



IOWA ADMINISTRATIVE BULLETIN

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Pages 1897 to 1980

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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.

Subscriptions and Distribution	Telephone:	(515)281-3568
	Fax:	(515)281-8027
KATHLEEN K. BATES, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Assistant Editor	Fax:	(515)281-8157
		(515)281-4424

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The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

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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
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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
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June 18	July 7	July 27	Aug. 11	Aug. 13	Sept. 1	Oct. 6	Jan. 3 '05
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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
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SUBMISSION DEADLINE

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1

Friday, June 18, 2004

July 7, 2004

2

Friday, July 2, 2004

July 21, 2004

3

Friday, July 16, 2004

August 4, 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.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

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2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

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

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

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To All Agencies:

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

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
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ADMINISTRATIVE SERVICES DEPARTMENT[11]

Payroll deduction for additional insurance coverage, adopt 11—ch 46, rescind 701—ch 206 IAB 5/26/04 ARC 3365B	Conference Room 04 Level A—South Hoover State Office Bldg. Des Moines, Iowa	June 15, 2004 11 a.m.
State printing; procurement of goods and services, adopt 11—ch 102; amend 11—ch 105; rescind 401—ch 5 and 471—ch 13 IAB 6/9/04 ARC 3415B	Conference Room 04 Level A—South Hoover State Office Bldg. Des Moines, Iowa	June 29, 2004 11 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Organic materials composting facilities, 105.5(1), 105.8(2), 105.10, 105.15 IAB 6/9/04 ARC 3408B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 14, 2004 10:30 a.m.
Landfarming of petroleum contaminated soil; land application of wastes, rescind and adopt new ch 120; 121.1 to 121.7 IAB 6/9/04 ARC 3397B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 21, 2004 10 a.m.
Waste tire-related programs, rescind chs 215 to 217 IAB 6/9/04 ARC 3409B	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 29, 2004 10 a.m.

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Public records and fair information practices, 3.1 to 3.17 IAB 6/9/04 ARC 3423B	Tone Board Room, Third Floor West State Historical Bldg. 600 E. Locust St. Des Moines, Iowa	June 29, 2004 10 to 11 a.m.
Library and archives policies and services, amendments to ch 22 IAB 6/9/04 ARC 3424B	Tone Board Room, Third Floor West State Historical Bldg. 600 E. Locust St. Des Moines, Iowa	June 29, 2004 10 to 11 a.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

E911 surcharge, 10.8 IAB 6/9/04 ARC 3390B (See also ARC 3391B herein)	Division Conference Room Hoover State Office Bldg. Des Moines, Iowa	June 29, 2004 1 p.m.
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LABOR SERVICES DIVISION[875]

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Forms required by department for recreational vehicles and vessels, 20.5(2), amendments to ch 38, 39.4, 46.1, 47.1, 50.1, 50.2, 50.5 to 50.7, 50.10 to 50.13 IAB 6/9/04 ARC 3398B	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 30, 2004 1 p.m.
“No anchoring” areas on Lake Red Rock, 40.6(3) IAB 6/9/04 ARC 3407B	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 1, 2004 8 a.m.

PHARMACY EXAMINERS BOARD[657]

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PROFESSIONAL LICENSURE DIVISION[645]

License renewal, audit of continuing education reports, 280.9, 281.5 IAB 6/9/04 ARC 3382B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	June 29, 2004 9 to 10 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Birth defects institute, amendments to ch 4 IAB 6/9/04 ARC 3412B (ICN Network)	ICN Conference Room Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	June 29, 2004 10 to 11 a.m.
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	NIACC 500 College Dr. Mason City, Iowa	June 29, 2004 10 to 11 a.m.
	Educational Services Ctr. Administration 12 Scott St. Council Bluffs, Iowa	June 29, 2004 10 to 11 a.m.
	VA Hospital Highway 6 West Iowa City, Iowa (Attendees may park at UIH parking ramp)	June 29, 2004 10 to 11 a.m.
	Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	June 29, 2004 10 to 11 a.m.
	Morningside College 1501 Morningside Ave. Sioux City, Iowa	June 29, 2004 10 to 11 a.m.
Control of lead-based paint hazards, adopt ch 68 IAB 5/26/04 ARC 3373B (ICN Network)	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.
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	Room 106, Activity Center NIACC 500 College Dr. Mason City, Iowa	June 15, 2004 10 a.m.
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	Public Library 529 Pierce St. Sioux City, Iowa	June 15, 2004 10 a.m.

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	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	June 15, 2004 10 a.m.
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	Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	June 21, 2004 8 to 10 a.m.
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	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 ARC 3372B	Room 518, Fifth Floor Lucas State Office Bldg. Des Moines, Iowa	June 15, 2004 1 to 2 p.m.

TRANSPORTATION DEPARTMENT[761]

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UTILITIES DIVISION[199]

Revisions to customer service rules, 19.4, 20.4 IAB 6/9/04 ARC 3411B	Hearing Room 350 Maple St. Des Moines, Iowa	July 16, 2004 9 a.m.
Revisions to purchased gas adjustment and reserve margin rules, 19.10, 19.16 IAB 6/9/04 ARC 3410B	Hearing Room 350 Maple St. Des Moines, Iowa	July 6, 2004 9 a.m.

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

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

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

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

The following list will be updated as changes occur:

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ARC 3415B**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 sections 8A.104, 8A.203, and 8A.311, the Administrative Services Department gives Notice of Intended Action to rescind 401—Chapter 5, “Printing Division,” and 471—Chapter 13, “Acquisition of Information Technology Devices and Services”; adopt 11—Chapter 102, “State Printing”; and amend 11—Chapter 105, “Procurement of Goods and Services of General Use,” Iowa Administrative Code.

These amendments are proposed to incorporate rules on the purchasing of information technology and printing into the Department’s present chapter of rules for procurement of goods and services of general use.

The proposed new Chapter 102 addresses services provided by the printing division of the Department’s General Services Enterprise that are not related to procurement. The Department provides printing and procures printing for state agencies. Printing is now offered by the Department as a marketplace service. This means that the Department has delegated authority to agencies to either use the services of the Department or procure printing from another source without regard to the \$5,000 threshold which applies to the purchase by agencies of other goods and services of general use. When an agency chooses to procure printing without submitting the order to the Department, the agency shall follow the same rules that apply to procurement by the Department.

In addition, Chapter 105 is amended by providing in rule 11—105.10(8A) certain unique guidelines for contracting for public printing by both the Department and state agencies.

Currently all information technology acquisitions made by or for participating agencies are subject to preapproval by the Department. Proposed rules add a threshold so that only information technology purchases of \$50,000 or more are subject to prepurchase review by the Department to determine the compliance of the procurement with information technology standards prescribed by the Department. All purchases of information technology by participating agencies shall be subject to postaudit review by the Department for the compliance of the purchases with standards.

The threshold for requiring direct vendor notification through the vendor on-line system is raised from \$2,500 to \$5,000 to coincide with the increase in the threshold for direct agency purchases. The change provides agencies more flexibility by allowing bidding by vendors that may have not yet registered with the vendor on-line system.

Subrule 105.5(1) is amended to implement 2004 Iowa Acts, House File 2520, signed by the Governor on April 7, 2004, and effective July 1, 2004. 2004 Iowa Acts, House File 2520, amends Iowa Code section 73.1 to ensure Iowa-based companies are not excluded from the request for proposal process.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on June 29, 2004. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, 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.

There will be a public hearing on June 29, 2004, beginning at 11 a.m. in the Administrative Services Conference Room 04, Hoover State Office Building, Level A-South, at which time all 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 amendments. 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 Iowa Code Supplement sections 8A.201 to 8A.203, 8A.206, 8A.207, 8A.301, 8A.302, 8A.311, and 8A.341 to 8A.345, Iowa Code section 618.11 and 2004 Iowa Acts, House File 2520.

The following amendments are proposed.

ITEM 1. Rescind 401—Chapter 5 and 471—Chapter 13.

ITEM 2. Adopt the following new chapter:

**CHAPTER 102
STATE PRINTING**

11—102.1(8A) Purpose. The purpose of this chapter is to provide for the operation of printing services by the department, the use of office copiers by state agencies, and the establishment of the publication rates of certain legal notices.

11—102.2(8A) Definitions.

“Agency” or “state agency” means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code section 7E.5. However, “agency” or “state agency” does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.
2. The general assembly, or any office or unit under its administrative authority.
3. The judicial branch, as provided in Iowa Code section 602.1102.
4. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

“Department” means the department of administrative services.

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

“Printing” means the reproduction of an image from a printing surface made generally by a contact impression that causes a transfer of ink, the reproduction of an impression by a photographic process, or the reproduction of an image by electronic means and shall include binding and may include material, processes, or operations necessary to produce a finished printed product, but shall not include binding, rebinding or repairs of books, journals, pamphlets, magazines and literary articles by a library of the state or any of its offices, departments, boards, and commissions held as a part of their library collection.

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“Printing equipment” means offset presses, gravure presses, silk-screen equipment, large format ink jet printers, digital printing/copying equipment, letterpress equipment, office copiers and bindery equipment.

11—102.3(8A) Location. The state printing office is located at the capitol complex in Des Moines, Iowa. Correspondence shall be addressed to State Printing, Department of Administrative Services, Grimes State Office Building, Des Moines, Iowa 50319.

11—102.4(8A) State printing. The state printing operation maintains a centralized printing facility in the Grimes State Office Building with satellite offices in other locations, not necessarily at the capitol complex.

State printing provides short-run turnaround printing services. When a request is made for state printing and the quantity of a printing order is such that it can be handled economically by state printing, state printing will produce it. Other work will be contracted out by state printing. State printing equipment is available at all times to serve the best interests of the state and provide high-quality, cost-effective printing services to state agencies, state officials, and other branches of state government.

11—102.5(8A) Printing equipment.

102.5(1) Use of printing equipment. A state agency may consult with the department regarding the agency’s purchase of printing equipment, including office copiers, for direction on how to best meet the needs of the agency.

102.5(2) Private use of printing equipment. No state-owned printing equipment may be used to produce printing for private purposes. Items produced on state printing equipment shall be items for state agencies. However, state employees, persons doing business with the state of Iowa, and those requesting copies of public records may purchase copies produced on office copiers. The selling price of these copies will be the actual cost of the copy including any search or supervisory costs involved, pursuant to 11—subrule 4.3(7).

11—102.6(8A,49) Publication of ballot and notice. A sample ballot as prescribed in Iowa Code section 49.53 may be published in a reduced size. When a ballot is reduced, the candidates’ names on the ballot must not be smaller than six-point type.

This rule is intended to implement Iowa Code section 49.53.

11—102.7(8A,49) Cost of publication—sample ballot. The charges for the publication of a sample ballot shall not be more than the usual or customary display advertising rate that the newspaper charges its regular advertisers. In a city in which no newspaper is published and with a population of 2000 or less, a maximum cost has been established. The maximum cost for a quarter-page sample ballot must not exceed \$250 and maximum cost for a half-page sample ballot must not exceed \$350.

This rule is intended to implement Iowa Code Supplement section 49.54.

11—102.8(8A,618) Fees paid to newspapers. The fees paid to newspapers for official publications, notices, orders, citations or other publications required or allowed by law shall not exceed the rate set June 1 of each year by the director. The director shall calculate a new rate for the following fiscal year as prescribed in Iowa Code Supplement section 618.11 and shall publish this rate as a notice in the Iowa Administrative Bulletin prior to the first day of the following calendar month.

The new rate shall be effective on the first day of the calendar month following its publication. The calculation and publication of the rate by the director shall be exempt from the provisions of Iowa Code chapters 17A and 25B.

This rule is intended to implement Iowa Code Supplement section 618.11.

ITEM 3. Amend **11—Chapter 105** by replacing all references to 2003 Iowa Acts, House File 534 with references to Iowa Code Supplement chapter 8A.

ITEM 4. Amend rule 11—105.1(8A) as follows:

11—105.1(8A) General provisions.

105.1(1) Applicability.

a. *Goods and services of general use.* Under the provisions of 2003 Iowa Acts, ~~House File 534 Code Supplement chapter 8A~~, these rules apply to the purchase of goods and services of general use by any unit of the state executive branch including a commission, board, institution, bureau, office, agency or department, except items used by the state department of transportation, institutions under the control of the board of regents, the department for the blind, and any other agencies or instrumentalities of the state exempted by law.

b. *Services.* Procurement of services shall also meet the provisions of Iowa Administrative Code, 11—Chapters 106 and 107.

c. *Information technology.* Pursuant to Iowa Code Supplement chapter 8A, ~~Procurement procurement of information technology devices and services by participating agencies~~ shall also meet the requirements of Iowa Administrative Code, ~~471—Chapter 13 rule 11—105.10(8A)~~. Rule 11—105.10(8A) shall apply to:

(1) *The process by which the department shall ensure effective and efficient compliance with standards prescribed by the department with respect to the procurement of information technology devices and services by participating agencies, and*

(2) *The acquisition of information technology devices and services by the department for the department, or by the department for a participating agency that has requested that the department procure information technology devices or services on the agency’s behalf.*

105.1(4) (2) Funding. The department and agencies shall follow procurement policies regardless of the funding source supporting the procurement. However, when these rules prevent the state from obtaining and using a federal grant, these rules are suspended to the extent required to comply with the federal grant requirements.

105.1(2) (3) Electronic processing. Notwithstanding other administrative rules, requirements for paper transactions in the procurement of goods and services shall be waived when an alternative electronic process is available. If the vendor is unable to use the electronic process, an alternative paper process will may be made available.

ITEM 5. Amend rule **11—105.2(8A)** as follows:

Amend the following definitions:

“Competitive bidding procedure” means the advertisement for, solicitation of, or the procurement of bids; the manner and condition in which bids are received; and the procedure by which bids are opened, accessed, *evaluated*, accepted, rejected or awarded. A “competitive bidding procedure” refers to all types of competitive solicitation processes referenced in this chapter and may include a transaction accomplished in an electronic format.

“Emergency” includes, but is not limited to, a condition:

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1. That threatens public health, welfare or safety; or
2. In which there is a need to protect the health, welfare or safety of persons occupying or visiting a public improvement or property located adjacent to the public improvement; or
3. In which the department or agency must act to preserve critical services or programs; or in
4. In which the need is a result of events or circumstances not reasonably foreseeable.

"Informal competition" means a streamlined competitive selection process in which a department or agency makes an effort to contact at least three prospective vendors identified by the purchasing department or purchasing agency as qualified to perform the work described in the scope of work to request that they provide bids or proposals for the delivery of the goods or services the department or agency is seeking.

"Procurement," "procure" or "purchase" means the acquisition of goods and services through lease, *lease/purchase*, formal acceptance of, ~~contract contracting for~~, or obtaining title to, use of, or any other manner or method for acquiring an interest in a good or service.

Adopt the following new definitions:

"Acquisition" or "acquire" is defined in the same manner as "procurement," "procure," or "purchase."

"Information technology device" means equipment or associated software, including programs, languages, procedures, or associated documentation, used in operating the equipment which is designed for utilizing information stored in an electronic format. "Information technology device" includes but is not limited to computer systems, computer networks, and equipment used for input, output, processing, storage, display, scanning, and printing.

"Information technology services" means services designed to provide functions, maintenance, and support of information technology devices, or services including but not limited to computer systems application development and maintenance; systems integration and interoperability; operating systems maintenance and design; computer systems programming; computer systems software support; planning and security relating to information technology devices; data management consultation; information technology education and consulting; information technology planning and standards; and establishment of local area network and workstation management standards.

"Negotiated contract" means a master agreement for a procurement that meets the requirements of Iowa Code Supplement section 8A.207(4)"b."

"Operational standards" means information technology standards established by the department according to Iowa Code Supplement sections 8A.202 to 8A.207 that include but are not limited to specifications, requirements, processes, or initiatives that foster compatibility, interoperability, connectivity, and use of information technology devices and services among agencies.

"Participating agency" means any agency other than the state board of regents and institutions operated under its authority; the public broadcasting division of the department of education; the department of transportation's mobile radio network; the department of public safety law enforcement communications systems and capitol complex security systems in use for the legislative branch; and the Iowa telecommunications and technology commission, with respect to information technology that is unique to the Iowa communications network, and is applicable only to information technology purchases.

"Printing" means the reproduction of an image from a printing surface made generally by a contact impression that causes a transfer of ink, the reproduction of an impression by a photographic process, or the reproduction of an image by electronic means and shall include binding and may include material, processes, or operations necessary to produce a finished printed product, but shall not include binding, rebinding or repairs of books, journals, pamphlets, magazines and literary articles by a library of the state or any of its offices, departments, boards, and commissions held as a part of their library collection.

"Printing equipment" means offset presses, gravure presses, silk-screen equipment, large format ink jet printers, digital printing/copying equipment, letterpress equipment, office copiers and bindery equipment.

"Procurement authority" means an agency authorized by statute to purchase goods and services.

"Software" means an ordered set of instructions or statements that causes information technology devices to process data and includes any program or set of programs, procedures, or routines used to employ and control capabilities of computer hardware. As used in these rules, "software" also includes, but is not limited to, an operating system; compiler; assembler; utility; library resource; maintenance routine; application; or a computer networking program's nonmechanized and nonphysical components; arrangements; algorithms; procedures; programs; services; sequences and routines utilized to support, guide, control, direct, or monitor information technology equipment or applications; and "data processing software" as defined in Iowa Code section 22.3A(1)"e."

"Systems software" means software designed to support, guide, control, direct, or monitor information technology equipment, other system software, mechanical and physical components, arrangements, procedures, programs, services or routines.

"Upgrade" means additional hardware or software enhancements, extensions, features, options, or devices to support, enhance, or extend the life or increase the usefulness of previously procured information technology devices.

ITEM 6. Amend subrule 105.3(1) as follows:

105.3(1) Informal competition ~~for procurement of goods~~. The department may use informal competition or formal competition for the purchase of any good *or service* or group of goods *or services of general use* costing less than \$50,000.

ITEM 7. Amend subrule 105.3(2) as follows:

105.3(2) Formal competition ~~for procurement of goods~~. The department shall use formal competition for the procurement of any good *or service* or group of goods *or services of general use* costing \$50,000 or more.

ITEM 8. Amend rule 11—105.4(8A), introductory paragraph, as follows:

11—105.4(8A) Exemptions from competitive procurement. The director or designee may exempt goods and services of general use from competitive procurement processes when the procurement meets one of the following conditions. All procurements that are exempt from competitive processes shall be recorded as such, and appropriate justification shall be maintained by the agency initiating the action. ~~Additional~~ *Each of the following exemptions from competitive procurement procedures require additional review and approvals are required.*

ITEM 9. Amend subrule **105.4(3)**, paragraph "b," as follows:

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b. Special procedures for IPI purchases. An agency may contact IPI directly. ~~When ordering from IPI, agencies shall issue the order through the state's purchasing system.~~

ITEM 10. Amend subrule **105.4(4)**, paragraph **"b,"** as follows:

b. Special procedures for procurement based on competition managed by other governmental entities. The department shall notify the other governmental entity and the requesting agency of its intent to use a contract, agreement, or purchase order prior to procuring the good or service in this manner. *The department may purchase goods or services from contracts let by other governmental entities provided that the vendor is in agreement and the terms and conditions of the purchase do not adversely impact the governmental entity which was the original signatory to the contract.*

ITEM 11. Amend subrule 105.4(5) as follows:

105.4(5) Sole source procurement.

a. Justification for sole source procurement. A sole source procurement shall be avoided unless clearly necessary and justifiable. The director or designee may exempt the purchase of a good or service of general use from competitive selection processes when the purchase qualifies as a sole source procurement as a result of the following circumstances:

(1) One vendor is the only one qualified or eligible or is quite obviously the most qualified or eligible to provide the good or service; or

(2) The procurement is of such a specialized nature or related to a specific geographic location that only a single source, by virtue of experience, expertise, proximity, or ownership of intellectual property rights, could most satisfactorily provide the good or service; or

(3) Applicable law requires, provides for, or permits use of a sole source procurement; or

(4) The federal government or other provider of funds for the goods and services being purchased (other than the state of Iowa) has imposed clear and specific restrictions on the use of the funds in a way that restricts the procurement to only one vendor; or

(5) *The procurement is an information technology device or service that is systems software or an upgrade, or compatibility is the overriding consideration, or the procurement would prevent voidance or termination of a warranty, or the procurement would prevent default under a contract or other obligation; or*

(5) Other circumstances for services exist as outlined in rule 11—106.7(80GA, HF534).

b. Special procedures required for sole source procurement. For exemption from competitive processes, the requesting agency shall submit to the director justification that the procurement meets the definition of sole source procurement. *Use of a sole source procurement does not relieve the department or an agency from negotiating a fair and reasonable price, investigating the vendor's qualifications and any other data pertinent to the acquisition, and thoroughly documenting the action.* The agency initiating the procurement shall maintain in a file attached to the order the justification and response from the director. The justification, response, and order shall be available for public inspection.

ITEM 12. Amend subrule 105.5(1) as follows:

105.5(1) Preference to Iowa products and services.

a. *All requests for proposals for materials, products, supplies, provisions and other needed articles and services to be purchased at public expense shall not knowingly be writ-*

ten in such a way as to exclude an Iowa-based company capable of filling the needs of the purchasing entity from submitting a responsive proposal.

b. The department and state agencies shall make every effort to support Iowa products when making a purchase. Tied responses to solicitations, regardless of the type of solicitation, shall be decided in favor of the Iowa products. Tied bids between Iowa products shall be decided in accordance with 105.12(4).

ITEM 13. Amend subrule 105.7(3) as follows:

105.7(3) Direct vendor notification. All procurement opportunities over \$2,500 \$5,000 shall be directly communicated to vendors registered through the vendor on-line system that have indicated an interest in the type of good or service that is the subject of the solicitation. The notice shall be sent to the E-mail or fax or other address entered by the vendor on the vendor on-line system.

ITEM 14. Amend rule 11—105.7(8A) by adopting **new** subrule 105.7(5) as follows:

105.7(5) Vendor intent to participate. In the event the department elects to conduct any procurement electronically or otherwise, it may require that vendors prequalify or otherwise indicate their intention to participate in the procurement process.

ITEM 15. Amend subrule **105.8(4)**, paragraph **"a,"** as follows:

a. Description of solicitation. The department shall issue a request for proposals whenever a requirement exists for a procurement and cost is not the sole evaluation criterion for selection. The request for proposals shall provide information about a requirement for technical equipment or professional services that is sufficient for the vendor to propose a solution to the requirement. Elements of a request for proposals shall include, but need not be limited to:

(1) Purpose, intent and background of the requirement.

(2) Key dates in the solicitation process.

(3) Administrative requirements for submitting a proposal and format for the proposal.

(4) Scope of work and performance requirements.

(5) Evaluation criteria and method of proposal evaluation.

(6) Contractual terms and conditions.

(7) Need for a ~~proposal~~ vendor conference.

ITEM 16. Amend subrule **105.8(5)**, paragraph **"b,"** as follows:

b. Response and evaluation. A best and final offer shall arrive by the due date and time determined by the department and shall be sealed. Evaluation of best and final offers shall be conducted in the same manner as original cost proposals. Scores on the best and final offer shall replace the score achieved on the original cost proposal.

When negotiating with the highest ranked vendor, the department may accept the vendor's best and final offer or reject the offer and open negotiations with the next highest ranked vendor. The department shall proceed in the same manner in rank order. If the state is unable to negotiate an agreement with the highest ranked vendor, the state may negotiate a best and final offer agreement with another vendor. A best and final offer agreement accepted from a subsequent vendor must be more favorable to the state than the rejected offer or offers.

When negotiating with the highest ranked group of vendors, the department shall request the best and final offer

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

from each. The department shall issue a notice of intent to award that is in the best interest of the enterprise.

ITEM 17. Amend subrule 105.8(7) by adding an introductory statement and **new** paragraph “i” as follows:

105.8(7) Invitation to qualify (ITQ). *The department may prequalify vendors and make available to an agency a list of vendors that are capable of providing the requested service.*

i. *Information technology purchases from a prequalified vendor. Before a participating agency may acquire an information technology device or service from a prequalified vendor, the agency must obtain all of the required approvals from the department pursuant to rule 11—105.10(8A).*

ITEM 18. Adopt **new** rule 11—105.10(8A) as follows:

11—105.10(8A) Procurement of information technology devices and services. This rule applies to the procurement of information technology devices and services by participating agencies.

105.10(1) Approval of participating agency information technology procurements.

a. All procurement of information technology devices and services must meet standards prescribed by the department.

b. Procurement of information technology devices and services of \$50,000 and above must receive prior approval from the department of administrative services, information technology enterprise (DAS/ITE), before a participating agency issues a competitive selection document or any other procurement document or otherwise seeks to procure information technology devices or services or both through the department or on its own purchasing authority. The agency's approval request shall be in a form prescribed by the department.

c. DAS/ITE shall implement a postaudit review of information technology procurements of up to \$50,000 per claim.

d. Participating agencies shall not break purchasing into smaller increments for the purpose of avoiding threshold requirements of this subrule.

105.10(2) Review process for proposed procurements.

a. The department shall review a proposed information technology procurement of a participating agency regardless of funding source, method of procurement, or agency procurement authority.

b. The department shall review a proposed procurement for compliance with operational standards established by the department.

c. Once a procurement is approved, ongoing approval by the department is not required provided that the procurement or scope of work remains consistent with the previously approved procurement or scope of work.

d. Participating agencies shall obtain the department's approval anytime a material modification of the procurement or the scope of work is contemplated. Review and approval by the department is required prior to implementing a material change to a previously approved proposed procurement by a participating agency or by the department on behalf of a participating agency.

e. After approved procurements are forwarded to the agency contact person and appropriate procurement authority contacts, the procurement may proceed.

f. When a procurement is not approved, the agency contact will be notified of available options, which include modification and resubmission of the request, cancellation of the request, or requesting a waiver from the director pursuant to subrule 105.10(3).

g. The department shall periodically audit procurements made by a participating agency for compliance with this rule and operational standards of the department. When the audit determines that inconsistencies with established operational standards or this rule exist, the participating agency shall comply with DAS directives to remedy the noncompliance and shall submit all procurements and modifications of previously approved procurement requests to the department for approval for a term determined by the department.

h. Information technology devices and services not complying with applicable operational standards shall not be procured by any participating agency unless a waiver is granted by the director.

i. Upon request by a participating agency, the department may procure, as provided by these rules, any information technology devices or information technology services requested by or on behalf of an agency and accordingly bill the agency through the department's regular process for the information technology devices or information technology services or for the use of such devices or services.

j. The department may provide pertinent advice to a procurement authority or participating agency regarding the procurement of information technology devices or services, including opportunities for aggregation with other procurements.

k. The department shall establish and maintain a Web page (http://das.ite.iowa.gov/standards/enterprise_it/exemptions.html) of currently approved operational standards for information technology devices and services. The Web page shall be updated from time to time with additions, deletions and modifications.

105.10(3) Waiver requests for operational standards.

a. Waiver requests. In the event a participating agency is advised that its proposed procurement is disapproved and the participating agency seeks a waiver of operational standards, it must file its written waiver request with the department within five calendar days of the date of the disapproval. The waiver request shall be filed pursuant to 11—Chapter 9.

b. Hearing. The department may conduct a hearing with the participating agency regarding the waiver request. Additional evidence may be offered at the time of the hearing. Oral proceedings shall be recorded either by mechanized means or by a certified shorthand reporter. Parties requesting that the hearing be recorded by a certified shorthand reporter shall bear the costs. Copies of tapes of oral proceedings or transcripts recorded by certified shorthand reporters shall be paid for by the requester.

c. Burden of proof. The burden of proof is on the participating agency to show that good cause exists to grant a waiver to the participating agency to complete the proposed procurement.

d. The director shall notify the participating agency in writing of the decision to grant or deny the waiver. In the event a waiver is denied, the participating agency may appeal pursuant to Iowa Code section 679A.19.

ITEM 19. Amend subrule **105.11(2)**, paragraph “b,” as follows:

b. Bio-based hydraulic fluids, greases, and other industrial lubricants manufactured from soybeans in accordance with 2003 Iowa Acts, House File 534, *Code Supplement* section 35 8A.316.

ITEM 20. Amend rule 11—105.12(8A) by amending the introductory paragraph and adopting **new** subrule 105.12(6) as follows:

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11—105.12(8A) Awards. *The department shall select a vendor on the basis of criteria contained in the competitive selection document.*

105.12(6) Trade-ins. *When applicable and in the best interest of the state, the department may trade in devices or services to offset the cost of new devices or services in a manner consistent with procurement practices to ensure accountability with the state's fixed asset inventory system.*

ITEM 21. Amend rule 11—105.13(8A) as follows:

11—105.13(8A) Master agreements available to governmental subdivisions.

105.13(1) *Contracts entered into by the department may be extended to, and made available for the use of, other governmental entities as defined in Iowa Code Supplement section 8A.101.*

105.13(2) The department shall provide a list of current master agreements to a governmental subdivision upon request. The list may be provided in an electronic format. A governmental subdivision may request a copy of a specific master agreement. The department may provide the master agreement in an electronic format and assess a copying charge when a printed copy is requested.

ITEM 22. Amend rule 11—105.14(8A) as follows:

11—105.14(8A) Agency purchasing authority and responsibilities.

105.14(1) Purchase of goods. An agency may acquire goods not otherwise available from a master agreement and in accordance with the procurement threshold guidelines in 11—105.15(8A).

105.14(2) Purchase of services. An agency may procure services unique to the agency's program or used primarily by that agency and not by other agencies. The department will assist agencies with these procurements upon request. Procurement of services by an agency shall comply with the provisions of 11—Chapters 106 and 107.

105.14(3) Procurement of printing.

a. *As the first step in the printing procurement process, an agency may provide its request to state printing. State printing may produce the printing internally or procure the printing for the agency.*

b. *An agency may procure printing. Procurement of printing by an agency shall utilize formal or informal competitive selection, pursuant to 11—105.3(8A). The agency's internal procedures and controls for competitive selection of a printing vendor shall be consistent with the requirements of the department and the state auditor.*

105.14(3) (4) Procurements requiring additional authorization. Except where exempted by statute, the following purchases require additional approval.

a. Information technology devices, software and services, as required in 2003 Iowa Acts, House File 534, sections 18 and 22, Code Supplement sections 8A.202 and 8A.206 and 471—Chapter 13 rule 11—105.10(8A).

b. Vehicles, as prescribed in 2003 Iowa Acts, House File 534, section 51 Code Supplement sections 8A.361 and 8A.362.

c. ~~Printing and printing equipment, as prescribed in 2003 Iowa Acts, House File 534, section 45 and related rules.~~

d. Architectural and engineering services, except for agencies with independent authority, as prescribed in 2003 Iowa Acts, House File 534, Code Supplement sections 29, 30, 36, 211, and 282 8A.302, 8A.311, 8A.321, 218.58, and 904.315.

e. Legal counsel, as prescribed in Iowa Code section 13.7.

f. Telecommunications equipment and services, as required by Iowa Code chapter 8D and the rules of the telecommunications and technology commission.

105.14(4)(5) Establishment of agency internal procedures and controls. Agencies shall establish internal controls and procedures to initiate purchases, complete solicitations, make awards, approve purchases, and receive goods. The procedures shall address adequate public recordings of the purchases under the agency's authority consistent with law and rule. Internal controls and security procedures that are consistent with the requirements of the department and state auditor, including staff authority to initiate, execute, approve, and receive purchases, shall be in place for all phases of the procurement.

105.14(5)(6) Agency receipt of goods. Agencies receiving goods shall:

a. Inspect or otherwise determine that the goods received meet the specifications, terms and conditions within the order or master agreement,

b. Initiate timely payment for goods meeting specifications, and

c. Document the receipt of goods electronically in a manner prescribed by the department.

All provisions of 11—105.19(8A) shall apply to agency receipt of goods.

105.14(6)(7) Partial orders. Agencies may accept partial orders and await additional final receipt or may accept a partial order as a final order. The agency shall notify the vendor of its decision. An agency may pay a vendor a prorated amount for the partial order.

105.14(7)(8) Items not meeting specifications. An agency shall not approve final receipt when goods appear not to meet specifications. An agency shall approve final receipt only when satisfied that the goods meet or exceed the specifications, and terms and conditions of the order or master agreement. When an agency and vendor are unable to agree as to whether the specifications, terms and conditions are met, the department shall make the decision.

Agencies shall notify the department and the vendor when apparent defects are first noticed. The department will assist the agency with negotiating a satisfactory settlement with the vendor.

All provisions of 11—105.19(8A) shall apply to agency receipt of goods.

105.14(8) (9) Payment to vendors following final receipt. An agency shall not unreasonably delay payment on orders for which final receipt is accepted. Except in the case of latent defects in goods, payment to the vendor by the agency signifies agreement by the agency that the goods received are satisfactory. Payment to vendors may be made by any commercially acceptable method, including a state procurement card, in accordance with state financial requirements.

ITEM 23. Amend subrules 105.15(1), 105.15(2) and 105.15(5) as follows:

105.15(1) Agency direct purchasing. An agency may procure non-master agreement goods up to \$2,500 \$5,000 per transaction in a competitive manner. ~~Commencing July 1, 2004, that amount shall increase to \$5,000.~~ Three or more informal quotes shall be obtained, unless quotes are not reasonably available or unless the item is purchased from a targeted small business. The agency shall document the quotes, or circumstances resulting in fewer than three quotes, in an electronic file attached to the order or in another format.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

However, agencies may purchase directly from a targeted small business without competition.

105.15(2) Targeted small business—procurement up to \$5,000. Agencies may purchase directly from a vendor *without competition* if the vendor is a certified targeted small business and the purchase does not exceed \$5,000.

105.15(5) Misuse of agency authority.

a. Purchasing authority delegated to agencies shall not be used to avoid the use of master agreements. If it is cost-effective to purchase a comparable good or service of general use from a master agreement, the agency shall do so. The agency shall not break purchasing into smaller increments for the purpose of avoiding threshold requirements in subrules 105.15(1) and 105.15(2).

b. As a remedy, the department may recover administrative fees appropriate to the improper execution of procurement. ~~The department may rescind delegated authority of an agency that habitually misuses its authority.~~

c. This rule is not intended to prohibit agencies from aggressively seeking competitive prices. Agencies may purchase outside of master agreements under subrule 105.15(4).

~~d. The department may rescind delegated authority of an agency that misuses its authority.~~

ITEM 24. Adopt **new** rule 11—105.16(8A) as follows:

11—105.16(8A) Printing. This rule provides guidelines for the letting of contracts for public printing by the department and by state agencies, including the enforcement by the department of contracts for printing, except as otherwise provided by law.

105.16(1) Competitive selection for printing. The department and state agencies shall procure printing by competitive selection according to the rules of this chapter except when the printing is produced by state printing, pursuant to 11—102.4(8A) or the procurement is otherwise exempt from competitive selection pursuant to 11—105.4(8A). When an agency elects to purchase printing by competitive selection rather than using the services of state printing or a TSB, state printing and TSBs shall be part of the bidding process.

105.16(2) Specifications for printing.

a. Preparation of written specifications. The department or a state agency shall procure printing by preparing a competitive selection document with written specifications and issue the same to bidders. The bid specifications shall become a part of the printing contract.

b. Inspection of specifications. All specifications shall be held on file in the department's printing division office or the office of the state agency conducting the solicitation and shall be available for inspection by prospective bidders.

105.16(3) Notification of solicitation for printing. The department or a state agency conducting the solicitation shall provide notification of the solicitation for printing to vendors.

105.16(4) Bid bonds for printing.

a. When applicable. Security in the form of a bid bond or a certified or cashier's check may be required from printing vendors.

b. Amount of bonds. If a bid bond is required, each formal bid for printing must be accompanied by a certified or cashier's check for the amount stated in the specifications. An annual bid bond in an amount set by the department may be deposited with the department by the bidder to be used in lieu of a certified or cashier's check. The amount of the bond is fixed annually and bonds are dated from July 1 to June 30 of the following year.

c. Return of bid bonds. Checks of unsuccessful bidders will be returned when the printed item is contracted. The check of the successful bidder will be returned when the performance bond is received and accepted by the department or by the state agency conducting the solicitation.

d. Performance bonds. When required by the specifications, the successful bidder must deposit with the department or with the state agency conducting the solicitation a performance bond equal to 10 percent of the contract price unless otherwise stated in the specifications. The performance bond must be deposited within 21 days of the date the contract or bond paperwork is issued to the vendor by the department or agency.

e. Forfeiture of bid bond. Failure to enter into a contract by the successful bidder within ten days of the award may result in forfeiture of 10 percent of the bid bond or the certified or cashier's check, if a check is on deposit in lieu of a bond.

ITEM 25. Amend subrule 105.19(5) as follows:

105.19(5) Modifications or withdrawal of a solicitation response. A solicitation response may be withdrawn *or modified* prior to the time and date set for opening. Withdrawal *or modification* requests shall be in writing. With the approval of the director or designee, a bid or proposal may be withdrawn after opening only if the vendor provides prompt notification and adequately documents the commission of an honest error that might cause undue financial loss. *The department may contact a vendor to determine if an error occurred in the vendor's proposal.*

ITEM 26. Amend **11—Chapter 105**, implementation clause, as follows:

These rules are intended to implement 2003 Iowa Acts, House File 534, sections 28, 29 and 30 *Code Supplement sections* 8A.201 to 8A.203, 8A.206, 8A.207, 8A.301, 8A.302, 8A.311, 8A.341 to 8A.344, and 2004 Iowa Acts, House File 2520.

ARC 3414B

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 163.1; Iowa Code Supplement chapter 202C; and 2004 Iowa Acts, House File 2475, the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 66, “Livestock Movement,” Iowa Administrative Code.

This amendment rescinds rule 21—66.13(163,202C) which was published in the February 18, 2004, Iowa Administrative Bulletin as part of **ARC 3158B** with an effective date of June 1, 2004, and adopts in lieu thereof a new rule which is in compliance with 2004 Iowa Acts, House File 2475.

The amendment establishes a financial requirement of a bond or an irrevocable letter of credit for feeder pig dealers. The bond or irrevocable letter of credit provides a secured as-

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

set for the recovery of damages incurred by a feeder pig purchaser who suffers damages in Iowa because of sick or diseased pigs obtained from a feeder pig dealer or who otherwise suffers damages arising from a breach of contract by the feeder pig dealer. The amount of the bond or irrevocable letter of credit is to be set on a sliding scale based upon the volume of sales by the feeder pig dealer.

Any interested persons may make written comments or suggestions on the proposed amendment until 4:30 p.m. on June 29, 2004. Such written materials should be directed to Dr. David Schmitt, Assistant State Veterinarian, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; or faxed to (515)281-4282. E-mail comments may be sent to David.Schmitt@idals.state.ia.us.

This proposed amendment was also Adopted and Filed Emergency and is published herein as **ARC 3413B**. The content of that submission is incorporated by reference.

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

The amendment is intended to implement Iowa Code chapter 163; Iowa Code Supplement chapter 202C; and 2004 Iowa Acts, House File 2475, section 5.

ARC 3394B**ARCHITECTURAL EXAMINING BOARD[193B]****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 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, "Registration," Iowa Administrative Code.

The amendment to Chapter 2 clarifies the Board's processes for reinstatement of a lapsed registration and the continuing education hours required for reinstatement.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before June 29, 2004. Comments should be addressed to Glenda Loving, Architectural Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to glenda.loving@iowa.gov.

This amendment is intended to implement Iowa Code chapters 17A and 544A.

The following amendment is proposed.

Rescind rule 193B—2.6(544A,17A) and adopt the following **new** rule in lieu thereof:

193B—2.6(544A,17A) Reinstatement. An individual may reinstate a lapsed certificate of registration as follows:

2.6(1) If the individual's registration has been lapsed for up to 24 months, the individual may reinstate the registration by selecting either Option 1 or Option 2 as follows:

a. Option 1. The individual shall:

(1) Pay the reinstatement fee of \$25 per month of expired registration;

(2) Pay the current renewal fee;

(3) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year of expired registration in compliance with requirements in 193B—Chapter 3 in addition to the 24 hours (16 hours in public protection subjects) which should have been reported on the June 30 renewal date on which the applicant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal.

b. Option 2. The individual shall file a new application for registration as prescribed in rules 193B—2.2(544A,17A) and 193B—2.3(544A,17A), particularly subrules 2.2(1) and 2.3(3).

2.6(2) If an individual's registration has been lapsed for more than 24 months, the individual may reinstate the registration by selecting either Option 1 or Option 2 as follows:

a. Option 1. The individual shall:

(1) Pay the reinstatement fee of \$25 per month of expired registration, up to a maximum of \$750;

(2) Pay the current renewal fee;

(3) Provide a written statement outlining the professional activities of the applicant during the period of nonregistration. The statement shall include a list of all projects with which the applicant had involvement and shall explain the service provided by the applicant; and

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year of expired registration in compliance with requirements in 193B—Chapter 3 up to a maximum of 48 contact hours (32 hours in public protection subjects). The continuing education hours used for reinstatement may not be used again at the next renewal.

b. Option 2. The individual shall file a new application for registration as prescribed in rules 193B—2.2(544A,17A) and 193B—2.3(544A,17A), particularly subrules 2.2(1) and 2.3(3).

ARC 3395B**ATTORNEY GENERAL[61]****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 537.6117, the Attorney General hereby gives Notice of Intended Action to amend Chapter 14, "Insurance in Consumer Credit Transactions," Iowa Administrative Code.

This rule permits the assessment of premiums for involuntary unemployment insurance as additional charges in consumer credit transactions under the conditions specified in the rule. The amendments are made to conform the rules to

ATTORNEY GENERAL[61](cont'd)

statutory amendments reflected in Iowa Code section 537.2501(2)“b”(3)(b), which provides that rates for certain consumer credit insurance, including involuntary unemployment insurance, are deemed to be reasonable under the section if they reasonably may be expected to produce a ratio of 50 percent by dividing claims incurred by premiums earned. The proposed amendments delete the references to 65 percent in the rule and insert references to 50 percent in lieu thereof. The proposed amendments also change the rule from being unseverable to being severable to ensure that the invalidity of a provision of the rule does not result in the invalidity of the entire rule.

Any interested person may make written suggestions or comments on these proposed amendments prior to July 1, 2004. Such written materials should be directed to William L. Brauch, Administrator, Consumer Credit Code, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319; fax (515)281-6771. Persons who wish to convey their views orally should contact William L. Brauch at (515)281-5926 or at the office of the Consumer Protection Division of the Office of the Attorney General on the second floor of the Hoover State Office Building.

These amendments are intended to implement Iowa Code sections 537.6117 and 537.2501(2)“b”(3)(b).

The following amendments are proposed.

ITEM 1. Amend rule 61—14.1(537), introductory paragraph, as follows:

61—14.1(537) Involuntary unemployment insurance—conditions of sale. Pursuant to Iowa Code section 537.2501, subsection (1), paragraph “f,” the administrator of the Iowa consumer credit code finds that involuntary unemployment insurance sold in conformity with the provisions of this rule is a benefit of value to the consumer debtor and that the charges are reasonable in relation to the benefits, and are of a type which is not for credit. Premiums for involuntary unemployment insurance are permissible additional charges *which may be excluded from the finance charge* in a consumer credit transaction if all of the following conditions are met fully:

ITEM 2. Rescind and reserve subrule **14.1(13)**.

ITEM 3. Amend subrule 14.1(14) as follows:

14.1(14) Loss ratios less than ~~sixty-five~~ 50 percent. A creditor who, pursuant to subrule 14.1(11), paragraph “b,” reports to the administrator a yearly loss ratio of less than ~~sixty-five~~ 50 percent must within 60 days of such a report (no later than March 31 of each year) either cease selling involuntary unemployment insurance or provide a written report to the administrator. The written report must explain in detail the methods which the creditor has initiated to obtain a loss ratio of at least ~~sixty-five~~ 50 percent in the next reporting year.

a. Any creditor who reports a loss ratio of less than ~~sixty-five~~ 50 percent for two consecutive years and does not cease selling involuntary unemployment insurance may be subject to administrative proceedings pursuant to Iowa Code section 537.6108.

b. Any creditor who has a yearly loss ratio of less than ~~sixty-five~~ 50 percent for sales of involuntary unemployment insurance in Iowa and thereafter continues to sell such insurance in Iowa but who does not thereafter file a report with the administrator pursuant to 14.2 1(11)“b” of this rule and does not initiate methods to obtain a ~~sixty-five~~ 50 percent loss ratio for the next reporting period may be subject to administrative proceedings pursuant to Iowa Code section 537.6108.

c. Nothing provided for herein shall preclude the attorney general from commencing judicial proceedings to enjoin the sale of involuntary unemployment insurance when the loss ratio falls below ~~sixty-five~~ 50 percent, or such insurance is otherwise sold in violation of Iowa Code section 537.2501(1)“f,” 537.2501(2)“b” or this rule.

ITEM 4. Amend subrule 14.1(16) as follows:

14.1(16) Definitions.

4 a. “Involuntary unemployment insurance” means insurance providing the insured borrower with coverage for consumer credit repayment obligations for a period or periods during which the borrower is involuntarily unemployed. Involuntary unemployment insurance means insurance at least providing benefits for loss of employment income caused by individual or mass layoffs, general strike, termination by employer, unionized labor dispute, and lockout.

2 b. “Open-end credit” means consumer credit as defined in Iowa Code section 537.1301, subsection 29.

Nonseverable. The provisions of this rule are nonseverable. Severability. If any provisions or applications of this rule are held to be invalid, the invalidity shall not affect other provisions or applications of this rule which can be given effect without the invalid application or provision, and to this end the provisions of this rule are severable.

This rule is intended to implement Iowa Code section 537.2501(1)“f,” 537.2501(2)“b.”

ARC 3408B

ENVIRONMENTAL PROTECTION COMMISSION[567]

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 455B.304 and 455D.9, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 105, “Organic Materials Composting Facilities,” Iowa Administrative Code.

The proposed amendments are minor clarifications regarding composting of yard waste, food residuals or agricultural waste, as well as the management of storm water. The variance reference is also being corrected to cite 561—Chapter 10.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 14, 2004. Such written materials should be directed to Jeff Myrom, Energy and Waste Management Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-8895. Persons wishing to convey their views should contact Jeff Myrom at (515)281-3302 or at the Wallace State Office Building.

The Energy and Waste Management Bureau encourages stakeholders to utilize the following guidelines when submitting comments. These guidelines aid the Bureau in accurately understanding and creating a record of input.

1. Include your mailing address and contact information.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

2. Please state if you are submitting comments as an individual or for a business or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

Also, there will be a public hearing on July 14, 2004, at 10:30 a.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, 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 will attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 455B.304 and 455D.9.

The following amendments are proposed.

ITEM 1. Amend subrule 105.5(1) as follows:

105.5(1) Acceptable materials and amounts. ~~Yard waste and food residuals~~ *Yard waste, food residuals, and agricultural waste* may be received from off premises at a total rate of two tons or less per week for composting either singly, ~~in combination, or with agricultural waste or in combination.~~ Any clean wood waste free of coating and preservatives may be used as a bulking agent. The two tons per week combined weight limit does not apply to bulking agent. However, the amount of bulking agent received must be appropriate for the amount of compostable materials received. Facilities composting over two tons of ~~food residuals and yard waste~~ *yard waste, food residuals and agricultural waste* per week in any combination from off premises must obtain a permit (Form 50 (542-1542)) and adhere to the solid waste composting requirements stipulated in 105.7(455B,455D) through 105.14(455B,455D). If only agricultural wastes are collected and composted, this rule does not apply. If only yard wastes are collected and composted, this rule does not apply.

ITEM 2. Amend subrule **105.8(2)**, paragraph “f,” as follows:

f. Dimensions, details, and capacities of storm water ~~run-on and runoff~~ management systems ~~to prevent run-on and runoff from the composting facility of the composting facility.~~ *The storm water management systems must be designed to collect and store all runoff water from the proposed receiving, processing, production, curing, and storage areas resulting from a 25-year, 24-hour precipitation event. Storm water management systems must meet applicable federal and state storm water regulations and shall not discharge to surface waters except as allowed by an NPDES permit. The facility may need a storm water permit.*

ITEM 3. Amend rule 567—105.10(455B,455D) as follows:

567—105.10(455B,455D) Operator certification for permitted solid waste composting facilities. All permitted solid waste composting facilities shall meet the following requirement. The person responsible for daily operation of the facility shall be certified by a department-approved program upon approval of such a program by the department. *The certification must be renewed every three years.*

ITEM 4. Amend rule 567—105.15(455B,455D) as follows:

567—105.15(455B,455D) Variances. In specific cases, the department may approve a variance from the requirements of this chapter if the variance is not contrary to the public health and safety and, due to the special conditions, the enforcement of this chapter would result in unnecessary hardship, so long as the spirit of the chapter is observed.

A request for variance must be submitted in writing to the department and the field office of the department serving the facility pursuant to 561—Chapter 10. The request may be made during the notification process or with an application for a permit. Any approval of a variance from the department must be in writing.

ARC 3397B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

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 455B.304(1), 455B.304(14), 455B.304(16), and 455B.383, the Environmental Protection Commission hereby gives Notice of Intended Action to rescind Chapter 120, “Scope of Title—Definitions—Forms—Rules of Practice,” and adopt new Chapter 120, “Landfarming of Petroleum Contaminated Soil,” and to amend Chapter 121, “Land Application of Wastes,” Iowa Administrative Code.

The proposed amendments include a restructuring of Chapter 120 and Chapter 121 such that Chapter 120 will pertain solely to landfarming petroleum contaminated soil (PCS), and Chapter 121 will apply solely to the land application of wastes other than PCS. The separation of these two distinct activities into dedicated chapters will aid the regulated community in identifying applicable requirements. Existing rules 567—120.1(455B,17A) through 567—120.3(455B) are being moved to Chapter 121 and renumbered as 567—121.1(455B,17A) through 567—121.3(455B). The substantive regulatory changes of this rule making pertain to the landfarming of PCS.

The revised requirements of proposed Chapter 120 do not allow for landfarming PCS without a specific permit because the present permit-by-rule landfarming system in Chapter 121 does not allow sufficient Department oversight of landfarms to ensure the protection of groundwater, surface water, and the safe return of land used for landfarming to other productive uses. The Department’s experience and enforcement actions demonstrate that these are environmental issues that must be addressed through updated rules.

Therefore, the proposed rule making creates two types of landfarm permits: single-use landfarm applicator permits and multiuse landfarm permits. A single-use landfarm applicator permit is similar to a license, which allows the applicator to apply PCS to several different plots of land on a one-time or infrequent basis. A multiuse landfarm permit is issued for a permanent facility on which PCS is applied to the same land on a frequent basis. The proposed chapter also re-

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

quires due diligence regarding the testing, siting, operation, and reporting of landfarm activities.

The Energy and Waste Management Bureau wrote proposed Chapter 120 in collaboration with multiple intra-Department bureaus and sections that are involved in aspects of landfarming to ensure regulatory consistency. This collaboration included the Underground Storage Tank (UST) section, the Emergency Response section, and the Field Offices. Furthermore, an advisory committee consisting of the Environmental Professionals of Iowa, the Petroleum Marketers and Convenience Stores of Iowa, a UST Fund member, two landfarming companies, and the Iowa and Nebraska Petroleum Council were consulted.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 21, 2004. Such written materials should be directed to Jeff Myrom, Energy and Waste Management Bureau, Iowa Department of Natural Resources, 502 E. Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-8895. Persons wishing to convey their views should contact Jeff Myrom at (515)281-3302 or at the Wallace State Office Building.

The Energy and Waste Management Bureau encourages stakeholders to utilize the following guidelines when submitting comments. These guidelines aid the Bureau in accurately understanding and creating a record of input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments as an individual or for a business or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

Also, there will be a public hearing on July 21, 2004, at 10 a.m. in the Fifth Floor East Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, 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 will attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

These rules are intended to implement Iowa Code sections 455B.301A, 455B.304 and 455B.383.

The following amendments are proposed.

ITEM 1. Rescind 567—Chapter 120 and adopt the following **new** chapter in lieu thereof:

CHAPTER 120 LANDFARMING OF PETROLEUM CONTAMINATED SOIL

567—120.1(455B) Purpose. The purpose of this chapter is to establish rules for the safe and effective remediation and disposal of petroleum contaminated soil (PCS) through landfarming. These rules are intended to satisfy the requirements of Iowa Code sections 455B.301A, 455B.304 and 455B.383.

567—120.2(455B) Applicability and compliance.

120.2(1) These rules apply to the landfarming of soils contaminated with biodegradable petroleum products including, but not limited to, gasoline, diesel fuel, kerosene, jet

fuel, motor oil, hydraulic fluid, or some combination thereof. All PCS landfarming activities in which three or more cubic yards of PCS are excavated shall comply with this chapter.

120.2(2) These rules do not apply to PCS that is being remediated or disposed of at a sanitary landfill. For rules governing the remediation and disposal of PCS at a sanitary landfill, see 567—Chapter 109.

120.2(3) The issuance of a landfarm permit by the department in no way relieves the generator or permit holder of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules and other applicable requirements.

567—120.3(455B) Definitions. In addition to the definitions set out in Iowa Code section 455B.301, which shall be considered to be incorporated by reference in these rules, the following definitions shall apply.

“High water table” means the position of the water table that occurs in the spring in years of normal or above-normal precipitation.

“Incorporation” means to mix into the soil by tilling, disking, or other suitable means, thereby creating a loose and divided soil texture.

“Landfarm” means a surface-level soil remediation technology for petroleum contaminated soils that reduces concentrations of petroleum constituents through biodegradation to a level safe for human health and the environment. This technology usually involves spreading excavated contaminated soils in a thin layer on the ground surface and stimulating aerobic microbial activity within the soils through aeration. The enhanced microbial activity results in degradation of adsorbed petroleum product constituents through microbial respiration. Some petroleum product constituents volatilize during the landfarming process. There are two types of landfarm permits issued by the department: a multiuse landfarm permit and a single-use landfarm applicator permit.

“Landfarm plot” means the specific operating area of a landfarm upon which a particular source and type of PCS is applied. A landfarm plot is a subset of the operating area.

“Landfarm season” means the time period beginning April 1 and ending October 31 of each year.

“Multiuse landfarm” means a landfarm used for more than one application of PCS. Each application of a particular source and type of PCS is landfarmed in separate landfarm plots. After the PCS is remediated, the landfarming process may be repeated. A multiuse landfarm is not located at a sanitary landfill.

“Nonstandard PCS” means soil contaminated with a petroleum product other than gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“Operating area” means the total aggregate area of the landfarm where PCS is applied. The operating area of a multiuse landfarm may include multiple landfarm plots.

“Petroleum contaminated soil” or “PCS” means soil contaminated with petroleum products including, but not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“Single-use landfarm” means the area of land used to landfarm a single application of a particular source and type of PCS. Single-use landfarms are created when a single-use landfarm applicator, or the landfarm’s supervised agent, land applies PCS. No other PCS may be applied within 15 feet of the area of land used as a single-use landfarm until the single-use landfarm is closed pursuant to rule 567—120.12(455B).

“Single-use landfarm applicator” means an entity permitted by the department to land apply PCS to create one or more single-use landfarms.

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“Source of PCS” means the contaminated area from which the PCS originated. Examples of a source include, but are not limited to, a specific gas station or spill location.

“Standard PCS” means soil contaminated with gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“Tar ball” means a ball or conglomeration of tarlike petroleum constituents. Tar balls may form when PCS that contains a high concentration of long-chain or high molecular weight hydrocarbons is landfarmed.

“Type of PCS” means the specific petroleum product or combination thereof that contaminated the soil. Examples of type include, but are not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“Water table” means the water surface below the ground at which the unsaturated zone ends and the saturated zone begins.

567—120.4(455B) Landfarming permits.

120.4(1) Permit required. PCS shall not be landfarmed without a permit from the department.

120.4(2) Types of landfarm permits. The department issues two types of landfarm permits as follows:

a. Multiuse landfarm permit. A multiuse landfarm permit is issued for a landfarm designed to be used for more than one application of PCS. This permit requires that each application of a particular source and type of PCS be landfarmed in separate landfarm plots. If a facility has a multiuse landfarm permit, then the landfarming process may be repeated after the PCS has been remediated. A multiuse landfarm permit is not for a facility located at a sanitary landfill.

b. Single-use landfarm applicator permit. A single-use landfarm applicator permit is issued to an entity that is then permitted by the department to land apply PCS to create one or more single-use landfarms. This permit requires that the single-use landfarms be used for only one application of a particular source and type of PCS. This permit requires that no other PCS be applied within 15 feet of the area of land used as a single-use landfarm until the single-use landfarm is closed pursuant to rule 567—120.12(455B).

120.4(3) Construction and operation. All landfarms shall be constructed and operated according to these rules, any plans and specifications approved by the department, and the conditions of the permit. Any approved plans and specifications shall constitute a condition of the permit.

120.4(4) Transfer of title and permit. If title to a type of landfarm permit is transferred to a third party, then the department shall transfer the permit within 60 days if the department has determined that the following requirements have been met:

a. The title transferee has applied in writing to the department within 30 days of the transfer of title to request a transfer of the permit.

b. The permitted facility and title transferee are in compliance with Iowa Code chapter 455B, this chapter and the conditions of the permit.

120.4(5) Permit conditions. A permit may be issued with conditions, specified in writing by the department, that are necessary to ensure the landfarm can be constructed and operated in a safe and effective manner, and in compliance with Iowa Code chapter 455B and this chapter.

120.4(6) Effect of revocation. If a landfarm permit held by any public or private agency is revoked by the department, then no new landfarm permit shall be issued to that agency for a period of one year from the date of revocation. Such

revocation shall not prohibit the issuance of a permit for the same landfarm project to another public or private agency.

120.4(7) Inspection of site and operation. The department may inspect the facility and its operations to determine if the landfarm is in compliance with this chapter and the permit requirements.

120.4(8) Duration of permits. Landfarm permits shall be issued and may be renewed for a three-year term.

120.4(9) Request for permit renewal. A request for permit renewal shall be in writing and filed at least 90 days before the expiration of the current permit. If the renewal applicant is found not to be in compliance with this chapter or the permit requirements, then the applicant shall achieve compliance or be placed on a compliance schedule approved by the department before the permit may be renewed.

120.4(10) Request for permit modification. Requests for permit modifications must be submitted in writing to the department with supporting documentation and materials.

120.4(11) Factors in permit issuance decisions. The department may request that additional information be submitted for review to make a permit issuance decision. The department may review and inspect the facility, its agents and operators, and compliance history. The department may review whether or not a good-faith effort to maintain compliance and protect human health and the environment is being made, and whether a compliance schedule is being followed. The department may issue a permit on a trial basis.

567—120.5(455B) Landfarm permit application requirements.

120.5(1) Multiuse landfarm permits. To apply for a multiuse landfarm permit, the applicant shall submit the following information to the department:

a. The name, address, and telephone number of:

(1) Agency applying for the multiuse landfarm permit.

(2) Owner(s) of the agency.

(3) Owner(s) of the multiuse landfarm site.

(4) Individual responsible for the operation of the multiuse landfarm.

(5) Individual responsible for record keeping and reporting.

(6) An emergency contact person.

b. A site analysis demonstrating that the proposed site complies with the requirements of rule 567—120.7(455B).

c. A site plan that includes a legal description of the site, that designates and labels landfarm plots upon which PCS will be applied and groundwater monitoring wells, and that complies with the requirements of rule 567—120.8(455B).

d. A groundwater monitoring plan pursuant to paragraph 120.8(2)“c.”

e. A plan of operations that complies with the requirements of rules 567—120.9(455B) and 567—120.11(455B).

f. An emergency response and remedial action plan (ERRAP) pursuant to rule 567—120.10(455B).

g. Information on how the site will be used for at least three years following the last application of PCS.

h. A signed and dated statement from the owner(s) of the agency which reads: “I guarantee that this agency will comply with 567—Chapter 120.”

120.5(2) Single-use landfarm applicator permits. To apply for a single-use landfarm applicator permit, the applicant shall submit the following information to the department:

a. The name, address, and telephone number of:

(1) Agency applying for the single-use landfarm applicator permit.

(2) Owner(s) of the agency.

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(3) Individual responsible for record keeping and reporting.

(4) An emergency contact person.

b. A plan of operations that complies with the requirements of rules 567—120.9(455B) and 567—120.11(455B).

c. An emergency response and remedial action plan (ERRAP) pursuant to rule 567—120.10(455B).

d. A signed and dated statement from the owner(s) of the agency which reads: "I guarantee that this agency will comply with 567—Chapter 120."

120.5(3) Incomplete applications. If the department finds the permit application information to be incomplete, the department shall notify the applicant in writing of that fact and of the specific deficiencies. If the deficiencies are not corrected within 30 days, the department shall return the application materials to the applicant. The applicant may reapply without prejudice.

567—120.6(455B) PCS analysis and characterization.

120.6(1) Department-supervised emergency cleanups. PCS originating from the cleanup of a spill or expedited overexcavation at a tank closure or upgrade under department jurisdiction shall be characterized and tested as follows before being landfarmed. Such PCS may be landfarmed prior to chemical testing, pursuant to the application rate in subrule 120.9(6) and reporting requirements of rule 567—120.11(455B), if permission is obtained from department emergency response personnel or the department field office with jurisdiction over the landfarm site.

a. Source identification. The name and address of the contaminated site from which the PCS originated and the spill or underground storage tank (UST) registration number shall be recorded.

b. Type classification. The PCS shall be classified by type according to the petroleum product's trade name (e.g., gasoline, diesel fuel) or according to the trade names if there is a mixture of petroleum products.

c. Chemical testing. A sample of the PCS shall be obtained from the emergency cleanup site and tested pursuant to paragraph 120.6(2)"c."

120.6(2) Other cleanups. PCS not originating from a department-supervised emergency cleanup pursuant to subrule 120.6(1) shall be characterized and tested as follows before being landfarmed. PCS originating from a cleanup pursuant to 567—Chapter 135 may utilize those test results as applicable.

a. Source identification. The name and address of the contaminated site from which the PCS originated, the UST registration number, and the leaking underground storage tank (LUST) number shall be recorded, if applicable.

b. Type classification. The PCS shall be classified by type according to the petroleum product's trade name (e.g., gasoline, diesel fuel) or according to the trade names if there is a mixture of petroleum products.

c. Chemical testing. The following analyses shall be performed. Samples shall be acquired, stored, handled, tested, and reported in accordance with the required methodology and accepted scientific procedures.

(1) BTEX testing. The PCS shall be tested for benzene, toluene, ethylbenzene, and xylene (BTEX). A laboratory certified for UST petroleum analyses pursuant to 567—Chapter 83 shall test the samples. The analysis shall utilize the most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.

(2) TEH-diesel testing. The PCS shall be tested for total extractable hydrocarbons (TEH-diesel). A laboratory certi-

fied for UST petroleum analyses pursuant to 567—Chapter 83 shall test the samples. The analysis shall utilize the most recent version of Method OA-2, "Extractable Petroleum Products (and Relatively Low Volatility Organic Compounds)," University of Iowa Hygienic Laboratory.

(3) MTBE testing. The PCS shall be tested for methyl tertiary-butyl ether (MTBE) unless prior analysis at a site, pursuant to rule 567—135.15(455B), has shown that MTBE is not present in soil or groundwater. A laboratory certified for UST petroleum analyses pursuant to 567—Chapter 83 shall test the samples. The analysis shall utilize one of the following methods:

1. The most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.

2. U.S. Environmental Protection Agency (EPA) Method 8260B, SW-846, "Test Methods for Evaluating Solid Waste," Third Edition.

(4) Total metals testing. If the history of the petroleum contaminated site is known to have included solvents, batteries, leaded fuel, waste oil, or a gas station in operation prior to 1985, then the PCS shall be tested for total Resource Conservation and Recovery Act (RCRA) metals.

120.6(3) Tar balls. PCS that has the potential to produce tar balls shall not be landfarmed at a single-use or multiuse landfarm. Such PCS may be disposed of in a sanitary landfill pursuant to 567—Chapter 109.

120.6(4) Other tests. The department may require testing of the PCS for other chemicals of concern.

567—120.7(455B) Site exploration and suitability requirements for landfarms. All landfarms shall meet the following site exploration and suitability requirements.

120.7(1) Previous use. If the site is to be used as a single-use landfarm, then the single-use landfarm applicator shall obtain written confirmation from the site owner of one of the following requirements. This subrule shall not apply to land utilized as a landfarm prior to the effective date of this chapter.

a. That any other landfarm created in the past three years within 15 feet of the proposed operating area has been closed pursuant to rule 567—120.12(455B).

b. That no area within 15 feet of the proposed operating area has been used as a landfarm in the past three years.

120.7(2) Wells. PCS shall not be landfarmed or stored within 500 feet of a well that is being used or could be used for human or livestock consumption. Groundwater monitoring wells installed pursuant to paragraph 120.8(2)"c" are exempt from this requirement. The department may also exempt from this requirement extraction wells utilized as part of a remediation system. PCS shall not be landfarmed or stored within 500 feet of an agricultural drainage well.

120.7(3) Sinkholes. PCS shall not be landfarmed or stored within 500 feet of a sinkhole.

120.7(4) Groundwater elevations. Multiuse landfarms shall not landfarm PCS in soil that is within 5 feet of the high water table.

120.7(5) Surface waters of the state. PCS shall not be landfarmed or stored within 200 feet of a stream, lake, pond, wetland, or other surface water of the state. The department may waive the setback requirement for surface waters that have been constructed for pollution control purposes.

120.7(6) Tile lines. PCS shall not be landfarmed or stored within 200 feet of a tile line surface intake. A multiuse landfarm shall not be located on land that has been tiled. The absence of tile lines shall be verified by written confirmation from the landowner and a visual inspection of the property.

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120.7(7) Housing and sensitive populations. PCS shall not be landfarmed or stored within 200 feet of an occupied residence, recreational area, child care facility, educational facility, or health care facility.

120.7(8) Flood plains. PCS shall not be landfarmed or stored within the 100-year floodplain.

120.7(9) Slope. PCS shall not be landfarmed or stored on slopes greater than 5 percent. This requirement may be satisfied by utilizing United States Department of Agriculture (USDA) soil maps.

120.7(10) Soil properties for operating area. All soils in the operating area of the landfarm shall comply with the following requirements:

a. USDA textural soil classification.

(1) Multiuse landfarms. Soils in the operating area of multiuse landfarms shall be silty clay, silt clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

(2) Single-use landfarms. Soils in the operating area of single-use landfarms shall be clay, sandy clay, sandy clay loam, sandy loam, silty clay, silt clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

b. Stones and debris. Soils in the operating area shall be free of stones and debris larger than 4 inches in diameter.

c. Soil pH. Soils in the operating area shall have a pH greater than or equal to 6 and less than or equal to 9.

d. Bedrock separation. The operating area shall have a minimum of 6 feet of soil over bedrock.

567—120.8(455B) Landfarm design requirements.

120.8(1) Requirements for all landfarms. All landfarms shall comply with the following design requirements:

a. PCS storage areas. Storage areas for PCS shall be constructed in compliance with the following requirements:

(1) Over an impervious surface (e.g., tarp, concrete pad, plastic sheeting).

(2) Under a roof or tarp to minimize the infiltration of precipitation.

(3) In an area with minimal potential for stormwater runoff.

b. Flagging. The landfarm plot(s) upon which PCS is land applied shall be flagged pursuant to subrule 120.9(7).

120.8(2) Additional requirements for multiuse landfarms. In addition to the requirements of subrule 120.8(1), all multiuse landfarms shall comply with the following design requirements:

a. Signage. Signs shall be posted as follows:

(1) A sign at the primary entrance specifying the name and permit number of the facility, and the telephone number of an emergency contact person.

(2) One "No Trespassing" sign every 200 feet on the site's perimeter but not fewer than one sign per side of the property.

(3) Signs clearly designating and uniquely labeling each separate landfarm plot. The designations and labels for each separate landfarm plot shall not be changed.

b. Access. The department may require that the landfarm be fenced and locked to prevent unauthorized access.

c. Groundwater monitoring.

(1) Monitoring plan. A groundwater monitoring plan shall be maintained which demonstrates that groundwater quality can be accurately monitored at the site. The monitoring plan shall contain the rationale for the position and number of wells, sampling frequency, and testing parameters and procedures. At a minimum, the testing parameters and procedures shall comply with paragraph 120.11(1)"d."

(2) Monitoring wells. Groundwater monitoring wells sufficient to monitor the groundwater shall be installed. At a minimum, one up-gradient and two down-gradient monitoring wells shall be installed. The groundwater monitoring wells shall be no farther than 50 feet from the edge of the operating area.

d. Sediment control requirements. Multiuse landfarms shall, at a minimum, implement the applicable sediment control measures listed in this subrule.

(1) Plot separation strips. Separation strips around each landfarm plot shall be planted. Landfarm plot separation strips shall be at least 15 feet wide. The separation strips shall be planted with stiff-stemmed, dense, upright vegetation suitable for growing under native conditions. Mowing of the vegetation shall be minimized. If mowed, the vegetation shall be maintained at a minimum height of 1 foot.

(2) NRCS conservation plan. Multiuse landfarms that have slopes of 3 percent to 5 percent shall implement a Natural Resource Conservation Service (NRCS) designed and approved conservation plan.

e. Stormwater permit. A stormwater permit may be required pursuant to 567—Chapter 64.

567—120.9(455B) Landfarm operating requirements. All multiuse and single-use landfarms shall comply with the following operating requirements:

120.9(1) Standard PCS. Only standard PCS may be land applied or stored at a landfarm without a permit amendment from the department. A permit amendment from the department, pursuant to subrule 120.4(10), shall be obtained for each particular source and type of nonstandard PCS before that PCS may be land applied or stored at a landfarm. The permit amendment application shall include a justification of how the PCS can be safely and effectively remediated by landfarming.

120.9(2) Saturated, slurry, or flammable PCS. PCS in a saturated, slurry, or flammable condition shall not be land applied or stored at a landfarm. PCS in such a condition shall be bulked with other biodegradable materials (e.g., compost, mulch) until it is no longer saturated, in a slurry, or flammable before it is land applied or stored at a landfarm.

120.9(3) PCS storage. PCS that cannot immediately be land applied at the landfarm during landfarm season may be stored at the landfarm as follows. PCS delivered during non-landfarm season may be stored until the conditions of subrule 120.9(4) are satisfied or within the first seven days of landfarm season, whichever is shorter.

a. Seven days or less. PCS may be stored up to seven days in compliance with the following requirements:

(1) Over an impervious surface (e.g., tarp, concrete pad, plastic sheeting).

(2) Under a roof or tarp to minimize the infiltration of precipitation.

(3) In an area with minimal potential for stormwater runoff.

b. Extended storage time. No PCS shall be stored longer than seven days during landfarm season without written permission from the department field office that has jurisdiction over the landfarm.

120.9(4) PCS application weather and landfarm season.

a. PCS shall only be land applied during non-landfarm season if the PCS must be land applied as part of an emergency cleanup supervised by the department pursuant to subrule 120.6(1), or all of the following conditions exist:

(1) The operating area is free of snow.

(2) The slope of the operating area is less than 3 percent.

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(3) The PCS is incorporated into the soil as soon as site conditions allow.

b. PCS shall not be land applied during precipitation.

120.9(5) One application, source and type of PCS per plot. One application of a particular source and type of PCS may be applied to a landfarm plot. A landfarm may only apply a subsequent application of PCS to a previously utilized landfarm plot if such application is in compliance with the following.

a. Multiuse landfarms. A subsequent application of a particular source and type of PCS may be applied to a previously utilized landfarm plot in a multiuse landfarm after the following requirements have been met:

(1) The plot has been tested pursuant to subparagraphs 120.6(2)“c”(1), (2), and (3), and the results demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel, and 0.02 mg/kg for MTBE.

(2) The PCS turning requirement of subrule 120.9(10) has been completed.

b. Single-use landfarms. A subsequent application of a particular source and type of PCS may not be applied within 15 feet of an area used as a single-use landfarm until the single-use landfarm is closed pursuant to subrule 120.12(2).

120.9(6) PCS application rates. PCS shall be land applied at a rate that is as uniform as practical over an area sufficient to satisfy the greater of the following area requirements. However, PCS from an emergency cleanup supervised by the department pursuant to subrule 120.6(1) may instead be land applied at a rate of 162 ft² of landfarm area per cubic yard (yd³) of PCS, that is as uniform as practical, and in which no layer of unincorporated PCS is thicker than 2 inches.

a. Petroleum constituents. PCS shall be land applied over the largest area required by the following:

(1) Benzene. PCS contaminated with benzene shall be land applied in accordance with Table 1. The average concentration of benzene in the PCS shall be used to determine the landfarm area (ft²) required per cubic yard (yd³) of PCS to be land applied. The average concentration of benzene shall be calculated from all soil boring test results that are within the PCS excavation area. The application shall be as uniform as practical over the area required.

Average concentration of benzene (mg/kg)	Ft ² of landfarm area per yd ³ of PCS applied	Maximum thickness of unincorporated PCS	Yd ³ of PCS per acre of landfarm
0 < mg/kg ≤ 10	81 ft ²	4 inches	537 yd ³
10 < mg/kg ≤ 20	162 ft ²	2 inches	268 yd ³
20 < mg/kg	324 ft ²	1 inch	134 yd ³

(2) Toluene, ethylbenzene, xylene, and TEH-diesel. PCS that is not contaminated with benzene or MTBE, but is contaminated with toluene, ethylbenzene, xylene, TEH-diesel, or some combination thereof, shall be land applied at a rate of 81 ft² of landfarm area per cubic yard (yd³) of PCS. The application shall be as uniform as practical, and no layer of unincorporated PCS shall be thicker than 4 inches.

b. Total heavy metals. PCS that has been tested for heavy metals pursuant to subparagraph 120.6(2)“c”(4) shall be applied at a rate that is as uniform as practical, that results in no layer of PCS thicker than 4 inches, and that upon incorporation produces a landfarm soil that satisfies the following requirements. This analysis requires prior testing of background levels of heavy metals at the proposed landfarm site.

(1) Total heavy metals are less than 2,500 milligrams per kilogram (mg/kg).

(2) Any particular concentration of a heavy metal is less than the appropriate statewide standard for soil developed pursuant to 567—Chapter 137.

120.9(7) Flagging. The landfarm plot(s) upon which PCS is land applied shall be flagged for one year after land application or until the landfarm is closed pursuant to rule 567—120.12(455B), whichever is shorter.

120.9(8) Removal of solid waste and rubble. All solid waste that is not PCS (e.g., pipe) shall be removed and properly disposed of. All rubble, stones, and debris larger than 4 inches in diameter, or that interfere with incorporating and turning the PCS, shall be removed and properly disposed of.

120.9(9) PCS incorporation. PCS shall be incorporated into the soil by tilling, disking, or other suitable means within 48 hours of being land applied or before the next precipitation event, whichever is sooner. PCS shall not be incorporated deeper than 12 inches.

120.9(10) Turning the PCS. After incorporation, the PCS shall be turned by tilling, disking, or other suitable means at least once per month for the first three months during landfarm season.

120.9(11) No crops for consumption.

a. Multiuse landfarms shall not grow crops for human or livestock consumption within 15 feet of the operating area until the landfarm is closed pursuant to subrule 120.12(1).

b. Single-use landfarms shall not grow crops within 15 feet of a landfarm plot that is flagged pursuant to subrule 120.9(7). Crops for human and livestock consumption may be grown at a single-use landfarm after the landfarm plot is no longer required to be flagged pursuant to subrule 120.9(7).

120.9(12) Water quality. A multiuse landfarm shall not accept additional PCS if evidence of surface water or groundwater contamination exists. Such evidence includes, but is not limited to, a visible sheen on immediately downgradient surface waters or downgradient monitoring well test results greater than two standard deviations of mean analyte concentrations in corresponding upgradient monitoring wells. Responsible parties shall notify the department within 6 hours of discovery of contamination of a water of the state by calling (515)281-8694. The acceptance of PCS shall be suspended until written verification has been received from the department that the site is not or is no longer contaminating surface water or groundwater.

120.9(13) Removal of PCS from a landfarm. PCS shall not be removed from a landfarm until the landfarm is closed pursuant to rule 567—120.12(455B) or the following conditions are met:

a. One sample from each 2,500 ft² (e.g., 50-foot × 50-foot area) of landfarm plot is analyzed pursuant to subparagraphs 120.6(2)“c”(1), (2), and (3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top 2 to 6 inches of soil.

b. The results of the tests in paragraph 120.12(1)“a” demonstrate that petroleum constituent concentrations for benzene, toluene, ethylbenzene, TEH-diesel, and MTBE are below the detection limits required by 567—Chapter 135.

c. Records of the lab results, amount of PCS removed, and the exact final location of the PCS shall be maintained by the landfarm.

567—120.10(455B) Emergency response and remedial action plans.

120.10(1) Access. Emergency response and remedial action plan (ERRAP) documents shall be readily available.

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Multiuse landfarms shall maintain a copy of the ERRAP on site (e.g., the back of permit sign, fence post, or mailbox). Single-use landfarm applicators shall have employees carry a copy of the ERRAP document to each site where operations are taking place.

120.10(2) Updates. An updated ERRAP shall be included with any request for permit modification to incorporate a facility or operational change that requires modification of the currently approved ERRAP.

120.10(3) Employee training. At a minimum, all employees shall receive annual training sufficient to understand and utilize ERRAP documents.

120.10(4) Content. The content of ERRAP documents shall be concise and readily usable as a reference manual by facility managers and operators during emergency conditions. The ERRAP document content shall address at least the following primary issues in detail, unless project conditions render the specific issue as not applicable. The rationale for exclusion of any issue areas that are not applicable must be provided either in the body of the plan or as a supplement. Additional ERRAP requirements unique to the facility shall be addressed as applicable.

- a. Facility information.
 - (1) Permitted agency.
 - (2) DNR permit number.
 - (3) Responsible official and contact information.
 - (4) Project location.
 - (5) Facility description.
 - (6) Site and environs map.
- b. Weather-related events.
 - (1) Intense rainstorms and erosion.
 - (2) Intense rainstorms or flooding impacting site access and usability.
- c. Fire and explosions.
 - (1) Flammable PCS.
 - (2) Buildings on site.
 - (3) Equipment.
 - (4) Waste gases from PCS.
 - (5) Off-site fires or explosions at cleanup site or during transport.
- d. Spills and releases.
 - (1) Saturated or slurry PCS.
 - (2) Free liquids from stored PCS.
 - (3) Spill of PCS during transport.
- e. Hazardous materials.
 - (1) Hazardous waste delivery.
 - (2) Hazardous gases.
- f. Emergency, spill and release notification and reporting.
 - (1) Emergency response agencies.
 - (2) Federal agencies.
 - (3) State agencies.
 - (4) County and city agencies.
 - (5) Special populations near site.
 - (6) Reporting requirements and forms.
 - (7) News media.
- g. Primary emergency equipment inventory.
 - (1) Major equipment.
 - (2) Fire hydrants and water sources.
 - (3) Off-site equipment resources.
- h. ERRAP training requirements.
 - (1) Training providers.
 - (2) Employee orientation.
 - (3) Annual training updates.
 - (4) Training completion and record keeping.

567—120.11(455B) Reporting and record-keeping requirements.

120.11(1) Reporting. The following information shall be submitted to the department on a form provided by the department. All reporting submissions shall include the name, address, and telephone number of the landfarm and permit holder, as well as the permit number.

a. Storage notification. Multiuse and single-use landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm at least 30 days before receipt of the PCS for storage. PCS storage information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 7 days of the emergency cleanup.

(1) The date the PCS is expected to be delivered for storage at the landfarm.

(2) Where the PCS will be stored at the landfarm.

(3) The spill number, UST registration number, and LUST number, as applicable.

b. Land application notification. Multiuse and single-use landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm at least 30 days before land application. PCS information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 7 days of the emergency cleanup.

(1) The date the PCS is expected to be land applied.

(2) Single-use landfarms shall submit an address, topographic map, soil map with key, and a map of the 100-year flood plain illustrating and labeling where the PCS is to be applied. Multiuse landfarms shall report the landfarm plot(s) to which the PCS is to be applied.

(3) Application rate calculations pursuant to subrule 120.9(6).

(4) The spill number, UST registration number, and LUST number, as applicable.

c. PCS analysis and characterization. Information on the analysis and characterization of the PCS pursuant to rule 567—120.6(455B) shall be submitted to the department at least 30 days before receipt of the PCS for storage or land application. PCS analysis and characterization information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 60 days of the emergency cleanup.

d. Groundwater monitoring well results. Multiuse landfarms shall annually test all groundwater monitoring wells as follows. A laboratory certified pursuant to 567—Chapter 83 for UST petroleum analyses shall test the samples. Test results for each well at a multiuse landfarm shall be submitted to the department by the first workday in January of each year.

(1) BTEX testing. The groundwater monitoring wells shall be tested for benzene, toluene, ethylbenzene, and xylene (BTEX). The BTEX analysis shall utilize the most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.

(2) TEH-diesel and waste oil testing. The groundwater monitoring wells shall be tested for total extractable hydrocarbons (TEH-diesel and waste oil). The TEH-diesel and waste oil analyses shall utilize the most recent version of Method OA-2, "Extractable Petroleum Products (and Relatively Low Volatility Organic Compounds)," University of Iowa Hygienic Laboratory.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(3) MTBE testing. The groundwater monitoring wells shall be tested for MTBE unless prior analysis of PCS accepted for landfarming, pursuant to rule 567—135.15(455B), has shown that MTBE was not present in soil or groundwater of the source. A laboratory certified pursuant to 567—Chapter 83 for UST petroleum analyses shall test the samples. The analysis shall utilize one of the following methods:

1. The most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.

2. U.S. Environmental Protection Agency (EPA) Method 8260B, SW-846, "Test Methods for Evaluating Solid Waste," Third Edition.

120.11(2) Record keeping. All landfarms shall maintain records of all information related to compliance with this chapter and the permit throughout the life of the landfarm and for three years after landfarm closure pursuant to rule 567—120.12(455B). This information shall be available to the department upon request. Applicable information includes, but is not limited to, the following material.

a. Permit application information pursuant to rule 567—120.5(455B).

b. PCS analysis and characterization pursuant to rule 567—120.6(455B).

c. Site suitability information pursuant to rule 567—120.7(455B).

d. Specific design requirements pursuant to rule 567—120.8(455B).

e. Operations information pursuant to rule 567—120.9(455B); in particular, application rate calculations pursuant to 120.9(6).

f. ERRAP documents pursuant to rule 567—120.10(455B).

g. Reports submitted pursuant to subrule 120.11(1).

h. Closure information pursuant to rule 567—120.12(455B).

567—120.12(455B) Landfarm closure. Unless otherwise required or approved by the department, landfarms shall be closed as follows.

120.12(1) Multiuse landfarms. Multiuse landfarms may be closed after groundwater monitoring well tests verify that down-gradient groundwater monitoring well results are within two standard deviations of the mean analyte concentrations, pursuant to paragraph 120.11(1)"d," in corresponding up-gradient monitoring wells for three consecutive years after the last application of PCS. Furthermore, prior to closure each landfarm plot shall be tested as follows. Closure is not official until verified in writing by the department.

a. One sample from each 10,000 ft² (e.g., 100-foot × 100-foot area) of landfarm plot is analyzed pursuant to subparagraphs 120.6(2)"c"(1), (2), and (3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top 2 to 6 inches of soil.

b. The results of the tests in paragraph 120.12(1)"a" demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel and 0.02 mg/kg for MTBE.

120.12(2) Single-use landfarms. Single-use landfarms are closed three years after the application of PCS, or at least six months after the application of PCS when documentation has been submitted and acknowledged in writing by the department that each landfarm plot has been tested as follows.

a. One sample from each 10,000 ft² (e.g., 100-foot × 100-foot area) of landfarm plot is analyzed pursuant to subparagraphs 120.6(2)"c"(1), (2), and (3). A minimum of one

sample per landfarm plot shall be obtained. All samples shall be obtained from between the top 2 to 6 inches of soil.

b. The results of the tests in paragraph 120.12(2)"a" demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel and 0.02 mg/kg for MTBE.

These rules are intended to implement Iowa Code sections 455B.301A, 455B.304 and 455B.383.

ITEM 2. Renumber rules 567—121.1(455B) through 567—121.4(455B) as 567—121.4(455B) through 567—121.7(455B) and adopt new rules 567—121.1(455B,17A) through 567—121.3(455B) as follows:

567—121.1(455B,17A) Scope of title. The department has jurisdiction over the disposal of solid waste including the land application of those wastes. The land application of solid wastes requires a specific permit from the department, unless certain conditions are met which warrant that an exemption be granted.

This chapter provides general definitions applicable in this title and rules of practice, including forms, applicable to the public in the department's administration of the subject matter of this title.

This chapter contains rules and regulations specifying the types of waste to which the chapter applies, the circumstances under which no permit is required for land application, and the permit requirements for those activities not exempted.

567—121.2(455B) Definitions.

"Industrial sludge" means any sludge produced by industrial activity.

"Land application" means a method through which sludge is applied to the ground surface. Land application may include subsurface injection.

"Sewage sludge" is defined in 567—Chapter 67.

"Sludge" means any solid, semisolid, or liquid waste generated from a commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

"Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Iowa Code section 321.1, subsection 1. Nothing herein shall be construed as prohibiting the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal.

"Stabilized sludge" means sludge that has been processed to a point where it has the ability to resist further change, produces minimal odor, and has achieved a substantial reduction in the pathogenic organism content. (The department recognizes principles of stabilization other than the conventional biological processes. Whether these processes produce a stabilized sludge will be evaluated on an individual basis.)

567—121.3(455B) Application for permits and forms.

Any private or public person or agent desiring to secure a permit for any land application of solid waste not exempted in rules 121.5(455B) and 121.6(455B) shall file a properly completed application.

121.3(1) A properly completed application shall consist of the application form with all blanks filled in by the applicant, all signatures, and all documents and information re-

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quired by the land application rules. Application forms may be obtained from:

Environmental Services Division
Iowa Department of Natural Resources
Henry A. Wallace Building
900 East Grand
Des Moines, Iowa 50319

Properly completed forms should be submitted in accordance with the instructions for the form.

121.3(2) Application for a land application permit shall be made on Form 43, "Application for a Sanitary Disposal Project Permit."

ITEM 3. Rescind renumbered subrules **121.6(2)** and **121.6(3)**.

ARC 3409B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****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 455D.7, the Environmental Protection Commission hereby gives Notice of Intended Action to rescind Chapter 215, "Waste Tire Management County Grant Program," Chapter 216, "Regents Tire-Derived Fuel Program," and Chapter 217, "Waste Tire End-User Incentive Program," Iowa Administrative Code.

These rules are rescinded to reflect the repeal of the authorizing language and cessation of funding for these programs as defined in Iowa Code. Iowa Code sections 455D.11D, 455D.11E, and 455D.11F are repealed pursuant to 2004 Iowa Acts, House File 2549. The legislation directs that on July 1, 2004, any remaining funds in the programs related to the repealed Iowa Code sections revert to the Waste Tire Management Fund. Therefore, Chapters 215, 216, and 217 are no longer valid as of July 1, 2004, as no funding or statutory authority remains in support of these chapters.

Any interested person may make written suggestions or comments on this proposed amendment on or before June 29, 2004. Such written materials should be directed to Jeff Geerts, Energy and Waste Management Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319-0034; fax (515)281-8895. Persons wishing to convey their views orally should contact Jeff Geerts by June 29, 2004, at (515) 281-8176 or at the Wallace State Office Building.

The Energy and Waste Management Bureau encourages stakeholders to utilize the following guidelines when submitting comments. These guidelines aid the Bureau in accurately understanding and creating a record of input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments as an individual, business or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information utilized.

5. Provide specific examples to illustrate your concerns.
6. Offer alternative language you think would improve the specific rule(s) and explain why.

Also, there will be a public hearing on June 29, 2004, at 10 a.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, 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 will attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement 2004 Iowa Acts, House File 2549.

The following amendment is proposed.

Rescind and reserve **567—Chapters 215, 216 and 217.**

ARC 3423B**HISTORICAL DIVISION[223]****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 303.1 and 303.1A, the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Historical Division rules, Chapter 3, "Public Records and Fair Information Practices," Iowa Administrative Code.

The proposed amendments clarify the procedures for the public to use to gain access to public records that have been transferred from other state agencies to the state archives of Iowa.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on June 29, 2004. Interested persons may submit written or oral comments by contacting Kathy Gourley, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)282-0502; E-mail kathy.gourley@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-6913.

Also, there will be a public hearing on June 29, 2004, from 10 to 11 a.m. at the above address, in the Tone Board Room, 3rd Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 22.

The following amendments are proposed.

ITEM 1. Amend rules 223—3.1(17A,22) to 223—3.3(17A,22) as follows:

HISTORICAL DIVISION[223](cont'd)

223—3.1(17A,22) Definitions. As used in this chapter:

“Agency” means the state archives unit within the society.

“Confidential record” in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of the law. Confidential records include records or information contained in records that the agency state archives is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code section 22.7 or other provision of law, but that may be disclosed upon order of a court, by the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of the law does not necessarily make that entire record a confidential record.

“Custodian” in these rules means the agency or person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22 the state archivist of Iowa.

“Open record” in these rules means a record other than a confidential record.

“Personally identifiable information” in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

“Record” in these rules means the whole or part of a “public record,” as defined in Iowa Code section 22.1, that is owned by or in the physical possession of the agency in the custody of the state archivist.

“Record system” in these rules means any group of records under the control of the agency state archives from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

“State archives” in these rules means the state archives of Iowa, a unit within the society.

223—3.2(17A,22) Statement of policy and scope.

3.2(1) The purpose of this chapter is to facilitate broad public access to open records. It also seeks to facilitate sound agency determinations by the state archives with respect to the handling of confidential records and the implementation of the fair information practices Act. This agency The state archives is committed to the policies set forth in Iowa Code chapter 22; agency state archives staff shall cooperate with members of the public in implementing the provisions of that chapter.

3.2(2) Scope of chapter. The provisions of this chapter apply to records which are in the custody of the state archivist in accord accordance with Iowa Code Supplement section 303.12 305.9(1). Other Administrative materials created and held by the state archives are subject to the public records and fair information practices rules of the department of cultural affairs, Iowa Administrative Code 221—Chapter 2. This chapter shall not be construed to:

a. Require the state archives to index or retrieve records which contain information about an individual by that person's name or other personally identifiable information;

b. Apply to records which are developed by the state archives or any bureau of the society unless those records are housed in the state archives as records having enduring value in accordance with Iowa Code Supplement section 305.9(1); or

c. Govern the maintenance or disclosure of, notification of or access to records in the possession of the state archives that are governed by the regulations of another agency.

223—3.3(17A,22) Request for access to records.

3.3(1) Location of record. A request for access to a record from the state archives shall be directed to the State Archivist, State Historical Society of Iowa, Historical Division, Department of Cultural Affairs, Capitol Complex 600 East Locust, Des Moines, Iowa 50319, (515)281-8875. If the location of the record is not known by the requester, the request shall be directed to the State Archivist, State Historical Society of Iowa, Historical Division, Department of Cultural Affairs, Capitol Complex 600 East Locust, Des Moines, Iowa 50319, (515)281-8875. If a request for access to a record is misdirected, agency state archives personnel shall promptly forward the request to the appropriate person within the agency state archives.

3.3(2) Office hours. Open records from the state archives of Iowa shall be made available for inspection during all customary weekday office hours of the society posted weekday hours of the society's public reading room in Des Moines. Records may be available for inspection in the society's public reading room in Des Moines during posted hours on Saturdays a Saturday if a request is placed by 12 noon on the preceding Friday.

3.3(3) Request for access. Requests for access to open records from the state archives may be made in writing, in person, electronically or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate location of the record. Mail, E-mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record from the state archives.

3.3(4) Response to requests. Access to an open record from the state archives shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record from the state archives requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record from the state archives may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of 223—3.4(17A,22), Iowa Administrative Code, and other applicable provisions of the law.

3.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files the state archives. Examination of agency records shall be supervised by the custodian or a designee of the custodian. The requester shall protect the records from damage and disorganization. Copying of agency records shall be provided performed by the custodian or a designee of the custodian. The requester shall protect the records from damage and disorganization.

3.3(6) Copying. A reasonable number of copies of an open record may be made in the agency's office by the state archives for the requester unless reproduction is inappropriate due to the physical condition of the record or other physi-

HISTORICAL DIVISION[223](cont'd)

cal considerations. *The custodian shall assess the physical condition of the record and any relevant legal considerations to determine whether or not it can be photocopied. If the physical condition of the record makes reproduction by photocopy inappropriate, alternative methods of reproduction shall be proposed.* If photocopy equipment is not available in the ~~agency office~~ *state archives* where an open record is kept, the custodian shall arrange to have copies promptly made elsewhere.

3.3(7) Fees.

a. When charged. ~~The agency state archives~~ may charge fees in connection with the examination or copying of records ~~from the state archives~~ only if the fees are authorized by law. To the extent permitted by applicable provisions of the law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the ~~agency state archives~~ shall be prominently posted in the ~~agency's society's~~ *public* reading rooms. Copies of records may be made by the ~~state archives~~ or for members of the public on ~~agency society~~ photocopy machines or from electronic storage systems at cost as determined and posted in the ~~agency society's~~ *public* reading rooms by the custodian. When the mailing of copies of records ~~from the state archives~~ is requested, the ~~actual~~ costs of such mailing may also be charged to the requester.

c. Supervisory fee. An hourly fee may be charged for ~~actual agency state archives~~ expenses in *retrieving and preparing records for examination*, supervising the examination, and ~~copying preparing copies~~ of requested records when the ~~supervision~~ time required is in excess of one-half hour. The custodian shall prominently post in the ~~agency society's~~ *public* reading rooms the hourly fees to be charged for supervision of records during examination and for copying ~~and the hourly fees to be charged for search for requested records when the search time required is in excess of one-half hour.~~ The hourly fee ~~for retrieval and preparation of records for examination~~ shall not be in excess of the hourly wage of an ~~agency clerical~~ the employee who ~~ordinarily would be appropriate and suitable to perform~~ *performs* this supervisory function.

d. No change.

ITEM 2. Amend rule 223—3.4(17A,22) as follows:

Amend the introductory paragraph as follows:

223—3.4(17A,22) Access to confidential records. Under Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 223—3.3(17A,22); Iowa Administrative Code.

Amend subrule 3.4(2) as follows:

3.4(2) Requests. The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts. *A person requesting access to a confidential record may be required to sign a nondisclosure agreement to provide assur-*

ance that confidential information in a requested record will not be disclosed.

ITEM 3. Amend rule 223—3.5(17A,22) as follows:

Amend the introductory paragraph as follows:

223—3.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record *in the state archives* as a confidential record and withhold it from examination only to the extent that the custodian is authorized by Iowa Code section 22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public. *A record that is confidential in the agency of origin retains its confidential status when transferred to the custody of the state archivist.*

Amend subrules 3.5(2) and 3.5(3) as follows:

3.5(2) Request. A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. *If the original record is being submitted to the state archives by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.*

3.5(3) Failure to request. Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the *agency state archives* does not request that it be withheld from public inspection under Iowa Code sections 22.7(3) and 22.7(6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

ITEM 4. Amend rules 223—3.6(17A,22) and 223—3.7(17A,22) as follows:

223—3.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records.

Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents, or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is the subject of such a record to alter the original copy of that record or to expand the official record of any agency proceeding. ~~Requester~~ *The requester* shall send the request to review such a record or the written statement of additions, dissents, or objections to the State Archivist, *State Historical Society of Iowa Historical Division, Department of Cultural Affairs, Capitol Complex, Des Moines, Iowa 50319.* The request to review such a record or the written statement of such a record of additions, dissents, or objections must be dated and signed

HISTORICAL DIVISION[223](cont'd)

by the requester and shall include the current address and telephone number of the requester or the requester's representative.

223—3.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel before the *agency state archives* on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the *agency state archives* to disclose records about that person to the person's attorney.

ITEM 5. Adopt the following **new** rule:

223—3.8(17A,22) Notice to suppliers of information. When the state archives assumes custody of records from a state agency, the state archives assumes the state agency seeking to transfer custody of said records has provided appropriate notice to suppliers of information.

ITEM 6. Rescind rule 223—3.9(17A,22), renumber rule 223—3.13(17A,22) as rule 223—3.9(17A,22), and amend renumbered rule 223—3.9(17A,22) as follows:

223—3.9(17A,22) Availability of records.

3.9(1) General records. *Agency records* *Records in the state archives* are open for public inspection and copying unless otherwise provided by rule or law as designated by the transferring agency. *Records in the state archives are open for copying unless, in the opinion of the custodian, reproduction by photocopying would adversely affect the physical condition of the records or there are legal considerations that prohibit copying.*

3.9(2) Confidential records. *This agency* *The state archives* has custody of records which other state agencies have created. *The agencies* *An agency* which creates records may *shall* identify which records *as are* confidential when transferring *the those* records *to the state archives*. *Any confidential record in an agency shall retain its confidential record status after its transfer to the state archives. Thus, some agency records identified by the fair information practices administrative rules of the several state agencies may be withheld from public inspection.*

3.9(3) Authority to release confidential records. *The custodian may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other provisions of law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in subrule 3.4(3), Iowa Administrative Code. If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 3.4(3).*

ITEM 7. Rescind rules 223—3.11(17A,22) and 223—3.12(17A,22) and 223—3.14(17A,22) to 223—3.16(17A,22).

ITEM 8. Renumber rule 223—3.17(17A,22) as 223—3.10(17A,22) and amend renumbered rule 223—3.10(17A,22) as follows:

223—3.10(17A,22) Applicability Determination of rights of access to records.

3.10(1) ~~This chapter shall apply only to records which are in the custody of the state archivist in accord with Iowa Code section 303.12.~~

3.10(2) 3.10(1) Determination of rights of access to records which have exceeded their period of administrative value as determined by the state records commission and are in the custody of the state archivist shall be governed by this chapter. Determination of rights of access to records for which the period of administrative value has not been determined by the state records commission but which are 30 years of age or older and are in the custody of the state archivist shall be governed by this chapter.

3.10(3) 3.10(2) Determination of rights of access to records which have not exceeded their period of administrative value as determined by the state records commission, but are in the possession of the state archivist, shall be governed by the regulations of the agency which developed the records. Determination of rights of access to records for which the period of administrative value has not been determined by the state records commission, but which do not exceed 30 years of age, shall be governed by the regulations of the agency which developed the records.

3.10(4) This chapter shall not be construed to:

a. ~~Require the agency to index or retrieve records which contain information about individuals by that person's name or other personally identifiable information;~~

b. ~~Apply to records which are developed by the archives, or any other bureau, of the society unless those records are housed in the archives as records having enduring value in accord with Iowa Code section 303.12; or~~

c. ~~Govern the maintenance or disclosure of, notification of or access to, records in the possession of agency which are governed by the regulations of another agency.~~

ARC 3424B

HISTORICAL DIVISION[223]

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 303.1 and 303.1A, the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Historical Division rules, Chapter 22, "Library and Archives Policies and Services," Iowa Administrative Code.

The proposed amendments clarify the public access policies and services of the Historical Library and State Archives, units within the Historical Division.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on June 29, 2004. Interested persons may submit written or oral comments by contacting Kathy Gourley, Department of Cultural Affairs, State Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)282-0502; E-mail kathy.gourley@

HISTORICAL DIVISION[223](cont'd)

iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-6913.

Also, there will be a public hearing on June 29, 2004, from 10 to 11 a.m. at the above address, in the Tone Board Room, 3rd Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 303.

The following amendments are proposed.

ITEM 1. Amend **223—Chapter 22**, title, as follows:

CHAPTER 22
HISTORICAL LIBRARY AND STATE ARCHIVES
PUBLIC ACCESS POLICIES AND SERVICES

ITEM 2. Amend rules 223—22.1(303) to 223—22.4(303) as follows:

223—22.1(303) Purpose. ~~The society operates the library and archives to identify, collect, preserve, and make accessible written and machine readable records, images, and graphic materials of Iowa history. The collections include, but are not limited to, printed materials, photographs, machine readable data, manuscripts as well as official state archives. Public access policies~~ *Policies* exist to provide the widest possible public access to *historical library, special collections and state archives of Iowa materials* within the constraints of preservation of the materials. The collection and conservation policies of the library and archives shall be in accordance with 223—Chapter 13, ~~Iowa Administrative Code~~.

223—22.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 shall apply for terms as they are used throughout this chapter. In addition, the following definitions apply:

“Archives” means ~~the state agency records and other materials transferred to the custody of the state archives of Iowa as defined in~~ *in accordance with Iowa Code section 303.12 Supplement chapter 305*.

“Collections” means *printed material, photographs, archives, manuscripts and electronic records*.

“Electronic records” means *records in a form that requires a computer or other machine to process them. “Electronic records” includes word processing documents; electronic mail messages; documents transmitted via electronic data interchange; Internet and Intranet postings; numerical and textual spreadsheets and databases; electronic files; optical images; software; and information systems*.

“Library” means *a unit of the library and publications bureau of the state historical society of Iowa that acquires, preserves and describes printed materials*.

~~“Machine readable data” means records and archives whose informational content is usually in code and has been recorded on media such as magnetic discs, optic discs, drums, tapes, punched paper cards, or punched paper tapes, accompanied by finding aids known as software documentation. The coded information is retrievable by machine only.~~

“Manuscripts” means handwritten or typed documents, including letterpress or carbon copies. A mechanically produced ~~form~~ *document* in handwriting or typescript is also

considered a manuscript. Manuscripts include bodies or groups of personal papers, *business or organizational records that have with* organic unity; artificial collections of documents acquired from various sources according to a plan, but without regard to provenance; and individual documents acquired because of their special importance.

“Materials,” *unless otherwise specified*, means the collections of the *historical library, the special collections unit of the historical library and the state archives of Iowa*.

“Patrons” means *any and all persons conducting research or otherwise reading, viewing or consulting the state historical society of Iowa collections. Patrons include both on-site and off-site persons*.

“Photographs” means, in general, images mechanically recorded by a camera. This term includes negatives, prints, copy negatives, copy prints, *digital photographic images*, motion picture film, and videotape.

“Printed materials” means, in general, books, journals, serials, magazines, newspapers, and maps and atlases.

“Reference” means the basic function of providing information about ~~the collections library and state archives of Iowa materials~~ and making the ~~collections materials~~ available for research.

“Research” means the studious inquiry into or examination of ~~the collections library and state archives of Iowa materials~~ aimed at the discovery and interpretation of facts.

“Special collections materials” means *privately donated collections acquired by the library and publications bureau of the state historical society of Iowa*.

“Special collections unit” means *the unit of the library and publications bureau of the state historical society of Iowa that acquires, preserves and describes special collections materials*.

223—22.3(303) Location. The society operates two ~~library and archive reading room~~ facilities. These facilities are located in the Centennial Building, 402 Iowa Avenue, Iowa City, Iowa 52240, (319)335-3916, and in the State Historical Building, 600 East Locust, Des Moines, Iowa 50319, (515) 281-5444 6200.

223—22.4(303) Availability of materials.

22.4(1) Materials are available during regular ~~library reading room~~ hours as posted in accordance with 223—subrule 1.5(2).

22.4(2) Materials are available to the public regardless of race, color, sex, religion, national origin, age, creed, or mental or physical disability.

22.4(3) The use of some materials may be restricted because of donor restrictions, state or federal statute, or the physical condition of the materials. Questions concerning restrictions of use may be referred to the ~~library and archives reading room~~ staff at the appropriate location.

ITEM 3. Amend rule 223—22.5(303) as follows:

Amend the introductory paragraph as follows:

223—22.5(303) Reading room policies. In order to ensure that the research resources remain available to all persons and future generations, ~~the following regulations apply: reading room policies shall be developed and posted in the reading room facilities of the state historical society of Iowa.~~

Rescind subrules **22.5(1)** to **22.5(20)**.

ITEM 4. Adopt the following ~~new~~ rule:

223—22.6(303) Copy services.

22.6(1) A photocopy machine and a microfilm reader/printer are available for patrons to make copies of library materials.

HISTORICAL DIVISION[223](cont'd)

22.6(2) Requests for copies of maps, manuscripts, photographs and state archives materials shall be directed to the library and archives staff. Photocopying shall be available unless reproduction of materials is inappropriate due to legal or curatorial considerations.

22.6(3) Copy service shall not be provided for materials which are not part of the society's collections.

22.6(4) Use of personal photocopy machines, scanners, and similar equipment to reproduce state archives materials or special collections materials shall not be permitted. Use of this type of equipment with library materials is subject to approval by the bureau chief or designee and shall not be permitted if the bureau chief or designee determines that such use may damage library materials.

ARC 3390B

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 34A.22, the Homeland Security and Emergency Management Division proposes to amend Chapter 10, "Enhanced 911 Telephone Systems," Iowa Administrative Code.

The Homeland Security and Emergency Management Division is amending subrules 10.8(1), 10.8(4) and 10.8(5) to provide for the increase in the wireless E911 surcharge rate from \$0.50 to \$0.65 per wireless telephone, per month as passed by the 80th General Assembly in 2004 Iowa Acts, Senate File 2298, section 453, and signed by the Governor on May 17, 2004. The statute provides that the new rate shall go into effect on July 1, 2004.

Consideration will be given to all written suggestions or comments on the proposed amendments on or before June 29, 2004. Such written materials should be sent to the E911 Program Manager, Homeland Security and Emergency Management Division, Hoover State Office Building, Des Moines, Iowa 50319, fax (515)281-7539.

Also, there will be a public hearing on June 29, 2004, at 1 p.m. in the Homeland Security and Emergency Management Division Conference Room in the Hoover 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 amendments.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Homeland Security and Emergency Management Division and advise of specific needs.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3391B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code section 34A.7A as amended by 2004 Iowa Acts, Senate File 2298, section 453.

ARC 3389B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 130, "General Provisions," and Chapter 170, "Child Care Services," Iowa Administrative Code.

These amendments:

- Move policies specific to the Child Care Assistance Program from Chapter 130 to Chapter 170. Funding sources and administration of the program have changed since Chapter 130 was originally implemented, resulting in many policies that are unique to the Child Care Assistance Program. The Department believes that policies for the Child Care Assistance Program and other social services will be clearer and more accessible to the public if Child Care Assistance policies are aggregated in a single chapter. These amendments do not represent changes in program policy.

- Implement annual changes in the income limits and the fee schedule due to the 2004 federal poverty levels issued by the federal Office of Management and Budget. Although the methodology for the income guidelines and the priority groups remain the same, the amendments do not include the chart of specific income levels that was part of subrule 130.3(1). The Department will continue to publish the annual changes to the income limits in its Employees' Manual, but these changes will not require rule making. This approach is consistent with that used in other programs whose income eligibility is based on a percentage of the federal poverty guidelines.

- Make technical changes to update program names and references, including removal of references to Title XX in rule 441—130.5(234), to obsolete case plan forms in rule 441—130.7(234), and to relative care in rule 441—170.1(237A). The text of subrules 170.2(2) and 170.2(3) on general eligibility requirements and priority of service is reorganized so that material from Chapter 130 could be added in a logical order.

These amendments do not provide for waivers in specified situations. Changes to the income limits and fee schedule benefit recipients by allowing for inflation. Other changes are technical rather than substantive. Individuals may request a waiver of Child Care Assistance policies under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before June 30, 2004. Comments should be directed to the Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 3387B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

These amendments are intended to implement Iowa Code sections 237A.13 and 239B.24.

ARC 3392B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

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

The proposed amendments update the Department’s rules pertaining to Critical Access Hospitals (CAHs) to include changes made in the federal Medicare Modernization Act. Item 1 increases the allowable maximum number of beds in a CAH from 15 to 25 regardless of swing-bed approval. Item 2 is a corresponding technical change, and simply updates the reference date for the citation of the Medicare conditions of participation for a Critical Access Hospital.

There is no fiscal impact to the proposed amendments as they are purely technical in nature and reflect changes made in federal regulations governing Critical Access Hospitals. Neither is there any provision for a waiver from the proposed amendments as they permit CAHs to increase the number of acute care inpatient beds from 15 to 25.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 29, 2004. Such written materials should be directed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail should be sent to dwerning@dia.state.ia.us.

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

The following amendments are proposed.

ITEM 1. Amend subrule 51.53(4) as follows:

51.53(4) The hospital shall maintain no more than ~~15~~ 25 acute care inpatient beds ~~or, in the case of a hospital having a swing-bed agreement, no more than 25 inpatient beds; and the number of beds used for acute inpatient services shall not exceed 15 beds.~~

ITEM 2. Amend subrule 51.53(5) as follows:

51.53(5) The hospital shall meet the Medicare conditions of participation as a critical access hospital as described in 42 CFR Part 485, Subpart F, as of October 1, 2002 2003.

ARC 3429B

LABOR SERVICES DIVISION[875]

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 88.5 and 17A.3(1), the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 4, “Recording and Reporting Occupational Injuries and Illnesses,” and Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

These proposed amendments adopt by reference changes to federal occupational safety and health regulations. Adoption confers a benefit, removes a restriction and is required by state statute and federal administrative rules.

The changes relate to respiratory protection for tuberculosis, commercial diving operations, and record keeping for musculoskeletal disorders. The federal standard changes create an alternative set of guidelines for decompression chambers in commercial diving, revoke the respiratory protection standard relating to M. tuberculosis, and delete two record-keeping provisions whose implementation was previously delayed.

Pursuant to 29 Code of Federal Regulations 1904.37 and 1952.4, Iowa’s record-keeping rules must be “substantially identical” to the federal record-keeping rules. Pursuant to Iowa Code subsection 88.5(1)(a) and 29 CFR 1953.23, Iowa must adopt the federal standards.

Written data, views, or arguments to be considered in adoption shall be submitted no later than June 29, 2004, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.state.ia.us.

A public hearing will be held on June 29, 2004, at 10 a.m. in the Stanley Room, Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515) 242-5869 in advance to arrange access or other needed services.

The principal reasons for adoption of these amendments are to implement Iowa Code chapter 88 and to protect the safety and health of Iowa’s workers.

These amendments will not necessitate additional annual expenditures exceeding \$100,000 by any political subdivision or agency or any contractor providing services to political subdivisions or agencies.

These amendments are intended to implement Iowa Code section 88.5.

The following amendments are proposed.

ITEM 1. Amend rule **875—4.3(88)** by inserting at the end thereof:

68 Fed. Reg. 38606 (June 30, 2003)

LABOR SERVICES DIVISION[875](cont'd)

ITEM 2. Amend rule **875—10.20(88)** by inserting at the end thereof:

68 Fed. Reg. 75780 (December 31, 2003)

69 Fed. Reg. 7363 (February 17, 2004)

ARC 3393B

LAW ENFORCEMENT ACADEMY[501]

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 sections 80B.11 and 80B.11D, the Iowa Law Enforcement Academy with approval of the Iowa Law Enforcement Academy Council hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Administration,” and Chapter 2, “Minimum Standards for Iowa Law Enforcement Officers,” Iowa Administrative Code.

Iowa Code Supplement section 80B.11D(2) provides that the Iowa Law Enforcement Academy is a law enforcement agency for the purposes of conducting background investigations on sponsored but not yet hired individuals. This rule change clarifies the requirement that certified peace officers in an active sworn status who are working at the Iowa Law Enforcement Academy (ILEA) will conduct the background investigations required by Iowa Code Supplement section 80B.11D. The rule change clarifies that Iowa certified peace officers currently working at ILEA in an active sworn status are required to meet mandatory in-service training requirements outlined in 501—Chapter 8.

Any person employed by the ILEA as a certified peace officer in an active sworn status after the effective date of these amendments shall be required to meet all requirements in 501—Chapters 1 to 3, 6 to 8, 12 and 16.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 30, 2004. Such written materials should be directed to the Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131; fax (515)242-5471.

There will be a public hearing on June 30, 2004, at 10 a.m. in the conference room at Iowa Law Enforcement Academy, Camp Dodge, Johnston, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any person who plans to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Iowa Law Enforcement Academy at (515)242-5357 and advise of specific needs.

These proposed amendments were presented to the Iowa Law Enforcement Academy Council for review on February 5, 2004, and the Council approved the proposed amendments.

These amendments are intended to implement Iowa Code Supplement sections 80B.3(3), 80B.11 and 80B.11D.

The following amendments are proposed.

ITEM 1. Amend rule **501—1.1(80B)**, definition of “law enforcement officer,” as follows:

“Law enforcement officer” means an officer appointed by the director of the department of natural resources; ; *an officer appointed by the director of the Iowa law enforcement academy*; a member of a police force or other agency or department of the state, county, or city regularly employed as such and who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state; and all individuals, as determined by the council, who by the nature of their duties may be required to perform the duties of a peace officer.

ITEM 2. Amend rule 501—2.3(80B) as follows:

501—2.3(80B) Officers moving from agency to agency.

2.3(1) A certified Iowa law enforcement *peace* officer who has previously met all the requirements of rule 2.1(80B) and who intends to move employment from one Iowa law enforcement agency to another Iowa law enforcement agency, or who intends to be employed as a ~~regular~~ *certified peace* officer by more than one Iowa law enforcement agency simultaneously, shall:

2.3(1) a. Undergo a psychological examination as provided in rule 2.2(80B) of this chapter, and

2.3(2) b. Be of good moral character as determined by a thorough background investigation by the hiring agency, including, but not limited to, a fingerprint search conducted by the Iowa division of criminal investigation and Federal Bureau of Investigation. If the results of the fingerprint file checks cannot reasonably be obtained prior to the time of appointment, the hiring shall be considered conditional until such time as the results are received and reviewed by the appointing agency.

2.3(3) 2.3(2) Except as otherwise specified, the provisions of rule 2.1(80B) of this chapter do not need to be reverted upon the movement of employment from one Iowa law enforcement agency to another Iowa law enforcement agency or upon being employed by more than one Iowa law enforcement agency simultaneously, if the certified Iowa law enforcement *peace* officer met all of the requirements of rule 2.1(80B) when the officer was initially hired as an Iowa law enforcement *peace* officer and if, without a break of not more than 180 days from law enforcement service, the officer is hired by another Iowa law enforcement agency.

2.3(3) A *certified Iowa peace officer who has previously met all the requirements of rule 2.1(80B) and who intends to work at the Iowa law enforcement academy shall meet the requirements as outlined in this chapter effective [insert the effective date of this amendment]. Certified Iowa peace officers who are working at the Iowa law enforcement academy before [insert the effective date of this amendment] may be considered regular peace officers in an active sworn status, and the requirements outlined in 2.3(1) and 2.3(2) shall be waived.*

ARC 3420B

MEDICAL EXAMINERS BOARD[653]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 147.76 and 148E.7, the Board of Medical Examiners hereby gives Notice of Intended Action to amend Chapter 8, “Fees,” Chapter 9, “Permanent Physician Licensure,” Chapter 10, “Resident, Special and Temporary Physician Licensure,” and Chapter 12, “Mandatory Reporting and Grounds for Discipline,” Iowa Administrative Code.

The Board approved the proposed amendments during its regularly held meeting on May 13, 2004.

The proposed amendments require applicants for licensure to submit a completed fingerprint packet and fee for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa Division of Criminal Investigation (DCI) and the Federal Bureau of Investigation (FBI). The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2. The amendment applies to those seeking initial permanent physician licensure, resident physician licensure, special physician licensure or temporary licensure for emergency purposes, or reinstatement of a permanent license. A completed fingerprint packet is not required if the applicant has held any active physician licensure in Iowa within 12 months of applying for a permanent license and the applicant had submitted fingerprints prior to the issuance of that earlier Iowa license.

If the applicant does not submit all materials, including a completed fingerprint packet, within 90 days of the Board office’s last documented request for further information, the application shall be considered inactive and the applicant is required to submit a new application, documents, credentials and fees, including the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks. If an applicant is granted a license but the fingerprints are determined to be unacceptable, the licensee is required to submit another fingerprint card and applicable fee within 30 days of the request or face licensee discipline.

Any interested person may present written comments on the proposed amendments not later than 4:30 p.m. on June 30, 2004. Such written materials should be sent to Ann E. Mowery, Executive Director, Board of Medical Examiners, 400 S.W. 8th Street, Suite C, Des Moines, Iowa 50309-4686, or sent by E-mail to ann.mowery@iowa.gov.

There will be a public hearing on June 30, 2004, at 2 p.m. in the Board office, at which time persons may present their views either orally or in writing. The Board of Medical Examiners office is located at 400 S.W. 8th Street, Suite C, Des Moines, Iowa.

These amendments are intended to implement Iowa Code sections 8.2, 147.76, 147.80, 272C.3 and 272C.4.

The following amendments are proposed.

ITEM 1. Amend subrule **8.4(1)**, paragraph “a,” as follows:

a. Initial licensure, \$400 *plus the fee for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)*.

ITEM 2. Amend subrule **8.4(1)**, paragraph “f,” as follows:

f. Reinstatement of license to practice one year or more after becoming inactive, \$400 *plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks*.

ITEM 3. Amend subrule **8.4(2)**, paragraph “a,” as follows:

a. Application for a resident physician license, \$100 *plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks*.

ITEM 4. Amend subrule **8.4(3)**, paragraph “a,” as follows:

a. Application for a special physician license, \$200 *plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks*.

ITEM 5. Amend subrule **8.4(4)**, paragraph “a,” as follows:

a. Application for a temporary physician license, \$200 *plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks*.

ITEM 6. Adopt **new** subrule 8.4(7) as follows:

8.4(7) Fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, \$46. The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

ITEM 7. Amend subrule 9.5(1) as follows:

9.5(1) Requirements. To apply for permanent licensure an applicant shall:

a. Pay a nonrefundable initial application fee of \$400 *plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)*; and

b. Complete and submit forms provided by the board, including required credentials, documents, *a completed fingerprint packet*, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant. *A completed fingerprint packet is not required if the applicant has held active physician licensure in Iowa within 12 months of applying for permanent licensure and fingerprinting was done prior to the issuance of that license.*

ITEM 8. Amend subrule **9.5(2)** by adopting **new** paragraph “o” as follows:

o. A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

ITEM 9. Amend subrule 9.6(3) as follows:

9.6(3) If the final review indicates no questions or concerns regarding the applicant’s qualifications for licensure, staff may administratively grant the license. *The staff may grant the license without having received a report on the applicant from the FBI.*

ITEM 10. Amend subrule 9.7(1) as follows:

9.7(1) Failure to submit application materials. If the applicant does not submit all materials, *including a completed*

MEDICAL EXAMINERS BOARD[653](cont'd)

fingerprint packet, within 90 days of the board office's last documented request for further information, the application shall be considered inactive. The board office shall notify the applicant of this change in status.

ITEM 11. Amend subrule **9.7(2)**, paragraph "**c**," as follows:

c. Once the reactivation period expires, an applicant must reapply and submit a new nonrefundable application fee and a new application, documents and credentials. *The fees shall include the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks, which is identified in 653—subrule 8.4(7).*

ITEM 12. Amend subrule **9.13(2)**, paragraph "**a**," by adopting **new** subparagraph (9) as follows:

(9) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

ITEM 13. Amend subrule **9.13(2)**, paragraph "**b**," as follows:

b. Pay the reinstatement fee of \$400 *plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks*. No fee is required for reinstatement for those whose licenses became inactive between December 8, 1999, and July 4, 2001; *however, the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed.*

ITEM 14. Amend subrule **10.3(3)**, paragraph "**a**," as follows:

a. Requirements. To apply for resident physician licensure, an applicant shall:

(1) Pay a nonrefundable application fee of \$100 *plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI); and*

(2) Complete and submit forms provided by the board, including required credentials, documents, *a completed fingerprint packet*, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant. *A completed fingerprint packet is not required if the applicant has held active physician licensure in Iowa within 12 months of applying for licensure and fingerprinting was done prior to the issuance of that license.*

ITEM 15. Amend subrule **10.3(3)**, paragraph "**b**," by adopting **new** subparagraph (11) as follows:

(11) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

ITEM 16. Amend subrule **10.4(3)**, paragraph "**a**," as follows:

a. Requirements. To apply for a special license an applicant shall:

(1) Pay a nonrefundable special license fee of \$200 *plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks;*

(2) Complete and submit forms provided by the board, *including required credentials, documents, a completed finger-*

print packet, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant; (3) to (6) No change.

ITEM 17. Amend subrule **10.4(3)**, paragraph "**b**," by adopting **new** subparagraph (10) as follows:

(10) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

ITEM 18. Amend subrule **10.5(1)**, paragraph "**c**," as follows:

c. Requirements for a temporary license to fulfill an urgent need. To apply for temporary licensure, an applicant shall:

(1) Pay a nonrefundable temporary license application fee of \$200 *plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks; and*

(2) Complete and submit forms provided by the board, including required credentials, documents, *a completed fingerprint packet*, and a sworn statement by the applicant attesting to the truth of all information provided by the applicant. *A completed fingerprint packet is not required if the applicant has held active physician licensure in Iowa within 12 months of applying for licensure and fingerprinting was done prior to the issuance of that license.*

ITEM 19. Amend subrule **10.5(1)**, paragraph "**d**," by adopting **new** subparagraph (11) as follows:

(11) A completed fingerprint packet to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed to the applicant.

ITEM 20. Amend rule 653—12.4(272C) by adopting **new** subrule 12.4(37) as follows:

12.4(37) Failure to submit an additional completed fingerprint card and applicable fee when a previous fingerprint submission has been determined to be unacceptable, within 30 days of a request made by board staff.

ARC 3398B

NATURAL RESOURCE
COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 321G.2 and 462A.3, the Natural Resource Commission hereby proposes amendments to Chapter 20, "Manufacturer's Certificate of Origin," Chapter 38, "Boat Registration and Numbering," Chapter 39, "Boating Passenger Capacity," Chapter 46, "All-Terrain Vehicle and Snowmobile Bonding," Chapter 47, "Vessel Bonding," and Chapter 50, "All-Terrain Vehicles and Snowmobile Accident Reports, Titling, Registration and Numbering," Iowa Administrative Code.

NATURAL RESOURCE COMMISSION[571](cont'd)

These amendments identify forms required by the Department and identify those forms by specific form number. Additionally, these amendments contain clarifications or corrections to existing rules.

Any interested person may make written suggestions or comments on these proposed amendments by 1 p.m. on June 30, 2004. Such written materials should be directed to John Phoenix, Licensing Bureau, Administrative Services Division, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact John Phoenix at (515)281-6277 or at the Wallace State Office Building.

Also, there will be a public hearing on Wednesday, June 30, 2004, at 1 p.m. in the Fourth Floor Conference Room of the Wallace 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 those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 321G.2 and 462A.3.

The following amendments are proposed.

ITEM 1. Amend subrule 20.5(2) as follows:

20.5(2) The dealer shall deliver the certificate of origin to the purchaser along with a bill of sale or receipt (*DNR Form 542-0471*) showing that the person has purchased the vessel for consumer use.

ITEM 2. Amend rule 571—38.6(462A) as follows:

571—38.6(462A) Procedure for application of for boat registration number—content.

38.6(1) Application. The following information shall be furnished, required and stated in the application for number submitted on *DNR Forms 542-8067 and 542-2000*:

- 1 a. Name and address of owner.
- 2 b. Present number (if any).
- 3 c. Hull material (wood, steel, aluminum, plastic, other).
- 4 d. Type of propulsion (outboard, inboard, other).
- 5 e. Length and width of boat.
- 6 f. Make and model year built (if known). For home-built vessels, the year that construction is started shall serve as the model year.
- 7 g. Statement as to use.
- 8 h. Signature.
- 9 i. From whom purchased (name and address).

10. 38.6(2) Vessels not previously registered. If a person is making application for a boat registration number for a used vessel that has never before been registered or titled and the person does not have any satisfactory proof of ownership, the county recorder may issue a certificate of number for the used vessel if the applicant has provided the recorder with a signed and notarized affidavit, on a form provided by the department *DNR Form 542-8074*, stating that the person making the application is the lawful owner of the vessel.

ITEM 3. Amend rule 571—38.10(462A) as follows:

571—38.10(462A) Information on certificate. The certificate of number (*DNR Form 542-0540*) shall show the following:

1. Name and address of boat owner.
2. Number issued.

3. Expiration date.
4. Make, or model, or type of boat.
5. Hull material (wood, steel, aluminum, plastic, other).
6. Length and width of vessel.
7. Propulsion (inboard, outboard, other).
8. Maximum capacity rating (number of persons).
9. Decal audit number.
10. If vessel is required to be bonded, date of bonding.

ITEM 4. Amend subrule 38.11(1), introductory paragraph, as follows:

38.11(1) Procedure for registration applied for card—content. The following information shall be furnished, required and stated on the registration applied for card: (*DNR Form 542-0538*):

ITEM 5. Adopt the following **new** rule 571—38.12(462A):

571—38.12(462A) Vessels in storage. If the owner of a currently registered vessel places the vessel in storage, the owner shall return the registration certificate to the county recorder with an affidavit on *DNR Form 542-8048*. The county recorder shall notify the department of each registered vessel placed in storage. When the owner of a stored vessel desires to renew the vessel's registration, the owner shall apply to the county recorder and pay the applicable fees.

ITEM 6. Adopt the following **new** rule 571—38.20(462A):

571—38.20(462A) Special certificates for boat dealers or manufacturers. A manufacturer or dealer may operate an unregistered vessel for purposes of transporting, testing, demonstrating, or selling the vessel after first obtaining a special certificate from the department. An application for a special certificate shall be submitted on *DNR Form 542-0488*. A manufacturer or dealer operating a vessel pursuant to the issuance of a special certificate shall file an annual report on *DNR Form 542-8062*.

ITEM 7. Adopt the following **new** rule 571—38.21(462A):

571—38.21(462A) Boat dealer's annual report of vessels with expired registrations. Each boat dealer shall file, before May 5 of each year, an annual report on *DNR Form 542-8063* listing all used vessels held by the dealer for sale or trade and for which the registration fee for the current year has not been paid.

ITEM 8. Adopt the following **new** rule 571—38.26(462A):

571—38.26(462A) Monthly reports by county recorders. Each county recorder shall submit a monthly report to the department on *DNR Form 542-0418* listing all boats registered in that county in the previous month. The applicable fees shall accompany the monthly report.

ITEM 9. Amend rule **571—39.4(462A)**, first unnumbered paragraph, as follows:

The officer shall within four days notify the department of natural resources and the county recorder of the county in which the vessel is registered of the changes on forms provided by the department of natural resources *DNR Form 542-8094*.

ITEM 10. Amend subrule 46.1(5), introductory paragraph, as follows:

NATURAL RESOURCE COMMISSION[571](cont'd)

46.1(5) Submission of application. The applicant shall submit an application on a form provided by the department *DNR Form 542-8065 or 542-8067*. The application shall include a statement obtained from an Iowa-registered dealer for all-terrain vehicles or snowmobiles indicating the current value of the all-terrain vehicle or snowmobile. The following documents shall be submitted with the application form:

ITEM 11. Amend subrule **46.1(5)**, paragraph “e,” as follows:

e. A surety bond on *DNR Form 542-8092* in an amount equal to one and one-half times the current value of the all-terrain vehicle or snowmobile.

ITEM 12. Amend subrule 47.1(5) as follows:

47.1(5) Submission of application. The applicant shall submit an application on a form provided by the department *DNR Form 542-8067*. The form shall include a statement obtained from an Iowa-registered dealer for vessels indicating the current value of the vessel. The following documents shall be submitted with the application form:

a. Photographs of the vessel which show the front, rear, and one side of the vessel.

b. The written ownership document received at the time the vessel was acquired.

c. Satisfactory proof of the hull identification number, if applicable or *DNR Form 542-2000*.

d. The undeliverable or unclaimed certified letter and envelope addressed to the previous owner or the signed certified mail receipt, if a record of prior ownership was located by the department.

e. A surety bond on *DNR Form 542-8092* in an amount equal to one and one-half times the current value of the vessel.

ITEM 13. Amend rule 571—50.1(321G), introductory paragraph, as follows:

571—50.1(321G) Accident report. Whenever any all-terrain vehicle or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$200 or more, the operator shall file a report of the accident with the department of natural resources within 48 hours. The report shall be on forms provided by the department of natural resources *DNR Form 542-8093*, completed and submitted in duplicate, including the following information:

ITEM 14. Amend rule 571—50.2(321G) as follows:

571—50.2(321G) Registration and titling—required forms. All applications, affidavits and certificates shall be completed in full on forms *DNR Forms 542-0540, 542-0974, 542-0976, 542-0978, 542-0979, 542-8050, 542-8065, 542-8067, 542-8092, and 542-8095* as provided by the department.

ITEM 15. Amend subrule 50.5(2), introductory paragraph, as follows:

50.5(2) Procedure for registration applied for card—content. The following information shall be furnished, required and stated on the registration applied for card: (*DNR Form 542-0499*):

ITEM 16. Adopt the following **new** rule 571—50.6(321G):

571—50.6(321G) Placement in storage. If the owner of a currently registered all-terrain vehicle or snowmobile places it in storage, the owner shall return the registration certificate to the county recorder with an affidavit on *DNR Form 542-*

8048. The county recorder shall notify the department of each registered all-terrain vehicle or snowmobile placed in storage. When the owner of a stored all-terrain vehicle or snowmobile desires to renew the registration, the owner shall apply to the county recorder and pay the applicable fees.

ITEM 17. Amend subrule 50.7(1) as follows:

50.7(1) The owner of a home-built or rebuilt all-terrain vehicle or snowmobile for which there is no legible vehicle identification number may make application on forms provided by the department *DNR Form 542-8065 or 542-8067* for the issuance of a new VIN. The application process shall include an inspection of the all-terrain vehicle or snowmobile by a department designee. If the application is approved, the VIN will shall be affixed to the vehicle in the presence of the department designee. The completed application shall then be surrendered to the county recorder.

ITEM 18. Adopt the following **new** rule 571—50.10(321G):

571—50.10(321G) Special certificates for dealers or manufacturers. A manufacturer or dealer may operate an unregistered all-terrain vehicle or snowmobile for purposes of transporting, testing, demonstrating, or selling the all-terrain vehicle or snowmobile after first obtaining a special certificate from the department. An application for a special certificate shall be submitted on *DNR Form 542-0845*. A manufacturer or dealer operating an all-terrain vehicle or snowmobile pursuant to the issuance of a special certificate shall file an annual report on *DNR Form 542-8053*.

ITEM 19. Adopt the following **new** rule 571—50.11(321G):

571—50.11(321G) Dealer's annual report of expired registrations. Each dealer shall file, before January 10 of each year, an annual report on *DNR Form 542-8054* listing all used all-terrain vehicles and snowmobiles held by the dealer for sale or trade and for which the registration fee for the current year has not been paid.

ITEM 20. Adopt the following **new** rule 571—50.12(321G):

571—50.12(321G) Monthly all-terrain vehicle reports by county recorders. Each county recorder shall submit a monthly report to the department on *DNR Form 542-0896* listing all all-terrain vehicles registered in that county in the previous month. The applicable fees shall accompany the monthly report.

ITEM 21. Adopt the following **new** rule 571—50.13(321G):

571—50.13(321G) Monthly snowmobile vehicle reports by county recorders. Each county recorder shall submit a monthly report to the department on *DNR Form 542-1524* listing all snowmobiles registered in that county in the previous month. The applicable fees shall accompany the monthly report.

ARC 3407B**NATURAL RESOURCE
COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 40, “Boating Speed and Distance Zoning,” Iowa Administrative Code.

This amendment establishes a provision for designating certain areas on Lake Red Rock, in Marion County, as “no anchoring” areas for vessels. This amendment will provide for increased water safety for the recreating public.

Any person may make written comments on this proposed amendment on or before July 1, 2004. Such written material should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contact Steve Derrand of the Law Enforcement Bureau at (515)281-4515.

A public hearing will be held on July 1, 2004, at 8 a.m. in the Fourth Floor West Conference Room of the Wallace 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 amendment.

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

This amendment is intended to implement Iowa Code section 456A.24.

The following amendment is proposed.

Amend 571—Chapter 40 by adding the following **new** subrule:

40.6(3) Areas may be designated as “no anchoring” areas.

ARC 3416B**PHARMACY EXAMINERS
BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 124.301, 124B.11, and 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 2, “Pharmacist Licenses,” Chapter 3, “Pharmacy Technicians,” Chapter 8, “Universal Practice Standards,” Chapter 10, “Controlled Substances,” Chapter 12, “Precursor Sub-

stances,” and Chapter 17, “Wholesale Drug Licenses,” Iowa Administrative Code.

The amendments were approved at the May 14, 2004, teleconference meeting of the Board of Pharmacy Examiners.

The proposed amendments increase penalty fees assessed for failure to timely renew a license to practice pharmacy; a license to operate a pharmacy; a license to distribute prescription drugs at wholesale in Iowa; a permit to receive or distribute precursor substances; a registration to manufacture, distribute, dispense, prescribe, or otherwise handle controlled substances in Iowa; and a pharmacy technician registration. The amendments propose increasing fees related to the issuance of new and renewed pharmacist licenses processed between July 1, 2004, and June 30, 2005, including examination, reexamination, and license transfer processing fees. The proposed amendments increase the fee for additional original pharmacy license certificates and provide that the fee be considered a repayment receipt as defined in Iowa Code section 8.2. The amendments also propose increasing fees related to the issuance of new and renewed pharmacy and wholesale drug licenses, new and renewed pharmacy technician and controlled substances registrations, and new and renewed precursor substances permits processed between July 1, 2004, and June 30, 2005.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on June 29, 2004. Such written materials should be sent to Terry Witkowski, Administrative Assistant, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to terry.witkowski@ibpe.state.ia.us.

A public hearing to receive oral or written comments about the proposed amendments will be held on June 29, 2004, at 11 a.m. at the above address in the central conference room. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

These amendments are intended to implement Iowa Code sections 124.301, 124B.11, 147.94, 155A.6, 155A.11, 155A.13, 155A.13A, 155A.14, and 155A.17.

The following amendments are proposed.

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

2.3(1) Fees to the board. The biennial license fee shall be the fee established by rule 2.11(147,155A), including surcharge. The processing fee shall be \$40. *For the period beginning July 1, 2004, and ending June 30, 2005, the processing fee shall be \$80.* No refunds of the processing fee shall be made for cancellation or withdrawal of applications. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy Examiners and may be remitted in the form of personal check, money order, or certified check. No refund of fees shall be made for failure to complete all licensure requirements within the period specified in subrule 2.1(2).

ITEM 2. Amend rule **657—2.6(147)**, first unnumbered paragraph, as follows:

Each applicant for reexamination shall file an application on forms provided by the board. Processing fees of \$30 each will be charged to take NAPLEX or MPJE, Iowa Edition, and shall be paid to the board as provided in subrule 2.3(1). *For the period beginning July 1, 2004, and ending June 30, 2005, the processing fee shall be \$40 each.* In addition, candidates

PHARMACY EXAMINERS BOARD[657](cont'd)

will be required to complete the appropriate examination registration application as provided in rule 2.2(155A) and to pay to NABP the registration and administration fees for each examination as provided in subrule 2.3(2). All applications, registration forms, and fees shall be submitted as provided in subrules 2.3(2) and 2.3(3).

ITEM 3. Amend subrule 2.9(4) as follows:

2.9(4) Fees. The fee for license transfer shall consist of the biennial license fee established by rule 2.11(147,155A) including surcharge and a processing fee of \$50. *For the period beginning July 1, 2004, and ending June 30, 2005, the processing fee shall be \$100.* No refunds of the processing fee shall be made for cancellation or withdrawal of an application. The license fee and processing fee shall be payable to the Iowa Board of Pharmacy Examiners and may be remitted in the form of personal check, money order, or certified check.

ITEM 4. Amend rule 657—2.11(147,155A), introductory paragraph, as follows:

657—2.11(147,155A) License expiration and renewal. A license to practice pharmacy shall expire on the second thirtieth day of June following the date of issuance of the license, except a new pharmacist license issued between April 1 and June 29, which license shall expire on the third thirtieth day of June following the date of issuance. The license renewal certificate shall be issued upon completion of the renewal application and timely payment of a \$100 fee plus applicable surcharge pursuant to 657—30.8(155A). *For the period beginning July 1, 2004, and ending June 30, 2005, the license renewal certificate shall be issued upon completion of the renewal application and timely payment of a \$200 fee plus applicable surcharge pursuant to 657—30.8(155A).*

ITEM 5. Amend subrule 2.11(1) as follows:

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

ITEM 6. Amend rule 657—2.14(155A) as follows:

657—2.14(155A) Fees for additional license certificates. *Only original license certificates issued by the board of pharmacy examiners for licensed pharmacists are valid.* Additional original license certificates for licensed pharmacists may be obtained from the board of pharmacy examiners for a prepaid fee of \$40 \$20 each. *The fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.* ~~Only original license certificates issued by the board of pharmacy examiners for licensed pharmacists are valid.~~

ITEM 7. Amend subrule 3.10(1) as follows:

3.10(1) Initial fee. The fee for obtaining an initial registration shall be \$30 plus applicable surcharge pursuant to 657—30.8(155A). *For the period beginning July 1, 2004, and ending June 30, 2005, the fee for initial registration shall be \$40 plus applicable surcharge pursuant to 657—30.8(155A).*

ITEM 8. Amend subrule 3.10(2) as follows:

3.10(2) Renewal fee. The renewal fee for obtaining a biennial registration shall be \$30 plus applicable surcharge pursuant to 657—30.8(155A). *For the period beginning July 1, 2004, and ending June 30, 2005, the fee for biennial registration shall be \$40 plus applicable surcharge pursuant to 657—30.8(155A).*

ITEM 9. Amend subrule 3.11(1) as follows:

3.11(1) Fee Late payment fee.

a. Initial registration. A person required to register ~~or re-new the person's registration~~ under the provisions of Iowa Code section 155A.6 who files a late application shall pay an additional \$30 \$40 late payment fee.

b. Registration renewal. A person required to renew the person's registration under the provisions of Iowa Code section 155A.6 who fails to renew the registration before the first day of the month following expiration shall pay the renewal fee, a penalty fee of \$40, and applicable surcharge pursuant to 657—30.8(155A). *Failure to renew the registration before the first day of the second month following expiration shall require payment of the renewal fee, a penalty fee of \$50, and applicable surcharge pursuant to 657—30.8(155A).* *Failure to renew the registration before the first day of the third month following expiration shall require payment of the renewal fee, a penalty fee of \$60, and applicable surcharge pursuant to 657—30.8(155A).* *Failure to renew the registration before the first day of the fourth month following expiration shall require payment of the renewal fee, a penalty fee of \$70, and applicable surcharge pursuant to 657—30.8(155A).* *In no event shall the combined renewal fee and penalty fee for late renewal of the registration exceed \$110 plus applicable surcharge pursuant to 657—30.8(155A).*

ITEM 10. Amend subrule 8.35(4) as follows:

8.35(4) License expiration and renewal. General pharmacy licenses, hospital pharmacy licenses, special or limited use pharmacy licenses, and nonresident pharmacy licenses shall be renewed before January 1 of each year. The fee for a new or renewal license shall be \$100. *For the period beginning July 1, 2004, and ending June 30, 2005, the fee for a new or renewal license shall be \$150.*

a. Late payment penalty. Failure to renew the pharmacy license before January 1 following expiration shall require a ~~payment of the renewal fee of \$200 and a penalty fee of \$150.~~ Failure to renew the license before February 1 following expiration shall require a ~~payment of the renewal fee of \$300 and a penalty fee of \$250.~~ Failure to renew the license before March 1 following expiration shall require a ~~payment of the renewal fee of \$400 and a penalty fee of \$350.~~ Failure to renew the license before April 1 following expiration shall require a ~~payment of the renewal fee of \$500 and a penalty fee of \$450~~ and may require an appearance before the board. In no event shall the combined renewal fee and penalty fee for late renewal of a pharmacy license exceed \$500 \$600.

b. Delinquent license. If a license is not renewed before its expiration date, the license is delinquent and the licensee may not operate or provide pharmacy services to patients in the state of Iowa until the licensee renews the delinquent license. A pharmacy that continues to operate in Iowa without

PHARMACY EXAMINERS BOARD[657](cont'd)

a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.1(4).

ITEM 11. Amend rule 657—10.3(124), introductory paragraph, as follows:

657—10.3(124) Registration and renewal. For each registration or timely renewal of a registration to manufacture, distribute, dispense, prescribe, import or export, conduct research or instructional activities, or conduct chemical analysis with controlled substances listed in Schedules I through V of Iowa Code chapter 124, registrants shall pay a biennial fee of \$50. *For the period beginning July 1, 2004, and ending June 30, 2005, the fee for registration or timely renewal of a biennial registration shall be \$100.*

ITEM 12. Amend subrule 10.3(2) as follows:

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

ITEM 13. Amend subrule **12.7(2)**, paragraphs “a” and “b,” as follows:

a. Initial and renewal fees. For each initial permit or timely renewed permit, an applicant shall pay a fee of \$100. *For the period beginning July 1, 2004, and ending June 30, 2005, the fee for each initial permit or timely renewed permit shall be \$200.*

b. Late application. Failure to renew a permit prior to January 1 following the permit's expiration shall require an *additional \$50 payment of the renewal fee plus a \$200 late payment fee.*

ITEM 14. Amend subrule 17.3(2) as follows:

17.3(2) License expiration and renewal. A wholesale drug license shall be renewed before January 1 of each year. The fee for a new or renewal license shall be \$100. *For the period beginning July 1, 2004, and ending June 30, 2005, the fee for a new or renewal license shall be \$300.*

a. Late payment penalty. Failure to renew the license before January 1 shall require a *payment of the renewal fee of \$200 and a penalty fee of \$300.* Failure to renew the license before February 1 following expiration shall require a *payment of the renewal fee of \$300 and a penalty fee of \$400.* Failure to renew the license before March 1 following expiration shall require a *payment of the renewal fee of \$400 and a penalty fee of \$500.* Failure to renew the license before April 1 following expiration shall require a *payment of the renewal fee of \$500 and a penalty fee of \$600* and may require an appearance before the board. In no event shall the *combined renewal fee and penalty* fee for late renewal of a wholesale drug license exceed *\$500 \$900.*

b. Delinquent license. If a license is not renewed before its expiration date, the license is delinquent and the licensee may not operate or do business in Iowa until the licensee renews the delinquent license. A drug wholesaler who continues to do business in Iowa without a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.1(4).

ARC 3382B

PROFESSIONAL LICENSURE
DIVISION[645]

Notice of Intended Action

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

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

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

The proposed amendments specify licensees’ responsibilities relating to license renewal and change the way continuing education will be reported and audited.

Any interested person may make written comments on the proposed amendments no later than June 29, 2004, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, E-mail pwilson@idph.state.ia.us.

A public hearing will be held on June 29, 2004, from 9 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 147, 154C and 272C.

The following amendments are proposed.

ITEM 1. Rescind subrule 280.9(2), introductory paragraph and paragraph “a,” and adopt the following **new** introductory paragraph and paragraph “a” in lieu thereof:

280.9(2) At least 60 days prior to expiration of the license, the licensee shall be notified by mail that an on-line renewal application is available at the board’s Internet address. Renewal applications are also available by mail upon request.

a. The required materials and the renewal fee are to be submitted to the board office 30 days before license expiration.

ITEM 2. Amend subrule **280.9(2)** by adopting **new** paragraph “e” as follows:

e. Failure to receive the notice of renewal shall not relieve the licensee of the responsibility for submitting the required materials and the renewal fee to the board office 30 days before license expiration.

ITEM 3. Rescind rule 645—281.5(154C) and adopt the following **new** rule in lieu thereof:

645—281.5(154C) Audit of continuing education report. After each educational biennium, the board may audit licensees to review compliance with continuing education requirements.

281.5(1) The board may audit a percentage of its licensees and may determine to audit a licensee at the discretion of the board. Licensees whose license renewal applications are submitted late (after the end of the compliance period) may be subject to a continuing education audit.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

281.5(2) The licensee shall make available to the board for auditing purposes the following information:

- a. Date and location of course, course title, course description/detailed outline, course schedule, names and qualifications of instructors/speakers and method of presentation; or a program brochure identifying all of these items;
- b. Number of contact hours for program attended; and
- c. Certificate of completion or evidence of successful completion of the course from the course sponsor.

281.5(3) For auditing purposes, all licensees must retain the above information for two years after the biennium has ended.

281.5(4) Information identified in subrule 281.5(2) must be submitted within one month after the date of notification of the audit. An extension of time may be granted on an individual basis.

281.5(5) The licensee shall be notified if the submitted materials are incomplete or unsatisfactory. The licensee shall be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is within 90 days of receipt of the board office notification.

281.5(6) Failure to complete the audit satisfactorily or falsification of information may result in board action as described in 645—Chapter 283.

281.5(7) Failure to notify the board of a current mailing address will not absolve the licensee from the audit requirement, and an audit must be completed before licensure renewal.

ARC 3412B

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 and 2004 Iowa Acts, House File 2362, section 9, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 4, “Birth Defects Institute,” Iowa Administrative Code.

These proposed amendments are intended to make the rules in Chapter 4 consistent with statutory changes made pursuant to 2004 Iowa Acts, House File 2362, including the renaming of the Birth Defects Institute as the Center for Congenital and Inherited Disorders. The amendments also detail the sharing of information and confidentiality of the Iowa Neonatal Metabolic Screening Program records and reports, modify the neonatal metabolic specimen retention policy and rename the Iowa Birth Defects Registry as the Iowa Congenital and Inherited Disorders Registry.

Any interested person may make written comments or suggestions on the proposed amendments on or before June 29, 2004. Such written comments should be directed to Dawn Mouw, Birth Defects Institute (Center for Congenital and Inherited Disorders), Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines,

Iowa 50319. E-mail may be sent to dawn.mouw@idph.state.ia.us.

A public hearing will be held over the Iowa Communications Network (ICN) on June 29, 2004, from 10 to 11 a.m. in the ICN Conference Room, Lucas State Office Building, 321 E. 12th Street, Sixth Floor, Des Moines, Iowa 50319, and at the following additional ICN sites:

North Iowa Area Community College
500 College Dr.
Mason City

Educational Services Center Administration
12 Scott Street
Council Bluffs

Veterans Affairs Hospital
Hwy 6 W
Iowa City
(Parking is reserved for patients only. Attendees must park at the University of Iowa Hospital parking ramp.)

Ottumwa Regional Health Center
1001 E. Pennsylvania
Ottumwa

Morningside College
1501 Morningside Avenue
Sioux City

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who plans to attend the public hearing and who may require special accommodations, such as those for hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments are intended to implement 2004 Iowa Acts, House File 2362.

The following amendments are proposed.

ITEM 1. Amend 641—Chapter 4, title, as follows:

CHAPTER 4 BIRTH DEFECTS INSTITUTE CENTER FOR CONGENITAL AND INHERITED DISORDERS

ITEM 2. Amend rules **641—4.1(136A)** to **641—4.7(136A)**, parenthetical implementations, by inserting “80GA,HF2362” in lieu of “136A.”

ITEM 3. Amend rule 641—4.1(80GA,HF2362) as follows:

641—4.1(80GA,HF2362) Program explanation. The ~~birth defects institute~~ *center for congenital and inherited disorders* within the department of public health ~~consists of~~ *provides administrative oversight to the following:* the Iowa neonatal metabolic screening program, the expanded maternal serum alpha-fetoprotein screening program, the regional genetic consultation service, the neuromuscular and related genetic disease program and the Iowa ~~birth defects congenital and inherited disorders~~ *congenital and inherited disorders* registry. The ~~birth defects center for congenital and inherited disorders~~ *advisory committee* represents the interests of the people of Iowa and assists in the development of programs that ensure the availability of and access to quality genetic health care services by all residents. The committee advises the director of the department of public health regarding issues related to genetics and hereditary

PUBLIC HEALTH DEPARTMENT[641](cont'd)

and congenital disorders and makes recommendations about the design and implementation of the ~~institute's~~ *center's* programs. Committee membership is made up of representatives of professional groups, agencies, legislators, consumers and individuals with an interest in promoting genetic services for the residents of Iowa.

ITEM 4. Amend rule **641—4.2(80GA,HF2362)** as follows:

Amend the following definitions:

“Birthing facility” means the facility in which a child is born.

“Central laboratory” means the University Hygienic Laboratory, which is designated as the screening laboratory to perform testing and reporting for the Iowa neonatal metabolic screening and expanded maternal serum alpha-fetoprotein screening programs.

“Central registry” means the Iowa ~~birth defects~~ *congenital and inherited disorders* registry.

“Committee” means the ~~birth defects~~ *center for congenital and inherited disorders* advisory committee.

“Consulting physician” means a physician designated by the ~~birth defects~~ *institute center for congenital and inherited disorders* to interpret test results and provide consultation to a licensed health care provider.

“Institute Center” means the ~~birth defects~~ *institute center for congenital and inherited disorders* within the Iowa department of public health.

“Receiving facility hospital” means the ~~facility~~ *hospital* receiving an infant from a birthing facility hospital.

“Transferring facility hospital” means the birthing facility which hospital that transfers the infant to a hospital.

Further amend rule 641—4.2(80GA,HF2362) by adopting the following **new** definitions in alphabetical sequence:

“Anonymized specimen” means a specimen that cannot be traced back to or linked with the particular infant from whom the specimen was obtained. Specimens shall be anonymized by removing the dried blood spot portion from the infant information portion of the specimen collection form.

“Attending health care provider” means the licensed physician, nurse practitioner, certified midwife or physician assistant providing care to an infant at birth.

“Birth center” means “birth center” as defined in Iowa Code section 135.61.

“Birthing hospital” means a private or public hospital licensed pursuant to Iowa Code chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services.

“Discharge” means a release of an infant from a hospital to the infant’s parent or legal guardian.

“Early ACCESS” means Iowa’s Individuals with Disabilities Education Act (IDEA), Part C, program for infants and toddlers. Early ACCESS is a statewide, comprehensive, interagency system of integrated early intervention services that supports eligible children and their families as defined in 281—Chapter 120.

“Follow-up program” means the designated follow-up consultants from the divisions of endocrinology, hematology, and medical genetics of the department of pediatrics of the University of Iowa.

“Guardian” means a person who is not the parent of a minor child, but who has legal authority to make decisions regarding life or program issues for the child.

“Residual neonatal metabolic screening specimen” means a portion of the specimen left over after the completion of newborn screening services by the Iowa neonatal metabolic screening program.

“Specialty genetics provider” means a geneticist, genetic nurse, or genetic counselor.

ITEM 5. Amend rule 641—4.3(80GA,HF2362), introductory paragraph, as follows:

641—4.3(80GA,HF2362) Iowa neonatal metabolic screening program (INMSP). This program provides comprehensive neonatal metabolic screening services for hereditary and congenital disorders for the state *to allow children and their families the earliest possible opportunity to receive appropriate early intervention services. The program includes the following: birthing hospitals, birth centers, health care providers, central laboratory, follow-up consultants, and consulting physicians.*

ITEM 6. Amend subrule **4.3(1)**, paragraphs “b” and “c,” as follows:

b. As new disorders are recognized and new technologies and tests become available, the ~~institute~~ *center* shall follow protocols developed by the department in regard to the addition of disorders to or deletion of disorders from the screening panel. The state board of health shall provide final approval for the addition of new disorders to the screening panel.

c. The ~~institute~~ *center* may monitor individuals identified as having a genetic or metabolic disease for the purpose of *conducting public health surveillance or intervention and* for determining whether early detection, treatment, and counseling lead to the amelioration or avoidance of the adverse outcomes of the disease. Birthing ~~facilities~~ *hospitals or birth centers* and health care providers shall provide patient data and records to the ~~institute~~ *center* upon request to facilitate the monitoring. Any identifying information provided to the ~~institute~~ *center* shall remain confidential pursuant to Iowa Code section 22.7(2).

ITEM 7. Rescind subrules **4.3(2)** to **4.3(9)** and adopt the following **new** subrules in lieu thereof:

4.3(2) Neonatal metabolic screening procedure.

a. Educating parent or guardian. Before a specimen from an infant is obtained, a parent or guardian shall be informed of the type of specimen, how it is obtained, the nature of the disorders for which the infant is being screened, and the consequences of treatment and nontreatment.

b. Waiver. Should a parent or guardian refuse the screening, said refusal shall be documented in writing on the Iowa neonatal metabolic screening program waiver for newborn screening refusal form. The parent or guardian and licensed attending health care provider shall sign the waiver. The birthing hospital, birth center, or attending health care provider shall provide the Iowa neonatal metabolic screening program with a copy of the waiver within six days of the refusal. The original copy of the waiver shall become a part of the infant’s medical record.

c. Collection of specimens. A filter paper blood specimen shall be collected from the infant at least 24 hours after the infant’s birth, but not later than five days after the infant’s birth.

EXCEPTIONS:

(1) A blood specimen must be collected before any transfusion, even if the infant is less than 24 hours old.

(2) Every infant shall be screened prior to discharge even if the infant is less than 24 hours old.

(3) An infant transferred to another hospital must be screened by the receiving hospital unless the infant has already been screened. The transferring hospital is responsible for notifying the receiving hospital of the status of neonatal metabolic screening.

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d. Submission of specimens. All specimens shall be forwarded by first-class mail or other appropriate means within 24 hours after collection to the University Hygienic Laboratory, the center's designated central laboratory.

e. Processing of specimens. The central laboratory shall process specimens within 24 hours of receipt. The central laboratory shall notify the submitting health care provider, birthing hospital, birth center, or drawing laboratory of an unacceptable specimen and the need for another specimen.

f. Reporting of presumptive positive test results. A presumptive positive test result shall be reported within 24 hours to the consulting physician, or the physician's designee, who shall then notify the attending health care provider and the birthing hospital, birth center, or drawing laboratory. This initial report shall be followed by a written report to the attending health care provider and the birthing hospital, birth center, or drawing laboratory.

4.3(3) Health care provider responsibility.

a. The licensed attending health care provider shall ensure that infants under the provider's care are screened.

b. Procedures for specimen collection for neonatal metabolic screening shall be followed in accordance with 4.3(2).

c. Beginning November 1, 2004, a physician or other health care professional who undertakes primary pediatric care of an infant delivered in Iowa shall order the neonatal metabolic screening for completion if a neonatal metabolic screening result is not in the infant's medical record. The health care professional who undertakes primary pediatric care of the infant shall arrange for the neonatal metabolic screening.

4.3(4) Birthing hospital or birth center responsibility. The birthing hospital or birth center shall ensure that all infants receive neonatal metabolic screening.

a. Designee. Each birthing hospital or birth center shall designate an employee to be responsible for the neonatal metabolic screening program in that institution.

b. Procedures for specimen collection for neonatal metabolic screening shall be followed in accordance with 4.3(2).

c. Transfer. The following shall apply if an infant is transferred:

(1) If an infant is transferred within the hospital for acute care, the newborn nursery shall notify the acute care unit of the status of the neonatal metabolic screening. The acute care unit shall then be responsible for the status of the neonatal metabolic screening prior to discharge of the infant.

(2) If the infant is transferred out of house, the birthing hospital or birth center shall notify the receiving hospital of the status of the neonatal metabolic screening. The receiving hospital shall then be responsible for completion of the neonatal metabolic screening prior to discharge of the infant.

d. Discharge. Each birthing hospital or birth center shall collect a neonatal metabolic screening specimen on every infant prior to discharge, including under the following circumstances:

(1) The infant is discharged before the infant is 24 hours old.

(2) The infant is born with a condition that is incompatible with life.

(3) The infant has received a transfusion.

e. Notification. The birthing hospital or birth center shall report the neonatal metabolic screening results in written form to the licensed attending health care provider.

4.3(5) Central laboratory responsibility. The central laboratory shall:

a. Process specimens within 24 hours of receipt.

b. Notify the submitting health care provider, birthing hospital, birth center, or drawing laboratory of an unacceptable specimen and the need for another specimen.

c. Report a presumptive positive test result within 24 hours to the consulting physician or the physician's designee.

d. Distribute specimen collection forms, specimen collection procedures, screening waivers, and other materials to drawing laboratories, birthing hospitals, birth centers, and health care providers.

e. Report normal and abnormal screening results to birthing hospitals, birth centers, or drawing laboratories.

f. Submit a written annual report to the center on or before March 30 of each year. This report shall include:

(1) Number of infants screened,

(2) Number of repeat screens,

(3) Number of presumptive positive results by disorder,

(4) Number of confirmed positive results by disorder,

(5) Number of rejected specimens,

(6) Number of waivers,

(7) Results of quality assurance testing including any updates to the INMSP quality assurance policies,

(8) Screening and educational activity details,

(9) A fiscal expenditures report, and

(10) A proposed budget and narrative for the upcoming fiscal year.

g. Act as fiscal agent for program expenditures encompassing the analytical, technical, administrative, educational, and follow-up costs for the screening program.

4.3(6) Follow-up program responsibility. Under the direction of consulting physicians, metabolic, endocrine, and hemoglobinopathy follow-up programs shall be available for all individuals identified by metabolic screening.

a. The follow-up activities shall include consultation, treatment when indicated, case management, education and quality assurance.

b. The follow-up programs shall submit metabolic screening data to the center by March 30 of each year. The information shall include:

(1) The number of presumptive positive results and confirmed positive results by disorder,

(2) Each individual's age at confirmation of disorder,

(3) Each individual's age when treatment began,

(4) Type of treatment for each disorder,

(5) A written summary of educational and follow-up activities,

(6) A fiscal expenditure report for the fiscal year, and

(7) An INMSP proposed budget and narrative for the next fiscal year.

c. The consulting physician will oversee the respective follow-up programs.

4.3(7) Sharing of information and confidentiality. Reports, records, and other information collected by or provided to the Iowa neonatal metabolic screening program relating to an infant's neonatal metabolic screening results and follow-up information are confidential records pursuant to Iowa Code section 22.7.

a. Personnel of the program shall maintain the confidentiality of all information and records used in the review and analysis of neonatal metabolic screening and follow-up, including information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. The program shall not release confidential information except to the following persons and entities, under the following conditions:

(1) The parent or guardian of an infant or child for whom the report is made.

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(2) A local health care provider, birthing hospital, birth center, or submitting laboratory.

(3) A local birth-to-three coordinator with the Early ACCESS program or with an agency under contract with the department to administer the children with special health care needs program, upon receipt of written consent from the parent or guardian of the infant or child.

(4) A representative of a federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The information provided may not include the personal identifiers of an infant or child.

(5) A representative of a state agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state agency will be subject to confidentiality regulations which are the same as or more stringent than those in the state of Iowa.

(6) A researcher, upon documentation of parental consent and only to the extent that the information is necessary to perform research authorized by the department and the state board of health.

4.3(8) Retention, use and disposition of residual neonatal metabolic screening specimens.

a. A neonatal metabolic screening specimen collection form consists of dried blood spots on filter paper and attached information about the infant and birthing hospital, birth center or drawing laboratory.

(1) Specimen collection forms shall be held for five years in a locked area at the central laboratory.

(2) The specimen collection forms shall be retained for the first year at -70 degrees C.

(3) After one year, the specimen collection forms shall be archived for four additional years at room temperature.

(4) The specimen collection forms shall be incinerated after five years of retention.

b. Research use.

(1) Investigators shall submit to the center proposals to use specimens. Any intent to utilize information associated with the residual neonatal metabolic screening specimen for the research study must be clearly delineated in the proposal.

(2) Before research can commence, proposals shall be approved by the researcher's institutional review board, the congenital and inherited disorders advisory committee, and the department.

(3) Personally identifiable residual specimens or records shall not be disclosed without documentation of informed parental consent.

(4) Research on anonymized or identifiable residual specimens shall be allowed in instances where research would further: neonatal metabolic screening activities; the health of an infant or child for whom no other specimens are available or readily attainable; or general medical knowledge for existing public health surveillance activities.

4.3(9) Neonatal metabolic screening fee.

a. Sixty days prior to the end of the fiscal year, the central laboratory and the consulting physicians shall submit a combined program proposal and budget to the center for the coming year.

b. The department shall annually review and determine the fee to be charged for all activities associated with the INMSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The neonatal metabolic screening fee shall be \$56 beginning August 1, 2003.

c. The department shall include as part of this fee an amount determined by the committee and department to fund the provision of special medical formula for eligible individ-

uals with inherited diseases of amino acids and organic acids who are identified through the program.

d. Provisions of special medical formula through this funding allocation shall be available to an individual only after the individual has shown that all benefits from third-party payers including, but not limited to, health insurers, health maintenance organizations, Medicare, Medicaid, WIC and other government assistance programs have been exhausted. In addition, a full fee and a sliding fee scale shall be established and used for those persons able to pay all or a part of the cost. Income and resources shall be considered in the application of the sliding fee scale. Individuals whose income is at or above 185 percent of the federal poverty level shall be charged a fee for the provision of special medical formula. The placement on the sliding fee scale shall be determined and reviewed at least annually.

4.3(10) Special medical formula program.

a. A special medical formula program for individuals with inherited diseases of amino acids and organic acids who are identified through the Iowa neonatal metabolic screening program is provided by the University of Iowa.

b. Payments received from clients based on third-party payment, sliding fee scales and donations shall be used to support the administration of and the purchase of special medical formula.

c. The funding allocation from the INMSP fee will be used as the funder of last resort after all other available funding options have been pursued by the special medical formula program.

d. The central laboratory shall act as the fiscal agent.

ITEM 8. Amend subrule 4.4(1) as follows:

4.4(1) Maternal screening policy. It shall be the policy of the state of Iowa that all pregnant women are offered the Iowa expanded maternal serum alpha-fetoprotein (MSAFP)/Quad Screen. The Iowa expanded MSAFP/Quad Screen measures the maternal serum levels of alpha-fetoprotein, unconjugated estriol, human chorionic gonadotropin, and inhibin-A to provide a risk assessment for open neural tube defects, ventral wall defects, Down syndrome, Trisomy 18, and Smith-Lemli-Opitz. If a patient desires this screening test, the specimen shall be drawn and submitted by her health care provider to the University Hygienic Laboratory, the ~~institute's~~ center's designated central laboratory.

ITEM 9. Amend subrule 4.4(3) as follows:

4.4(3) Consulting physician responsibility. A consulting physician shall be designated by the ~~institute~~ center in collaboration with the central laboratory to provide interpretation of test results and consultation to the submitting health care provider. This physician shall provide consultation for abnormal test results, assist with questions about management of identified cases, provide education and assist with quality assurance measures. The screening program with assistance from the consulting physician shall submit ~~semiannual and annual reports~~ to the ~~institute~~ center *annual reports* detailing program activities.

ITEM 10. Rescind subrule **4.4(4)**, paragraph "f," and adopt the following new paragraph in lieu thereof:

f. Act as a fiscal agent for program charges encompassing the analytical, technical, administrative, educational and follow-up costs for the screening program.

ITEM 11. Amend subrule 4.4(5) as follows:

4.4(5) Iowa expanded MSAFP/Quad Screen fee determination. Sixty days prior to the end of the fiscal year, the central laboratory and the consulting physician shall submit a

PUBLIC HEALTH DEPARTMENT[641](cont'd)

combined program proposal and budget to the ~~institute~~ center for the coming year. The department shall annually review and determine the fee to be charged for activities associated with this program. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year.

ITEM 12. Amend subrules 4.5(1) to 4.5(3) as follows:

4.5(1) Provision of comprehensive genetic services. The department shall contract with the division of medical genetics within the department of pediatrics at the University of Iowa to provide genetic health care and education outreach services for individuals and families within Iowa. The contractor shall provide ~~semiannual~~ and annual reports to the department as specified in the contract.

4.5(2) ~~Clinic~~ Clinical services. The services provided may include, but are not limited to: diagnostic evaluations, confirmatory testing, consultation by board-certified geneticists, genetic counseling, medical and case management, and referral to appropriate agencies.

4.5(3) Patient fees. A sliding fee scale for ~~clinical~~ *specialty genetics provider* services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.

Families/clients seen in the regional genetic consultation service clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the RGCS.

ITEM 13. Amend subrules 4.6(1) to 4.6(3) as follows:

4.6(1) Provision of comprehensive services. The department shall contract with the department of pediatrics at the University of Iowa to provide neuromuscular health care, case management and education outreach services for individuals and families within Iowa. The contractor shall provide ~~semiannual~~ and annual reports to the department as specified in the contract.

4.6(2) Clinical services. The services provided may include, but are not limited to: diagnostic evaluations, confirmatory testing, physical therapy, consultation by board-certified neurologists, genetic counseling, medical and case management, supportive services and referral to appropriate agencies.

4.6(3) Patient fees. A sliding fee scale for ~~clinical~~ *specialty genetic provider* services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.

Families/clients seen in neuromuscular outreach clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the neuromuscular outreach clinics.

ITEM 14. Rescind and reserve subrules **4.6(4)** to **4.6(6)**.

ITEM 15. Amend rule 641—4.7(80GA, HF2362) as follows:

641—4.7(80GA, HF2362) Iowa birth defects congenital and inherited disorders registry. The ~~Iowa birth defects~~ central registry provides active birth defect statewide surveillance statewide for selected congenital and inherited disorders.

Selected congenital and inherited disorders include birth defects and neuromuscular disorders.

4.7(1) Definition Definitions.

a. Birth defects shall be defined as any structural or genetic abnormality that may adversely affect a child's health and development. The abnormality must be diagnosed or its signs and symptoms must be recognized within the first year of life.

b. *Neuromuscular disorders include diagnoses involving the muscle, nerve, or neuromuscular junction.*

4.7(2) Birth defects surveillance Surveillance policy for birth defects and neuromuscular disorders.

a. Birth defects occurring in Iowa are reportable conditions, and records of these birth defects shall be abstracted pursuant to 641—1.3(139A) and maintained in a central registry.

b. Birth defects surveillance shall be performed in order to determine the occurrence and trends of birth defects, to conduct thorough and complete epidemiological surveys, to assist in the planning for and provision of services to children with birth defects and their families, and to identify environmental and genetic risk factors for birth defects.

c. *Records for selected neuromuscular disorders shall be abstracted pursuant to 641—1.3(139A) and maintained in a central registry. Selected neuromuscular disorders include Duchenne and Becker muscular dystrophies. Selected neuromuscular disorders surveillance shall be performed in order to determine the occurrence and trends of the selected neuromuscular disorders, to conduct thorough and complete epidemiological surveys through annual long-term follow-up, and to assist in the planning for and provision of services to children with selected neuromuscular disorders and their families for the period of time that adequate financial support is available for this project.*

4.7(3) Central registry activities.

a. The ~~institute~~ center shall establish an agreement with the University of Iowa to implement the activities of the central registry.

b. The central registry shall use the birth defects ~~and neuromuscular coding scheme~~ schemes defined by the Centers for Disease Control and Prevention (CDC) of the United States Public Health Service.

c. No change.

d. A reportable birth defect or neuromuscular disorder occurring in a fetal death or pregnancy termination may be included in the central registry.

4.7(4) Department responsibility.

a. No change.

b. The ~~institute~~ center and the central registry shall annually release aggregate medical and epidemiological information to medical personnel and appropriate state and local agencies for the planning and monitoring of services for children with birth defects.

4.7(5) Confidentiality and disclosure of information. Reports, records, and other information collected by or provided to the ~~Iowa birth defects~~ central registry relating to a person known to have or suspected of having a birth defect or neuromuscular disorder are confidential records pursuant to Iowa Code section 22.7.

Personnel of the central registry and the department shall maintain the confidentiality of all information and records used in the review and analysis of birth defects or neuromuscular disorders, including information which is confidential under Iowa Code chapter 22 or any other provisions of state law.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Central registry personnel are authorized pursuant to 641—1.3(139A) to gather all information relevant to the review and analysis of birth defects *or neuromuscular disorders*. This information may include, but is not limited to, hospital records, physician's records, clinical charts, birth records, death records, fetal death records, prenatal records, vital records, and other reports relevant and necessary for birth defects *and neuromuscular disorders* surveillance.

No individual or organization providing information to the ~~Iowa birth defects~~ central registry in accordance with this rule shall be deemed or held liable for divulging confidential information.

4.7(6) Access to information in the central registry. The central registry and the department shall not release confidential information except to the following, under the following conditions:

a. to c. No change.

d. A representative of a federal ~~or state~~ agency, to the extent that the information is necessary to perform a legally authorized function of that agency *or the department*. The information provided ~~may~~ shall not include the personal identifiers of an infant or child with a reportable birth defect *or neuromuscular disorder*.

e. ~~Research purposes. Researchers, in accordance with the following:~~

(1) All proposals for research using the central registry data to be conducted by persons other than program staff shall first be submitted to and accepted by the researcher's institutional review board. Proposals shall then be reviewed and approved by the department and the central registry's executive internal advisory committee before research can commence.

(2) The central registry shall submit to the ~~Iowa birth defects central registry's executive internal advisory committee~~ for approval a protocol describing any research conducted by the central registry in which the central registry deems it necessary to contact case subjects and controls.

f. A representative of a state agency, to the extent that the information is necessary to perform a legally authorized function of that agency *or the department*. The state agency will be subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa.

ITEM 16. Amend **641—Chapter 4**, implementation clause, as follows:

These rules are intended to implement ~~Iowa Code chapter 136A 2004 Iowa Acts, House File 2362.~~

ARC 3411B

UTILITIES DIVISION[199]

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 Iowa Code sections 17A.4, 476.1, 476.2, and 476.20, the Utilities Board (Board) gives notice that on May 21, 2004, the Board issued an order in Docket No. RMU-04-2, In re: Revisions to Consumer Services Rules [199 IAC 19.4(10), 19.4(13), 19.4(15), 19.4(16), 20.4(11), 20.4(13), 20.4(15), and 20.4(16)], “Order Commencing Rule

Making.” The proposed amendments are the result of a review conducted by the Board to address issues facing consumers who cannot pay their utility bills. The proposed amendments also address issues related to second payment agreements raised in Docket No. RMU-03-12 by the Consumer Advocate Division of the Department of Justice. The order containing the background and support for the proposed amendments can be found on the Board's Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before June 29, 2004, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). Utilities are requested to provide an estimate of any additional costs they believe will be generated by the proposed amendments. All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive oral comments on the proposed amendments will be held at 9 a.m. on July 16, 2004, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.20.

The following amendments are proposed.

ITEM 1. Amend subrule 19.4(10) as follows:

19.4(10) Payment agreements.

a. Availability of a *first payment* agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) *First agreement*. The utility shall offer customers who have received a disconnection notice or have been disconnected for 120 days or less *and who are not in default of a payment agreement* the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected for more than 120 days *and who are not in default of a payment agreement* the option of spreading payments evenly over at least six months by paying specific amounts at scheduled times.

(2) *1*. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. *The utility may also require the customer to enter into a level payment plan to pay the current bill.*

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(3) 2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

(4) 3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility ~~will~~ *shall* render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. *Each customer entering into a first payment agreement shall be granted at least one complete forgiveness for a payment that is made five days or less beyond the due date for payment and the first payment agreement shall be reinstated.*

(5) 2) ~~Second payment agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two payments under the first payment agreement or has paid at least 33 percent of the balance owed under the first payment agreement, whichever is the greater amount. The monthly payment under the second payment agreement shall not be more than the monthly payment under the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.~~

d. No change.

ITEM 2. Amend paragraph 19.4(13)"e" as follows:

e. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The time period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum back bill shall not exceed the ~~billing dollar amount equivalent to the~~ *tariffed rate* for like charges (e.g., usage based, fixed or service charges) in the 12 months preceding discovery of the error unless otherwise ordered by the board.

ITEM 3. Amend paragraph 19.4(15)"d" as follows:

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 19.4(16) and 19.4(17), provided that the utility has complied with the following provisions when applicable:

(1) No change.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and ~~remedies~~ *responsibilities* available. Customers billed more frequently than monthly pursuant to subrule 19.3(7) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and ~~remedies~~ *responsibilities*. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and ~~remedies~~ *responsibilities* must be approved by the board. Any utility providing gas service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word "gas" with the words "gas and electricity *electric*" in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID SHUT OFF OF GAS SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my gas service will be shut off because I have a past due bill?

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your gas service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, ~~the utility can refuse to offer you another payment plan you may qualify for a second payment agreement under certain conditions.~~

c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid ~~or you enter into another payment agreement. If your utility service is shut~~

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off, the utility may refuse to offer you any further payment plans.

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Contact the local community action agency in your area (see attached list); or

b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, *you must contact the utility must be contacted prior to disconnection of your service.*

c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. *Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.*

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be ~~colder than~~ 20 degrees Fahrenheit *or colder* during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service ~~between from~~ November 1 ~~and through~~ April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

7. How will I be told the utility is going to shut off my gas service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. ~~Between From~~ November 1 ~~and through~~ April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 350 Maple Street, Des Moines, Iowa 50319-0069, or by E-mail at iubcustomer@iub.state.ia.us. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and ~~their~~ *the customer's rights and remedies responsibilities.*; *During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.*

If if an attempt at personal or telephone contact of the customer occupying a ~~rental unit which a utility knows or should know is a rental unit~~ has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, ~~their~~ *the customer's* present location. The landlord shall also be informed of the date when service may be disconnected.

~~During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection, at least one day prior to disconnection; if~~ *If* the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons ~~therefor for the disconnection.~~

(5) and (6) No change.

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(7) Severe cold weather. A disconnection may not take place where gas is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below 20 degrees Fahrenheit or lower. In any case where the utility has posted a disconnect notice in compliance with subparagraph 19.4(15)"d"(4) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 19.4(15)"d."

(8) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days; however, the postponement Disconnection may be extended postponed for one additional 30-day period by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 19.4(15)"f."

(9) No change.

(10) At a premises where the customer of record is not an occupant and where a person resides who is not the customer of record and who is protected from disconnection of utility service under these rules from November 1 through April 1, the service may be terminated by the customer of record and placed in the name of the protected person unless other arrangements are made within ten days of the request by the customer of record.

ITEM 4. Amend paragraph 19.4(15)"f" as follows:

f. A utility may disconnect gas service without written 12-day notice for failure of the customer to comply with the

terms of a payment agreement, *except as provided in numbered paragraph 19.4(10)"c"(1)"4,"* provided that the utility complies with the provisions of paragraph 19.4(15)"d."

(1) In the case of a customer owning or occupying a residential unit that will be affected by disconnection, the utility has made a diligent attempt, at least one day prior to disconnection, to contact the customer by telephone or in person to inform the customer of the pending disconnection and the customer's rights and remedies. If an attempt at personal or telephone contact of the customer occupying a unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

(2) During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection at least one day prior to disconnection. If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with any notice informing any occupants of the date when service will be disconnected and the reasons therefor. Disconnection is subject to the provisions of paragraph 19.4(15)"d."

ITEM 5. Amend subrule 19.4(16) by adding **new** paragraph "h" as follows:

h. Delinquency in payment for service by an occupant, if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

ITEM 6. Amend subrule 20.4(11) as follows:

20.4(11) Payment agreements.

a. Availability of a first payment agreement. When a residential customer cannot pay in full a delinquent bill for utility service or has an outstanding debt to the utility for residential utility service and is not in default of a payment agreement with the utility, a utility shall offer the customer an opportunity to enter into a reasonable payment agreement.

b. Reasonableness. Whether a payment agreement is reasonable will be determined by considering the current household income, ability to pay, payment history including prior defaults on similar agreements, the size of the bill, the amount of time and the reasons why the bill has been outstanding, and any special circumstances creating extreme hardships within the household. The utility may require the person to confirm financial difficulty with an acknowledgment from the department of human services or another agency.

c. Terms of payment agreements.

(1) *First agreement.* The utility shall offer customers who have received a disconnection notice or have been disconnected for 120 days or less and who are not in default of a payment agreement the option of spreading payments evenly over at least 12 months by paying specific amounts at scheduled times. The utility shall offer customers who have been disconnected for more than 120 days and who are not in default of a payment agreement the option of spreading payments evenly over at least 6 months by paying specific amounts at scheduled times.

(2) 1. The agreement shall also include provision for payment of the current account. The agreement negotiations and periodic payment terms shall comply with tariff provisions which are consistent with these rules. *The utility may also re-*

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quire the customer to enter into a level payment plan to pay the current bill.

(3) 2. When the customer makes the agreement in person, a signed copy of the agreement shall be provided to the customer.

(4) 3. The utility may offer the customer the option of making the agreement over the telephone or through electronic transmission. When the customer makes the agreement over the telephone or through electronic transmission, the utility ~~will~~ *shall* render to the customer a written document reflecting the terms and conditions of the agreement within three days of the date the parties entered into the oral agreement or electronic agreement. The document will be considered rendered to the customer when addressed to the customer's last-known address and deposited in the U.S. mail with postage prepaid. If delivery is by other than U.S. mail, the document shall be considered rendered to the customer when delivered to the last-known address of the person responsible for payment for the service. The document shall state that unless the customer notifies the utility within ten days from the date the document is rendered, it will be deemed that the customer accepts the terms as reflected in the written document. The document stating the terms and agreements shall include the address and a toll-free or collect telephone number where a qualified representative can be reached. By making the first payment, the customer confirms acceptance of the terms of the oral agreement or electronic agreement.

4. *Each customer entering into a first payment agreement shall be granted at least one complete forgiveness for a payment that is made five days or less beyond the due date for payment and the first payment agreement shall be reinstated.*

(5) 2) ~~Second payment agreement. If a customer has retained service from November 1 through April 1 but is in default of a payment agreement, the utility may offer the customer a second payment agreement that will divide the past due amount into equal monthly payments with the final payment due by the fifteenth day of the next October. The utility shall offer a second payment agreement to a customer who is in default of a first payment agreement if the customer has made at least two payments under the first payment agreement or has paid at least 33 percent of the balance owed under the first payment agreement, whichever is the greater amount. The monthly payment under the second payment agreement shall not be more than the monthly payment under the first payment agreement. The customer shall be required to pay for current service in addition to the monthly payments under the second payment agreement and may be required to make the first payment up-front as a condition of entering into the second payment agreement. The utility may also require the customer to enter into a level payment plan to pay the current bill. The utility may offer additional payment agreements to the customer.~~

d. No change.

ITEM 7. Amend paragraph 20.4(14)“f” as follows:

f. Undercharges. When a customer has been undercharged as a result of incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection of the meter, or other similar reasons, the amount of the undercharge may be billed to the customer. The time period for which the utility may adjust for the undercharge shall not exceed five years unless otherwise ordered by the board. The maximum *back bill* shall not exceed the *billing dollar amount equivalent to the tariffed rate* for like charges (e.g., usage-based, fixed or service charges) in the 12 months pre-

ceding discovery of the error unless otherwise ordered by the board.

ITEM 8. Amend paragraph 20.4(15)“d” as follows:

d. Service may be refused or disconnected after proper notice for nonpayment of a bill or deposit, except as restricted by subrules 20.4(16) and 20.4(17), provided that the utility has complied with the following provisions when applicable:

(1) No change.

(2) Given the customer, and any other person or agency designated by the customer, written notice that the customer has at least 12 days in which to make settlement of the account to avoid disconnection and a written summary of the rights and ~~remedies~~ *responsibilities* available. Customers billed more frequently than monthly pursuant to subrule 20.3(6) shall be given posted written notice that they have 24 hours to make settlement of the account to avoid disconnection and a written summary of the rights and ~~remedies~~ *responsibilities*. All written notices shall include a toll-free or collect telephone number where a utility representative qualified to provide additional information about the disconnection can be reached. Each utility representative must provide the representative's name and have immediate access to current, detailed information concerning the customer's account and previous contacts with the utility.

(3) The summary of the rights and ~~remedies~~ *responsibilities* must be approved by the board. Any utility providing electric service and defined as a public utility in Iowa Code section 476.1 which does not use the standard form set forth below for customers billed monthly shall submit to the board an original and six copies of its proposed form for approval. A utility billing a combination customer for both gas and electric service may modify the standard form to replace each use of the word “electric” with the words “gas and electricity *electric*” in all instances.

CUSTOMER RIGHTS AND RESPONSIBILITIES TO AVOID AVOIDING SHUT OFF OF ELECTRIC SERVICE FOR NONPAYMENT

1. What can I do if I receive a notice from the utility that says my service will be shut off because I have a past due bill?

- a. Pay the bill in full; or
- b. Enter into a reasonable payment plan with the utility (see #2 below); or
- c. Apply for and become eligible for low-income energy assistance (see #3 below); or
- d. Give the utility a written statement from a doctor or public health official stating that shutting off your electric service would pose an especial health danger for a person living at the residence (see #4 below); or
- e. Tell the utility if you think part of the amount shown on the bill is wrong. However, you must still pay the part of the bill you agree you owe the utility (see #5 below).

2. How do I go about making a reasonable payment plan? (Residential customers only)

- a. Contact the utility as soon as you know you cannot pay the amount you owe. If you cannot pay all the money you owe at one time, the utility may offer you a payment plan that spreads payments evenly over at least 12 months. The plan may be longer depending on your financial situation.
- b. If you have not made the payments you promised in a previous payment plan with the utility and still owe money, ~~the utility can refuse to offer you another payment plan you may qualify for a second payment agreement under certain conditions.~~

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c. If you do not make the payments you promise, the utility may shut off your utility service on one day's notice unless all the money you owe the utility is paid *or you enter into another payment agreement*. ~~If your utility service is shut off, the utility may refuse to offer you any further payment plans.~~

3. How do I apply for low-income energy assistance? (Residential customers only)

a. Contact the local community action agency in your area (see attached list); or

b. Contact the Division of Community Action Agencies at the Iowa Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; telephone (515)281-0859. To prevent disconnection, *you must contact* the utility ~~must be contacted~~ prior to disconnection of your service.

c. To avoid disconnection, you must apply for energy assistance before your service is shut off. Notify your utility that you may be eligible and have applied for energy assistance. Once your service has been disconnected, it will not be reconnected based on approval for energy assistance.

d. *Being certified eligible for energy assistance will prevent your service from being disconnected from November 1 through April 1.*

4. What if someone living at the residence has a serious health condition? (Residential customers only)

Contact the utility if you believe this is the case. Contact your doctor or a public health official and ask the doctor or health official to contact the utility and state that shutting off your utility service would pose an especial health danger for a person living at your residence. The doctor or public health official must provide a written statement to the utility office within 5 days of when your doctor or public health official notifies the utility of the health condition; otherwise, your utility service may be shut off. If the utility receives this written statement, your service will not be shut off for 30 days. This 30-day delay is to allow you time to arrange payment of your utility bill or find other living arrangements. After 30 days, your service may be shut off if payment arrangements have not been made.

5. What should I do if I believe my bill is not correct?

You may dispute your utility bill. You must tell the utility that you dispute the bill. You must pay the part of the bill you think is correct. If you do this, the utility will not shut off your service for 45 days from the date the bill was mailed while you and the utility work out the dispute over the part of the bill you think is incorrect. You may ask the Iowa Utilities Board for assistance in resolving the dispute. (See #9 below.)

6. When can the utility shut off my utility service because I have not paid my bill?

a. Your utility can shut off service between the hours of 6 a.m. and 2 p.m., Monday through Friday.

b. The utility will not shut off your service on nights, weekends, or holidays for nonpayment of a bill.

c. The utility will not shut off your service if you enter into a reasonable payment plan to pay the overdue amount (see #2 above).

d. The utility will not shut off your service if the temperature is forecasted to be ~~colder than~~ 20 degrees Fahrenheit *or colder* during the following 24-hour period, including the day your service is scheduled to be shut off.

e. If you have qualified for low-income energy assistance, the utility cannot shut off your service ~~between from~~ November 1 *and through* April 1. However, you will still owe the utility for the service used during this time.

f. The utility will not shut off your service if you have notified the utility that you dispute a portion of your bill and you pay the part of the bill that you agree is correct.

7. How will I be told the utility is going to shut off my service?

a. You must be given a written notice at least 12 days before the utility service can be shut off for nonpayment. This notice will include the reason for shutting off your service.

b. If you have not made payments required by an agreed-upon payment plan, your service may be disconnected with only one day's notice.

c. The utility must also try to reach you by telephone or in person before it shuts off your service. ~~Between~~ *From* November 1 *and through* April 1, if the utility cannot reach you by telephone or in person, the utility will put a written notice on the door of your residence to tell you that your utility service will be shut off.

8. If service is shut off, when will it be turned back on?

a. The utility will turn your service back on if you pay the whole amount you owe or agree to a reasonable payment plan (see #2 above).

b. If you make your payment during regular business hours, or by 7 p.m. for utilities permitting such payment or other arrangements after regular business hours, the utility must make a reasonable effort to turn your service back on that day. If service cannot reasonably be turned on that same day, the utility must do it by 11 a.m. the next day.

c. The utility may charge you a fee to turn your service back on. Those fees may be higher in the evening or on weekends, so you may ask that your service be turned on during normal utility business hours.

9. Is there any other help available besides my utility?

If the utility has not been able to help you with your problem, you may contact the Iowa Utilities Board toll-free at 1-877-565-4450. You may also write the Iowa Utilities Board at 350 Maple Street, Des Moines, Iowa 50319-0069, or by E-mail at iubcustomer@iub.state.ia.us. Low-income customers may also be eligible for free legal assistance from Iowa Legal Aid, and may contact Legal Aid at 1-800-532-1275.

(4) No change.

(5) When disconnecting service to a residence, made a diligent attempt to contact, by telephone or in person, the customer responsible for payment for service to the residence to inform the customer of the pending disconnection and the *customer's rights and remedies responsibilities*; *. During the period from November 1 through April 1, if the attempt at customer contact fails, the premises shall be posted at least one day prior to disconnection with a notice informing the customer of the pending disconnection and rights and responsibilities available to avoid disconnection.*

If if an attempt at personal or telephone contact of the customer occupying a rental unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.

During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection, at least one day prior to disconnection; if If the disconnection will affect occupants of residential units leased from the cus-

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tomer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with a notice informing any occupants of the date when service will be disconnected and the reasons therefor for the disconnection.

(6) and (7) No change.

(8) Severe cold weather. A disconnection may not take place where electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence on any day when the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will go below *be* 20 degrees Fahrenheit or lower. In any case where the utility has posted a disconnect notice in compliance with subparagraph 20.4(15)“d”(5) but is precluded from disconnecting service because of a National Weather Service forecast, the utility may immediately proceed with appropriate disconnection procedures, without further notice, when the temperature in the area where the residence is located rises to above 20 degrees Fahrenheit and is forecasted to be above 20 degrees Fahrenheit for at least 24 hours, unless the customer has paid in full the past due amount or is entitled to postponement of disconnection under some other provision of paragraph 20.4(15)“d.”

(9) Health of a resident. Disconnection of a residential customer shall be postponed if the disconnection of service would present an especial danger to the health of any permanent resident of the premises. An especial danger to health is indicated if a person appears to be seriously impaired and may, because of mental or physical problems, be unable to manage the person's own resources, to carry out activities of daily living or to be protected from neglect or hazardous situations without assistance from others. Indicators of an especial danger to health include but are not limited to: age, infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other factual circumstances which indicate a severe or hazardous health situation.

The utility may require written verification of the especial danger to health by a physician or a public health official, including the name of the person endangered; a statement that the person is a resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the health danger; and approximately how long the danger will continue. Initial verification by the verifying party may be by telephone if written verification is forwarded to the utility within five days.

Verification shall postpone disconnection for 30 days. ; however, the postponement *Disconnection* may be extended *postponed for one additional 30-day period* by a renewal of the verification. In the event service is terminated within 14 days prior to verification of illness by or for a qualifying resident, service shall be restored to that residence if a proper verification is thereafter made in accordance with the foregoing provisions. If the customer does not enter into a reasonable payment agreement for the retirement of the unpaid balance of the account within the first 30 days and does not keep the current account paid during the period that the unpaid balance is to be retired, the customer is subject to disconnection pursuant to paragraph 20.4(15)“f.”

(10) No change.

(11) *At a premises where the customer of record is not an occupant and where a person resides who is not the customer of record and who is protected from disconnection of utility service under these rules from November 1 through April 1, the service may be terminated by the customer of record and placed in the name of the protected person unless other ar-*

rangements are made within ten days of the request by the customer of record.

ITEM 9. Amend paragraph 20.4(15)“f” as follows:

f. A utility may disconnect electric service without written 12-day notice for failure of the customer to comply with the terms of a payment agreement, *except as provided in numbered paragraph 20.4(11)“c”(1)“4,”* provided the utility complies with the provisions of paragraph 20.4(15)“d.” that:

(1) *In the case of a customer owning or occupying a residential unit that will be affected by disconnection, the utility has made a diligent attempt, at least one day prior to disconnection, to contact the customer by telephone or in person to inform the customer of the pending disconnection and the customer's rights and remedies. If an attempt at personal or telephone contact of the customer occupying a unit which a utility knows or should know is a rental unit has been unsuccessful, the landlord of the rental unit, if known, shall be contacted to determine if the customer is still in occupancy and, if so, the customer's present location. The landlord shall also be informed of the date when service may be disconnected.*

(2) *During the period November 1 to April 1, if the attempt at customer contact fails, the premises must be posted with a notice informing the customer of the pending disconnection and rights and remedies available to avoid disconnection at least one day prior to disconnection. If the disconnection will affect occupants of residential units leased from the customer, the premises of any building known by the utility to contain residential units affected by disconnection must be posted, at least two days prior to disconnection, with any notice informing any occupants of the date when service will be disconnected and the reasons therefor. Disconnection is subject to the provisions of paragraph 20.4(15)“d.”*

ITEM 10. Amend subrule 20.4(16) by adding new paragraph “h” as follows:

h. Delinquency in payment for service by an occupant if the customer applying for service is creditworthy and able to satisfy any deposit requirements.

ARC 3410B

UTILITIES DIVISION[199]

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 Iowa Code sections 476.1, 476.2, 476.4, 476.6, and 17A.4, the Utilities Board (Board) gives notice that on May 21, 2004, the Board issued an order in Docket No. RMU-04-3, In re: Revisions to Purchased Gas Adjustment and Reserve Margin Rules [199 IAC 19.10(476) and 19.16(476)], “Order Commencing Rule Making.” The proposed amendments are based upon a review of the Board's purchased gas adjustment and reserve margin rules from Docket No. NOI-03-1, In re: Review of Purchased Gas Adjustment Rules. The order commencing rule making contains a discussion of the background and reasons for this proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

UTILITIES DIVISION[199](cont'd)

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before June 29, 2004, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive oral comments on the proposed amendments will be held at 9 a.m. on July 6, 2004, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 476.1, 476.2, 476.4, 476.6, and 17A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 19.10(1) as follows:

19.10(1) Purchased gas adjustment clause. Purchased gas adjustment shall be computed separately for each customer classification or grouping previously approved by the board. Purchased gas adjustments shall use the same unit of measure as the utility's tariffed rates. Purchased gas adjustments shall be calculated using factors filed in annual or periodic filings according to the following formula:

$$PGA = \frac{(C \times Rc) + (D \times Rd) + (N \times Rn) + (Z \times Rz)}{S} + Rb + E - K$$

PGA is the purchased gas adjustment per unit.

S is the anticipated yearly gas commodity sales volume for each customer classification or grouping.

C is the volume of applicable commodity purchased or transported for each customer classification or grouping required to meet sales, S, plus the expected lost and unaccounted for volumes.

Rc is the weighted average of applicable commodity prices or rates, including appropriate hedging tools costs, to be in effect September 1 corresponding to purchases C.

D is the total volume of applicable gas or transportation demand entitlement reservation purchases required to meet sales, S, for each customer classification or grouping.

Rd is the weighted average of applicable demand rates entitlement reservation charges to be in effect September 1 corresponding to purchases D.

N is the total quantity of applicable annual entitlement to meet sales, S, for each customer classification or grouping.

Rn is the weighted average of applicable entitlement rates to be in effect September 1 corresponding to annual entitlement quantity N.

Z is the total quantity of applicable storage service purchases required to meet sales, S, for each customer classification or grouping.

Rz is the weighted average of applicable storage service rates to be in effect September 1 corresponding to purchases Z.

Rb is the adjusted amount necessary to obtain the anticipated balance for the remaining PGA year calculated by taking the anticipated PGA balance divided by the forecasted volumes, including storage, for the months of October through August one or more months of the remaining PGA year.

E is the per unit overcollection or undercollection adjustment as calculated under subrule 19.10(7).

K is the base cost of gas as set forth in the utility's tariff.

The components of the formula shall be determined as follows for each customer classification or grouping:

a. The actual sales volumes S for the prior 12-month period ending June 30 May 31, with the necessary degree-day adjustments, and further adjustments approved by the board.

b. The annual expected lost and unaccounted for factors shall be calculated by determining the actual difference between sales and purchases for the prior PGA year factor shall be that from the current annual IG-1 filing, but in no case will this factor be less than 0.

c. The purchases C, D, N and Z will be necessary to meet requirements as determined in 19.10(1).

d. The purchased gas adjustments shall be adjusted prospectively to reflect the final decision issued by the board in a periodic review proceeding.

ITEM 2. Amend subrule 19.10(2) as follows:

19.10(2) Annual purchased gas adjustment filing. Each rate-regulated utility shall file on or before August 1 of each year, for the board's approval, a purchased gas adjustment for the 12-month period beginning September 1 of that year.

The annual filing shall restate each factor of the formula stated in subrule 19.10(1).

The annual filing shall be based on customer classifications and groupings previously approved by the board unless new classifications or groupings are proposed.

The annual filing shall include all worksheets and detailed supporting data used to determine the purchased gas adjustment volumes and factors including sales and purchase data from bills, invoices, internal reports and supplier and customer contracts. The utility shall provide an explanation of the calculations of each factor. Information already on file with the board may be incorporated by reference in the filing.

The annual filing shall include the following information concerning the hedging tools used by the utility:

(1) The type and volume of physical gas being hedged.

(2) The reason the hedge was undertaken (e.g., to hedge storage gas, a floating price contract).

(3) A detailed explanation of the hedging strategy (e.g., costless collar, straddled costless collar, purchasing or selling options).

(4) The date the futures contract or option was purchased or the date the swap was entered into.

(5) The spot price of gas at the time the hedge was made, including an explanation of how the spot price was determined including the index or indices used.

(6) The amount of all commissions paid and to whom those payments were made.

(7) All administrative costs associated with the hedge.

(8) The name(s) of all marketers used and the amount of money paid to each marketer.

(9) The amount of savings or costs resulting from the hedge.

(10) The amount of money tied up in margin accounts for futures trading and the cost of that money.

(11) The premium paid for each option.

(12) The strike price of each option.

(13) The contracting costs for each swap transaction.

(14) The name of the fixed-price payer in a swap transaction.

(15) A statement as to how the hedge is consistent with the LDC's natural gas procurement plan.

(16) An explanation as to why the LDC believes the hedge was in the best interest of general system customers.

(17) All invoices, workpapers, and internal reports associated with the hedge.

UTILITIES DIVISION[199](cont'd)

ITEM 3. Amend subrule 19.10(3) as follows:

19.10(3) Periodic changes to purchased gas adjustment clause. Periodic purchased gas adjustment filings shall be based on the purchased gas adjustment customer classifications and groupings previously approved by the board. Changes in the customer classification and grouping on file are not automatic and require prior approval by the board.

Periodic filings shall include all worksheets and detailed supporting data used to determine the amount of the adjustment.

Changes in factors S or C may not be made in periodic purchased gas filings ~~except to recognize changes between pipeline and nonpipeline purchases~~. A change in factors D, N, or Z may be made in periodic filings and will be deemed approved if it conforms to the annual purchased gas filing or if it conforms to the principles set out in ~~19.10(5) or~~ 19.10(6).

The utility shall implement automatically all purchased gas adjustment changes which result from changes in Rc, Rd, Rn, or Rz equal to or greater than .5 cents per ccf or therm immediately with concurrent board notification with adequate information to calculate and support the change. ~~Purchased gas adjustment changes of less than .5 cents per ccf or therm shall be required with concurrent board notification if the last purchased gas adjustment change occurred 30 days or more prior to the change.~~ The purchased gas adjustment shall be calculated separately for each customer classification or grouping.

Unless otherwise ordered by the board, a rate-regulated utility's purchased gas adjustment rate factors shall be adjusted as purchased gas costs change and shall recover from customers only the actual costs of purchased gas and other currently incurred charges associated with the delivery, inventory, or reservation of natural gas. Such periodic changes shall become effective with usage on or after the date of change.

~~If a supplier's entitlement charge is zero, the same percentage of current demand charges shall be allocated to each customer class or grouping as the average demand charges allocated during the last 12-month period for which entitlement rates were not zero. "Current demand charges" means the amount $(D \times Rd)$ used in computing the formula set out in 19.10(1).~~

ITEM 4. Amend subrule 19.10(4) as follows:

19.10(4) Factor Rb. ~~Starting with the 1993-1994 PGA year, each company~~ Each utility has the option of filing an Rb calculation with its October-January filings but will be required to ~~shall~~ file an Rb calculation with its February filing and subsequent monthly filings in the PGA year. If anticipated revenues exceed or fall short of anticipated costs by more than one-half of 1 percent, the PGA adjustment necessary to obtain the anticipated balance shall constitute the amount to be reflected as factor Rb in the PGA calculation. The adjustment shall be for services rendered in the remaining months of the same PGA year unless a subsequent determination under this paragraph requires a change. If the anticipated PGA balance represents costs in excess of revenues, factor Rb shall be assigned a positive value; if the anticipated balance represents revenues in excess of costs, factor Rb shall be assigned a negative value.

ITEM 5. Amend subrule 19.10(6) as follows:

19.10(6) Allocations of changes in contract ~~demand pipeline~~ transportation capacity obligations. Any change in contractual ~~demand pipeline~~ transportation capacity obligations to pipeline or other gas suppliers to transportation or storage service providers serving Iowa must be reported to the board

within 30 days of receipt. The change must be applied on a pro-rata basis to all customer classifications or groupings, unless another method has been approved by the board. Where a change has been granted as a result of the utility's request based on the needs of specified customers, that change may be allocated to specified customers. Where the board has approved anticipated sales levels for one or more customer classifications or groupings, those levels may limit the pro-rata reduction for those classifications or groupings.

ITEM 6. Amend subrule 19.10(7) as follows:

19.10(7) Reconciliation of underbillings and overbillings. The utility shall file with the board on or before October 1 of each year a purchased gas adjustment reconciliation for the 12-month period which began on September 1 of the previous year. This reconciliation shall be the actual net invoiced costs of purchased gas ~~and appropriate financial hedging tools costs~~ less the actual revenue billed through its purchased gas adjustment clause net of the prior year's reconciliation dollars for each customer classification or grouping. Actual net costs for purchased gas shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.

Negative differences in the reconciliation shall be considered overbilling by the utility and positive differences shall be considered underbilling. This reconciliation shall be filed with all worksheets and detailed supporting data for each particular purchased gas adjustment clause. Penalty purchases shall only be includable where the utility clearly demonstrates a net savings.

~~The take-or-pay reconciliation shall be the actual net invoiced costs of take-or-pay less the actual revenue billed through its take-or-pay factors for each customer class or grouping. Actual net costs for take-or-pay shall be the applicable invoice costs from all appropriate sources associated with the time period of usage.~~

a. Any underbilling determined from the reconciliation shall be collected through ten-month adjustments to the appropriate purchased gas adjustment. The underbilling generated from each purchased gas adjustment clause shall be divided by the anticipated sales volumes for the prospective ten-month period beginning November 1 (based upon the sales determination in subrule 19.10(1)).

The quotient, determined on the same basis as the utility's tariff rates, shall be added to the purchased gas adjustment for the prospective ten-month period beginning November 1.

~~Any underbillings determined from the take-or-pay reconciliation shall be collected through ten-month adjustments to appropriate take-or-pay adjustment. The underbilling shall be divided by the anticipated sales volumes or transport volumes for the prospective ten-month period beginning November 1 (based upon the volumes determined in subrule 19.10(5)).~~

~~The quotient, determined on the same basis as the utility's tariff rates, shall be added to the take-or-pay factor for the prospective ten-month period beginning November 1.~~

b. Any overbilling determined from the reconciliation shall be refunded to the customer classification or PGA grouping from which it was generated. The overbilling shall be divided by the annual cost of purchased gas subject to recovery for the 12-month period which began the prior September 1 for each purchased gas adjustment clause and applied as follows:

(1) If the net overbilling from the purchased gas adjustment reconciliation exceeds 3 percent of the annual cost of purchased gas subject to recovery for a specific ~~customer classification or~~ PGA grouping, the utility shall refund the

UTILITIES DIVISION[199](cont'd)

overbilling by bill credit or check for the time period beginning during the November 1 billing cycle of the current year to the date of refunding. The minimum amount to be refunded by check shall be \$10. Interest shall be calculated on amounts exceeding 3 percent from the PGA year midpoint to the date of refunding. The interest rate shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the last working day of August of the current year.

(2) If the net overbilling from the purchased gas adjustment reconciliation does not exceed 3 percent of the annual cost of purchased gas subject to recovery for a specific customer classification or PGA grouping, the utility may refund the overbilling by bill credit or check for the time period beginning during the November 1 billing cycle of the current year to the date of refunding, or the utility may refund the overbilling through ten-month adjustments to the particular purchased gas adjustment from which they were generated. The minimum amount to be refunded by check shall be \$10. This adjustment shall be determined by dividing the overcollection by the anticipated sales volume for the prospective ten-month period beginning November 1 as determined in subrule 19.10(1) for the applicable purchased gas adjustment clause. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular purchased gas adjustment for the prospective ten-month period beginning November 1.

c. Any overbilling determined from the reconciliation of a TPA shall be refunded to the customer classification or TPA grouping from which it was generated. The 3 percent refund rule described in subparagraphs 19.10(7)"b"(1) and (2) shall also apply to the take-or-pay reconciliation. The overbilling shall be divided by the anticipated sales volumes or transport volumes for the prospective ten-month period beginning November 1 (based upon the volumes determined in subrule 19.10(5)). The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular take-or-pay adjustment for the prospective ten-month period beginning November 1.

d. If the 3 percent refund rule described in subparagraph 19.10(7)"b"(1) requires an immediate refund for either the PGA or the TPA, the reconciliation results of the two adjustments may be netted. The volumes involved with the PGA and TPA must be the same. The 3 percent refund rule described in subparagraphs 19.10(7)"b"(1) and (2) shall also apply to the netted PGA and TPA reconciliation results. The quotient, determined on the same basis as the utility's tariff rates, shall be a reduction to that particular netted purchased gas adjustment and take-or-pay adjustment for the prospective ten-month period beginning November 1.

e c. When a customer has reduced or terminated supply service and is receiving transportation service, any liability for overcollections and undercollections shall be determined in accordance with the utility's gas transportation tariff.

ITEM 7. Amend subrule 19.10(8) as follows:

19.10(8) Refunds from gas suppliers related to gas costs charged through the PGA. The utility shall file a refund plan with the board within 30 days of the receipt of any refund related to gas costs charged through the PGA.

a. The utility shall refund to customers by bill credit or check an amount equal to any refund received from a supplier, plus accrued interest, if the refund exceeds \$5 10 per average residential customer under the applicable PGA clause customer classification or grouping. The utility may refund lesser amounts through the applicable customer classification or grouping or retain undistributed refund amounts in

special refund retention accounts for each customer classification or grouping under the applicable PGA clause until such time as additional refund obligations or interest cause the average residential customer refund to exceed \$5 10. Any obligations remaining in the retention accounts on September 1 shall become a part of the annual PGA reconciliation.

b. Within 30 days of receipt of a refund from a supplier, the utility shall file with the board refund plan the following information:

- (1) A statement of reason for the refund.
- (2) The amount of the refund with support for the amount.
- (3) The balance of the appropriate refund retention accounts.

(4) The amount due under each purchased gas adjustment clause customer classification or grouping.

b. If the supplier refund will result in a refund distribution, the utility shall also file within 30 days:

- (4 5) The intended period of the refund distribution.
- (2 6) The estimated interest accrued for each supplier refund through the proposed refund period, with complete interest calculations and supporting data as determined in paragraph 19.10(8)"e," "d."

(3 7) The total amount to be refunded, the amount to be refunded per customer classification or PGA grouping, and the refund per ccf or therm.

c. Within 30 days of receipt of a refund from a supplier which will result in a refund retention, the utility shall also file with the board for its approval a refund retention report which shall include the following information:

(4 8) The estimated interest accrued for each refund received and for each amount in the refund retention accounts through the date of the filing with the complete interest calculation and support as determined in paragraph 19.10(8)"e," "d."

(2 9) The total amount to be retained, the amount to be retained per customer class classification or PGA grouping, and the level per ccf or therm.

(3 10) The calculations demonstrating that the retained balance is less than \$5 10 per average residential customer with supporting schedules for all factors used.

d c. The refund to each customer shall be determined by dividing the amount in the appropriate refund retention account, including interest, by the total ccf or therm of system gas consumed by affected customers during the period for which the refundable amounts are applicable and multiplying the quotient by the ccf or therms of system supply gas actually consumed by the customer during the appropriate period. The utility may use the last available 12-month period if the use of the actual period generating the refund is impractical. The utility shall file complete support documentation for all figures used.

e d. The interest rate on refunds distributed under this subrule, compounded annually, shall be the dealer commercial paper rate (90-day, high-grade unsecured notes) quoted in the "Money Rates" section of the Wall Street Journal on the day the refund obligation vests. Interest shall accrue from the date the rate-regulated utility receives the refund or billing from the supplier or the midpoint of the first month of overcollection to the date the refund is distributed to customers.

f e. The rate-regulated utility shall make a reasonable effort to forward refunds, by check, to eligible recipients who are no longer customers.

g f. The minimum amount to be refunded by check shall be \$4 5.

ITEM 8. Amend rule 199—19.16(476) as follows:

UTILITIES DIVISION[199](cont'd)

199—19.16(476) Reserve margin.

19.16(1) Applicability. All rate-regulated gas utility companies may maintain a reserve of ~~natural gas contract services~~ in excess of their ~~historic peaks maximum daily system demand requirement~~ and recover the cost of the reserve from their customers through the purchased gas adjustment.

19.16(2) Definitions.

a. ~~Gas available to meet demand Contract services.~~ All The amount of firm gas delivery capacity or delivery services contracted for use by a utility to satisfy its maximum daily system demand requirement, excluding the delivery capacity of liquefied natural gas and propane storage facilities, shall be considered as gas available to meet demand contract services.

b. ~~Contract demand.~~ The amount of firm gas a utility is entitled to take on a daily basis, pursuant to contract.

e b. ~~Base period Maximum daily system demand requirements.~~ The maximum peak of the previous seven heating seasons (12 month period ending June 30) shall form the base period demand to establish a utility's maximum peak demand daily gas demand requirement that the utility forecasts to occur on behalf of its system firm sales customers under peak (design day) weather conditions.

c. ~~Design day.~~ The maximum heating season forecast level of all firm sales customers' gas requirements during a 24-hour period beginning at 9 a.m. The design day forecast shall be the combined estimated gas requirements of all firm sales customers calculated by totaling the gas requirements of each customer classification or grouping. The estimated gas requirements for each customer classification or grouping shall be determined based upon an evaluation of historic usage levels of customers in each customer classification or grouping, adjusted for reasonably anticipated colder-than-normal weather conditions and any other clearly identifiable factors that may contribute to the demand for gas by firm customers. The design day calculation shall be submitted for approval by the board with the annual PGA filing required by subrule 19.10(2).

19.16(3) ~~Contract Maximum daily system demand levels~~ requirements of less than 25,000 Mcf Dth per day. A reserve margin of 9.6 percent or less in excess of the ~~base period maximum daily system demand requirements~~ will be presumed reasonable.

19.16(4) ~~Contract Maximum daily system demand levels~~ requirements of more than 25,000 Mcf Dth per day. A reserve margin of 5.3 percent or less in excess of the ~~base period maximum daily system demand requirements~~ will be presumed reasonable.

19.16(5) Rebuttable presumption. All ~~gas available to meet demand contract services~~ in excess of an amount needed to meet the ~~base period maximum daily system demand requirement~~ plus the reserve is presumed to be unjust and unreasonable unless a factual showing to the contrary is made during the periodic review of gas proceeding. All ~~gas available to meet demand contract services~~ less than an amount of ~~base period the maximum daily system demand requirement~~ plus the reserve is presumed to be just and reasonable unless a factual showing to the contrary can be made during the periodic review of gas proceeding.

19.16(6) No change.

ARC 3428B

VOTER REGISTRATION COMMISSION[821]

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 47.8(1), the Voter Registration Commission hereby gives Notice of Intended Action to adopt amendments to Chapter 2, "Voter Registration Applications, Acceptability, Registration Dates, and Effective Dates," Chapter 5, "Election Registers," Chapter 8, "Transmission of Registration Forms by Agencies," Chapter 10, "Notice to Voters Without Activity in Four Years in Counties Using NCOA Records; to All Voters in Other Counties," and Chapter 11, "Registration Procedure at the Office of Driver Services, Department of Transportation," Iowa Administrative Code.

These amendments are intended to implement Iowa Code chapter 48A as amended by 2004 Iowa Acts, Senate File 2269, and Section 303 of the Help America Vote Act of 2002 (Pub. L. 107-252) (HAVA). Changes to Iowa Code chapter 48A made in 2004 Iowa Acts, Senate File 2269, require that all new voter registration applications include the applicant's Iowa driver's license number, if the applicant has one. If the applicant does not have an Iowa driver's license, the applicant must provide the number on the applicant's nonoperator's identification card. If the applicant has neither of these two forms of identification, the applicant must provide the last four numbers of the applicant's social security number. A new application without the appropriate identification number cannot be accepted or processed, unless the applicant reports that the applicant does not have any of the required forms of identification. Proposed changes to existing rules affected by this change are included in this Notice in Items 4, 5 and 13.

Several other changes to the rules are needed to implement the requirement. The voter registration form is referred to in the Commission's current rules both as a "form" and as an "application." To establish a distinction between references to new applications and to changes in existing registration records, the proposed amendment to subrule 2.1(2) in Item 3 provides definitions of "by mail" and "application." The paper document, which may be used for both new registration applications and for changes to existing ones, is referred to as the "voter registration form." The submission of a voter registration form from a person who is not registered to vote is defined as an "application." There are several other proposed amendments to incorporate this distinction into the existing rules in Items 1, 2, 7, 12, 14, 15 and 17.

In Items 4, 5 and 6, the Commission proposes amendments to rules 821—2.8(48A) and 821—2.9(48A) to provide details for processing incomplete applications. Section 12 of 2004 Iowa Acts, Senate File 2269, forbids accepting or processing new voter registration applications that lack required information. The proposed amendments include prescribed text for notices to applicants who submit incomplete applications.

Some incomplete applications can be processed but require further action by the applicant. In Items 8 and 9, the

VOTER REGISTRATION COMMISSION[821](cont'd)

Commission proposes new rules to define the status of incomplete, but processed applications. Item 11 proposes an amendment to the list of required information in election registers to include the registration status.

The proposed amendment in Item 16 adjusts the period of inactivity allowed to lapse before voters are contacted. HAVA and section 16 of 2004 Iowa Acts, Senate File 2269, require contacting voters who have not voted or updated their voter registration records for the time period between two general elections. This is a change from the existing law, which requires waiting for four years.

Any interested person may make written suggestions or comments on these proposed amendments through June 29, 2004. Such written suggestions or comments should be directed to Sandra J. Steinbach, Director of Elections, Office of the Secretary of State, 321 E. 12th Street, Lucas State Office Building, Des Moines, Iowa 50319. E-mail comments should be sent to sos@sos.state.ia.us.

Persons who want to convey their views orally should contact the Secretary of State's office at (515)281-5823, or at the office of the Secretary of State, 321 E. 12th Street, Lucas State Office Building, First Floor, Des Moines, Iowa 50319. Requests for a public hearing must be received by 4:30 on June 28, 2004.

These amendments are intended to implement Iowa Code chapter 48A as amended by 2004 Iowa Acts, Senate File 2269.

The following amendments are proposed.

ITEM 1. Amend the title of **821—Chapter 2** to read as follows:

CHAPTER 2
VOTER REGISTRATION APPLICATIONS
FORMS, ACCEPTABILITY, REGISTRATION
DATES, AND EFFECTIVE DATES

ITEM 2. Amend the catchwords for rule 821—2.1(48A) to read as follows:

821—2.1(48A) Required elements Voter registration forms.

ITEM 3. Rescind subrule 2.1(2) and insert in lieu thereof the following **new** subrule:

2.1(2) Definitions.

“Application” means a request to register to vote from a person who is not registered to vote in the county where the voter registration form is submitted. An application shall be made on a voter registration form prescribed by the voter registration commission.

“By mail” means an application received through the mail from an individual applicant. “By mail” does not include registration forms sent through the mail by voter registration agencies or organizations that solicit voter registrations.

ITEM 4. Amend subrule 2.8(2) to read as follows:

2.8(2) *A The commissioner shall not add to the official voter registration file a voter registration application that lacks either the any of the following about the applicant:*

a. The applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number shall be entered as a pending registration until the next federal election. Within seven days after receipt of the application, the commissioner shall contact the applicant by mail and request the missing required information. The applicant may provide the required information in writing until the date registration closes for the next federal

election by appearing in person at the commissioner's office to complete a new application, by mailing a new and complete application, or by sending a letter to the commissioner. If the applicant reports that the applicant has not been issued either an Iowa driver's license, Iowa department of transportation-issued nonoperator's identification card number, or a social security number, the commissioner shall assign a unique identifying number that shall serve to identify the registrant for voter registration purposes and enter the registration as active. ;

b. Name;

c. Sex;

d. Date of birth;

e. Residence address or description.

ITEM 5. Amend rule 821—2.8(48A) by adding the following **new** subrules:

2.8(4) Within seven days after receipt of an incomplete application, the commissioner shall contact the applicant by mail and request the missing required information. If the applicant failed to provide an address, the commissioner shall make a reasonable effort to determine where the acknowledgment should be sent. However, if the incomplete application is received during the 12 days before the close of registration for an election, the commissioner shall provide the registrant with an opportunity to complete the form before the close of registration by sending written notice within one working day after receiving the incomplete application. If the applicant provided a telephone number, the commissioner shall attempt to contact the applicant by telephone.

2.8(5) The notice shall instruct the applicant that the applicant may provide the required information in writing by appearing in person at the commissioner's office to complete a new application or by mailing a new and complete application. The notice shall include the date registration closes for the next election.

2.8(6) If the application does not include the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number, the notice shall also include the following statement:

“Your voter registration application cannot be accepted because it does not include an Iowa driver's license number, an Iowa non-driver ID number or the last four numbers of your social security number. You must submit a new voter registration form. If you submit the registration form by mail, your registration information will be checked against the records of the Iowa Department of Transportation driver's license files. This process may delay the effective date of your registration. If your registration information cannot be verified, your registration application will be rejected. Verification is not required if you submit your application in person.

“ID number required. If you have an Iowa driver's license, you must put that number on the voter registration form. If you do not have an Iowa driver's license, use the number from your Iowa non-driver ID card. If you do not have either of these, put the last four numbers of your social security number on the form. If you don't have any of these ID numbers, please write ‘NONE’ in the box on the form. Please note that it is a crime to lie on a voter registration application.”

2.8(7) If the applicant reports that the applicant has not been issued an Iowa driver's license, an Iowa department of transportation-issued nonoperator's identification card number, or a social security number, the commissioner shall assign a unique identifying number that shall serve to identify

VOTER REGISTRATION COMMISSION[821](cont'd)

the registrant for voter registration purposes and enter the registration as active.

ITEM 6. Amend rule 821—2.9(48A) to read as follows:

821—2.9(48A) Optional data not required. No commissioner shall refuse to register or accept an application from an applicant who fails or declines to reveal the applicant's ~~social security number~~, telephone number or political party affiliation.

ITEM 7. Amend rule 821—2.11(48A) to read as follows:

821—2.11(48A) Registration forms in languages other than English. Notwithstanding any other provision of these rules, any county commissioner may cause production of any approved voter registration ~~application form~~ in a language other than English if the commissioner determines that such a form would be of value in the commissioner's county. The registrar shall assist any county commissioner with the translation of voter registration forms upon the request of the county commissioner.

ITEM 8. Amend 821—Chapter 2 by adding the following **new** rule:

821—2.14(48A) Voter registration status codes. Voter registration records shall be coded to show the status of the record.

2.14(1) Active. The registration is in good standing. No action is required on the part of either the registrant or the commissioner.

2.14(2) Inactive (I). The registration will be deleted after two general elections unless the registrant responds to a confirmation mailing pursuant to Iowa Code section 48A.27(4)"c," votes in an election or submits a registration form updating the registration. Inactive registrants shall show identification when voting in person, pursuant to Iowa Code section 49.77(3), or shall submit a voter registration form when voting by absentee ballot, pursuant to 721 IAC 21.301(53).

2.14(3) Pending (P). Any application received by mail before September 10, 2004, cannot be activated until the applicant provides one of the required identification documents prescribed in 721 IAC 21.3(49), or the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number and the information is verified. On and after September 10, 2004, any application received by mail from an applicant who provides the required ID number shall be "pending" until the number is verified, pursuant to 821 IAC 2.15(48A).

2.14(4) Local (L). The registrant applied by mail to register to vote and failed to check the box on the voter registration form indicating that the applicant is a U.S. citizen. The registrant may provide the required information in writing until the date registration closes for the next federal election by appearing in person at the commissioner's office to complete a new voter registration form, by mailing to the commissioner a new and complete voter registration form, or by sending a letter to the commissioner, pursuant to 821 IAC 2.8(3).

2.14(5) Pending and inactive (N). The applicant must comply with the requirements to correct both of these status codes.

2.14(6) Local and inactive (C). The applicant must comply with the requirements to correct both of these status codes.

ITEM 9. Amend 821—Chapter 2 by adding the following **new** rule:

821—2.15(48A) Verification of voter registration information. Every new voter registration application by mail shall be entered as "pending" until the applicant's Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the applicant's social security number can be verified. The registrar may arrange with the department of transportation for county commissioners of elections to verify voter registration records without submitting the registration information to the registrar.

2.15(1) When the application is received, the registrar or commissioner shall compare the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number of each mail application with the records of the department of transportation.

2.15(2) All of the following information on the application must match an existing record:

a. All digits and numerals in the Iowa driver's license number, Iowa department of transportation-issued nonoperator's identification card number, or the last four digits of the social security number.

b. Name, including the first name and any family forename or surname.

c. Date of birth, including the month, day and year.

2.15(3) If all three required elements do not match, the application shall be rejected and the applicant shall be notified of the reason. The notice shall include the following statement:

"Your voter registration application was rejected because the information you provided could not be verified. Your name, date of birth and Iowa driver's license number, Iowa non-driver ID number, or the last four digits of your social security number were compared to the Iowa driver's license records. The following items did not match an existing record: [list nonmatching items]."

"You may send in a new registration form. Please print your name, date of birth and Iowa driver's license number exactly as they appear on your Iowa driver's license. If you do not have an Iowa driver's license, print your name, date of birth and Iowa non-driver ID number exactly as they appear on your non-driver ID card. If you don't have either of those cards, use the last four digits of your social security number and print your name on the registration form exactly as it appears on your social security card."

2.15(4) If the application is verified, the registration record shall be made "active." The registrar or commissioner shall keep records showing whether the information in the application was verified and the date of the verification report. If the application cannot be verified, the record shall show what information on the application did not match an existing record.

ITEM 10. Amend **821—Chapter 2**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 48A *as amended by 2004 Iowa Acts, Senate File 2269*.

ITEM 11. Amend subrule 5.1(1) to read as follows:

5.1(1) Election registers shall contain at least the following information:

- a. Full name.
- b. Address.

VOTER REGISTRATION COMMISSION[821](cont'd)

- c. Date of birth.
- d. *Registration status if it is not active.*
- ¶ e. Political affiliation (for partisan primary elections only).

ITEM 12. Amend rule 821—8.2(48A), introductory paragraph, to read as follows:

821—8.2(48A) Data elements of paperless voter registration applications transactions. The file specified in rule 8.1(48A) shall contain the following information:

ITEM 13. Amend rule **821—8.2(48A)**, numbered paragraph “2,” to read as follows:

2. The applicant’s *Iowa driver’s license number, if the applicant has one. If not, the applicant’s Iowa department of transportation-issued nonoperator’s identification card number. If the applicant has neither, the last four digits of the applicant’s social security number, if the applicant chooses to provide it;*

ITEM 14. Amend rule 821—8.4(48A) to read as follows:

821—8.4(48A) Technical requirements for electronic signatures. Agencies which accept and collect paperless voter registration ~~applications~~ *transactions* shall maintain an electronic “copy” of the document, including the applicant’s signature. The design of the system shall be such that no change to the document can be made and the document can be reproduced in hard copy when necessary.

ITEM 15. Amend rule 821—8.5(48A) to read as follows:

821—8.5(48A) Transmission of paper applications voter registration forms. ~~Applications~~ *Voter registration applications or changes* accepted on paper documents by agencies

shall be sent to the appropriate county commissioner by courier, U.S. mail, or other reliable carrier not later than the Friday of the week in which the document is received by the agency. If an agency receives ~~applications~~ *completed voter registration forms* on the Saturday which is a close of registration date for an election, the agency shall forward those registration ~~applications~~ *forms* immediately following the end of that business day. Nothing in these rules shall be construed to require an agency to be open for business on the last day of registration for an election.

ITEM 16. Amend subrule 10.1(1) to read as follows:

10.1(1) During the first quarter of each calendar year, every commissioner who receives NCOA information shall examine voter registration records to identify those without activity during the ~~four previous calendar years~~ *period between and following the previous two general elections* and for which no information has been reported in NCOA data. For the purpose of this subrule, “activity” means any registration application, including an application which duplicates existing information, a notice of change of name, address, mailing address, party affiliation, a vote in any election, or the mailing of a notice pursuant to subrule 10.1(2).

ITEM 17. Amend rule 821—11.7(48A) to read as follows:

821—11.7(48A) Electronic applications voter registration transactions. Registration ~~applications~~ *transactions* shall be transmitted electronically to the registrar in accordance with 821—Chapter 8. *Every transaction shall include the applicant’s Iowa driver’s license number or Iowa department of transportation-issued nonoperator’s identification card number.*

ARC 3413B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 159.5 and 163.1; Iowa Code Supplement chapter 202C; and 2004 Iowa Acts, House File 2475, section 5, the Department of Agriculture and Land Stewardship hereby amends Chapter 66, "Livestock Movement," Iowa Administrative Code.

This amendment rescinds rule 21—66.13(163,202C) which was published in the February 18, 2004, Iowa Administrative Bulletin as part of **ARC 3158B** with an effective date of June 1, 2004, and adopts in lieu thereof a new rule which is in compliance with 2004 Iowa Acts, House File 2475. In 2004 Iowa Acts, House File 2475, section 5, the General Assembly specifically authorized the Department to use emergency rule-making procedures in implementing the legislation.

The amendment establishes a financial requirement of a bond or an irrevocable letter of credit for feeder pig dealers. The bond or irrevocable letter of credit provides a secured asset for the recovery of damages incurred by a feeder pig purchaser who suffers damages in Iowa because of sick or diseased pigs obtained from a feeder pig dealer or who otherwise suffers damages arising from a breach of contract by the feeder pig dealer. The amount of the bond or irrevocable letter of credit is to be set on a sliding scale based upon the volume of sales by the feeder pig dealer.

Pursuant to Iowa Code section 17A.4(2) and as authorized by 2004 Iowa Acts, House File 2475, section 5, the Department finds that notice and public participation are impracticable. Timely adoption is necessary for a rule to be in effect prior to the new licensing year for feeder pig dealers which begins on July 1, 2004.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of the amendment, 35 days after publication, should be waived and the amendment be made effective upon filing with the Administrative Rules Coordinator.

The amendment is also published herein under Notice of Intended Action as **ARC 3414B** to allow for public comment.

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

The amendment is intended to implement Iowa Code chapter 163; Iowa Code Supplement chapter 202C; and 2004 Iowa Acts, House File 2475, section 5.

The amendment became effective May 21, 2004.

The following amendment is adopted.

Rescind rule 21—66.13(163,202C) and adopt in lieu thereof the following **new** rule:

21—66.13(163,202C) Feeder pig dealer bonding/letter of credit requirement and claims procedures.

66.13(1) General requirement. In addition to the bond required in Iowa Code section 163.30, a feeder pig dealer shall maintain on file with the department evidence of financial responsibility consisting of a surety bond furnished by a surety or an irrevocable letter of credit issued by a financial institution. "Financial institution" means a bank or savings and loan association authorized by this state, or by the laws of the United States, which is a member of the Federal Deposit In-

surance Corporation, the Federal Savings and Loan Insurance Corporation or the National Bank for Cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

Bonds and irrevocable letters of credit filed with the department shall be on the forms prescribed by the animal industry bureau. Bonds and irrevocable letters of credit shall be written so as to provide funds to protect purchasers of feeder pigs who incur damages in Iowa as a result of sick or diseased pigs obtained from a feeder pig dealer or who otherwise suffer damages arising from a breach of contract relating to the sale of feeder pigs by the feeder pig dealer described in the bond or irrevocable letter of credit.

Evidence of financial responsibility shall be provided to the department before the feeder pig dealer's license is issued or renewed pursuant to Iowa Code section 163.30. The evidence of additional financial responsibility shall not be for less than \$5,000 or for more than \$25,000. The department may increase the amount of the evidence of financial responsibility for a dealer upon a showing of good cause. Terms of the bond or irrevocable letter of credit shall provide that if the bond or irrevocable letter of credit is canceled as to future transactions, written notice of the cancellation shall be provided to the department at least 30 days in advance of the cancellation. Such notice shall be provided to the department either by personal delivery to the department or by certified mail. The feeder pig dealer shall provide an adequate replacement bond or irrevocable letter of credit prior to the effective date of the cancellation. The dealer's failure to submit an adequate replacement bond or irrevocable letter of credit shall result in the immediate suspension of the dealer's license to do business until such bond or irrevocable letter of credit is provided.

66.13(2) Applicability. A bond or irrevocable letter of credit filed pursuant to this rule shall only be subject to claims which arise after July 1, 2004, and are subsequent to feeder pig dealer licensing or relicensing with the department.

66.13(3) Amount of bond. The amount of financial responsibility shall be based on the annual volume of feeder pig sales in Iowa reported by the feeder pig dealer to the department or, at the option of the feeder pig dealer, the annual volume of all livestock or feeder pig sales reported to the United States Packers and Stockyards Administration. The following table shall be used to determine the level of additional financial responsibility:

TABLE FOR COMPUTING SURETY BOND OR
IRREVOCABLE LETTER OF CREDIT EQUIVALENTS

Volume Range in Dollars		Additional Financial Responsibility Required
(not less than)	(not more than)	
\$1	\$6,500,000	\$5,000
\$6,500,001	\$7,150,000	\$6,000
\$7,150,001	\$7,800,000	\$7,000
\$7,800,001	\$8,450,000	\$8,000
\$8,450,001	\$9,100,000	\$9,000
\$9,100,001	\$9,750,000	\$10,000
\$9,750,001	\$16,250,000	\$11,000
\$16,250,001	\$22,750,000	\$12,000
\$22,750,001	\$29,250,000	\$13,000
\$29,250,001	\$35,750,000	\$14,000
\$35,750,001	\$42,250,000	\$15,000
\$42,250,001	\$48,750,000	\$16,000
\$48,750,001	\$55,250,000	\$17,000

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

Volume Range in Dollars		Additional Financial Responsibility Required
(not less than)	(not more than)	
\$55,250,001	\$61,750,000	\$18,000
\$61,750,001	\$68,250,000	\$19,000
\$68,250,001	\$74,750,000	\$20,000
\$74,750,001	\$81,250,000	\$21,000
\$81,250,001	\$87,750,000	\$22,000
\$87,750,001	\$94,250,000	\$23,000
\$94,250,001	\$100,750,000	\$24,000
\$100,750,001	And higher	\$25,000

66.13(4) Claims. A person who has suffered damages in Iowa as a result of sick or diseased pigs obtained from a feeder pig dealer, or who otherwise suffers damages arising from a breach of contract relating to the sale of feeder pigs by the feeder pig dealer, may file a claim against a bond or irrevocable letter of credit provided under this rule. A claim against the bond shall be valid only for a claim incurred in the state of Iowa for which there is a final judgment from a court of competent jurisdiction.

66.13(5) Procedure. A person filing a claim against the bond or irrevocable letter of credit shall submit both of the following before such claim shall be considered to be completed:

1. A notarized and completed copy of the claim form.
2. An official copy of the court judgment or other order which has established the debt as a bona fide adjudicated debt, including the date that the judgment was entered.

66.13(6) Disputes. The department shall review any claim filed and, upon determining that a completed form and the required documents have been submitted, shall provide written notification of the claim to both the feeder pig dealer and the issuer of the bond or irrevocable letter of credit. The feeder pig dealer and the issuer of the bond or irrevocable letter of credit shall have 20 calendar days to file a written dispute of the claim. The dispute of the claim shall be limited to the following grounds only:

- a. The claim is not covered by the bond or irrevocable letter of credit.
- b. The claim is not a final adjudicated judgment.
- c. The claim does not relate to damages incurred in Iowa.
- d. The claim is for a judgment which has already been settled or compromised.

66.13(7) Costs of settling disputes. If a dispute is filed on a claim, the department shall schedule an administrative hearing to determine whether the dispute is valid. The costs of the department in resolving the dispute, including the costs incurred in holding the administrative hearing, shall be paid out of the proceeds of the bond or irrevocable letter of credit prior to distribution of any proceeds, whether the dispute is upheld or denied.

This rule is intended to implement Iowa Code section 163.30, Iowa Code Supplement chapter 202C and 2004 Iowa Acts, House File 2475.

[Filed Emergency 5/21/04, effective 5/21/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3391B

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 17A.3 and 34A.22, the Homeland Security and Emergency Management Division hereby amends Chapter 10, "Enhanced 911 Telephone Systems," Iowa Administrative Code.

The Homeland Security and Emergency Management Division is amending subrules 10.8(1), 10.8(4) and 10.8(5) to provide for the increase in the wireless E911 surcharge rate from \$0.50 to \$0.65 per wireless telephone, per month as passed by the 80th General Assembly in 2004 Iowa Acts, Senate File 2298, section 453, and signed by the Governor on May 17, 2004. The statute provides that the new rate shall go into effect on July 1, 2004.

In compliance with Iowa Code section 17A.4(2), the Homeland Security and Emergency Management Division finds that notice and public participation are impracticable as wireless service providers need to be able to place the surcharge increase on customers' periodic billings so as to meet the July 1, 2004, effective date.

The Homeland Security and Emergency Management Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing on May 18, 2004, as they confer a benefit upon the citizens of Iowa by providing an increased level of funding to improve wireless E911 service within Iowa. This increase in funding will provide for better response in emergency situations as location information will be provided when 911 is dialed from a wireless telephone.

The Homeland Security and Emergency Management Division adopted these amendments on May 18, 2004.

These amendments are also published herein under Notice of Intended Action as **ARC 3390B** to allow for public comment.

These amendments became effective May 18, 2004.

These amendments are intended to implement Iowa Code section 34A.7A as amended by 2004 Iowa Acts, Senate File 2298, section 453.

The following amendments are adopted.

ITEM 1. Amend subrule 10.8(1) to read as follows:

10.8(1) The E911 program manager shall adopt a monthly surcharge of up to ~~50~~ 65 cents to be imposed on each wireless communications service number provided in this state. The amount of wireless surcharge to be collected may be adjusted once yearly, but in no case shall the surcharge exceed ~~50~~ 65 cents per month, per customer service number.

ITEM 2. Amend subrule 10.8(4) to read as follows:

10.8(4) The wireless surcharge shall be ~~50~~ 65 cents per month, per customer service number until changed by rule.

ITEM 3. Amend subrule 10.8(5) to read as follows:

10.8(5) The wireless carrier shall list the surcharge as a separate line item on the customer's billing. *In the case of prepaid wireless service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid*

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available. If the wireless carrier receives a partial payment of a monthly bill, the payment shall first be applied to the amount owed to the wireless carrier with the remainder being applied to the surcharge. The wireless carrier shall bill and collect for a full month's surcharge in cases of a partial month's service. The wireless carrier is entitled to retain 1 percent of any wireless surcharge collected as a fee for collecting the surcharge as part of the subscriber's periodic billing.

[Filed Emergency 5/18/04, effective 5/18/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3387B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 130, "General Provisions," and Chapter 170, "Child Care Services," Iowa Administrative Code.

These amendments:

- Move policies specific to the Child Care Assistance Program from Chapter 130 to Chapter 170. Funding sources and administration of the program have changed since Chapter 130 was originally implemented, resulting in many policies that are unique to the Child Care Assistance Program. The Department believes that policies for Child Care Assistance and other social services will be clearer and more accessible to the public if the Child Care Assistance Program policies are aggregated in a single chapter. These amendments do not represent changes in program policy.

- Implement annual changes in the income limits and the fee schedule due to the 2004 federal poverty levels issued by the federal Office of Management and Budget. Although the methodology for the income guidelines and the priority groups remain the same, the amendments do not include the chart of specific income levels that was part of subrule 130.3(1). The Department will continue to publish the annual changes to the income limits in its Employees' Manual, but these changes will not require rule making. This approach is consistent with that used in other programs whose income eligibility is based on a percentage of the federal poverty guidelines.

- Make technical changes to update program names and references, including removal of references to Title XX in rule 441—130.5(234), to obsolete case plan forms in rule 441—130.7(234), and to relative care in rule 441—170.1(237A). The text of subrules 170.2(2) and 170.2(3) on general eligibility requirements and priority of service is reorganized so that material from Chapter 130 could be added in a logical order.

These amendments do not provide for waivers in specified situations. Changes to the income limits and fee schedule benefit recipients by allowing for inflation. Other changes are technical rather than substantive. Individuals may request a waiver of Child Care Assistance policies under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on May 12, 2004.

The Department of Human Services finds that notice and public participation are impracticable in that there is not enough time to allow for public comment before poverty level updates are due to be implemented and unnecessary in that these amendments merely reorganize program policies rather than change them. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that these amendments confer a benefit on recipients and therefore, the normal effective date of these amendments should be waived.

These amendments are intended to implement Iowa Code sections 237A.13 and 239B.24.

These amendments are also published herein under Notice of Intended Action as **ARC 3389B** to allow for public comment.

These amendments shall become effective July 1, 2004.

The following amendments are adopted.

ITEM 1. Amend rule 441—130.2(234,239B) as follows:

Amend the introductory paragraph as follows:

441—130.2(234,239B) Application.

Amend subrule **130.2(1)**, first unnumbered paragraph, as follows:

~~Application for child care assistance shall be made on Form 470-3624, Child Care Assistance Application. Application for all other services shall be made on Form 470-0615, Application for All Social Services.~~

Amend subrule 130.2(5) as follows:

Amend the introductory paragraph as follows:

130.2(5) Eligibility shall be redetermined in the same manner as an application at least every six months for ~~child care and family-centered services~~. For all other services, eligibility shall be redetermined in the same manner as an application at least every 12 months.

Rescind the three unnumbered paragraphs.

Rescind and reserve subrules **130.2(6)** and **130.2(7)**.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 761, division III.

ITEM 2. Amend rule 441—130.3(234,239B) as follows:

Amend the introductory paragraph as follows:

441—130.3(234,239B) Eligibility.

Amend subrule **130.3(1)**, paragraph "d," as follows:

Amend the introductory paragraph as follows:

d. Persons are financially eligible for services when they are in one of the following categories, ~~except for child care services where persons must be income eligible~~:

Amend subparagraph (2) as follows:

Amend the chart "Monthly Gross Income Limits" as follows:

Monthly Gross Income Limits				For All Other Services
Family Size	For Child Care			
	A	B	C	
1 Member	\$ 749	\$1,049	\$1,311	\$ 583
2 Members	1,010	1,414	1,768	762
3 Members	1,272	1,780	2,225	942
4 Members	1,534	2,148	2,685	1,121
5 Members	1,795	2,513	3,141	1,299
6 Members	2,057	2,879	3,599	1,478

HUMAN SERVICES DEPARTMENT[441](cont'd)

Family Size	For Child Care			For All Other Services
	A	B	C	
7 Members	2,319	3,247	4,059	1,510
8 Members	2,580	3,612	4,515	1,546
9 Members	2,842	3,978	4,973	1,581
10 Members	3,104	4,346	5,433	1,612
11 Members	3,366	4,712	5,891	1,645
12 Members	3,628	5,079	6,348	1,678
13 Members	3,889	5,445	6,802	1,711
14 Members	4,151	5,811	7,263	1,744
15 Members	4,413	6,178	7,724	1,777
16 Members	4,674	6,544	8,185	1,810
17 Members	4,936	6,910	8,646	1,843
18 Members	5,198	7,277	9,107	1,876
19 Members	5,459	7,643	9,568	1,909
20 Members	5,721	8,009	10,029	1,942

Rescind the four unnumbered paragraphs following the chart.

Rescind subparagraphs (3), (4), and (5).

Amend subrule **130.3(3)** by rescinding and reserving paragraphs “x,” “y,” “aa,” and “ab.”

Rescind and reserve subrule **130.3(6)**.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 234.6 and 1999 Iowa Acts, House File 761, division III.

ITEM 3. Amend rule 441—130.4(234,239B) as follows:

Amend the introductory paragraph as follows:

441—130.4(234,239B) Fees. The department may set fees to be charged to clients for services received. The fees will be charged to those clients eligible under rule 130.3(234,239B), but not those receiving services without regard to income due to a protective service situation or for rehabilitative treatment services. Nothing in these rules shall preclude a client from voluntarily contributing toward the costs of service.

Rescind and reserve subrule **130.4(3)**.

ITEM 4. Amend rule 441—130.5(234) as follows:

Amend subrule **130.5(1)** as follows:

Amend paragraph “c” as follows:

c. The service to be provided is not in the annual Title XX plan Social Services Block Grant Pre-Expenditure Report, or

Rescind paragraph “i.”

Amend subrule **130.5(2)** as follows:

Amend paragraph “a” as follows:

a. The specific need to attain the Title XX goals and objectives to which the service was directed has been achieved, or

Amend paragraph “e” as follows:

e. The service to be provided is no longer available in the annual Title XX plan Social Services Block Grant Pre-Expenditure Report, or

Amend subrule **130.5(3)** by rescinding paragraph “d.”

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 234.6 and 1988 Iowa Acts, House File 2447, section 17.

ITEM 5. Amend rule 441—130.7(234) as follows:

Amend the introductory paragraph and the second unnumbered paragraph as follows:

441—130.7(234) Case plan. The department worker shall develop a case plan with or on behalf of persons approved to

receive services. However, a case plan is not required for (1) for child or adult protective investigation, (2) for family planning, (3) for foster care cases in which the department does not have custody, guardianship or a voluntary placement agreement, or (4) when child day care is the only service and the child does not meet the need for service under 441—paragraph 170.2(3)“d.” A case plan shall be developed with or on behalf of every other person approved to receive services unless the person has a case manager as specified in 441—Chapter 24. When department services are provided before an individual program plan in compliance with 441—Chapter 24 is approved, a department case plan must be developed according to the requirements of this rule.

The case plan shall become part of the client’s case record. The client shall participate in the development of this plan to the extent possible. The case plan shall be consistent with other service or program plans. A copy of the case plan shall be provided to the client or, when indicated, to the parent or representative of the client. For adult services the case plan shall be recorded using Form SS-0607-0 470-0583, Individual Client Case Plan. For children’s services the case plan shall be known as the case permanency plan and shall be prepared using Forms 427-1020, Case Permanency Plan Face Sheet, 427-1021, Case Permanency Plan Review, 427-1022, Case Permanency Plan Initial Assessment, and 427-1023, Case Permanency Plan Problem and Responsibility List; or Forms 427-1020, Case Permanency Plan Face Sheet and 470-2921, Emergency Placement Document for Goal of Family Reunification Form 470-3453, Case Plan.

Amend subrule 130.7(3) as follows:

130.7(3) The case plan shall be developed and filed in the case record before services begin unless:

a. The department receives judicial notice that services have been court-ordered. The date of this notice shall be stated on Form 427-1022. The case plan shall be filed within 45 days from the date the notice is received or within 60 days from the date the child entered foster care, whichever is the earlier date. If the service ends before 30 days the minimum case plan requirement for children’s services is completion of Form 427-1020, Face Sheet and of Form 470-2921, Emergency Placement Document for Goal of Family Reunification. Assessment shall begin at the time of the notice.

b. An unanticipated provision of service is provided for the protection and well-being of a client. Assessment shall begin immediately. The case plan shall be filed within 45 days from the date services are initiated or within 60 days from the date the child entered foster care, whichever is the earlier date. If the service ends before 30 days the minimum case plan requirement for children’s services is completion of Form 427-1020, Face Sheet and of Form 470-2921, Emergency Placement Document for Goal of Family Reunification.

ITEM 6. Amend rule **441—170.1(237A)**, definition of “provider,” as follows:

“Provider” means a licensed child care center, a registered child development home, a relative who provides care in the relative’s own home solely for a related child (relative care), a caretaker who provides care for a child in the child’s home (in-home), a nonregistered child care home, or a child care facility which is exempt from licensing or registration.

ITEM 7. Amend rule 441—170.2(237A) as follows:

Amend the introductory paragraph as follows:

441—170.2(237A,239B) Eligibility requirements. A person deemed eligible for benefits under this chapter is subject to all other state child care assistance requirements includ-

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ing, but not limited to, provider requirements under Iowa Code chapter 237A and provider reimbursement methodology. The department shall determine the number of units of service to be approved.

Amend subrule 170.2(1) as follows:

170.2(1) Financial eligibility. Financial eligibility for child care assistance shall be determined according to rule 441—130.3(234,239B), based on federal poverty levels as determined by the Office of Management and Budget and Iowa's median family income as determined by the U.S. Census Bureau. Poverty guidelines and median family income amounts are updated annually. Changes shall go into effect for the child care assistance program on July 1 of each year.

a. *Income limits.* For initial and ongoing eligibility, a family's nonexempt gross monthly income as established in paragraph 170.2(1)"c" cannot exceed:

(1) 140 percent of the federal poverty level applicable to the family size for children needing basic care, or

(2) 175 percent of the federal poverty level applicable to the family size for children needing special needs care, or

(3) 85 percent of Iowa's median family income, if that figure is lower than the standard in subparagraph (1) or (2).

b. *Exceptions to income limits.*

(1) A person who is participating in activities approved under the PROMISE JOBS program is eligible for child care assistance without regard to income if there is a need for child care services.

(2) A person who is part of the family investment program or whose earned income was taken into account in determining the needs of a family investment program recipient is eligible for child care assistance without regard to income if there is a need for child care services.

(3) Protective child care services are provided without regard to income.

(4) In certain cases, the department will provide child care services directed in a court order.

c. *Determining gross income.* In determining a family's gross monthly income, the department shall consider all income received by a family member from sources identified by the U.S. Census Bureau in computing median income, unless excluded under paragraph 170.2(1)"d."

(1) Income considered shall include wages or salary, net income from farm or nonfarm self-employment, social security, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, unemployment compensation, workers' compensation, alimony, child support, and veterans pensions.

(2) For migrant seasonal farm workers, the monthly gross income shall be determined by calculating the total amount of income earned in a 12-month period preceding the date of application and dividing the total amount by 12.

d. *Income exclusions.* The following sources are excluded from the computation of monthly gross income:

(1) Per capita payments from or funds held in trust in satisfaction of a judgment of the Indian Claims Commission or the court of claims.

(2) Payments made pursuant to the Alaska Claims Settlement Act, to the extent the payments are exempt from taxation under Section 21(a) of the Act.

(3) Money received from the sale of property, unless the person was engaged in the business of selling property.

(4) Withdrawals of bank deposits.

(5) Money borrowed.

(6) Tax refunds.

(7) Gifts.

(8) Lump-sum inheritances or insurance payments or settlements.

(9) Capital gains.

(10) The value of the food assistance allotment under the Food Stamp Act of 1964.

(11) The value of USDA donated foods.

(12) The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food program for children under the National School Lunch Act.

(13) Earnings of a child 14 years of age or younger.

(14) Loans and grants obtained and used under conditions that preclude their use for current living expenses.

(15) Any grant or loan to any undergraduate student for educational purposes made or insured under the Higher Education Act.

(16) Home produce used for household consumption.

(17) Earnings received by any youth under Title III, Part C—Youth Employment Demonstration Program of the Comprehensive Employment and Training Act of 1973.

(18) Stipends received for participating in the foster grandparent program.

(19) The first \$65 plus 50 percent of the remainder of income earned in a sheltered workshop or work activity setting.

(20) Payments from the Low-Income Home Energy Assistance Program.

(21) Agent Orange settlement payments.

(22) The income of the parents with whom a teen parent resides.

(23) For children with special needs, income spent on any regular ongoing cost that is specific to that child's disability.

(24) Moneys received under the federal Social Security Persons Achieving Self-Sufficiency (PASS) program or the Income-Related Work Expense (IRWE) program.

(25) Income received by a Supplemental Security Income recipient if the recipient's earned income was considered in determining the needs of a family investment program recipient.

(26) The income of a child who would be in the family investment program eligible group except for the receipt of Supplemental Security Income.

(27) Any adoption subsidy payments received from the department.

e. *Family size.* The following people shall be included in the family size for the determination of eligibility:

(1) Legal spouses (including common law) who reside in the same household.

(2) Natural mother or father, adoptive mother or father, or stepmother or stepfather, and children who reside in the same household.

(3) A child or children who live with a person or persons not legally responsible for the child's support.

f. *Effect of temporary absence.* The composition of the family does not change when a family member is temporarily absent from the household. "Temporary absence" means:

(1) An absence for the purpose of education or employment.

(2) An absence due to medical reasons that is anticipated to last less than three months.

(3) Any absence when the person intends to return home within three months.

Amend subrule 170.2(2) as follows:

Amend the introductory paragraph as follows:

170.2(2) General eligibility requirements. In addition to meeting financial requirements, the child needing services must meet age and residency requirements and each parent in

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the household must have at least one need for service. ~~When funds are insufficient, families applying for services must meet the specific requirements found in subrule 170.2(3) of the priority group for which applications are being taken. Families approved when applications are being taken for priority groups are not required to meet the requirements in paragraph 170.2(2)“b” except at review or redetermination. Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients are eligible for child care assistance notwithstanding waiting lists for child care services.~~

Adopt the following **new** paragraph “c”:

c. Residency. To be eligible for child care services, the person must be living in the state of Iowa. “Living in the state” shall include those persons living in Iowa for a temporary period, other than for the purpose of vacation.

Amend subrule 170.2(3) as follows:

170.2(3) Priority for assistance. *Child care services shall be provided only when funds are available.* Funds available for child care assistance shall first be used to continue assistance to families currently receiving child care assistance and to families with protective child care needs. *When funds are insufficient, families applying for services must meet the specific requirements in this subrule.*

a. *Priority groups.* As funds are determined available, families shall be served on a statewide basis from a service-area-wide waiting list as specified in subrule 170.3(4) based on the following schedule in descending order of prioritization. ~~Recipients of the family investment program, those whose earned income was taken into account in determining the needs of family investment program recipients, and families that receive a state adoption subsidy for a child are eligible for child care assistance notwithstanding waiting lists for assistance. Applications for child care assistance shall be taken only for the priority groupings for which funds have been determined available.~~

a. (1) Families with an income at or below 100 percent of the federal poverty level whose members are employed at least 28 hours per week, and parents with a family income at or below 100 percent of the federal poverty level who are under the age of 21 and are participating in an educational program leading to a high school diploma or equivalent.

b. ~~Rescinded IAB 7/6/94, effective 7/1/94.~~

c. (2) Parents under the age of 21 with a family income at or below 100 percent of the federal poverty guidelines who are participating, at a satisfactory level, in an approved training program or in an education program.

d. (3) Families with an income of more than 100 percent but not more than 140 percent of the federal poverty guidelines whose members are employed at least 28 hours per week.

e. (4) Families with an income at or below 175 percent of the federal poverty guidelines whose members are employed at least 28 hours per week with a special needs child as a member of the family.

b. *Exceptions to priority groups.* The following are eligible for child care assistance notwithstanding waiting lists for child care services:

(1) Families with protective child care needs.

(2) Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients.

(3) Families that receive a state adoption subsidy for a child.

c. *Effect on need for service.* Families approved under a priority group are not required to meet the requirements in paragraph 170.2(2)“b” except at review or redetermination.

ITEM 8. Amend rule 441—170.3(237A) as follows:

Amend the introductory paragraph as follows:

441—170.3(237A,239B) Goals Application and determination of eligibility. Appropriate goals for child care services are those described in 441—subrule 130.7(1), paragraphs “a,” “c,” and “d.”

Adopt the following **new** subrules:

170.3(1) Application process.

a. Application for child care assistance may be made at any county office of the department on Form 470-3624, Child Care Assistance Application.

b. The application may be filed by the applicant, by the applicant’s authorized representative or, when the applicant is incompetent or incapacitated, by a responsible person acting on behalf of the applicant.

c. The date of application is the date a signed application form is received in the county office.

170.3(2) Exceptions to application requirement. Applications are not required for:

a. A person who is participating in activities approved under the PROMISE JOBS program.

b. Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients.

c. Families with protective service needs.

d. Child care services provided under a court order.

170.3(3) Application processing. The department shall approve or deny an application as soon as possible, but no later than 30 days following the date the application was received.

The department shall issue a written notice of decision to the applicant by the next working day following a determination of eligibility. EXCEPTION: When the court orders services, the court order provided by the court and the case plan provided by the department shall serve as written notification.

170.3(4) Waiting lists for child care services. When the department has determined that there may be insufficient funding, applications for child care assistance shall be taken only for the priority groups for which funds have been determined available according to subrule 170.2(3).

a. The department shall maintain a log of families applying for child care services that meet the requirements within the priority groups for which funds may be available.

(1) Each family shall be entered on the logs according to their eligibility priority group and in sequence of their date of application.

(2) If more than one application is received on the same day for the same priority group, families shall be entered on the log based on the day of the month of the birthday of the oldest eligible child. The lowest numbered day shall be first on the log. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

b. When the department determines that there is adequate funding, the department shall notify the public regarding the availability of funds.

170.3(5) Review and redetermination. Eligibility for child care assistance shall be redetermined at least every six months in the same manner as at application. EXCEPTION: Recipients of the family investment program or those whose earned income was taken into account in determining the needs of family investment program recipients shall be

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deemed eligible notwithstanding eligibility redetermination requirements.

a. If the department has suspended family investment program benefits, the family will continue to receive child care assistance on the basis of family investment program eligibility until family investment program eligibility has been canceled.

b. If family investment program eligibility ends, the department shall redetermine child care assistance eligibility according to the requirements in rule 441—170.2(237A, 239B). The redetermination of eligibility shall be completed within 30 days.

ITEM 9. Amend rule 441—170.4(237A) as follows:

Rescind subrule 170.4(2) and adopt the following **new** subrule in lieu thereof:

170.4(2) Fees. Fees for services received shall be charged to clients according to the schedule in this subrule, except that fees shall not be charged to clients receiving services without regard to income. Nothing in these rules shall preclude a client from voluntarily contributing toward the costs of service.

a. Fee schedule. The fee schedule for child care services is shown in the following table:

Monthly Income Increment Levels According to Family Size

Income Increment Levels	1	2	3	4	5	6	7	8	9	10	Half- Day Fee
A	\$737	\$989	\$1241	\$1492	\$1744	\$1996	\$2248	\$2499	\$2751	\$3003	\$0.00
B	776	1041	1306	1571	1836	2101	2366	2631	2896	3161	\$0.50
C	819	1099	1379	1659	1939	2219	2498	2778	3058	3338	\$1.00
D	865	1161	1456	1752	2047	2343	2638	2934	3229	3525	\$1.50
E	914	1226	1538	1850	2162	2474	2786	3098	3410	3722	\$2.00
F	965	1295	1624	1954	2283	2613	2942	3272	3601	3931	\$2.50
G	1019	1367	1715	2063	2411	2759	3107	3455	3803	4151	\$3.00
H	1076	1444	1811	2179	2546	2913	3281	3648	4016	4383	\$3.50
I	1136	1524	1912	2301	2689	3077	3465	3853	4241	4629	\$4.00
J	1200	1610	2020	2429	2839	3249	3659	4068	4478	4888	\$4.50
K	1267	1700	2133	2565	2998	3431	3864	4296	4729	5162	\$5.00
L	1338	1795	2252	2709	3166	3623	4080	4537	4994	5451	\$5.50
M	1413	1896	2378	2861	3343	3826	4308	4791	5274	5756	\$6.00

The following instructions apply to the use of the sliding fee schedule:

(1) Find the family size that was used in determining income eligibility for service. Move across the monthly income table to the column headed by that number.

(2) Move down the column for the applicable family size to the highest figure that is equal to or less than the family's gross monthly income. Income at or above that amount (but less than the amount in the next row) corresponds to the fee in the last column of that row. **EXAMPLES:** A family with income above the Level A amount but less than the Level B amount pays the Level A fee (\$0.00). A family with income at or above the Level B amount but less than the Level C amount pays the Level B fee (\$0.50).

(3) The fee applies to each unit of service used by the family. The unit of service is a half-day, defined as up to 5 hours of service per 24-hour period.

(4) When a family has more than 10 members, determine the income levels by multiplying the figures in the 4-member column by 0.03. Round the number to the nearest dollar and multiply by the number in the family in excess of 10. Add the results to the amounts in the 10-member column.

(5) When more than one child in a family is receiving child care assistance, there is no additional fee. The fee shall be based on the child who receives the most care.

b. Collection. The provider shall collect fees from clients.

(1) The provider shall maintain records of fees collected. These records shall be available for audit by the department or its representative.

(2) When a client does not pay the fee, the provider shall demonstrate that a reasonable effort has been made to collect

the fee. "Reasonable effort to collect" means an original billing and two follow-up notices of nonpayment.

c. Inability of client to pay fees. Child care assistance may be continued without a fee, or with a reduced fee, when a client reports in writing the inability to pay the assessed fees due to the existence of one or more of the conditions set forth below. Before reducing the fee, the worker shall assess the case to verify that the condition exists and to determine whether a reduced fee can be charged. The reduced fee shall then be charged until the condition justifying the reduced fee no longer exists. Reduced fees may be justified by:

(1) Extensive medical bills for which there is no payment through insurance coverage or other assistance.

(2) Shelter costs that exceed 30 percent of the household income.

(3) Utility costs not including the cost of a telephone that exceed 15 percent of the household income.

(4) Additional expenses for food resulting from diets prescribed by a physician.

Amend subrule **170.4(3)**, paragraphs "e" and "f," as follows:

e. In-home care. The adult caretaker selected by the parent to provide care in the child's own home shall be sent the pamphlet Comm. 95, Minimum Health and Safety Requirements for Nonregistered *Child* Care Home Providers, and Form 470-2890, Payment Application for Nonregistered Providers.

Form 470-2890 shall be signed by the provider and returned to the department ~~within 15 days~~ before payment may be made. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include:

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(1) ~~minimum~~ *Minimum* health and safety requirements; ;
 (2) ~~limits~~ *Limits* on the number of children for whom care may be provided; ;

(3) ~~unlimited~~ *Unlimited* parental access to the child or children during hours when care is provided, unless prohibited by court order; ; and

(4) ~~conditions~~ *Conditions* that warrant nonpayment.

f. Nonregistered family child care home. The adult caretaker selected by the parent to provide care in a nonregistered family child care home shall be sent the pamphlet Comm. 95, Minimum Health and Safety Requirements for Nonregistered Child Care Home Providers, and Form 470-2890, Payment Application for Nonregistered Providers.

Form 470-2890 shall be signed by the provider and returned to the department ~~within 15 days~~ before payment may be made. Signature on the form certifies the provider's understanding of and compliance with the conditions and requirements for nonregistered providers that include:

(1) ~~minimum~~ *Minimum* health and safety requirements; ;

(2) ~~limits~~ *Limits* on the number of children for whom care may be provided; ;

(3) ~~unlimited~~ *Unlimited* parental access to the child or children during hours when care is provided, unless prohibited by court order; ; and

(4) ~~conditions~~ *Conditions* that warrant nonpayment.

Amend subrule **170.4(7)**, first and second unnumbered paragraphs, as follows:

The county office worker or PROMISE JOBS worker shall determine the number of units of service authorized for each eligible family and inform the family and the family's provider through the notice of decision required in 441—subrule ~~130.2(4)~~ *170.3(3)*.

The department shall issue payment when the provider submits correctly completed documentation of attendance and charges. Providers shall submit either Form 470-0020, Purchase of Services Provider Invoice, accompanied by Form 470-3872, Child Care Assistance Attendance Sheet, signed by the parent, or Form 470-3896, PROMISE JOBS Child Care *Attendance and Invoice*.

ITEM 10. Amend rule 441—170.5(237A) as follows:

Amend the introductory paragraph as follows:

441—170.5(237A) Adverse service actions. ~~Services may be denied, terminated, or reduced according to rule 441—130.5(234).~~

170.5(1) Provider agreement. The department may refuse to enter into or may revoke the Child Care Assistance Provider Agreement, Form 470-3871, if:

a. ~~the~~ *The* department finds a hazard to the safety and well-being of a child, and the provider cannot or refuses to correct the hazards; or if

b. ~~the~~ *The* provider has submitted claims for payment for which the provider is not entitled.

Adopt the following **new** subrules:

170.5(2) Denial. Child care assistance shall be denied when the department determines that:

a. The client is not in need of service; or

b. The client is not financially eligible; or

c. There is another community resource available to provide the service or a similar service free of charge; or

d. An application is required and the client or representative refuses to sign the application form; or

e. Funding is not available.

170.5(3) Termination. Child care assistance may be terminated when the department determines that:

a. The client no longer meets the eligibility criteria in subrule 170.2(2); or

b. The client's income exceeds the financial guidelines; or

c. The client refuses to allow documentation of eligibility as to need and income; or

d. No payment or only partial payment of client fees has been received within 30 days following the issuance of the last billing; or

e. Another community resource is available to provide the service or a similar service free of charge; or

f. Funding is not available.

170.5(4) Reduction. Authorized units of service may be reduced when the department determines that:

a. Continued provision of service at the current level is not necessary to meet the client's service needs; or

b. Another community resource is available to provide the same or similar service free of charge that will meet the client's needs; or

c. Funding is not available to continue the service at the current level. When funding is not available, the department may limit on a statewide basis the number of units of child care services for which payment will be made.

[Filed Emergency 5/14/04, effective 7/1/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3402B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission adopts amendments to Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

This amendment prohibits the mooring of vessels on riparian property between sunset and sunrise, where signs have been posted by the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3259B**. No comments were received during the comment period or during the public hearing held April 20, 2004. There are no changes from the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2), this amendment shall be effective upon filing. This amendment confers a benefit upon the public by allowing the Department to prohibit the mooring of vessels in areas in which such mooring would impede use by the general public. The Commission further finds that it is in the interest of the public to have the new standards in place throughout the full 2004 boating season.

This amendment is intended to implement Iowa Code section 456A.24.

This amendment became effective May 20, 2004.

The following amendment is adopted.

Amend 571—Chapter 40 by adding the following **new** rule:

571—40.49(462A) Mooring of vessels on riparian property of the state of Iowa. Where the state of Iowa owns riparian property adjacent to sovereign land or water, mooring of vessels is prohibited between sunset and sunrise on those riparian

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or sovereign lands or waters where posted by either official buoys or official signs of the department of natural resources.

[Filed Emergency After Notice 5/20/04, effective 5/20/04]
[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3401B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission adopts amendments to Chapter 43, "Motorboat Noise," Iowa Administrative Code.

These amendments provide for updated and modern testing requirements for motorboats as adopted from current U.S. Coast Guard testing standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 2004, as **ARC 3201B**. Comments received during the comment period reflected support for the amendments. There are no changes from the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)"b"(2), these amendments shall be effective upon filing. These amendments confer a benefit upon the public by limiting nuisance noise levels from boats and by adopting noise standards which are in accordance with the standards generally used in most states. The Commission finds that it is in the interest of the public to have the new standards in place throughout the full 2004 boating season.

These amendments are intended to implement Iowa Code section 456A.24.

These amendments became effective May 20, 2004.

The following amendments are adopted.

ITEM 1. Amend rule 571—43.1(462A) as follows:

571—43.1(462A) Definitions.

"A scale" means the physical scale marked "A" graduated in decibels on a sound level meter which meets the requirements of the American National Standards Institute, Incorporated, publication 51.4—1961 *S1.4—1983* General Purpose Sound Level Meters.

ITEM 2. Rescind rule 571—43.2(462A) and adopt the following **new** rule in lieu thereof:

571—43.2(462A) Sound level limitation. No person shall operate or give permission for the operation of any motorboat in or upon the waters of this state under the jurisdiction of the natural resource commission, in such a manner as to exceed the following noise levels:

43.2(1) Stationary sound level test. For engines manufactured before January 1, 1993, a motorboat engine shall not exceed a noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. For engines manufactured on or after January 1, 1993, a motorboat engine shall not exceed a noise level of 88dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005.

43.2(2) Shoreline sound level test. A motorboat engine shall not exceed a noise level of 75dB(A) when measured as specified in SAE J1970. Compliance with the requirement of this subrule is required in addition to, and shall not preclude the application of, subrule 43.2(1).

[Filed Emergency After Notice 5/20/04, effective 5/20/04]
[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3383B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 147.76, the Board of Chiropractic Examiners hereby amends Chapter 44, "Continuing Education for Chiropractic Physicians," Iowa Administrative Code.

The Board adopted amendments to Chapter 44 during a telephone conference call on May 13, 2004.

The amendments provide additional time prior to licensees' being required to have continuing education credit hours relating to the field of acupuncture for license renewal. Current rules did not provide licensees sufficient time between the rules' effective date and the current license renewal cycle to obtain the necessary continuing education hours.

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are unnecessary because the amendments provide for a time frame for licensees to obtain the required continuing education hours that is reasonable given the current availability of classes and courses offered for continuing education in the field of acupuncture.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on May 14, 2004, as they confer a benefit upon the chiropractic community and the general public.

These amendments became effective May 14, 2004.

These amendments are intended to implement Iowa Code chapter 151.

The following amendments are adopted.

ITEM 1. Amend subrule 44.2(5) as follows:

44.2(5) No hours of continuing education shall be carried over into the next biennium except as stated ~~for the second renewal in subrules 44.2(2), 44.2(3), and 44.3(2)"a"(3).~~

ITEM 2. Amend subrule 44.3(2) as follows:

44.3(2) Specific criteria.

a. Continuing education hours of credit ~~may~~ **shall** be obtained by completing:

a. (1) At least 36 hours of continuing education credit obtained on a board-approved program that relates to the clinical practice of chiropractic.

b. (2) A minimum of two hours per biennium in professional boundaries regarding ethical issues related to professional conduct that may include but are not limited to sexual harassment, sensitivity training and ethics.

c. (3) ~~A~~ **Starting with the 2006 renewal cycle**, a minimum of 12 hours per biennium of continuing education in the field

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

of acupuncture. ~~This requirement is applicable only if the chiropractic physician is engaged in the practice of acupuncture. Continuing education hours in the field of acupuncture earned between December 31, 2003, and June 30, 2004, up to a maximum of 12 hours may be used to satisfy licensure renewal requirements for either the 2004 or 2006 renewal cycle. The licensee may use the earned continuing education credit hours only once. Credit can not be duplicated for both the 2004 and 2006 compliance periods.~~

~~d. (4) Classes on child abuse, dependent adult abuse, and OSHA training that meet the criteria in subrule 44.3(1). These classes are approved by the board and do not require prior approval or postapproval.~~

~~b. Continuing education hours of credit may be obtained by:~~

~~e. (1) Teaching at a Council on Chiropractic Education (CCE) or board of chiropractic examiners-approved institution. Hours may be used only for the initial session and shall have prior board approval.~~

~~f. (2) Electronically. Completing electronically transmitted programs/activities or home study programs/activities that have a certificate of completion.~~

[Filed Emergency 5/14/04, effective 5/14/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3418B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

This amendment regarding the driver education teaching endorsement reduces the number of hours for the content requirement and, therefore, eliminates the need for institutions to add unnecessary and possibly unrelated courses in an effort to satisfy the required 15 hours. The amendment also includes language regarding drug and alcohol abuse.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3256B**. A public hearing on the amendment was held on April 20, 2004. No one attended the public hearing, and two written comments were received which supported the amendment. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective July 14, 2004.

The following amendment is adopted.

Amend subrule 14.141(6) as follows:

14.141(6) Driver ~~and safety~~ education. 7-12. Completion of ~~15~~ 9 semester hours in driver ~~and safety~~ education to include coursework in accident prevention *that includes drug and alcohol abuse*; ; vehicle safety; ; and behind-the-wheel driving.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3417B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

This amendment modifies the Board's K-6 and 7-12 reading endorsements to reflect current national reading standards and to reflect best practice through delineated performance competencies. A statewide group of stakeholders consisting of teachers, higher education faculty, area education agency consultants, Iowa Reading Association members, and Board staff was convened for a year to review the Board's current reading endorsements and to make recommendations for any modifications. This group recommended that the K-6 and 7-12 reading endorsements be modified as provided in this rule making.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 2004, as **ARC 3198B**. A public hearing on the amendment was held on March 25,

2004. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective July 14, 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 [14.141(16)] is being omitted. This amendment is identical to that published under Notice as **ARC 3198B**, IAB 3/3/04.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3419B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 16, "Occupational and Postsecondary Endorsements and Licenses," Iowa Administrative Code.

As of July 1, 2003, the Board of Educational Examiners no longer issues postsecondary licenses pursuant to 2002 Iowa Acts, chapter 1047. The proposed amendments reflect the phrase "career and technical endorsements and licenses" for secondary level only, rather than the current "occupational and postsecondary endorsements and licenses." All references to "postsecondary" have been struck.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 2004, as **ARC 3197B**. A public hearing on the amendments was held on March 25, 2004. No one attended the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code chapter 272.

These amendments will become effective July 14, 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 [Ch 16 title, 16.1 to 16.12] is being omitted. These amendments are identical to those published under Notice as **ARC 3197B**, IAB 3/3/04.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3384B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby rescinds Chapter 70, "AEA Media Centers," Iowa Administrative Code.

The requirements of Chapter 70 were incorporated into 281—Chapter 72, "Accreditation of Area Education Agencies," in October 2001.

No waiver provision is included in this amendment. The Department provides agencywide uniform waiver rules in 281—Chapter 4.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3265B**. A public hearing was held on April 22, 2004. No written or oral comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 256.7, 256.16 and 272.25(1).

This amendment will become effective July 14, 2004.

The following amendment is adopted.

Rescind and reserve **281—Chapter 70**.

[Filed 5/14/04, effective 7/14/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3385B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby rescinds Chapter 71, "AEA Educational Services," Iowa Administrative Code.

The requirements of Chapter 71 were incorporated into 281—Chapter 72, "Accreditation of Area Education Agencies," in October 2001.

No waiver provision is included in this amendment. The Department provides agencywide waiver provisions in 281—Chapter 4.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3266B**. A public hearing was held on April 22, 2004. No written or oral comments were received. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 256.7, 256.16 and 272.25(1).

This amendment will become effective July 14, 2004.

The following amendment is adopted.

Rescind and reserve **281—Chapter 71**.

[Filed 5/14/04, effective 7/14/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3399B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement section 427.1(19), the Environmental Protection Commission hereby adopts amendments to Chapter 11, "Tax Certification of Pollution Control or Recycling Property," Iowa Administrative Code.

These amendments reflect the expansion of the property tax exemption to include property used to process waste wood products, pursuant to 2003 Iowa Acts, chapter 136, section 1. The amendments provide examples of recycling property typically considered eligible as well as recycling property typically considered ineligible for the tax exemption.

Notice of Intended Action was published in the March 17, 2004, Iowa Administrative Bulletin as **ARC 3222B**. A public hearing was held on April 8, 2004. No oral or written comments were received. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code Supplement section 427.1(19).

These amendments shall become effective July 14, 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 [11.1, 11.2, 11.6(1), 11.6(3)"e" and "f"] is being omitted. These amendments are identical to those published under Notice as **ARC 3222B**, IAB 3/17/04.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3425B**HISTORICAL DIVISION[223]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 303.1 and 303.1A, the Department of Cultural Affairs hereby adopts amendments to Historical Division rules, Chapter 1, "Description of Organization," Iowa Administrative Code.

These amendments clarify the internal organization and structure of the Historical Division, and describe the purposes of the State Historical Society of Iowa, the service locations, and the Board of Trustees.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3270B**.

The Department sought input about the rules by holding a public hearing. No members of the public provided comments. Department staff suggested minor changes to the amendments published under Notice of Intended Action.

The Director made the following revisions to the proposed amendments:

The last sentence of paragraph 1.5(5)"a" was omitted because it conflicted with a statement in subparagraph 1.5(6)"a"(4). The paragraph now reads as follows:

HISTORICAL DIVISION[223](cont'd)

"a. Individuals and groups. All facilities of the society are open to individuals in accordance with the posted schedule. Groups may arrange for educational programs and tours by contacting the society."

The word "all" was stricken from the second sentence in subparagraph 1.5(6)"a"(4). The subparagraph now reads as follows:

"(4) Programming. Group tours of the state historical building and educational programming are available. Prior scheduling may be required for tours and programming. An inquiry about arrangements of a museum tour may be directed to the State Historical Society of Iowa, 600 East Locust Street, Des Moines, Iowa 50319."

The Department Director adopted these rules on May 19, 2004.

These amendments shall become effective on July 14, 2004.

These amendments are intended to implement Iowa Code chapter 303.

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 [1.1 to 1.9] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3270B**, IAB 3/31/04.

[Filed 5/21/04, effective 7/14/04]
[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3386B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 229A.15B, the Department of Human Services amends Chapter 7, "Appeals and Hearings," Iowa Administrative Code.

This amendment clarifies that a patient in the Civil Commitment Unit for Sexual Offenders who appeals a patient treatment intervention outlined in the institution's patient handbook will not be granted an appeal hearing. This policy is consistent with policies in effect at the mental health institutes. The Department believes that questions about treatment intervention are best worked out with the treatment staff as part of the therapeutic program. Patients retain the right to seek legal redress in district court.

A technical change in the same subrule eliminates an obsolete reference.

This amendment does not provide for waivers in specified situations. Patients who believe that they are disadvantaged by this rule may request a waiver under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3274B**. The Department received no comments on the amendment. This amendment is identical to the Notice of Intended Action.

The Council on Human Services adopted this amendment on May 12, 2004.

This amendment is intended to implement Iowa Code chapter 229A.

This amendment shall become effective on July 14, 2004. The following amendment is adopted.

Amend subrule **7.5(2)** as follows:

Amend paragraph "**a**" by adopting the following **new** subparagraph (17):

(17) The appeal involves patient treatment interventions outlined in the patient handbook of the civil commitment unit for sexual offenders.

Amend paragraph "**f**" as follows:

f. The sole basis for denying, terminating or limiting assistance under 441—Chapter 47, Division I, II, III, or IV, or 441—Chapter 58 is that funds for the respective programs have been reduced, exhausted, eliminated or otherwise encumbered.

[Filed 5/14/04, effective 7/14/04]
[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3388B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 185, "Rehabilitative Treatment Services," Iowa Administrative Code.

These amendments change the requirements for provision of therapy and counseling in various levels of rehabilitative treatment group care service and describe how overpayments are calculated. The previous rules applicable to rehabilitative treatment services contracts specified that a provider bill the Department on a monthly basis. However, the requirements for most group foster care services provide for an average weekly therapy and counseling requirement, the amount of which is dependent upon the level of care (community, comprehensive, or enhanced).

In Boys and Girls Home and Family Services, Inc. v. State of Iowa Department of Human Services, No. 3-139/02-0866, June 13, 2003, the Iowa Court of Appeals determined that a formula of only full-week periods consisting of more than one week (i.e., periods of 14, 21 or 28 days) should be used to determine whether a provider is in compliance with the therapy and counseling requirements for rehabilitative treatment and supportive services contracts. The Department issued audit guidelines on September 2, 2003, to comply with the decision of the Iowa Court of Appeals.

These amendments clarify the therapy and counseling requirements and their application upon audit by changing the therapy and counseling requirement for group foster care services from a weekly requirement to a calendar monthly requirement, based upon the total number of service days payable to the provider during the calendar month. The amendments also abandon the concept of "contiguous day periods" used in the September 2, 2003, audit guidelines.

Under these amendments, the number of hours of therapy and counseling required to be provided is determined based only upon the number of service days payable to the provider and the level of care (community, comprehensive, or en-

HUMAN SERVICES DEPARTMENT[441](cont'd)

hanced). Therapy and counseling services and skill development can be provided on any day during the calendar month that the child is present in the facility. A child is considered "present" in a facility if the child is in the facility for at least a portion of the day. Therapy and counseling services may be provided in a setting other than the facility. These amendments will be applied when the Department initiates any rehabilitative treatment and supportive services billing audits on or after December 1, 2003.

Since rehabilitative treatment services are subject to Medicaid coverage and audit requirements, the Department submitted these policies to the Centers for Medicare and Medicaid Services (CMS) for review. CMS has indicated approval.

There are no waiver provisions specifically in these amendments. Individuals may request a waiver under the Department's general rule on exceptions at 441—1.8(17A, 217).

These amendments were also Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on January 7, 2004, as **ARC 3078B**. Notice of Intended Action was published as **ARC 3073B** on the same date to solicit comment on the amendments. The Department received two comments in support of the amendments. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 12, 2004.

These amendments shall become effective on July 14, 2004, at which time the Adopted and Filed Emergency amendments are rescinded.

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

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 [185.13(2)"e"(3), 185.83, 185.126] is being omitted. These amendments are identical to those published under Notice as **ARC 3073B** and Adopted and Filed Emergency as **ARC 3078B**, IAB 1/7/04.

[Filed 5/14/04, effective 7/14/04]
[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3427B**IOWA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM[495]****Adopted and Filed**

Pursuant to the authority of Iowa Code Supplement sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends 581—Chapter 21, "Iowa Public Employees' Retirement System," and adopts 495—Chapter 4, "Employers," 495—Chapter 5, "Employees," and 495—Chapter 6, "Covered Wages," Iowa Administrative Code.

This rule making rescinds rules 581—21.2(97B) to 581—21.7(97B). The content of these rules, regarding covering employers, employees and covered wages, has been trans-

ferred into new 495—Chapters 4 to 6 pursuant to 2003 Iowa Acts, chapter 145.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 14, 2004, as **ARC 3295B**.

A public hearing was held on May 4, 2004, at IPERS, 7401 Register Drive, Des Moines, Iowa. No parties attended the public hearing. No written comments were received prior to the hearing.

These amendments are identical to those published under Notice except for the correction of scrivener's errors as follows: In subrule 4.6(6), the effective dates of the prior special rates have been changed from "July 1, 2002, through June 30, 2003," to "July 1, 2003, through June 30, 2004," and in subrule 6.3(7), in the last sentence of the first paragraph, an incorrect reference to 581—6.5(97B) was changed to 495—6.5(97B). Additional changes were made to correct nonsubstantive scrivener's errors.

These amendments are intended to implement Iowa Code chapter 97B as amended by 2003 Iowa Acts, chapter 145.

These amendments will become effective July 14, 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 [rescind 581—21.2 to 581—21.7; adopt 495—Chs 4 to 6] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 3295B**, IAB 4/14/04.

[Filed 5/21/04, effective 7/14/04]
[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3422B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 8, "Fees," and Chapter 12, "Mandatory Reporting and Grounds for Discipline," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 14, 2004, as **ARC 3290B**. No public comment was received. These amendments are identical to those published under Notice.

The Board of Medical Examiners approved the amendments during a telephone conference call on May 19, 2004.

The amendments establish new fees, revise existing fees and establish repayment receipts as defined in Iowa Code section 8.2. The fee collected from an acupuncturist or physician for a duplicate wall certificate or renewal card will be considered a repayment receipt. The elements of the data lists and the fees will be changed to provide all data elements and eliminate customized lists and the added costs. The fee for obtaining the data list will be considered a repayment receipt. Whenever the Board requests a report from the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank regarding an applicant or licensee, the cost of obtaining the report is included within the licensure fee, and that portion of the fee spent to obtain the report will be considered a repayment receipt. The Board may negotiate

MEDICAL EXAMINERS BOARD[653](cont'd)

in a settlement agreement a provision for payment of \$100 per quarter to cover the Board's expenses in monitoring a licensee's compliance with the settlement agreement, and this fee will be considered a repayment receipt.

These amendments are intended to implement Iowa Code sections 8.2 and 147.80.

These amendments will become effective July 14, 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 [8.2(2)"e," 8.4(6), 8.7, 8.12, 8.13, 12.25(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 3290B**, IAB 4/14/04.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3421B**MEDICAL EXAMINERS
BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 13, "Standards of Practice and Professional Ethics," Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 14, 2004, as **ARC 3289B**. No public comment was received. This amendment is identical to the one published under Notice.

The Board of Medical Examiners approved the amendment during a telephone conference call on May 19, 2004. This amendment was proposed at the request of the Board of Pharmacy Examiners.

The amendment adds a registered pharmacist-intern to the list of those to whom an authorized pharmacist may delegate the administration of influenza and pneumococcal vaccines to adults. An authorized pharmacist is required to provide direct personal supervision when delegating such administration to a registered pharmacist-intern.

This amendment is intended to implement Iowa Code sections 147.76 and 272C.3.

This amendment will become effective July 14, 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 [13.3(1)"c"] is being omitted. This amendment is identical to that published under Notice as **ARC 3289B**, IAB 4/14/04.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3406B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 51, "Game Management Areas," Iowa Administrative Code.

Chapter 51 establishes regulations for management and public use of game management areas. The amendment changes the time in which waterfowl hunters must remove their decoys from game management areas from one-half hour after sunset to one hour after sunset.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 2004, as **ARC 3202B**. A public hearing was held on March 31, 2004. No comments were received on the proposed amendment. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

This amendment shall become effective July 14, 2004.

The following amendment is adopted.

Amend subrule 51.5(3) as follows:

51.5(3) Use of waterfowl decoys. The use of waterfowl decoys on any game management area, except on Pools 16, 17 and 18 of the Mississippi River, is restricted as follows:

Decoys are prohibited from one-half hour after sunset until midnight each day, and decoys cannot be left unattended for over 30 minutes between midnight and one-half hour after sunset. Decoys shall be considered as removed from an area when they are picked up and placed in a boat, vehicle or other container at an approved access site.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3405B**NATURAL RESOURCE
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 53, "Controlled Hunting Areas," Iowa Administrative Code.

Rule 571—53.3(481A) establishes regulations for controlled hunting at Lake Odessa Wildlife Management Area. The amendment eliminates controlled hunting on Lake Odessa Wildlife Management Area until after October 12.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 2004, as **ARC 3205B**. A public hearing was held on March 31, 2004. No comments were received on the proposed amendment. One change from the Notice has been made: The Commission did not adopt the proposed amendment which would have made the provisions of the rule applicable during the goose season.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

This amendment shall become effective July 14, 2004.

NATURAL RESOURCE COMMISSION[571](cont'd)

The following amendment is adopted.

Amend rule 571—53.3(481A), introductory paragraph, as follows:

571—53.3(481A) Waterfowl hunting on Lake Odessa. The following regulations shall be in effect during *the* duck season only *after October 12* on Lake Odessa, Louisa County, Iowa.

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3400B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 61, "State Parks and Recreation Areas," Iowa Administrative Code.

This amendment increases cabin rental fees in five state parks due to various renovations and facility upgrades.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 31, 2004, as **ARC 3260B**. A public hearing was held on April 20, 2004. No public comments were received. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 461A.3, 461A.47 and 461A.57.

This amendment will become effective on July 14, 2004.

The following amendment is adopted.

Amend subrule **61.4(1)**, paragraph "a," as follows:

a. Cabin rental. This fee does not include tax. Tax will be calculated at time of final payment.

	<u>Per Night*</u>	<u>Per Week</u>
Backbone State Park, Delaware County		
Renovated cabins	\$ 50	\$300
Two-bedroom cabins	85	510
Deluxe cabins	100	600
Dolliver Memorial State Park, Webster County	35	210
Green Valley State Park, Union County	30 35	180 210
Lacey-Keosauqua State Park, Van Buren County	50	300
Lake Darling State Park, Washington County	25 35	150 210
Lake of Three Fires State Park, Taylor County	50	300
Lake Wapello State Park, Davis County (Cabin Nos. 1-12)	60	360
Lake Wapello State Park, Davis County (Cabin No. 13)	85	510
Lake Wapello State Park, Davis County (Cabin No. 14)	75	450
Palisades-Kepler State Park, Linn County	30 50	180 300

	<u>Per Night*</u>	<u>Per Week</u>
Pine Lake State Park, Hardin County		
Sleeping-area cabins (four-person occupancy limit)	50	300
One-bedroom cabins	65	390
Pleasant Creek State Recreation Area, Linn County	25	150
Springbrook State Park, Guthrie County	30 35	180 210
Wilson Island State Recreation Area, Pottawattamie County	25	150
Extra cots, where available	1	

*Minimum two nights

[Filed 5/20/04, effective 7/14/04]

[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3403B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 481B.3, the Natural Resource Commission hereby amends Chapter 77, "Endangered and Threatened Plant and Animal Species," Iowa Administrative Code.

Chapter 77 lists the threatened and endangered plant and animal species and exemptions. This adopted amendment to the exemptions protects private landowners that voluntarily implement conservation measures for listed species. The landowner incentive program is a cost-share program that provides private landowners with 75 percent of the cost to implement various land management practices that benefit listed plant and animal species. If the population of one or more listed species increases during the time when a landowner incentive program agreement is in effect, the landowner will not be required to commit additional resources to maintain the population above the level that was specified in the agreement. Also, after the expiration of the agreement, a landowner will only be responsible for maintaining populations and habitat at the estimated level (baseline) at the time the agreement was signed or at a mutually agreed-upon level above the baseline.

Notice of Intended Action was published March 31, 2004, in the Iowa Administrative Bulletin as **ARC 3258B**. A public hearing was held on April 22, 2004. No comments were received at the hearing or during the comment period. There are no changes from the Notice.

This amendment is intended to implement Iowa Code chapter 481B.

This amendment will become effective July 14, 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 [77.4(9)] is being omitted. This amendment

NATURAL RESOURCE COMMISSION[571](cont'd)

is identical to that published under Notice as **ARC 3258B**, IAB 3/31/04.

[Filed 5/20/04, effective 7/14/04]
[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3404B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

Chapter 99 gives the regulations for hunting wild turkeys during the fall and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take and transportation tag requirements. This amendment increases the hunting license quotas in most zones to take advantage of increasing turkey populations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 3, 2004, as **ARC 3204B**. A public hearing was held on March 31, 2004. Two persons did not want to increase license quotas in southern Iowa, and one person wanted to be able to carry a handgun while turkey hunting. No other comments were received. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

This amendment shall become effective July 14, 2004.

The following amendment is adopted.

Amend subrule 99.5(1) as follows:

99.5(1) Combination shotgun-or-archery licenses. A limited number of paid combination shotgun-or-archery licenses will be issued by zone as follows:

- a. Zone 1. 50
- b. Zone 2. 50
- c. Zone 3. 50
- d. Zone 4. 3,500 4,500
- e. Zone 5. 450 500
- f. Zone 6. 3,000
- g. Zone 7. 200 400
- h. Zone 8. 75 150

[Filed 5/20/04, effective 7/14/04]
[Published 6/9/04]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/9/04.

ARC 3426B

RECORDS COMMISSION[671]

Adopted and Filed

Pursuant to the authority of Iowa Code Supplement section 305.8, the Records Commission hereby rescinds Chapter

1, "Organization and Responsibility," and Chapter 2, "State Records Management Manual"; and adopts Chapter 1, "Organization and Responsibilities"; Chapter 2, "State Records Manual"; Chapter 3, "Records Series Retention and Disposition Schedules Process"; Chapter 4, "Temporary Records—Transfer and Storage Process"; Chapter 5, "Temporary Records—Access Process"; Chapter 6, "Temporary Records—Destruction Process"; Chapter 7, "Permanent Records—Transfer Process"; Chapter 8, "Care of and Access to Permanent Records Collections"; and Chapter 14, "Development Process for Government Information Policies, Standards and Guidelines," Iowa Administrative Code.

These rules clarify the duties and responsibilities of the Records Commission, its administrative support agency, the State Archives and Records Bureau of the Department of Cultural Affairs, and state agencies regarding the implementation of Iowa Code Supplement chapter 305. These rules establish the processes by which agencies interact with the Records Commission in all aspects of the state of Iowa's records management and state archives programs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 17, 2004, as **ARC 3229B**. The Records Commission Chairperson adopted these rules on May 21, 2004.

The Records Commission sought input about the rules by seeking written comment and by holding a public hearing. Two state agencies submitted written comments and four state agencies, including the two that submitted written comments, attended the public meeting. One agency suggested modifications to 671—Chapter 5 to limit the authority of auditors seeking access to records in the State Records Center. Another agency suggested a change to 671—Chapter 4 to make central office use of the State Records Center permissive rather than mandatory.

The Records Commission, at its April 8, 2004, meeting directed staff and legal counsel to evaluate these comments, to work with the agencies, and to make appropriate revisions to the rules prior to final adoption.

The Records Commission reviewed the agency comment regarding rule 4.1(305) and determined not to change the language of that rule on the basis that making central office use of the State Records Center permissive rather than mandatory would open the door to the inefficient and more costly development of agency records centers.

The following changes were made to the Notice:

The definition of "authorized user" in rule 5.2(305) was amended to clarify that the scope of authorization for auditors from the office of State Auditor is limited to financial records of state agencies.

The definition now reads as follows:

"'Authorized user' means an agency staff person appointed by an agency head to have the authority to review or remove an agency record from the state records center and the authority to borrow, with prior approval of the state archivist, an agency record from the state archives of Iowa for administrative use in the agency. The auditor of state's office is an ex officio authorized user for purposes of auditing financial records of state agencies."

In addition, subrule 5.6(2) was amended to reiterate that the authorization of auditors is limited to financial records unless those records are otherwise protected by law.

Subrule 5.6(2) now reads as follows:

"**5.6(2)** The state archives and records bureau shall make all agency financial records in the state records center available to the auditor of state for purposes of financial audit unless those records are otherwise protected by law."

These rules shall become effective on July 14, 2004.

RECORDS COMMISSION[671](cont'd)

These rules are intended to implement Iowa Code Supplement chapter 305.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 1 to 8, 14] is being omitted. With the exception of the changes noted above, these rules are identical to those published under Notice as **ARC 3229B**, IAB 3/17/04.

[Filed 5/21/04, effective 7/14/04]

[Published 6/9/04]

[For replacement pages for IAC, see IAC Supplement 6/9/04.]

ARC 3396B

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 11, "Electronic Data Interchange (EDI)," Iowa Administrative Code.

These amendments update requirements for filing information with the agency by means of electronic data interchange (EDI).

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on April 14, 2004, as **ARC 3287B**.

Written comments were solicited until May 4, 2004. No written comments on these amendments were received. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective July 14, 2004.

These amendments are intended to implement Iowa Code sections 85.26, 86.8, 86.11, 86.12 and 86.13.

The following amendments are adopted.

ITEM 1. Amend rule 876—11.7(85,86) as follows:

876—11.7(85,86) Required reports. A reporter shall file reports as required by *Iowa Code sections 86.11, 86.12, and 86.13, 876—subrules 3.1(1) and 3.1(2)*, this chapter and the partnering agreement. Reports required to be filed include, but are not limited to, the following:

First report of injury (FROI). See 876—subrule 3.1(1);

Subsequent report of injury (SROI). See 876—subrule 3.1(2); and

~~Annual reports report on open files every claim that cover all benefits paid during the previous year ending is open on June 30 each year. The annual report shall show all benefits paid since the claim was initiated through June 30 of the current year. A final report shall be filed in lieu of the annual report if the claim is closed and the final report is filed before the date when the annual report is scheduled to be filed; and~~

Final report filed at the time the claim is closed. The final report indicates that no further benefit payments are contemplated.

ITEM 2. Amend **876—Chapter 11**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 85.26, 86.8, 86.11, 86.12 and 86.13.

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