, the fees paid because of the removal or attempted removal of the vehicle, or any other action arising from these rules, the owner or operator shall notify the director in writing within ten days of the action. Upon such notification, the owner or operator will be provided with written instructions that describe the procedure the director will use to conduct a hearing to consider the owner's or operator's evidence and arguments.

These rules are intended to implement Iowa Code Supplement sections 8A.322 and 8A.323.

[Filed 5/5/04, effective 6/30/04]

[Published 5/26/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.

**ARC 3378B**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1, the Department of Agriculture and Land Stewardship hereby adopts amendments to Chapter 64, "Infectious and Contagious Diseases," Iowa Administrative Code.

The purpose of these amendments is to modify and clarify Iowa's low pathogenic avian influenza (H5 and H7 subtypes) control program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 18, 2004, as **ARC 3170B**. No public comments were received. There were no changes made from the Notice of Intended Action.

No waiver provision is included in these amendments because 21—Chapter 8 allows for waivers in appropriate cases and applies to these amendments.

Pursuant to Iowa Code Supplement section 17A.4(3), the Department finds that the fiscal impact of these amendments does not meet the threshold requirements.

These amendments are intended to implement Iowa Code chapter 163.

These amendments will become effective June 30, 2004. The following amendments are adopted.

ITEM 1. Amend rule **21—64.185(163)** by adding the following **new** definitions in alphabetical order:

"House/housing facilities" means the individual barn that houses the poultry.

"Slaughter/disposal" means the removal or depopulation of the poultry flock.

ITEM 2. Amend rule 21—64.187(163) as follows:

**21—64.187(163) Surveillance procedures.** Breeders that participate in, and qualify under, the USDA, APHIS, NPPI U.S. Avian Influenza Clean Program meet or exceed the surveillance provisions of this plan and are exempt from further certification under this rule. For poultry flocks, surveillance procedures shall include the following:

**64.187(1) Turkeys.**

a. *Slaughter Slaughter/disposal* testing. Twenty blood samples shall be collected at *slaughter/disposal* and forwarded to an approved laboratory for LPAI testing.

b. Sick flock testing. Twenty blood samples shall be collected two weeks after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

c. Routine serologic testing. A test for LPAI should be included.

**64.187(2) Laying chickens and quail.**

a. *Preslaughter/disposal* testing. Twenty blood samples shall be collected and forwarded to an approved laboratory for LPAI testing within 30 days prior to depopulation *or disposal*.

b. Sick flock testing. Twenty blood samples shall be collected two weeks after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

c. Routine serologic testing. A test for LPAI should be included.

**64.187(3) Broiler chickens.**

a. *Slaughter Slaughter/disposal* testing. Twenty blood samples shall be collected at *slaughter/disposal* and forwarded to an approved laboratory for LPAI testing.

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

b. Sick flock testing. Twenty blood samples shall be collected two weeks after the onset of respiratory disease and forwarded to an approved laboratory for LPAI testing.

c. Routine serologic testing. A test for LPAI should be included.

ITEM 3. Amend rule 21—64.189(163) as follows:

**21—64.189(163) Investigation of LPAI affected poultry identified through surveillance.** All poultry diagnosed at an approved laboratory as infected with LPAI must be traced back to the flock *or farm* of origin.

All flocks of origin having contact with affected or exposed poultry as determined by the designated epidemiologist must be investigated epidemiologically. All flocks of origin and flocks having contact with affected or exposed poultry must be quarantined, pending the results of the epidemiological investigation.

ITEM 4. Amend paragraph 64.191(2)“e” by adding the following **new** subparagraph (6):

(6) Eggs that are sold as “nest run” and are not washed and sanitized must be moved directly to only an “off-line” breaking operation for pasteurization and used for breaking only. The egg handling materials must be handled as described in (5) above.

ITEM 5. Amend rule 21—64.192(163) as follows:

**21—64.192(163) Cleaning and disinfecting.** The premises *housing facilities* must be cleaned and disinfected under state supervision within 15 days after affected poultry have been removed.

[Filed 5/7/04, effective 6/30/04]

[Published 5/26/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.

## ARC 3376B

### AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 159.5(11) and 163.1, the Department of Agriculture and Land Stewardship hereby adopts an amendment to Chapter 64, “Infectious and Contagious Diseases,” Iowa Administrative Code.

These rules are intended to implement a scrapie control and eradication program developed by the United States Department of Agriculture. These rules, which are intended to allow Iowa to qualify for “consistent-state status,” include the mandatory identification of all sexually intact sheep and some goats and include restrictions on the movement of sheep and goats that are infected with, are suspected of having, or have been exposed to scrapie.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 17, 2004, as **ARC 3227B**. One public comment was received, and it was favorable in nature. The following changes from the Notice of Intended Action were made:

1. Rule 21—64.200(163) was changed to add a definition for “directly to slaughter,” and the quotation in the defi-

nition of “veterinary signature-stamped bill of sale” was revised to duplicate the federal requirements.

2. Rule 21—64.202(163) was revised to clarify that previous flock of origin is required for unidentified animals that require identification and for animals whose identification has been lost. Subrules 64.202(2) and 64.202(4) were revised to clarify that identification exemption is only allowed for out-of-state sheep and goats moving to approved terminal feedlots. Identification exemption also applies to all animals less than 18 months of age moving directly to slaughter.

3. Rule 21—64.204(163) was revised for better readability and to clarify that the flock ID number may be recorded in lieu of the producer’s name and address.

4. Rule 21—64.207(163) was revised to clarify that exposed flocks may be quarantined and have movement restrictions applied consistent with USDA guidelines.

5. Rule 21—64.208(163) was revised to more clearly state the required elements for a Certificate of Veterinary Inspection.

6. Rule 21—64.211(163) was changed to allow additional premises to qualify as approved terminal feedlots. The rule was organized into three different types of operations that will qualify.

There are no general waiver provisions in these rules.

These rules are intended to implement Iowa Code chapter 163.

These rules will become effective June 30, 2004.

The following amendment is adopted.

Amend 21—Chapter 64 by adopting the following **new** rules:

#### SCRAPIE DISEASE

**21—64.200(163) Definitions.** Definitions used in rules 21—64.200(163) through 21—64.211(163) are as follows:

“Accredited veterinarian” means a veterinarian approved by the administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), and the state veterinarian in accordance with Part 161 of Title 9, Chapter 1 of the Code of Federal Regulations (CFR), to perform functions required by cooperative state-federal animal disease control and eradication programs.

“Administrator” means the administrator of APHIS or any employee of USDA to whom the administrator has delegated authority to act on behalf of the administrator.

“Animal” means any sheep or goat.

“APHIS representative” means an individual employed by the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) in animal health activities who is authorized by the administrator to perform the functions and duties involved.

“Approved laboratory” means a diagnostic laboratory approved by APHIS to conduct tests for scrapie or genotypes on one or more tissues.

“Area veterinarian-in-charge” or “AVIC” means the veterinary official of APHIS assigned by APHIS to supervise and perform the official animal health work of APHIS in Iowa.

“Breed associations and registries” means the organizations that maintain the permanent records of ancestry or pedigrees of animals (including each animal’s sire and dam), individual identification of animals, and ownership of animals.

“Certificate of Veterinary Inspection” or “CVI” means an official document approved by the department and issued by a licensed accredited veterinarian at the point of origin of movement of animals.

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

“Commingle” means to group animals together in a manner that allows them to have physical contact with each other, including contact through a fence, but not limited contact. Commingling includes sharing the same section in a transportation unit where physical contact can occur.

“Designated scrapie epidemiologist” or “DSE” means a state or federal veterinarian designated by the department and APHIS to make decisions about the use and interpretation of diagnostic tests and field investigation data and the management of flocks and animals of epidemiological significance to the scrapie program.

“Directly to slaughter” means movement from a farm to a place of business where animals are processed into meat, excluding movement through an auction market or livestock dealer’s place of business.

“Exposed animal” means any animal that has had contact with a scrapie-positive animal or had contact with a premises where a scrapie-positive animal has resided and for which a flock plan has not yet been completed. Exposed animals shall be evaluated by a state or federal veterinarian in concurrence with the DSE and state veterinarian and may be redesignated into a risk category according to genetic resistance and exposure and may be restricted or have restrictions removed in accordance with current USDA regulations.

“Exposed flock” means any flock in which:

1. A scrapie-positive animal was born or gave birth; or
2. A high-risk or suspect female animal currently resides; or
3. A high-risk or suspect animal once resided that gave birth or aborted in the flock and from which tissues were not submitted for official scrapie testing.

“Flock” means a group of sheep or goats, or a mixture of both species, residing on the same premises or under common ownership or supervision on two or more premises with animal interchange between the premises. Changes in ownership of part or all of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock.

“Flock identification number” or “flock ID number” means the unique alphanumeric premises identification number that appears on the official identification issued to a flock, that conforms with the standards for an epidemiologically distinct premises, as outlined in 9 CFR 79.1, and that is assigned by USDA and approved by the department.

“Flock of origin” means the flock of birth for male animals and, for female animals, means the flock in which the animal most recently resided in which it either was born, gave birth, or resided during lambing or kidding.

“Flock plan” means a written flock management agreement signed by the owner of a flock, the accredited veterinarian, if one is employed by the owner, and a department or APHIS representative in which each participant agrees to undertake actions specified in the flock plan to control the spread of scrapie from, and eradicate scrapie in, an infected flock or source flock or to reduce the risk of the occurrence of scrapie in a flock that contains a high-risk or exposed animal. As part of a flock plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the flock plan. The flock plan must include the requirements in 9 CFR 54.8.

“Genetic susceptibility” means the animal’s likelihood, based upon the genotype of the animal, of developing scrapie following exposure to scrapie.

“High-risk animal” means:

1. Any exposed female animal designated as genetically susceptible under current USDA guidelines;

2. The female offspring of a scrapie-positive female animal; or

3. Any other exposed female animal determined by the DSE to be a potential risk.

“Infected flock” means any flock in which the DSE has determined that a scrapie-positive female animal has resided, unless an epidemiological investigation conducted by the DSE shows that the animal did not give birth or abort in the flock.

“Interstate commerce” means trade, traffic, transportation, or other commerce between a place in a state and any place outside that state, or between points within a state but through any place outside that state.

“Limited contact” means incidental contact between animals away from the flock’s premises, such as at fairs, shows, exhibitions, markets, and sales; between ewes being inseminated, flushed, or implanted; or between rams at ram test or collection stations. Embryo transfer and artificial insemination equipment and surgical tools must be sterilized after each use in order for the contact to be considered limited contact. Limited contact does not include any contact with a female animal during or up to 30 days after she gave birth or aborted or when there is any visible vaginal discharge other than that associated with estrus. Limited contact does not include any activity in which uninhibited contact occurs, such as sharing an enclosure, sharing a section of a transport vehicle, or residing in other flocks for breeding or other purposes, except as allowed by scrapie flock certification program standards.

“Live-animal screening test” means any test used for the diagnosis of scrapie in a live animal, approved by APHIS, and conducted in a laboratory approved by APHIS.

“Noncompliant flock” means:

1. Any source or infected flock whose owner declines to enter into a flock plan or postexposure management and monitoring plan (PEMMP) agreement within 60 days of the flock’s being designated as a source or infected flock;

2. Any exposed flock whose owner fails to make animals available for testing within 60 days of notification, or as mutually agreed upon by the department and the owner, or whose owner fails to submit required postmortem samples;

3. Any flock whose owner or manager has misrepresented, or who employs a person who has misrepresented, the scrapie status of an animal or has misrepresented any other information on a certificate, permit, owner statement, or other official document within the last five years;

4. Any flock whose owner or manager has moved, or who employs a person who has moved, an animal in violation of this chapter within the last five years; or

5. Any flock which does not meet the requirements of a flock plan or PEMMP.

“Official genotype test” means any test used to determine the genotype of a live or dead animal and conducted at an approved laboratory provided that the animal is officially identified and the samples used for the test are collected and shipped to the laboratory by either an accredited veterinarian or a department or APHIS representative.

“Official identification” or “official ID” means identification approved by the department and APHIS for use in the scrapie eradication program in the state of Iowa. For sheep, official identification consists of (1) approved ear tags which include the flock ID number combined with an individual animal number; (2) approved unique, alphanumeric serial-numbered ear tags; or (3) ear tags approved for use with the scrapie flock certification program. For goats, official identi-



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

fication consists of any method of identification approved by the USDA, as outlined in 9 CFR 79.2.

“Official test” means any test used for the diagnosis of scrapie in a live or dead animal, approved by APHIS for that use, and conducted at an approved laboratory.

“Owner” means a person, partnership, company, corporation, or any other legal entity which has legal or rightful title to animals.

“Owner/seller statement form” means a written document to be completed by the owner or seller of animals that require official identification and includes the owner’s/seller’s name, address, and telephone number; date of transaction; the flock identification number; the number of animals involved; a statement indicating that the animals that require official identification have been officially identified and that the owner/seller will maintain records as to the origin of the individual animals for five years; and a signed owner statement.

“Owner statement” means a statement signed by the owner certifying that the sexually intact animals are not scrapie-positive, suspect, high-risk, or exposed and that they did not originate from an infected, source, exposed, or noncompliant flock.

“Permit” means an official document that has been issued by an APHIS or department representative or an authorized accredited veterinarian and allows the interstate movement of animals under quarantine. A seal may be required by the state veterinarian or AVIC.

“Postexposure management and monitoring plan” or “PEMMP” means a written agreement signed by the owner of a flock, an accredited veterinarian, if one is employed by the owner, and a department or APHIS representative in which each participant agrees to undertake actions specified in the agreement to reduce the risk of the occurrence of scrapie and to monitor for the occurrence of scrapie in the flock for at least five years after the last high-risk or scrapie-positive animal is removed from the flock or after the last exposure of the flock to a scrapie-positive animal, unless the monitoring time is otherwise specified by a department or APHIS representative. As part of a postexposure management and monitoring plan, the flock owner must provide the facilities and personnel needed to carry out the requirements of the plan. The plan must include the requirements in 9 CFR 54.8.

“Premises” means the ground, area, buildings, and equipment occupied by one or more flocks of animals.

“Quarantine” means an imposed restriction prohibiting movement of animals to any location without specific written permits.

“Scrapie” means a nonfebrile, transmissible, insidious degenerative disease affecting the central nervous system of sheep and goats.

“Scrapie eradication program” or “program” means the cooperative state-federal-industry program administered by APHIS and states to control and eradicate scrapie.

“Scrapie flock certification program” or “SFCP” means a voluntary state-federal-industry cooperative program established and maintained to reduce the occurrence and spread of scrapie, to identify flocks that have been free of evidence of scrapie over specified time periods, and to contribute to the eventual eradication of scrapie. This program was formerly known as the voluntary scrapie flock certification program.

“Scrapie-positive animal” or “positive animal” means an animal for which a diagnosis of scrapie has been made by an approved laboratory through one of the following methods:

1. Histopathological examination of central nervous system (CNS) tissues from the animal for characteristic microscopic lesions of scrapie;

2. The use of protease-resistant protein analysis methods, including but not limited to immunohistochemistry or western blotting, on CNS or peripheral tissue samples from a live or a dead animal for which a given method has been approved by the administrator for use on that tissue;

3. Bioassay;

4. Scrapie-associated fibrils (SAF) detected by electron microscopy; or

5. Any other test method approved by the administrator in accordance with 9 CFR 54.10.

“Source flock” means a flock in which a department or APHIS representative has determined that at least one animal was born that was diagnosed as a scrapie-positive animal at an age of 72 months or less.

“State animal health official” means an individual employed by the department in animal health activities and authorized by the department to perform the functions involved.

“Suspect animal” means:

1. A sheep or goat that exhibits any of the following possible signs of scrapie and that has been examined by an accredited veterinarian or a department or APHIS representative. Possible signs of scrapie include: weight loss despite retention of appetite; behavioral abnormalities; pruritus (itching); wool pulling; biting at legs or side; lip smacking; motor abnormalities such as incoordination, high-stepping gait of forelimbs, bunny hop movement of rear legs, or swaying of back end; increased sensitivity to noise and sudden movement; tremor, star gazing, head pressing, recumbency, or other signs of neurological disease or chronic wasting;

2. A sheep or goat that has tested positive for scrapie or for the protease-resistant protein associated with scrapie on a live-animal screening test, or any other official test, unless the animal is designated as a scrapie-positive animal; or

3. A sheep or goat that has tested inconclusive or suggestive of scrapie on an official test for scrapie.

“Trace” means all actions required to identify the flock of origin or flock of destination of an animal.

“Unofficial test” means any test used for the diagnosis of scrapie or for the detection of the protease-resistant protein associated with scrapie in a live or dead animal but that either has not been approved by APHIS or was not conducted at an approved diagnostic laboratory.

“Veterinary signature-stamped bill of sale” means a document allowed in Iowa in lieu of a Certificate of Veterinary Inspection for use when animals are sold through a licensed auction market and will remain in Iowa. The bill of sale shall contain the following statement: “I certify, as an accredited veterinarian, that these animals have been inspected by me and that they are not showing any signs of infectious, contagious, or communicable diseases (except where noted).” The signature of the veterinarian who inspected the animals at the sale must appear on the document.

**21—64.201(163) Supervision of the scrapie eradication program.** The scrapie eradication program is a cooperative program between the department and APHIS and is supervised by full-time animal health veterinarians employed by the state or federal government.

**21—64.202(163) Identification.** Animals required to be officially identified shall have official identification applied upon, or before, departure from the current flock of origin by the flock owner or the owner’s agent. An animal that already

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

has identification recognized as official for Iowa does not need to have any additional official identification applied. If an animal was not identified prior to departing from its flock of birth or if its identification has been lost, then the animal must be identified upon, or before, departing from the current flock in which the animal resides and the flock of birth, or previous flock of origin, should be recorded, if known. No person shall apply a flock ID tag to an animal that has not resided in that flock. If a sexually intact animal that requires official identification is of uncertain origin or if the animal is identified with a blue metal "meat only" tag or a red or yellow tag denoting exposure or test status, then the animal may not be used for breeding and must be restricted until slaughter. Animals that require official identification and enter the state of Iowa from other states must be identified with an identification that complies with 9 CFR 79.2. For sheep originating from out of state, ear tags that comply with 9 CFR 79.2 will be considered official identification in Iowa. For goats, either ear tags or tattoos that comply with 9 CFR 79.2 will be considered official identification in Iowa.

**64.202(1)** Sheep—official identification required. Sheep required to be officially identified include:

- a. All sexually intact sheep, unless specifically excluded in these rules;
- b. All sexually intact sheep for exhibition;
- c. All sheep over 18 months of age;
- d. All sheep residing in noncompliant flocks;
- e. All exposed, suspect, positive and high-risk sheep; and
- f. Sexually intact sheep of any age imported into Iowa, except as noted in 64.202(2).

**64.202(2)** Sheep—official identification not required. Sheep that do not require official identification include:

- a. Sheep under 18 months of age originating from outside the state of Iowa moving into an approved terminal feedlot, and any sheep under 18 months of age moving directly to slaughter;
- b. Wether sheep for exhibition, unless over 18 months of age; and
- c. Sheep moved for grazing or similar management reasons provided that the sheep are moved from a premises owned or leased by the owner of the sheep to another premises owned or leased by the owner of the sheep.

**64.202(3)** Goats—official identification required. Goats that require official identification include:

- a. Sexually intact goats that are registered, are used for exhibition, or have resided on the same premises with or been commingled with sheep, excluding limited contact;
- b. All goats residing in noncompliant flocks; and
- c. All exposed, suspect, positive and high-risk goats.

**64.202(4)** Goats—official identification not required. Goats that do not require official identification include:

- a. Goats under 18 months of age originating from outside the state of Iowa moving into an approved terminal feedlot, and any goats under 18 months of age moving directly to slaughter;
- b. Wether goats for exhibition;
- c. Goats raised and maintained apart from sheep and used exclusively for meat and fiber production;
- d. Pet goats raised and maintained apart from sheep and not registered or used for exhibition;
- e. Dairy goats raised and maintained apart from sheep and not registered or used for exhibition; and
- f. Goats moved for grazing or similar management reasons provided that the goats are moved from a premises

owned or leased by the owner of the goats to another premises owned or leased by the owner of the goats.

NOTE: Official identification requirements for goats will become identical to those for sheep 90 days following the disclosure of a case of scrapie in Iowa goats that cannot be attributed to exposure to sheep.

**21—64.203(163) Restrictions on the removal of official identification.** No person may remove or tamper with any approved means of identification required to be on sheep or goats, unless the identification must be removed for medical reasons, in which case new official identification must be applied to the animal as soon as possible and prior to commingling that could result in the loss of identity of the animal. A record documenting the change of official identification must be made.

**21—64.204(163) Records.**

**64.204(1)** Record-keeping requirements for owners. Records on every animal that requires official ID shall be maintained for five years from the time the animal leaves the flock or dies. For animals not born in the flock, records must include the flock-of-origin number or the previous owner's name and address, date of acquisition, a description of the animal (sheep or goat, and breed or class), and flock of birth, if known. When official ID tags are applied, it is recommended that the owner correlate official ID with production records, such as lambing dates, for all breeding animals. The owner shall maintain a record of the name and address of the market or buyer, the date, the number of animals sold, and a description of the animals (sheep or goat, and breed or class) for all animals moved from the flock. The owner must supply the market or buyer with the owner's flock ID number. A Certificate of Veterinary Inspection (CVI), or a veterinary signature-stamped bill of sale for animals purchased through Iowa markets, is required for every change of ownership of animals in Iowa, other than for animals sold to slaughter. A copy of the CVI or veterinary signature-stamped bill of sale must be maintained for every animal purchased, and for every animal sold privately, other than to slaughter. For animals sold to slaughter, records must show the date of sale, number of animals sold, and where or to whom sold.

**64.204(2)** Record-keeping requirements for auction markets. Markets must collect a completed and signed owner/seller statement form from each seller presenting animals that require official identification or must post where animals are unloaded signs which state that "sexually intact sheep or goats that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originated from a known infected, source, exposed, or noncompliant flock may not be unloaded or sold through this market." For animals identified by the market, the serial tag numbers applied to each seller's animals must be recorded. Animals that require official identification, but that cannot be identified to their flock of origin shall not be sold as breeding animals. Bill-of-sale records must indicate the seller or flock ID number(s) or serial tag numbers of the animals involved and will serve as documentation of the buyers of animals presented by any particular seller. The market must always record, either on the owner/seller statement form or separately, the following information on all sexually intact animals that require official identification: the seller's flock ID number or seller's name and address, the name or flock ID number of the owner of the flock of origin if different from the seller, and the buyer's name and address or buyer's flock ID number. All animals moving interstate must depart from the market with either a Certificate of Veterinary Inspection or slaughter affidavit; all

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

animals remaining in Iowa must depart from the market with a Certificate of Veterinary Inspection, veterinary signature-stamped bill of sale, or slaughter affidavit. Certificates of Veterinary Inspection for animals moving interstate must contain the statement set forth in 21—64.208(163). All of these documents must be made available for inspection upon request and maintained as official records for five years.

**64.204(3)** Record-keeping requirements for licensed sheep dealers. The dealer must either collect a completed and signed owner/seller statement form from the person from whom the dealer takes possession of the animals or must post signs as described in 64.204(2) if there is any possibility that the animals will move interstate, other than through slaughter channels. The dealer must always record, either on the owner/seller statement form or separately, the following information on all sexually intact animals that require official identification: the seller's flock ID number or seller's name and address and the name of the owner of the flock of origin, or flock-of-origin ID number, if different from the seller. For animals identified by the dealer, the serial tag number applied to each animal must be recorded. Animals that move interstate, other than to slaughter, must be inspected by a veterinarian and have a Certificate of Veterinary Inspection that includes the required statements as set forth in 21—64.208(163). All animals that do not go to slaughter must be inspected by a veterinarian and have a Certificate of Veterinary Inspection completed prior to sale, unless the animals are being sold at a licensed auction market where a veterinary inspection will occur. For animals that are taken to an auction market, the dealer must provide to the market for its records a list of all flock ID numbers or serial tag numbers in the group. For animals that are resorted and sold, records must identify all potential buyers of any animal acquired. Every effort should be made to maintain the identity of groups from the same flock, through separate penning or use of temporary ID, such as chalk marking, in order to simplify efforts to identify the final destination of individual animals. If animals are under 18 months of age and the dealer picks them up at the owner's premises and delivers them directly to slaughter, then the official identification requirement may be waived; however, a record of the transaction must be maintained. Records must document the buyer's name and address or buyer's flock-of-origin ID number, date of sale, and animals sold for all private sales or sales to slaughter, so that animals can be traced to their final destination. All records must be kept for five years and made available for inspection upon request.

**21—64.205(163) Responsibility of persons handling animals in commerce to ensure the official identification of animals.** Licensed sheep dealers and auction markets and those that provide transport must ensure that animals are properly identified upon taking possession of the animals. Animals lacking official ID must either be declined or be identified by the licensed dealer or market with official ID issued to the dealer or market immediately upon the dealer's or market's taking possession, and prior to commingling of the animals.

**21—64.206(163) Veterinarian's responsibilities when identifying sheep or goats.** Veterinarians may be called upon to officially identify animals and may be issued official identification for the animals in the form of the serial number ear tags for carrying out this duty. The veterinarian may apply the ID only if the flock-of-origin information is available. Sexually intact animals that require official identification and are of unknown origin shall not be used for breeding and must

be restricted until slaughter. When animals are identified, the veterinarian applying the ID must record the serial tag number applied to each animal and the following information (this requirement may be accomplished by collecting a completed owner/seller statement form): the flock-of-origin ID number or name and address of the current owner, if different from the owner of the flock of origin, and the name and address of the buyer, if a change of ownership is occurring. The flock of birth should also be recorded, if known. These records must be kept for five years and made available for inspection upon request.

**21—64.207(163) Flock plans.** Infected and source flocks will be quarantined by the department upon the determination of their status. A written flock cleanup plan shall be signed by the owner of an infected or source flock, and the requirements set out in the plan shall be adhered to until its completion. The plan may consist of:

1. Whole flock depopulation;
2. The removal of genetically susceptible female animals, suspect animals, positive animals, and the female offspring of positive female animals; or
3. The removal of high-risk animals as defined in 9 CFR 79.4.

Indemnity may be paid for animals removed, if funds are available through USDA. All flock plans require cleaning and disinfecting procedures as part of the requirements. Upon completion of the flock plan, the quarantine may be released, with the approval of the DSE, and following an inspection of the premises by a state or federal animal health official. At that time, the owner is required to sign a post-exposure management and monitoring plan (PEMMP) and agree to the requirements set out in that plan. Exposed flocks may also be quarantined, or have other movement restrictions placed on them, and may require a PEMMP plan which is consistent with current USDA regulations.

**21—64.208(163) Certificates of Veterinary Inspection.** Certificates of Veterinary Inspection (CVIs) issued by licensed accredited veterinarians shall be obtained whenever animals change ownership, other than when animals are sold for slaughter, except as provided in this rule. For animals that require official identification, the CVI must include the individual official ID numbers(s) or the flock-of-origin ID number(s), the total number of animals, the purpose of the movement, the name and address of the consignor and consignee, and the points of origin and destination. CVIs for animals that will move interstate must additionally have the following signed owner statement: "I certify that the sexually intact animals represented on this form are not known to be scrapie-positive, suspect, high-risk, or exposed, and did not originate from a known infected, source, exposed, or noncompliant flock." The veterinarian may sign the statement (which may be applied in stamp form) on behalf of the owner if a properly executed owner/seller statement form has been collected from the owner or if the animals are at a licensed auction market or a licensed dealer's place of business where signs, which have been posted where animals are unloaded, state that "sexually intact sheep or goats that are known to be scrapie-positive, suspect, high-risk, or exposed, or that originated from a known infected, source, exposed, or noncompliant flock may not be unloaded or sold through this market." The veterinarian should check with the state of destination for additional requirements. Animals sold other than to slaughter through state-licensed livestock markets but that will remain in Iowa may be released on either a Certificate of Veterinary Inspection or a veterinary signature-stamped bill of sale. A

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

Certificate of Veterinary Inspection may be completed for sexually intact animals from an exposed flock in some circumstances, with the approval of the state veterinarian.

**21—64.209(163) Requirements for shows and sales.** Official identification is required for any sexually intact sheep or goat to be exhibited. Positive, suspect, sexually intact exposed, and high-risk animals may not be exhibited. Exposed animals that have been redesignated and had restrictions removed by the DSE according to USDA guidelines may attend shows and sales. Feeder/market class animals from an exposed flock that are not positive, suspect, exposed, or high-risk may be exhibited with the approval of the state veterinarian, provided that they are moved only to slaughter or returned to the premises of origin following the show.

**64.209(1)** Female animals over 12 months of age should be penned separately from female animals from other flocks when practical.

**64.209(2)** Female animals within 30 days of parturition, postpartum female animals, or female animals that have aborted or are pregnant and have a vaginal discharge must be kept separate from animals from other flocks so as to prohibit any direct contact. Any enclosures used to contain the female animals must be cleaned and disinfected.

**21—64.210(163) Movement restrictions for animals and flocks.** A sexually intact animal shall not be moved from an infected or source flock, except under permit. Permitted animals may be moved to slaughter, to a research or diagnostic facility, or to another facility as specified in the flock plan. High-risk, suspect, and sexually intact exposed animals from other than infected or source flocks will be placed under movement restrictions in accordance with 9 CFR 79.3. The movement restrictions on the flock and the criteria for release of these restrictions shall be specified as part of either the flock plan or the postexposure management and monitoring plan. Animals from noncompliant flocks shall be placed under movement restrictions and shall be moved only by permit.

**21—64.211(163) Approved terminal feedlots.** Approved terminal feedlots allow purchasers of young sexually intact feeder animals from out of state to bring those animals into Iowa without official identification provided that the animals are restricted to an inspected and approved premises and all are delivered to slaughter by 18 months of age.

**64.211(1)** Requirements for approved terminal feedlots. All sexually intact animals of out-of-state origin that have arrived without official identification must be moved directly to slaughter by 18 months of age. Other sheep or goats that require official identification may be maintained on the premises provided that the requirements described herein are met. The approved terminal feedlot premises must be designated as either:

a. Feeder-only premises. Feeder-only premises may contain only feeder animals destined to slaughter by 18 months of age.

b. Breeding flock/slaughter-only premises. The breeding flock/slaughter-only premises allows a breeding flock to be maintained on the site. All offspring must be sent to slaughter by 18 months of age (except as noted below), and do not require official ID provided that the slaughter animals move directly to slaughter. Adult animals must be identified, and any of their offspring retained as replacement breeding stock must have official ID applied prior to weaning. Production, inventory, purchase, and sales records will be inspected on all breeding animals.

c. Separate operation premises. The separate operation premises allows animals other than the nonidentified feeder

animals to be kept on site, and sold other than to slaughter, but these animals must be separated from the feeder animals by a distance of 30 feet or by a solid wall that prevents contact or the passage of fluids. Offspring must be identified prior to weaning. Records must account for the arrival and dispersal of each individual animal in the separate flock, and there shall be no identification exemption on these animals.

All three types of approved terminal feedlot premises require that all nonidentified feeder animals be moved directly to slaughter, or another approved terminal feedlot, prior to 18 months of age. These animals may only be sold through a licensed market or licensed dealer if the owner identifies sexually intact animals with official blue metal "meat only" tags, and the animals are sold to slaughter.

**64.211(2)** Identification at approved terminal feedlots. Out-of-state origin sexually intact feeder animals moved to an approved terminal feedlot will be exempted from identification requirements provided that the feedlot maintains compliance with all rules and regulations governing approved terminal feedlots.

**64.211(3)** Registration of approved terminal feedlots. All approved terminal feedlots must obtain a permit issued by the department. Approved terminal feedlots will be subject to periodic records and premises inspections. The department shall assign an approved terminal feedlot number for each approved terminal feedlot facility.

**64.211(4)** Records for approved terminal feedlots. All approved terminal feedlots must maintain appropriate records for a period of five years. Records will include Certificates of Veterinary Inspection for all animals of out-of-state origin received by the facility and slaughter records sufficient to conduct inventory reconciliation. If a breeding flock or any other sheep or goats that require official identification are maintained on the same premises, then records shall also include an inventory of animals, lambing and kidding records, bills of sale, slaughter receipts, and any Certificates of Veterinary Inspection sufficient to account for the acquisition and dispersal of all animals. Failure to maintain appropriate records shall be grounds for revocation of the feedlot permit. All animals without official identification must be moved directly to slaughter, and movement to slaughter must be completed before any of the animals reach the age of 18 months. If blue metal "meat only" tags are applied, then records on tags applied must be maintained and shall consist of serial tag numbers, origin of the group(s) (state, market, or individual), date of tagging, and destination (date sold and buyer).

These rules are intended to implement Iowa Code chapter 163.

[Filed 5/7/04, effective 6/30/04]

[Published 5/26/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.

**ARC 3377B**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 159.5(11) and 162.16, the Department of Agriculture and Land Stewardship hereby adopts an amendment to Chapter 67, "Animal Welfare," Iowa Administrative Code.

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

This amendment is intended to create a regulatory structure for the regulation of facilities that wish to provide day care services for dogs. The amendment establishes facility and operational requirements that a dog day care must meet to obtain and retain a license.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 18, 2004, as **ARC 3186B**. Comments were received from several individuals who are currently operating under rules waivers. The comments were generally supportive; however, some minor changes were sought. The Department reviewed the comments and decided to adopt the amendment in a form identical to the Notice of Intended Action.

No waiver provision is included in this amendment because an existing rule allows for waivers in appropriate cases. The waiver rule also applies to the amendment herein.

This amendment is intended to implement Iowa Code chapter 162.

This amendment shall become effective on June 30, 2004.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [67.11] is being omitted. This amendment is identical to the one published under Notice as **ARC 3186B**, IAB 2/18/04.

[Filed 5/7/04, effective 6/30/04]  
[Published 5/26/04]

[For replacement pages for IAC, see IAC Supplement 5/26/04.]

**ARC 3367B****ATTORNEY GENERAL[61]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 915.82(2), the Crime Victim Assistance Board hereby amends Chapter 9, "Victim Assistance Program," Iowa Administrative Code.

The adopted amendments correct the official address of the Crime Victim Assistance Division. The amendments also provide a process for granting waivers from rules adopted by the Crime Victim Assistance Board governing the Crime Victim Compensation Program in the Crime Victim Assistance Division of the Department of Justice. The amendments also authorize the Crime Victim Compensation Program to accept disability statements related to mental health disability from a licensed mental health provider on behalf of a crime victim.

Notice of Intended Action for these amendments was published in the January 21, 2004, Iowa Administrative Bulletin as **ARC 3098B**. A public hearing was held on February 10, 2004, in the conference room of the Crime Victim Assistance Division. No public comment was received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 915.

These amendments will become effective June 30, 2004.

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 [9.25, 9.35(10), 9.37] is being omitted.

These amendments are identical to those published under Notice as **ARC 3098B**, IAB 1/21/04.

[Filed 5/4/04, effective 6/30/04]  
[Published 5/26/04]

[For replacement pages for IAC, see IAC Supplement 5/26/04.]

**ARC 3368B****ATTORNEY GENERAL[61]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 915.82(2), the Crime Victim Assistance Board hereby amends Chapter 9, "Victim Assistance Program," Iowa Administrative Code.

The adopted amendments correct the address of the Crime Victim Assistance Division and the authorizing section of the Iowa Code. The amendments revise the description of medical procedures authorized for payment by the program. The amendments also revise the maximum limit of payment for the facility fee and the examiner fee related to evidentiary collection in cases of sexual abuse. Maximum examiner fees are increased per examination from \$100 to \$200, and maximum facility fees are increased from \$200 to \$300.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 21, 2004, as **ARC 3099B**. A public hearing was held on February 10, 2004, in the conference room of the Crime Victim Assistance Division. An obstetrician/gynecologist and an official of the Iowa Department of Public Health (IDPH) appeared in person to express support for the proposed amendments. Their comments were directed at the increase in examiner and facility fees for the evidentiary examination. IDPH had conducted a survey of examiners and facilities that conduct the evidentiary examinations regarding the providers' 2002 costs for examinations. The costs for 80 percent of the examiners were \$101 to \$300 per examination. The most common range was \$150 to \$200. The average cost of an examination room was \$287. The program currently pays up to \$100 for an examiner and \$200 for an examination room.

Written comments were received from the Director of the Child Protection Center at St. Luke's Hospital in Cedar Rapids. The combined cost for a child sexual abuse examination at that facility in 2003 was \$452.49. Under the current program, the providers receive a maximum of \$300.

The following technical changes from the Notice were made to ensure consistent language throughout the amendments: The word "physician" was changed to "examiner" throughout since not all examiners are physicians, and the words "venereal disease" were changed to "sexually transmitted disease" at the suggestion of the Iowa Department of Public Health.

In addition, the Crime Victim Assistance Board clarified the definition of "sexual abuse examination." The change clarifies that the program will pay only for collection of evidence from the victim of the crime. Prior language may be interpreted as including collection of evidence from both the victim and the suspected perpetrator of the crime. The definition now reads as follows:

"Sexual abuse examination' means a medical examination provided to a woman, man, or child to collect evidence of sexual abuse victimization of that person as defined in Iowa Code sections 709.1 and 726.2 and provide treatment for the prevention of sexually transmitted disease pursuant to

ATTORNEY GENERAL[61](cont'd)

Iowa Code section 915.41. When applicable, the provider of a sexual abuse examination shall file a child abuse report with the Iowa department of human services as required by Iowa Code section 232.70.”

These amendments are intended to implement Iowa Code chapter 915.

These amendments will become effective June 30, 2004.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 9] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3099B**, IAB 1/21/04.

[Filed 5/4/04, effective 6/30/04]  
[Published 5/26/04]

[For replacement pages for IAC, see IAC Supplement 5/26/04.]

**ARC 3366B**

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

**Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, “Campaign Disclosure Procedures,” and Chapter 10, “Civil Penalties for Late Campaign Reports,” Iowa Administrative Code.

2004 Iowa Acts, House File 2319, section 1, changes the due dates for filing campaign disclosure reports. The amendments reflect those statutory changes. The amendments are necessary to remove possible confusion on the part of the regulated community if different reporting dates existed in statute and the Board’s rules.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board’s rules on filing due dates reflect statutory requirements concerning those due dates.

These amendments are intended to implement Iowa Code Supplement section 68A.402 as amended by 2004 Iowa Acts, House File 2319, section 1.

These amendments will become effective on July 1, 2004. The following amendments are adopted.

ITEM 1. Rescind rule 351—4.9(68A,68B) and adopt the following **new** rule in lieu thereof:

**351—4.9(68A) Campaign disclosure report due dates.**

**4.9(1)** Statewide office, general assembly, judge standing for retention. A candidate’s committee of a candidate for statewide office or the general assembly or a judge standing for retention shall file campaign disclosure reports as follows:

a. Election year.	
<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 or Wednesday preceding primary election* through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 or Wednesday preceding general election* through December 31 of election year

b. Supplementary report.	
<u>Report due</u>	<u>Covering period</u>
Friday preceding primary election*	May 15 through Tuesday preceding primary election*
Friday preceding general election*	October 15 through Tuesday preceding general election*

\*If supplementary report required. See subrule 4.9(2).

c. Nonelection year.	
<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

d. Special election.	
<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

\*This report is in addition to the election year reports required under paragraph 4.9(1)“a.”

**4.9(2)** Statewide office or general assembly—supplementary reports. In addition to reports required under subrule 4.9(1), a supplementary report is required if contributions received during the period beginning on the date of initial financial activity, or the day after the period covered by the last report, as applicable, through the Tuesday preceding the primary or general election equal or exceed the following thresholds:

<u>Office sought</u>	<u>Contribution threshold</u>
Governor	\$10,000 or more
Other statewide office	\$5,000 or more
General assembly	\$1,000 or more

**4.9(3)** County candidate. A candidate’s committee of a candidate for county office shall file campaign disclosure reports as follows:

a. Election year.	
<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

b. Nonelection year.	
<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

c. Special election.	
<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

\*This report is in addition to the election year reports required under paragraph 4.9(3)“a.”

**4.9(4)** City candidate. A candidate’s committee of a candidate for city office shall file campaign disclosure reports as follows:

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before primary election	Date of initial activity through ten days before primary election
Five days before general election	Nine days before primary election through ten days before general election
Five days before runoff election*	Nine days before the general election through ten days before the runoff election
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

\*If a runoff election is held.

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

## c. Special election.

<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

\*This report is in addition to the election year reports required under paragraph 4.9(4)“a.”

**4.9(5)** School board or other political subdivision. A candidate's committee of a candidate for school board or other political subdivision office, except for county office or city office, shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before election	Date of initial activity through ten days before election
January 19 (next calendar year)	Nine days before election through December 31

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

## c. Special election.

<u>Report due</u>	<u>Covering period</u>
Five days preceding the election*	Date of initial activity through tenth day prior to the special election

\*This report is in addition to the election year reports required under paragraph 4.9(5) “a.”

**4.9(6)** State statutory political committee (state political party). A committee defined in Iowa Code Supplement section 68A.102(22) as a state statutory political committee shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

**4.9(7)** County statutory political committee (county central committee). A committee defined as a county statutory political committee in Iowa Code Supplement section 68A.102(12) shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

**4.9(8)** State political committee (state PAC). A political committee expressly advocating the nomination, election, or defeat of candidates for statewide office or the general assembly or a judge standing for retention shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
July 19	January 1 through June 30
January 19 (next calendar year)	July 1 through December 31

**4.9(9)** County political committee (county PAC). A political committee expressly advocating the nomination, election, or defeat of candidates for county office shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
May 19	January 1 through May 14
July 19	May 15 through July 14
October 19	July 15 through October 14
January 19 (next calendar year)	October 15 through December 31 of election year

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

**4.9(10)** City political committee (city PAC). A political committee expressly advocating the nomination, election, or defeat of candidates for city office shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before primary election	Date of initial activity through ten days before primary election
Five days before general election	Nine days before primary election through ten days before general election
Five days before runoff election*	Nine days before the general election through ten days before runoff election
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

\*If a runoff election is held.

## ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

**4.9(11)** School board or other political subdivision political committee (school board or other local PAC). A political committee expressly advocating the nomination, election, or defeat of candidates for school board or other political subdivision office, except for county office or city office, shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before election	Date of initial activity through ten days before election
January 19 (next calendar year)	Nine days before election through December 31

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

**4.9(12)** Statewide or local ballot issue committee (ballot issue PAC). A committee expressly advocating the passage or defeat of a statewide or local ballot issue shall file campaign disclosure reports as follows:

## a. Election year.

<u>Report due</u>	<u>Covering period</u>
Five days before election	Date of initial activity through ten days before election
January 19 (next calendar year)	Cutoff date from previously filed report through December 31

## b. Nonelection year.

<u>Report due</u>	<u>Covering period</u>
January 19 (next calendar year)	January 1 through December 31 of nonelection year

**4.9(13)** Permanent organizations. A permanent organization temporarily engaging in political activity as described in Iowa Code Supplement section 68A.102(18) shall organize a political committee and shall keep the funds relating to that political activity segregated from its operating funds. The committee shall file reports on the applicable due dates as required by this rule. The reports shall identify the source of the original funds used for a contribution made to a candidate or a candidate's committee. When the permanent organization ceases to be involved in the political activity, the permanent organization shall dissolve the political committee. "Permanent organization" means an organization that is continuing, stable, and enduring, and was originally organized for purposes other than engaging in election activities.

**4.9(14)** Election year defined. "Election year" means a year in which the name of the candidate or ballot issue appears on a ballot to be voted on by the electors of the state of Iowa. For state and county statutory political committees, "election year" means a year in which primary and general elections are held.

This rule is intended to implement Iowa Code Supplement section 68A.402 as amended by 2004 Iowa Acts, House File 2319, section 1.

ITEM 2. Rescind rule 351—10.1(68B) and adopt the following **new** rule in lieu thereof:

**351—10.1(68B) Delinquent campaign disclosure reports.**

**10.1(1)** Delinquent reports. A campaign disclosure report is deemed delinquent if it is not received on or before the applicable due date as set out in rule 351—4.9(68A).

**10.1(2)** Methods of filing. A campaign disclosure report may be filed by any of the following methods: hand-

delivered, mailed, faxed, sent as an E-mail attachment, or sent electronically via the Internet. The location for filing reports is set out in rule 351—4.8(68A,68B).

**10.1(3)** Physical receipt. A report must be physically received by the board as set out in rule 351—4.10(68A,68B).

This rule is intended to implement Iowa Code section 68B.32A(8).

[Filed Without Notice 5/3/04, effective 7/1/04]  
[Published 5/26/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.

**ARC 3369B****ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendments reflect the statutory change enacted by the 2004 General Assembly that requires a permanent organization making a contribution to a candidate or a candidate's committee to disclose the original source of the funds used to make the contribution. As provided in the current language of the rule, this requirement will only apply when the permanent organization is required to register a political committee (PAC) because it made a contribution in excess of \$750. The amendments also correct the statutory cites in the implementation clause of the rule.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules on the requirements of a permanent organization to disclose certain campaign transactions reflect current statutory requirements.

These amendments are intended to implement Iowa Code Supplement section 68A.402 as amended by 2004 Iowa Acts, House File 2319, section 1.

These amendments will become effective on July 1, 2004. The following amendments are adopted.

ITEM 1. Amend subrule **4.35(1)**, paragraph "c," as follows:

c. The name and address of the campaign committee receiving the contribution. *If the contribution is to a candidate or a candidate's committee, the source of the original funds used to make the contribution shall be disclosed.*

ITEM 2. Amend the implementation clause of rule **351—4.35(68A)** as follows:

This rule is intended to implement Iowa Code Supplement sections ~~68A.102(15) and 68A.402(6)~~ 68A.102(18) and 68A.402 as amended by 2004 Iowa Acts, House File 2319, section 1.

[Filed Without Notice 5/4/04, effective 7/1/04]  
[Published 5/26/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.



**ARC 3364B****ETHICS AND CAMPAIGN  
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

The amendment reflects the statutory changes enacted by the 2004 General Assembly concerning the placement of a "paid for by" attribution statement on published material.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board's rules on the placement of attribution statements reflect current statutory requirements.

This amendment is intended to implement Iowa Code Supplement section 68A.405 as amended by 2004 Iowa Acts, House File 2319, section 4.

This amendment will become effective on July 1, 2004.

The following amendment is adopted.

Rescind rule 351—4.38(68A,68B) and adopt the following **new** rule in lieu thereof:

**351—4.38(68A) Political attribution statement—contents.** Published material that expressly advocates the election or defeat of a candidate or that expressly advocates the passage or defeat of a ballot issue shall contain a statement identifying the person paying for the published material. This statement is referred to as the "attribution statement." The term "published material" means any newspaper, magazine, shopper, outdoor advertising facility, poster, direct mailing, brochure, Internet Web site, campaign sign, or any other form of printed general public political advertising.

**4.38(1)** Registered committee. If the person paying for the published material is a committee that has filed a statement of organization, the words "paid for by" and the name of the committee shall appear on the material.

**4.38(2)** Individual, married couple, or unregistered candidate's committee. If the person paying for the published material is an individual, the words "paid for by" and the name and address of the individual shall appear on the material. Published material that is jointly paid for by a married couple shall include the words "paid for by" and the name and address of one member of the married couple. For purposes of this subrule, "individual" includes a candidate who has not filed a statement of organization to register a committee.

**4.38(3)** Multiple individuals. If more than one individual paid for the published material, the words "paid for by", the names of the individuals, and either the addresses of the individuals or a statement that the addresses of the individuals are on file with the Iowa ethics and campaign disclosure board shall appear on the material. The addresses shall be provided to the board and made available for public inspection.

**4.38(4)** Organization or unregistered political committee. If the person paying for the published material is an organization, the words "paid for by", the name and address of the organization, and the name of one officer of the organization shall appear on the material. For purposes of this subrule, "organization" includes an organization advocating the passage or defeat of a ballot issue but that has not filed a statement of organization to register a political committee.

**4.38(5)** Pooled efforts. If the published material is paid for by more than one person, the words "paid for by" and the identification of the persons as set out in this rule shall appear on the material.

This rule is intended to implement Iowa Code Supplement section 68A.405 as amended by 2004 Iowa Acts, House File 2319, section 4.

[Filed Without Notice 4/29/04, effective 7/1/04]  
[Published 5/26/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.

**ARC 3374B****HOMELAND SECURITY AND  
EMERGENCY MANAGEMENT  
DIVISION[605]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 34A.22, the Homeland Security and Emergency Management Division amends Chapter 10, "Enhanced 911 Telephone Systems," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3271B**. No public comment was received on this amendment. In addition, this amendment was simultaneously Adopted and Filed Emergency as **ARC 3272B**. This amendment is identical to the amendment published under Notice of Intended Action and Adopted and Filed Emergency.

This amendment further defines eligible costs that a wireless service provider may recover from the Wireless E911 Emergency Communications Fund for providing wireless E911 service.

This amendment was adopted by the Homeland Security and Emergency Management Division on May 6, 2004.

This amendment shall become effective on June 30, 2004, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

This amendment is intended to implement Iowa Code chapter 34A.

The following amendment is adopted.

Amend paragraph **10.9(3)“b”** to read as follows:

b. The administrator shall retain funds necessary to reimburse wireless service providers for their eligible costs to deliver E911 services. Those eligible costs include hardware and software necessary for receipt and delivery of the enhanced wireless *911 service phase I* call and as further defined in the enhanced wireless 911 service plan.

[Filed 5/6/04, effective 6/30/04]  
[Published 5/26/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.

**ARC 3375B****REAL ESTATE COMMISSION[193E]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 543B.9, the Real Estate Commission hereby amends Chapter 3, “Broker License,” and Chapter 16, “Prelicense Education and Continuing Education,” Iowa Administrative Code.

The amendment to Chapter 3 adds new language requiring salespersons to complete the salesperson postlicense courses before they can become brokers. These courses are in addition to the broker prelicense courses. The amendment to Chapter 16 further clarifies that salespersons wanting to become brokers must complete the salesperson postlicense courses before sitting for the broker licensing examination.

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 18, 2004, as **ARC 3174B**. No oral or written comments were received. These amendments are identical to those published under Notice.

These amendments were adopted by the Commission at the May 6, 2004, meeting.

These amendments will become effective June 30, 2004. The following amendments are adopted.

ITEM 1. Amend subrule 3.1(5) as follows:

**3.1(5)** As required by Iowa Code section 543B.15(8) and 193E—subrule 16.3(1), an applicant for licensure as a real estate broker shall complete at least 72 classroom hours of commission-approved real estate education within 24 months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. *Effective January 1, 2005, and thereafter, all persons applying for a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.*

ITEM 2. Amend subrule 16.3(2) as follows:

**16.3(2)** Completion of prelicense education. Successful completion of the broker prelicense education includes passage of an examination(s) designed by the approved provider that is sufficiently comprehensive to measure the student’s knowledge of all aspects of the course(s). Times allotted for examinations may be regarded as hours of instruction. *Effective January 1, 2005, and thereafter, all persons applying for*

*a broker license within their first renewal term must complete the 36-hour salesperson postlicense courses, including 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices, before a broker license can be issued.*

[Filed 5/7/04, effective 6/30/04]

[Published 5/26/04]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 5/26/04.

**ARC 3380B****UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.1, 476.76, and 476.77 (2003), the Utilities Board (Board) issued an order on April 30, 2004, in Docket No. RMU-04-1, In re: Repeal of Exemption for Reorganization Filing [199 IAC 32.2(4)], “Order Rescinding Subrule 199 IAC 32.2(4).” The Board is rescinding subrule 32.2(4), which provided an exemption to the filing requirements of Iowa Code section 476.77 for certain reorganizations by regulated public utilities.

Notice of Intended Action was published in IAB Vol. XXVI, No. 19 (3/17/04) p. 1528, as **ARC 3225B**. Comments concerning the proposed rescission were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and MidAmerican Energy Company (Mid-American). Consumer Advocate indicated its support for the proposal and MidAmerican indicated it was monitoring the proceeding. The Board’s order rescinding subrule 32.2(4) can be found on the Board’s Web site, [www.state.ia.us/iub](http://www.state.ia.us/iub), or in hard copy in the Board’s Record Center, 350 Maple Street, Des Moines, Iowa 50319-0069.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.76 and 476.77.

This amendment will become effective June 30, 2004.

The following amendment is adopted.

Rescind subrule **32.2(4)**.

[Filed 5/7/04, effective 6/30/04]

[Published 5/26/04]

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