IOWA ADMINISTRATIVE BULLETIN

Published Biweekly VOLUME XXVIII NUMBER 25
June 7, 2006 Pages 1741 to 1832

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PUBLISHED UNDER AUTHORITY OF IOWA CODE SECTIONS 2B.5 AND 17A.6

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 and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

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Iowa Administrative Bulletin

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Iowa Administrative Code

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Attn: Nicole Navara
Legislative Services Agency
Miller Building
Des Moines, IA 50319
Telephone: (515)281-6766

CITATION of Administrative Rules

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

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

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

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

Schedule for Rule Making
2006

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
Aug. 23	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
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Dec. 13	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
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PRINTING SCHEDULE FOR IAB

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
1	**Friday, June 16, 2006**	**July 5, 2006**
2	**Wednesday, June 28, 2006**	**July 19, 2006**
3	**Friday, July 14, 2006**	**August 2, 2006**

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. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, 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:

bruce.carr@legis.state.ia.us and
kathleen.west@legis.state.ia.us

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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Procurement of goods and services, 105.15 IAB 6/7/06 **ARC 5137B**	Conference Room 4, Level A Hoover State Office Bldg. Des Moines, Iowa	June 27, 2006 10 a.m.
DEAF SERVICES DIVISION[429]		
Standing committees, 1.3(5) IAB 6/7/06 **ARC 5152B**	Room 208, 2nd Floor Lucas State Office Bldg. Des Moines, Iowa	June 27, 2006 10:30 a.m.
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School nurse—statement of professional recognition (SPR), 14.140(11) IAB 6/7/06 **ARC 5157B**	Room 3 Southwest, 3rd Floor Grimes State Office Bldg. Des Moines, Iowa	June 27, 2006 1 p.m.
Special education endorsements, 15.3 to 15.20 IAB 6/7/06 **ARC 5158B**	Room 3 Southwest, 3rd Floor Grimes State Office Bldg. Des Moines, Iowa	June 27, 2006 1:30 p.m.
EDUCATION DEPARTMENT[281]		
Community college accreditation, ch 24 IAB 6/7/06 **ARC 5135B**	State Board Room Grimes State Office Bldg. Des Moines, Iowa	June 29, 2006 1 to 3:30 p.m.
School buses, amendments to ch 44 IAB 6/7/06 **ARC 5136B**	Airport Holiday Inn 6111 Fleur Dr. Des Moines, Iowa	July 20, 2006 1 to 2:30 p.m.
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Area agencies on aging—board of directors, 6.7 to 6.17 IAB 6/7/06 **ARC 5138B** **(ICN Network)**	State Library, 3rd Floor Miller State Office Bldg. Des Moines, Iowa	June 28, 2006 1:30 p.m.
	Room 106, NIACC 500 College Dr. Mason City, Iowa	June 28, 2006 1:30 p.m.
	Room 209A, Western Hills AEA 1520 Morningside Ave. Sioux City, Iowa	June 28, 2006 1:30 p.m.
	Revere Room, Grant Wood AEA 4401 Sixth St. SW Cedar Rapids, Iowa	June 28, 2006 1:30 p.m.
	High School 800 E. Third St. Spencer, Iowa	June 28, 2006 1:30 p.m.

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(ICN Network)

	AEA 3601 West Avenue Rd. Burlington, Iowa	June 28, 2006 1:30 p.m.
	Community School 2300 Chaney Dubuque, Iowa	June 28, 2006 1:30 p.m.
	Public Library 400 Willow Ave. Council Bluffs, Iowa	June 28, 2006 1:30 p.m.
	Gibson Public Library 200 W. Howard St. Creston, Iowa	June 28, 2006 1:30 p.m.
	Bldg. 14, Indian Hills Comm. College 626 Indian Hills Dr. Ottumwa, Iowa	June 28, 2006 1:30 p.m.
	Room 119, Kimberly Center 1002 W. Kimberly Davenport, Iowa	June 28, 2006 1:30 p.m.
	West High School Baltimore and Ridgeway Waterloo, Iowa	June 28, 2006 1:30 p.m.
	High School 100 E. Claiborne Dr. Decorah, Iowa	June 28, 2006 1:30 p.m.

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Air quality, 20.1, 22.4, 22.6, ch 33 IAB 6/7/06 **ARC 5154B**	Conference Rooms Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	July 10, 2006 1 p.m.

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Wild turkey fall hunting, 99.1, 99.10, 9.11(8), 99.12 IAB 6/7/06 **ARC 5146B**	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 27, 2006 9 a.m.
Deer population management zone— penalty for violating regulations 105.3(6), 105.3(7) IAB 6/7/06 **ARC 5142B**	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 27, 2006 9 a.m.

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

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

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

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

The following list will be updated as changes occur:

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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 section 8A.104, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 105, "Procurement of Goods and Services of General Use," Iowa Administrative Code.

The purpose of these amendments is to describe the methods state agencies will use to acquire goods and services of general use. The proposed amendments do not make substantive changes to state policy for competitive procurement methods, standard contract requirements, agency guidelines, or vendor responsibilities and rights.

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

The Department will accept public comments on the proposed amendments until 4:30 p.m. on June 27, 2006. Interested persons may submit written, oral or electronic comments to Marianne Mickelson, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0105; telephone (515)281-6904; fax (515)242-5974; or E-mail Marianne.Mickelson@iowa.gov.

There will be a public hearing on June 27, 2006, at 10 a.m. in the Hoover State Office Building, Level A, Conference Room 4, Des Moines, Iowa, 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 section 8A.311.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 105.15(1) as follows:

105.15(1) Agency direct purchasing—*basic level*. An agency may procure non-master agreement goods up to $5,000 per transaction in a competitive manner. 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.

ITEM 2. Amend subrule 105.15(2) as follows:

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.~~ *Agency direct purchasing—advanced level. An agency certified by the director or designee as a "procurement center of excellence" may procure non-master agreement goods up to $50,000 per transaction in a competitive manner. To be certified, agency personnel engaged in the purchase of goods must complete enhanced procurement training established by the director or designee. Agency personnel must complete training within a two-year period in order for the agency to be certified.*

ITEM 3. Adopt **new** paragraph **105.15(5)"e"** as follows:

e. The director or designee may revoke an agency's delegated authority if the agency fails to maintain "procurement center of excellence" certification or uses the authority to procure goods or services already available on a master agreement.

ARC 5152B

DEAF SERVICES DIVISION[429]

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 216A.115, the Division of Deaf Services of the Department of Human Rights hereby gives Notice of Intended Action to amend Chapter 1, "Organization," Iowa Administrative Code.

This proposed amendment is intended to align committee work of the Commission on the Deaf with agency activities.

Any interested person may make written suggestions or comments on this proposed amendment on or before June 27, 2006. Such written materials should be directed to the Administrator, Commission on the Deaf, Department of Human Rights, Lucas State Office Building, Des Moines, Iowa 50319; fax (515)242-6119.

Persons are also invited to present oral or written suggestions or comments at a public hearing which will be held on June 27, 2006, at 10:30 a.m. in Room 208, Second Floor, Lucas State Office Building, Des Moines, Iowa 50319. At the hearing, persons will be asked to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requests for reasonable accommodations should contact the Commission in advance of the hearing and advise of specific needs.

This amendment is intended to implement Iowa Code chapter 216A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 1.3(5) as follows:

1.3(5) Standing committees. The following standing committees are established: ~~personnel, legislative, public information, program services and policies, finance, and division rules~~ *program services, legislative/division rules, and*

DEAF SERVICES DIVISION[429](cont'd)

public information/outreach. Two commission members, together with the administrative officer, shall serve on each committee; and any member may serve on several committees at one time. Each member, except the chairperson, shall serve on at least one committee. The purpose of the committees is to address specific program areas of the division, perform research on those issues, and make policy recommendations to the commission ~~body~~. Any party wanting to comment, make suggestions, or discuss concerns may contact the administrative officer or the chairperson to refer an issue to the members serving on the specific committee. Names of members may be obtained by calling the division of deaf services, central office. The committees' functions are:

a. ~~Personnel~~ *Program services*. Review personnel materials and policies developed for the division and to be recommended to the commission~~.~~*, define programs and evaluate the services on a regular basis, evaluate effectiveness of services provided and make recommendations to the commission as appropriate, identify options and goals for growth and accomplishments for the annual report to the governor, consider expansion of current services or the development of new program components to meet the needs of the community served, develop formal program policies, make recommendations to the commission on annual budget proposals, address financial issues as they arise, attend budget presentations, develop strategies to encourage funding of the program, and research the availability of grants*.

b. Legislative*/division rules.* Research and recommend legislative issues and priorities to the commission~~. Develop~~, *develop* strategies for citizens to encourage passage of legislation~~. Play~~ *, play* a direct and active role in encouraging passage of legislation, *review and make recommendations to the commission regarding changes to division rules, and attend meetings related to division rules*.

c. Public information*/outreach*. Strive to ensure public awareness and encourage constructive use of the services by those who need them~~. Plan~~ *, plan* workshops, open houses, and other awareness-promoting activities~~. Establish~~ *, establish* and maintain relationships with other agencies serving the deaf and hard-of-hearing~~. Develop~~ *, and develop* specific measures to increase visibility throughout the state.

~~d. Program services and policies. Define the program and evaluate the services on a regular basis. Evaluate effectiveness of services provided and make recommendations to the commission as appropriate. Identify options and goals for growth and accomplishments for the annual report to the governor. Consider expansion of current services or the development of new program components to meet the needs of the community served. Develop formal program policies.~~

~~e. Finance. Make recommendations to the commission on annual budget proposals, address financial issues as they arise, attend budget presentations, develop strategies to encourage funding of the program, and research availability of grants.~~

~~f. Division rules. Review and make recommendations to the commission regarding division rule changes. Attend meetings related to the division rules.~~

ARC 5157B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, "Issuance of Practitioner's Licenses and Endorsements," Iowa Administrative Code.

The proposed amendment is intended to provide recognition of the professional nurses already working in school districts. In order to obtain a statement of professional recognition, the applicant must hold a registered nurse license from the Iowa Nursing Board and be employed with a district.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, June 27, 2006, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 30, 2006. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 14.140(11) as follows:

14.140(11) School nurse.

a. School nurse endorsement.

~~a.~~ *(1)* Authorization. The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one through twelve.

~~b.~~ *(2)* Program requirements.

~~(1)~~ *1.* Degree—baccalaureate.

~~(2)~~ *2.* Completion of an approved human relations program.

~~(3)~~ *3.* Completion of the professional education core. See 14.123(3) and 14.123(4).

~~(4)~~ *4.* Content:

~~1.~~ • Organization and administration of school nurse services including the appraisal of the health needs of children and youth.

~~2.~~ • School-community relationships and resources/ coordination of school and community resources to serve the health needs of children and youth.

~~3.~~ • Knowledge and understanding of the health needs of exceptional children.

~~4.~~ • Health education.

~~c.~~ *(3)* Other. Hold a license as a registered nurse issued by the board of nursing.

NOTE: Although the school nurse endorsement does not authorize general classroom teaching, it does authorize the holder to teach health at all grade levels.

b. Requirements for a statement of professional recognition (SPR) for school nurses. If a person has passed the registered nurses examination and is licensed by the Iowa nursing board, the person may obtain a statement of professional recognition (SPR) from the board of educational examiners.

(1) An applicant will be issued an SPR if the applicant:

1. Has passed the registered nurses examination and is licensed by the Iowa nursing board.

2. While employed by an accredited K-12 school district, maintains licensure with the Iowa nursing board.

(2) Renewal requirements for the SPR are as follows:

1. The applicant must apply for renewal every five years.

2. The applicant must maintain continual licensure with the Iowa board of nursing.

3. The applicant must complete continuing education as required by the board of nursing.

(3) The school nurse SPR shall be valid for five years.

(4) All fees are nonrefundable. The fee for issuance of the SPR certificate shall be the same as for a standard license.

(5) The holder of an SPR is authorized to promote the health and safety of the students in an accredited school district, including providing medical treatment as allowed under the authority granted by virtue of holding a license from the Iowa board of nursing.

(6) A school district may require an SPR, but the board of educational examiners does not require an SPR for nurses working in a school district.

ARC 5158B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

Currently, Iowa does not have any method of recognizing, monitoring, or evaluating the required professional orientation and mobility specialist service providers. In addition, Iowa does not have reciprocity with other states and would not be able to recognize other states' licensure or endorsement for orientation and mobility. In an effort to be fair and ethical, the Educational Examiners Board has developed competencies and requirements that are modeled after those expected from other professionals who are teaching children and youth in the state of Iowa.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, June 27, 2006, at 1:30 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, June 30, 2006. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to barbara.hendrickson@iowa.gov, or by fax to (515) 281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind rules 282—15.3(272) and 282—15.4(272) and adopt the following **new** rules in lieu thereof:

282—15.3(272) Special education support personnel.

15.3(1) Authorizations requiring a license.

a. Based on teaching endorsements.

(1) Consultant.
(2) Educational strategist.
(3) Itinerant hospital services or home services teacher.
(4) Special education media specialist.
(5) Supervisor of special education—instructional.
(6) Work experience coordinator.

b. Based on school-centered preparation but the sequence of coursework does not permit service as a teacher.

(1) School audiologist.
(2) School psychologist.
(3) School social worker.
(4) Speech-language pathologist.
(5) Supervisor of special education—support.
(6) Orientation and mobility specialist.

c. Director of special education of an area education agency.

15.3(2) Authorizations requiring statements of professional recognition and licenses obtained from the professional licensure division, department of public health, or the board of nursing.

a. School audiologist.
b. School occupational therapist.
c. School physical therapist.
d. School social worker.
e. Special education nurse.
f. Speech-language pathologist.

There are two options available for the authorization, but only one is required.

282—15.4(272) Special education consultant.

15.4(1) Authorization. The holder of this endorsement is authorized to serve as a special education consultant. The consultant provides ongoing assistance to instructional programs for pupils requiring special education. A consultant can serve programs with pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8) with the exception of consultants serving deaf or hard-of-hearing or visually disabled students. Applicants who desire to serve as consultants serving deaf or hard-of-hearing or visually disabled students must hold the respective special education instructional endorsement. The deaf or hard-of-hearing consultant endorsement or the visually disabled consultant endorsement allows the individual to serve students from birth to age 21.

15.4(2) Program requirements.

a. An applicant must hold a master's degree.

(1) Option 1: Master's in special education in an endorsement area listed under rule 15.2(272).

(2) Option 2: Master's in another area of education plus an endorsement in at least one special education instructional area.

b. Content. The coursework is to be at least 8 graduate semester hours to include the following:

(1) Curriculum development design.

(2) Consultation process in special or regular education:

1. Examination, analysis, and application of a methodological model for consulting with teachers and other adults involved in the educational program.

2. Interpersonal relations, interaction patterns, interpersonal influence, and communication skills.

(3) Skills required for conducting a needs assessment, delivering staff in-service needs, and evaluating in-service sessions.

15.4(3) Other. An applicant must have four years of successful teaching experience, two of which must be in special education.

282—15.5(272) Educational strategist.

15.5(1) Authorization. The holder of this endorsement is authorized to serve as an educational strategist. This special education support personnel provides assistance to regular classroom teachers in developing intervention strategies for pupils who are mildly handicapped in obtaining an education but who can be accommodated in the regular classroom environment.

15.5(2) Program requirements.

a. An applicant must hold a master's degree.

(1) Option 1: Master's in special education in an endorsement area listed under rule 15.2(272).

(2) Option 2: Master's in another area plus 30 graduate semester hours in special education (instructional). These hours may have been part of, or in addition to, the degree requirements.

b. Content. The applicant must complete the strategist training program to include the following components to total a minimum of 8 graduate semester hours:

(1) Interpersonal interaction patterns.
(2) Communication skills.
(3) Response effectiveness.
(4) Educational diagnosis and remediation.
(5) Instructional analysis (task, abilities and related processes).
(6) Behavior management—motivational factors.
(7) Formulation of treatment strategies—concept teaching, teaching strategy format.
(8) Practicum in consultative, diagnostic, and treatment design experiences.

15.5(3) Other. An applicant must:

a. Hold one of the special education teaching endorsements. This authorization is restricted to the instructional grade level held:

(1) Prekindergarten-kindergarten.
(2) K-6.
(3) 7-12.

b. Have four years of successful teaching experience, two of which must be completed in regular education.

282—15.6(272) Itinerant hospital services or home services teacher.

15.6(1) Authorization. The holder of this endorsement is authorized to provide instructional services to those special education pupils hospitalized or homebound and unable to attend class.

15.6(2) Program requirements. An applicant must hold a baccalaureate degree.

15.6(3) Other.

a. An applicant must hold a teaching license. This authorization is restricted to the instructional grade level held:

(1) Prekindergarten-kindergarten.
(2) K-6.
(3) 7-12.

b. Personnel assigned to provide instructional services in psychiatric wards must have the endorsement to serve behavioral disordered students at the proper instructional grade level.

282—15.7(272) Special education media specialist.

15.7(1) Authorization. The holder of this endorsement is authorized to serve as a special education media specialist. This support personnel provides correlation of media services only for pupils requiring special education.

15.7(2) Program requirements. An applicant must hold a master's degree with emphasis in the specialized area of educational media.

15.7(3) Other. An applicant must hold one of the teaching endorsements for special education or one of the teaching endorsements outlined under rule 282—14.140(272).

282—15.8(272) Supervisor of special education—instructional.

15.8(1) Authorization. The holder of this endorsement is authorized to serve as a supervisor of special education instructional programs. Two endorsements are available within this category:

a. The early childhood—special education supervisor endorsement allows the individual to provide services to programs with pupils below the age of 7.

b. The supervisor of special education—instructional endorsement (K-12) allows the individual to provide services to programs with pupils from 5 to 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

15.8(2) Program requirements.

a. An applicant must hold a master's degree.

(1) Option 1: Master's in special education in an endorsement area listed under rule 15.2(272).

(2) Option 2: Master's in another area of education plus 30 graduate semester hours in special education (instructional). These hours may have been part of, or in addition to, the degree requirements.

b. An applicant must meet the requirements for or hold the consultant endorsement.

c. Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:

(1) Coursework requirements specified for special education consultant. Refer to rule 15.4(272).

(2) Current issues in special education administration.

(3) School personnel administration.

(4) Program evaluation.

(5) Educational leadership.

(6) Administration and supervision of special education.

(7) Practicum: special education administration. NOTE: This requirement may be waived based on two years of experience as a special education administrator.

(8) Evaluator approval component.

15.8(3) Other.

a. An applicant must have two years of consultant/supervisor/coordinator/head teacher or equivalent experience in special education.

b. The supervisor for early childhood—special education would need to meet the requirements for that endorsement. The K-12 supervisor would need to meet the requirements for one special education teaching endorsement to include instructional grade levels K-6 and 7-12.

282—15.9(272) Work experience coordinator.

15.9(1) Authorization. The holder of this endorsement is authorized to provide support service as a work experience coordinator to secondary school programs, grades 7-12 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

15.9(2) Program requirements.

a. An applicant must hold a baccalaureate degree.

b. Content. The coursework must include:

(1) A course in career-vocational programming for special education students (if not included in the program for 7-12 endorsement).

(2) A course in coordination of cooperative occupational education programs.

(3) A course in career-vocational assessment and guidance of the handicapped.

15.9(3) Other. An applicant must hold a special education endorsement—grades 7-12.

282—15.10(272) School audiologist.

15.10(1) Authorization. The holder of this endorsement (or statement of professional recognition) is authorized to serve as a school audiologist to pupils from birth to age 21 who have hearing impairments (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

15.10(2) Option 1: Program requirements.

a. An applicant must hold a master's degree in audiology.

b. Content. An applicant must complete the requirements in audiology and in the professional education sequence, i.e., 20 semester hours including student teaching/internship as a school audiologist. Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

(1) Curriculum courses (e.g., reading, methods, curriculum development).

(2) Foundations (e.g., philosophy of education, foundations of education).

(3) Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).

(4) Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).

(5) Courses in special education (e.g., introduction to special education, learning disabilities).

(6) Child development courses (e.g., human growth and development, principles and theories of child development, history of early childhood education).

General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

c. An applicant must complete an approved human relations component.

d. The program must include preparation that contributes to the education of the handicapped and the gifted and talented.

15.10(3) Option 2: Statement of professional recognition (SPR). If an applicant has completed a master's degree in audiology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology examiners, department of public health. Additionally, the person is required to obtain an SPR from the board of educational examiners.

a. Procedure for acquiring the SPR. The special education director (or designee) of the area education agency must submit a letter requesting that the authorization be issued. The following documents must be included:

(1) A copy of a temporary or regular license issued from the professional licensure division, department of public health.

(2) An official transcript reflecting a master's degree in audiology.

b. A temporary SPR will then be issued for one school year. An approved human relations course must be completed before the start of the next school year. The applicant must provide evidence that:

(1) The applicant has completed the human relations component within the required time frame; and

(2) The class of license from the professional licensure division is a regular license in the event a temporary license was issued initially.

282—15.11(272) School psychologist.

15.11(1) Authorization. The holder of this endorsement is authorized to serve as a school psychologist with pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

15.11(2) Program requirements.

a. An applicant shall have completed an approved program of graduate study in preparation for service as a school psychologist through one of the following options:

(1) Completion of a master's degree with sufficient graduate semester hours beyond a baccalaureate degree to total 60; or

(2) Completion of a specialist's degree of at least 60 graduate semester hours with or without completion of a terminal master's degree program; or

(3) Completion of a 60-semester-hour master's degree program; or

(4) Completion of a graduate school psychology program that is currently approved (or was approved at the time of graduation) by the National Association of School Psychologists or the American Psychological Association; or

(5) Certification as a Nationally Certified School Psychologist by the National Association of School Psychologists.

The program must include a practicum in a school setting designed to give the school psychologist an opportunity to develop an understanding of the role of psychology in the classroom through participation in classroom procedures in a supportive role.

b. The program shall include an approved human relations component.

c. The program must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

15.11(3) School psychologist one-year Class A license.

a. Requirements for a one-year Class A license. A nonrenewable Class A license valid for one year may be issued to an individual who must complete an internship or thesis as an aspect of an approved program in preparation for the school psychologist endorsement. The one-year Class A license may be issued under the following limited conditions:

(1) Verification from the institution that the internship or thesis is a requirement for successful completion of the program.

(2) Verification that the employment situation will be satisfactory for the internship experience.

(3) Verification from the institution of the length of the approved and planned internship or the anticipated completion date of the thesis.

(4) Verification of the evaluation processes for successful completion of the internship or thesis.

(5) Verification that the internship or thesis is the only requirement remaining for successful completion of the approved program.

b. Written documentation of the above requirements must be provided by the official at the institution where the individual is completing the approved school psychologist program and forwarded to the board of educational examiners with the application form for licensure.

282—15.12(272) Speech-language pathologist.

15.12(1) Authorization. The holder of this endorsement (or statement of professional recognition) is authorized to serve as a speech-language pathologist to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

15.12(2) Option 1: Program requirements.

a. An applicant must hold a master's degree in speech pathology.

b. Content. An applicant must have completed the requirements in speech pathology and in the professional education sequence, i.e., 20 semester hours including student teaching/internship as a school speech-language pathologist. Courses in the following areas may be recognized for fulfilling the 20-hour sequence:

(1) Curriculum courses (e.g., reading, methods, curriculum development).

(2) Foundations (e.g., philosophy of education, foundations of education).

(3) Educational measurements (e.g., school finance, tests and measurements, measures and evaluation of instruction).

(4) Educational psychology (e.g., educational psychology, educational psychology measures, principles of behavior modification).

(5) Courses in special education (e.g., introduction to special education, learning disabilities).

(6) Child development courses (e.g., human growth and development, principles and theories of child development, history and theories of early childhood education).

General education courses (e.g., introduction to psychology, sociology, history, literature, humanities) will not be credited toward fulfillment of the required 20 hours.

c. The applicant must complete an approved human relations component.

d. The program must include preparation that contributes to the education of the handicapped and the gifted and talented.

15.12(3) Option 2: Statement of professional recognition (SPR). If an applicant has completed a master's degree in speech pathology but has not completed the education sequence or chooses not to be certified, the applicant must obtain a license from the Iowa board of speech pathology and audiology examiners, department of public health. Additionally, the person is required to obtain an SPR from the board of educational examiners.

a. Procedure for acquiring the SPR. The special education director (or designee) of the area education agency must submit a letter requesting that the authorization be issued. The following documents must be included:

(1) A copy of a temporary or regular license issued from the professional licensure division, department of public health.

(2) An official transcript reflecting a master's degree in speech pathology.

b. A temporary SPR will then be issued for one school year. An approved human relations course must be completed before the start of the next school year. The applicant must provide evidence that:

(1) The applicant has completed the human relations component within the required time frame; and

(2) The class of license from the professional licensure division is a regular license in the event a temporary license was issued initially.

282—15.13(272) Supervisor of special education—support.

15.13(1) Authorization. The holder of this endorsement is authorized to serve as a supervisor of special education support programs.

15.13(2) Program requirements.

a. An applicant must hold a master's degree in preparation for school psychology, speech/language pathology, audiology (or education of the hearing impaired), or social work.

b. Content. The program shall include a minimum of 16 graduate semester hours to specifically include the following:

(1) Consultation process in special or regular education.

(2) Current issues in special education administration.

(3) Program evaluation.

(4) Educational leadership.

(5) Administration and supervision of special education.

(6) Practicum: Special education administration. NOTE: This requirement may be waived based on two years of experience as a special education administrator.

(7) School personnel administration.

(8) Evaluator approval component.

15.13(3) Other. The applicant must:

a. Have four years of support service in a school setting with special education students in the specific discipline area desired.

b. Meet the practitioner licensure requirements of one of the following endorsements:

(1) School audiologist (or hearing impaired at K-6 and 7-12).

(2) School psychologist.

(3) School social worker.

(4) Speech-language pathologist.

NOTE: An individual holding a statement of professional recognition is not eligible for the supervisor endorsement.

282—15.14(272) Director of special education of an area education agency.

15.14(1) Authorization. The holder of this endorsement is authorized to serve as a director of special education of an area education agency. Assistant directors are also required to hold this endorsement.

15.14(2) Program requirements.

a. Degree—specialist or its equivalent. An applicant must hold a master's degree plus at least 32 semester hours of planned graduate study in administration or special education beyond the master's degree.

b. Endorsement. An applicant must hold or meet the requirements for one of the following:

(1) PK-12 principal and PK-12 supervisor of special education (see rule 282—14.142(272));

(2) Supervisor of special education—instructional (see rule 15.8(272));

(3) Supervisor of special education—support (see rule 15.13(272)); or

(4) A letter of authorization for special education supervisor issued prior to October 1, 1988.

c. Content. An applicant must have completed a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements to include the following:

(1) Knowledge of federal, state and local fiscal policies related to education.

(2) Knowledge of school plant/facility planning.

(3) Knowledge of human resources management, including recruitment, personnel assistance and development, evaluations and negotiations.

(4) Knowledge of models, theories and philosophies that provide the basis for educational systems.

(5) Knowledge of current issues in special education.

(6) Knowledge of special education school law and legislative and public policy issues affecting children and families.

(7) Knowledge of the powers and duties of the director of special education of an area education agency as delineated in Iowa Code section 273.5.

(8) Practicum in administration and supervision of special education programs.

d. Experience. An applicant must have three years of administrative experience as a PK-12 principal or PK-12 supervisor of special education.

e. Competencies. Through completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements, the director of special education accomplishes the following:

(1) Facilitates the development, articulation, implementation and stewardship of a vision of learning that is shared and supported by the school community.

(2) Advocates, nurtures and sustains a school culture and instructional program conducive to student learning and staff professional growth.

(3) Ensures management of the organization, operations and resources for a safe, efficient and effective learning environment.

(4) Collaborates with educational staff, families and community members; responds to diverse community interests and needs; and mobilizes community resources.

(5) Acts with integrity and fairness and in an ethical manner.

(6) Understands, responds to, and influences the larger political, social, economic, legal, and cultural context.

(7) Collaborates and assists in supporting integrated work of the entire agency.

15.14(3) Other.

a. Option 1: Instructional. An applicant must meet the requirements for one special education teaching endorsement and have three years of teaching experience in special education.

b. Option 2: Support. An applicant must meet the practitioner licensure requirements for one of the following endorsements and have three years of teaching experience as a:

(1) School audiologist;

(2) School psychologist;

(3) School social worker; or

(4) Speech-language pathologist.

NOTE: An individual holding a statement of professional recognition is not eligible for the director of special education of an area education agency endorsement.

282—15.15(272) Orientation and mobility specialist.

15.15(1) Authorization. The holder of this license is authorized to teach pupils (see Iowa Code section 256B.8) with a visual impairment, including those pupils who are deaf-blind.

15.15(2) Provisional orientation and mobility license. The provisional license is valid for three years. An applicant must:

a. Hold a baccalaureate or master's degree from an approved state and regionally accredited program in orientation and mobility or equivalent coursework.

b. Have completed an approved human relations component.

c. Have completed the exceptional learner program, which must include preparation that contributes to the education of students with disabilities and students who are talented and gifted.

d. Have completed a minimum of 21 semester credit hours in the following areas:

(1) Medical aspects of blindness and visual impairment, including sensory motor.

(2) Psychosocial aspects of blindness and visual impairment.

(3) Child development.

(4) Concept development.

(5) History of orientation and mobility.

(6) Foundations of orientation and mobility.

(7) Orientation and mobility instructional methods and assessments.

(8) Techniques of orientation and mobility.

(9) Research or evidence-based practices in orientation and mobility.

(10) Professional issues in orientation and mobility, including legal issues.

e. Have completed at least 350 hours of fieldwork and training under the supervision of the university program.

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15.15(3) Standard orientation and mobility license. An applicant must:

a. Complete the requirements set forth in subrule 15.15(2).

b. Verify successful completion of a three-year probationary period.

15.15(4) Renewal of orientation and mobility license. An applicant must:

a. Complete six units earned in any combination listed below.

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

(2) One unit may be earned for each semester hour of graduate or undergraduate credit, completed through a regionally accredited institution, which may not lead to a degree but which adds greater depth and breadth to present endorsements held.

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

(4) One unit may be earned upon completion of each licensure renewal course or activity approved through guidelines established by the board of educational examiners.

b. Submit documentation of completion of the child and dependent adult abuse training approved by the state abuse education review panel. A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

(1) A person is engaged in active duty in the military service of this state or of the United States.

(2) The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.

(3) A person is practicing a licensed profession outside this state.

(4) A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.

EXCEPTION: An orientation and mobility specialist is not eligible for any administrative license in either general education or special education.

282—15.16(272) School occupational therapist.

15.16(1) Authorization. The holder of this authorization may serve as a school occupational therapist to pupils from birth to age 21 who have physical impairments (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

The legalization for this support personnel is through a statement of professional recognition (SPR) and not through teacher licensure.

15.16(2) Program requirements. The applicant must:

a. Hold a degree or equivalent baccalaureate in occupational therapy.

b. Hold a valid license to practice occupational therapy in Iowa as granted by the professional licensure division, department of public health.

15.16(3) Procedure for acquiring a statement of professional recognition (SPR).

a. The special education director (or designee) of the area education agency must submit a letter to the board of educational examiners to request that the authorization be issued.

b. An applicant must submit the following documents:

(1) A copy of a temporary or regular license from the professional licensure division, department of public health.

(2) An official transcript.

c. A temporary SPR will then be issued for one school year if the class of license from the professional licensure division is temporary.

d. A regular SPR will be issued with verification of a regular license and of at least a bachelor's degree in occupational therapy.

282—15.17(272) School physical therapist.

15.17(1) Authorization. The holder of this authorization can serve as a school physical therapist to pupils from birth to age 21 who have physical impairments (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

The legalization for this support service personnel is through a statement of professional recognition (SPR) and not through teacher licensure.

15.17(2) Program requirements. An applicant must:

a. Hold a degree or equivalent baccalaureate in physical therapy.

b. Hold a valid license to practice physical therapy in Iowa as granted by the professional licensure division, department of public health.

15.17(3) Procedure for acquiring a statement of professional recognition (SPR).

a. The special education director (or designee) of the area education agency must submit a letter to the board of educational examiners to request that the authorization be issued.

b. An applicant must submit the following documents:

(1) A copy of a temporary or regular license from the professional licensure division, department of public health.

(2) An official transcript.

c. A temporary SPR will then be issued for one school year if the class of license from the professional licensure division is temporary.

d. A regular SPR will be issued with verification of a regular license and of at least a bachelor's degree in physical therapy.

282—15.18(272) Special education nurse.

15.18(1) Authorization. The holder of this authorization is authorized to serve as a special education nurse to pupils requiring special education from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

The legalization for this support service personnel is through a statement of professional recognition (SPR) and not through teacher licensure.

15.18(2) An applicant must hold a baccalaureate degree in nursing or a master's degree in nursing.

15.18(3) Other. An applicant must:

a. Hold current licensure in the state of Iowa by the board of nursing.

b. Have two years' experience in public health nursing including service to schools or as a school nurse.

15.18(4) Temporary authorization. A professional registered nurse who does not meet the criteria set forth in subrule 15.18(3) must complete six semester credits of graduate or undergraduate coursework in special education within one school year after receiving temporary authorization.

15.18(5) Procedure for acquiring a statement of professional recognition (SPR).

a. The special education director (or designee) of the area education agency must submit a letter to the board of educational examiners to request that the SPR be issued.

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b. An applicant must submit the following documents:

(1) A copy of the license issued by the Iowa board of nursing.

(2) An official transcript.

(3) Verification of the requirements set forth in paragraph 15.18(3)"b."

c. A temporary SPR will then be issued for one school year. An approved human relations course must be completed before the start of the next school year.

282—15.19(272) School social worker.

15.19(1) Authorization. An individual who meets the requirements of subrule 15.19(2) or 15.19(3) is authorized to serve as a school social worker to pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

15.19(2) Option 1: Endorsement requirements. An applicant must hold a master's degree in social work from an accredited school of social work to include a minimum of 20 semester hours of coursework (including practicum experience) which demonstrates skills, knowledge, and competencies in the following areas:

a. Social work.

(1) Assessment (e.g., social, emotional, behavioral, and familial).

(2) Intervention (e.g., individual, group, and family counseling).

(3) Related studies (e.g., community resource coordination, multidiscipline teaming, organizational behavior, and research).

b. Education.

(1) General education (e.g., school law, foundations of education, methods, psychoeducational measurement, behavior management, child development).

(2) Special education (e.g., exceptional children, psychoeducational measurement, behavior management, special education regulations, counseling school-age children).

c. Practicum experience. A practicum experience in a school setting under the supervision of an experienced school social work practitioner is required. The practicum shall include experiences that lead to the development of professional identity and the disciplined use of self. These experiences will include: assessment, direct services to children and families, consultation, staffing, community liaison and documentation. If a person has served two years as a school social worker, the practicum experience can be waived.

d. Completion of an approved human relations component is required.

e. The program must include preparation that contributes to the education of students with disabilities and students who are gifted and talented.

15.19(3) Option 2: Statement of professional recognition (SPR). The special education director (or designee) of the area education agency or local education agency must submit an application to request that the authorization be issued. The application must include:

a. An official transcript that reflects the master's degree in social work; and

b. The licensed independent social worker (LISW) or licensed master social worker (LMSW) license issued by the Iowa board of social work examiners.

282—15.20(272) Class C special education license.

15.20(1) A Class C special education license may be issued to an individual who:

a. Holds a valid license;

b. Has completed at least one-half of the credits necessary for a special education endorsement;

c. Files a written request from the employing school official. This written request must indicate approval by the respective area education agency special education official; and

d. Submits a statement from a college/university outlining the coursework to be completed for the endorsement.

15.20(2) A Class C license may be issued for a term of up to three years based on the amount of preparation needed to complete the requirements for the endorsement.

ARC 5135B

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to adopt new Chapter 24, "Community College Accreditation," Iowa Administrative Code.

Accreditation rules that are presently set forth in 281—Chapter 21 have been in place for more than ten years. In that time, continuous quality improvement (CQI) has become the key principle in evaluating academic programming and other aspects of community college operations. The proposed rules will facilitate evaluation of the colleges' institutional effectiveness in a framework of CQI standards and benchmarks. New Chapter 24 will create a discrete set of regulations for accreditation, much as 281—Chapter 12 does for the K-12 accreditation process. The new chapter also aligns the state accreditation process more closely with the required regional accreditation process conducted by the Higher Learning Commission of the North Central Association of Colleges and Schools.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before June 29, 2006, at 4:30 p.m. Comments on the proposed amendments should be directed to Beverly Bunker, Community College Bureau, Department of Education, 3rd floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515) 281-3866; E-mail beverly.bunker@iowa.gov; or fax (515) 281-6544.

A public hearing will be held on June 29, 2006, from 1 to 3:30 p.m. in the State Board Room, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact and advise the Department of Education of specific needs by calling (515) 281-3125.

These rules are intended to implement Iowa Code chapter 260C.

EDUCATION DEPARTMENT[281](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** 281—Chapter 24:

CHAPTER 24
COMMUNITY COLLEGE ACCREDITATION

281—24.1(260C) Purpose. As set forth in Iowa Code section 260C.1, the purpose of accreditation of Iowa's community colleges is to confirm that each college is offering, to the greatest extent possible, educational opportunities and services, when applicable, but not be limited to:

1. The first two years of college work including preprofessional education.
2. Vocational and technical training.
3. Programs for in-service training and retraining of workers.
4. Programs for high school completion for students of post-high school age.
5. Programs for all students of high school age, who may best serve themselves by enrolling for vocational and technical training, while also enrolled in a local high school, public or private.
6. Programs for students of high school age to provide advanced college placement courses not taught at a student's high school while the student is also enrolled in the high school.
7. Student personnel services.
8. Community services.
9. Vocational education for persons who have academic, socioeconomic, or other disabilities which prevent succeeding in regular vocational education programs.
10. Training, retraining, and all necessary preparation for productive employment of all citizens.
11. Vocational and technical training for persons who are not enrolled in a high school and who have not completed high school.
12. Developmental education for persons who are academically or personally underprepared to succeed in their program of study.

281—24.2(260C) Scope. Each community college is subject to accreditation by the state board of education, as provided in Iowa Code section 260C.47. The state board of education shall grant accreditation if a community college meets the standards established in this chapter.

281—24.3(260C) Definitions. For purposes of interpreting rule 281—24.5(260C), the following definitions shall apply:

"Field of instruction." The determination of what constitutes each field of instruction should be based on accepted practices of regionally accredited two- and four-year institutions of higher education.

"Full-time instructor." An instructor is considered to be full-time if the community college board of directors designates the instructor as full-time. Consideration of determining full-time status shall be based on local board-approved contracts.

"Higher Learning Commission." The Higher Learning Commission is the accrediting authority within the North Central Association of Colleges and Schools. Iowa Code sections 260C.47 and 260C.48 require that the state accreditation process be integrated with that of the North Central Association of Colleges and Schools.

"Instructors meeting minimum requirements." A community college instructor meeting the minimum requirements of Iowa Code section 260C.48, subsection 1, is a full-time instructor teaching college credit courses. Credit courses shall meet requirements as specified in rule 281—21.2(260C), and meet program requirements for college parallel, career and technical education, and career-option programs as specified in rule 281—21.4(260C) and Iowa Code chapter 260C.

"Minimum of 12 graduate hours." The 12 graduate hours may be within the master's degree requirements or independent of the master's degree, but all hours must be in the instructor's field of instruction.

"Relevant work experience." An hour of recent and relevant work experience is equal to 60 minutes. The community college will determine what constitutes recent and relevant work experience that relates to the instructor's occupational and teaching area. The college shall maintain documentation of the instructor's educational and work experience.

281—24.4(260C) Accreditation components and criteria—Higher Learning Commission. In order to be accredited by the state board of education and maintain accreditation status, a community college must meet the accreditation criteria of the Higher Learning Commission and additional state standards. The Higher Learning Commission accreditation criteria are as follows:

24.4(1) Mission and integrity.

a. The organization's mission documents are clear and articulate publicly the organization's commitments.

b. In its mission documents, the organization recognizes the diversity of its learners, other constituencies, and the greater society it serves.

c. Understanding of and support for the mission pervade the organization.

d. The organization's governance and administrative structures promote effective leadership and support collaborative processes that enable the organization to fulfill its mission.

e. The organization upholds and protects its integrity.

24.4(2) Preparing for the future.

a. The organization realistically prepares for a future shaped by multiple societal and economic trends.

b. The organization's resource base supports its educational programs and its plans for maintaining and strengthening the program's quality in the future.

c. The organization's ongoing evaluation and assessment processes provide reliable evidence of institutional effectiveness that clearly informs strategies for continuous improvement.

d. All levels of planning align with the organization's mission, thereby enhancing the organization's capacity to fulfill that mission.

24.4(3) Student learning and effective teaching.

a. The organization's goals for student learning outcomes are clearly stated for each educational program and make effective assessment possible.

b. The organization values and supports effective teaching.

c. The organization creates effective learning environments.

d. The organization's learning resources support student learning and effective teaching.

24.4(4) Acquisition, discovery, and application of knowledge.

a. The organization demonstrates, through the actions of its board, administrators, students, faculty, and staff, that it values a life of learning.

b. The organization demonstrates that acquisition of a breadth of knowledge and skills and the exercise of intellectual inquiry are integral to its educational programs.

c. The organization assesses the usefulness of its curricula to students who will live and work in a global, diverse, and technological society.

d. The organization provides support to ensure that faculty, students, and staff acquire, discover, and apply knowledge responsibly.

24.4(5) Engagement and service.

a. The organization learns from the constituencies it serves and analyzes its capacity to serve their needs and expectations.

b. The organization has the capacity and the commitment to engage with its identified constituencies and communities.

c. The organization demonstrates its responsiveness to those constituencies that depend on the organization for service.

d. Internal and external constituencies value the services the organization provides.

281—24.5(260C) Accreditation components and criteria—additional state standards. To be granted accreditation by the state board of education, an Iowa community college must also meet four additional standards pertaining to minimum standards for faculty; faculty load; special needs; and vocational education evaluation.

24.5(1) Faculty. Community college-employed instructors teaching full-time in career and technical education and arts and sciences, in accordance with Iowa Code section 260C.48, subsection 1, shall meet, at a minimum, the following requirements:

a. Instructors in the subject area of career and technical education shall be registered, certified, or licensed in the occupational area in which the state requires registration, certification, or licensure, and shall hold the appropriate registration, certificate, or license for the occupational area in which the instructor is teaching, and shall meet either of the following qualifications:

(1) A baccalaureate or graduate degree in the area or a related area of study or occupational area in which the instructor is teaching classes.

(2) Special training and at least 6,000 hours of recent and relevant work experience in the occupational area or related occupational area in which the instructor teaches classes if the instructor possesses less than a baccalaureate degree.

b. Instructors in the subject area of arts and sciences shall meet either of the following qualifications:

(1) Possess a master's degree from a regionally accredited graduate school, and have successfully completed a minimum of 12 credit hours of graduate level courses in each field of instruction in which the instructor is teaching classes.

(2) Have two or more years of successful experience in a professional field or area in which the instructor is teaching classes and in which postbaccalaureate recognition or professional licensure is necessary for practice, including but not limited to the fields or areas of accounting, engineering, law, law enforcement, and medicine.

c. Full-time developmental education and adult education instructors may or may not meet minimum requirements depending on their teaching assignments and the relevancy of standards to the courses they are teaching and the transferability of such courses. If instructors are teaching credit courses reported in arts and sciences or career and technical education, it is recommended that these instructors meet minimum standards set forth in 281—subrule 21.3(1), paragraph "a" or "b."

24.5(2) Faculty load.

a. College parallel. The full-time teaching load of an instructor in college parallel programs shall not exceed a maximum of 16 credit hours per school term or the equivalent. An instructor may also have a teaching assignment outside of the normal school hours, provided the instructor consents to this additional assignment and the total workload does not exceed the equivalent of 18 credit hours within a traditional semester.

b. Career and technical education. The full-time teaching load of an instructor in career education programs shall not exceed 6 hours per day, and an aggregate of 30 hours per week or the equivalent. An instructor may also teach the equivalent of an additional 3 credit hours, provided the instructor consents to this additional assignment. When the teaching assignment includes classroom subjects (nonlaboratory), consideration shall be given to establishing the teaching load more in conformity with that of paragraph 24.5(2)"a."

24.5(3) Special needs. Community colleges shall provide equal access in recruitment, enrollment, and placement activities for students with disabilities. Students with disabilities shall be given access to the full range of course offerings at a college through reasonable accommodations.

24.5(4) Vocational education evaluation. Community college vocational program review and evaluation system must ensure that the programs:

a. Are compatible with educational reform efforts.

b. Are capable of responding to technological change and innovation.

c. Meet educational needs of the students and employment community, including students with disabilities, both male and female students, and students from diverse racial and ethnic groups.

d. Enable students enrolled to perform the minimum competencies independently.

e. Are articulated/integrated with the total school curriculum.

f. Enable students with a secondary vocational background to pursue other educational interests in a postsecondary setting, if desired.

g. Provide students with support services and eliminate access barriers to education and employment for both traditional and nontraditional students, men and women, persons from diverse racial and ethnic groups, and persons with disabilities.

281—24.6(260C) Accreditation process.

24.6(1) Components. The community college accreditation process shall include the following components:

a. Each community college shall submit information on an annual basis to the department of education to comply with program evaluation requirements adopted by the state board of education.

b. The department of education shall conduct an on-site accreditation evaluation of each community college during the same year as the evaluation by the Higher Learning Commission.

24.6(2) Accreditation team. The size and composition of the accreditation team shall be determined by the director of the department, but the team shall include members of the de-

partment of education staff and staff members from community colleges other than the community college being evaluated for accreditation, and any other technical experts as needed.

24.6(3) Accreditation team action. After a visit to a community college, the accreditation team shall evaluate whether the accreditation standards have been met and shall make a report to the director of the department and the state board of education, together with a recommendation as to whether the community college should remain accredited. The accreditation team shall report strengths and opportunities for improvement, if any, for each standard and shall advise the community college of available resources and technical assistance to further enhance strengths and address areas for improvement. A community college may respond to the accreditation team's report.

24.6(4) State board of education consideration of accreditation. The state board of education shall determine whether a community college shall remain accredited. Approval of a community college by the state board of education shall be based on the recommendation of the director of the department after study of the factual and evaluative evidence on record pursuant to the standards described in this chapter, and based upon the timely submission of information required by the department of education in a format provided by the department of education. With the approval of the director of the department, a focus visit may be conducted if the situation at a particular college warrants such a visit.

a. Accreditation granted. Continuation of accreditation, if granted, shall be for a term consistent with the term of accreditation by the Higher Learning Commission; however, approval for a lesser term may be granted by the state board of education if the board determines that conditions so warrant.

b. Accreditation denied or conditional accreditation. If the state board of education denies accreditation or grants conditional accreditation, the director of the department of education, in cooperation with the board of directors of the community college, shall establish a plan prescribing the procedures that must be taken to correct deficiencies in meeting the standards and shall establish a deadline for correction of the deficiencies. The plan is subject to approval of the state board of education. The plan shall include components which address correcting deficiencies, sharing or merger options, discontinuance of specific programs or courses of study, and any other options proposed by the state board of education or the accreditation team to allow the college to meet the standards.

c. Implementation of plan. During the time specified in the plan for its implementation, the community college remains accredited. The accreditation team shall revisit the community college to evaluate whether the deficiencies in the standards have been corrected and shall make a report and recommendation to the director and the state board of education. The state board of education shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies have been corrected.

d. Removal of accreditation. The director shall give a community college which fails to meet accreditation standards at least one year's notice prior to removal of accreditation. The notice shall be sent by certified mail or restricted certified mail addressed to the chief executive officer of the community college and shall specify the reasons for removal of accreditation. The notice shall also be sent to each member of the board of directors of the community college. If, during the year, the community college remedies the reasons for removal of accreditation and satisfies the director that the community college will comply with the accreditation standards in the future, the director shall continue the accreditation and shall transmit notice of the action to the community college by certified mail or restricted certified mail.

e. Failure to correct deficiencies. If the deficiencies have not been corrected in a program of a community college, the community college board shall take one of the following actions within 60 days from removal of accreditation:

(1) Merge the deficient program or programs with a program or programs from another accredited community college.

(2) Contract with another educational institution for purposes of program delivery at the community college.

(3) Discontinue the program or programs which have been identified as deficient.

f. Appeal process provided. The action of the director to remove the accreditation of a community college may be appealed to the state board of education as provided in Iowa Code section 260C.47, subsection 7.

ARC 5136B

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 44, "School Buses," Iowa Administrative Code.

Chapter 44 regulates how school buses are to be equipped. It has been over seven years since a thorough overview of the chapter has been conducted, and in that time, bus technology has advanced to the extent that several provisions in Chapter 44 are outdated. In addition, pertinent federal regulations have updated terminology used in the industry. Finally, the amendments are an attempt to bring Iowa more in line with national standards established by the National Congress on School Transportation.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before July 20, 2006, at 4:30 p.m. Comments should be directed to Max Christensen, Bureau of Nutrition Programs and School Transportation, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4749; E-mail max.christensen@iowa.gov; or fax (515)281-7700.

A public hearing will be held on July 20, 2006, from 1 to 2:30 p.m., at the Airport Holiday Inn, 6111 Fleur Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact and advise the Department of Education of their specific needs by calling (515)281-4749.

EDUCATION DEPARTMENT[281](cont'd)

These amendments are intended to implement Iowa Code chapters 285 and 321.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **281—44.1(285)** by adding the following **new** unlettered paragraph to the end thereof:

Refer to the Appendix for additional information on certain federal motor vehicle safety standards (FMVSS) requirements.

ITEM 2. Rescind rule 281—44.2(285) and adopt the following **new** rule in lieu thereof:

281—44.2(285) School bus—type classifications. A bus owned, leased, contracted to or operated by a school or school district and regularly used to transport students to and from school or school-related activities, but not including a charter bus or transit bus, meets all applicable FMVSS, and is readily identified by alternately flashing lights, national school bus yellow paint, and the legend "School Bus."

44.2(1) Type A. A Type A school bus is a conversion or bus constructed utilizing a cutaway front-section vehicle with a left side driver's door. This definition includes two classifications: Type A-1, with a gross vehicle weight rating (GVWR) of 14,500 pounds or less; and Type A-2, with a GVWR greater than 14,500 and less than or equal to 21,500 pounds.

44.2(2) Type B. A Type B school bus is constructed utilizing a stripped chassis. The entrance door is behind the front wheels. This definition includes two classifications: Type B-1, with a GVWR of 10,000 pounds or less; and Type B-2, with a GVWR greater than 10,000 pounds.

44.2(3) Type C. A Type C school bus, also known as a conventional school bus, is constructed utilizing a chassis with a hood and front fender assembly. The entrance door is behind the front wheels. This type of school bus also includes the cutaway truck chassis or truck chassis with cab with or without a left side door and with a GVWR greater than 21,500 pounds.

44.2(4) Type D. A Type D school bus, also known as a rear or front engine transit-style school bus, is constructed utilizing a stripped chassis. The entrance door is ahead of the front wheels.

44.2(5) Specially equipped. A specially equipped school bus is a school bus designed, equipped, or modified to accommodate students with special needs.

44.2(6) Multifunction school activity bus (MFSAB). A multifunction school activity bus is a school bus whose purposes do not include transporting students to and from home or school bus stops as defined in 49 CFR 571.3. MFSABs meet all FMVSS for school buses except the traffic control requirements (alternately flashing signal and stop arm). MFSABs are not allowed for use by schools or school districts in the state of Iowa.

ITEM 3. Amend subrule **44.3(2)** as follows:

Rescind paragraph **"a"** and adopt the following **new** paragraph in lieu thereof:

a. All alternators shall be a minimum of 130 amperes while maintaining a minimum of 50 amperes while at the manufacturer's suggested idle speed.

Amend paragraph **"b"** as follows:

b. ~~Type A-I and Type B buses over 15,000 pounds GVWR and all~~ *All* Type C and Type D buses shall be equipped with a heavy-duty truck or bus-type alternator meeting SAE J 180~~, having a minimum output rating of 100 amperes and shall produce a minimum of 50 amperes output at engine idle speed~~ *or incorporating a pad-type mounting*.

Rescind paragraphs **"c"** and **"d."**

ITEM 4. Rescind subrule 44.3(6) and adopt the following **new** subrule in lieu thereof:

44.3(6) Brakes.

a. Brakes, all, general requirements.

(1) The chassis brake system shall conform to the provisions of FMVSS No. 105, Hydraulic and Electric Brake Systems, No.106, Brake Hoses, and No. 121, Air Brake Systems, as applicable.

(2) The antilock brake system (ABS), provided in accordance with FMVSS No. 105 or No. 121, shall provide wheel speed sensors for each front wheel and for each wheel on at least one rear axle. The system shall provide antilock braking performance for each wheel equipped with sensors (Four Channel System).

(3) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis component(s).

(4) The brake lines, booster-assist lines, and control cables shall be protected from excessive heat, vibration and corrosion and installed in a manner which prevents chafing.

(5) The parking brake system for either air or hydraulic service brake systems may be of a power-assisted design. The power parking brake actuator should be a device located on the instrument panel within reach of a seated 5th percentile female driver. As an option, the parking brake may be set by placing the automatic transmission shift control mechanism in the "park" position.

(6) The power-operated parking brake system may be interlocked to the engine key switch. Once the parking brake has been set and the ignition switch turned to the "off" position, the parking brake cannot be released until the key switch is turned back to the "on" position.

b. Hydraulic brakes, general requirements. Buses using a hydraulic-assist brake shall be equipped with audible and visible warning signals that provide a continuous warning to the driver indicating a loss of fluid flow from the primary source or a failure of the backup pump system.

c. Air brakes, general requirements.

(1) The air pressure supply system shall include a desiccant-type air dryer installed according to the manufacturer's recommendations. The air pressure storage tank system may incorporate an automatic drain valve.

(2) The chassis manufacturer shall provide an accessory outlet for air-operated systems installed by the body manufacturer. This outlet shall include a pressure protection valve to prevent loss of air pressure in the service brake reservoir.

(3) For air brake systems, an air pressure gauge capable of complying with commercial driver's license (CDL) pretrip inspection requirements shall be provided in the instrument panel.

(4) All air brake-equipped buses may be equipped with a service brake interlock. If the bus is equipped with a service brake interlock, the parking brake cannot be released until the brake pedal is depressed.

(5) Air brake systems shall include a system for anticompounding of the service brakes and parking brakes.

(6) Air brakes shall have a warning device that is both visible and audible and that provides warning to the driver

whenever the air pressure falls below the level where warnings are required under FMVSS No. 121.

d. Brakes, all, specific requirements.

(1) The braking system shall include the service brake, an emergency brake that is part of the service brake system and controlled by the service brake pedal, and a parking brake meeting FMVSS at date of manufacture.

(2) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals readily audible and visible to the driver. The signal shall give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum available in the system for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver the air pressure in psi or the inches of mercury available for the operation of the brakes.

(3) Buses using a hydraulic-assist brake system shall be equipped with warning signals readily audible and visible to the driver. The warning signal shall provide continuous warning in the event of a loss of fluid flow from primary source and in the event of discontinuity in that portion of the vehicle electrical system that supplies power to the backup system.

(4) Brake system reservoirs.

1. Every brake system which employs air or vacuum shall include a reservoir of the following capacity, where applicable, for brake operation: Vacuum-assist brake systems shall have a reservoir used exclusively for brakes that shall adequately ensure a full-stroke application so that loss in vacuum shall not exceed 30 percent with the engine off. Brake systems on gas-powered engines shall include suitable and convenient connections for the installation of a separate vacuum reservoir.

2. Any brake system with a dry reservoir shall be equipped with a check valve or equivalent device to ensure that, in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

3. Connection for auxiliary accessory reservoir. The brake system shall include a suitable and convenient connection for installation of an auxiliary air or vacuum reservoir by the body manufacturer.

(5) An air brake system is required on every chassis meeting one or more of the following:

1. Wheelbase equal to or greater than 274 inches.

2. Designed seating capacity rating greater than 66 passengers. Designed seating capacity, also known as manufacturer's seating capacity, is the actual or theoretical passenger capacity of the vehicle if it were constructed with the maximum number of seating positions.

(6) An air brake system shall comply with the following system and component designs:

1. The system cannot be of wedge design.

2. The system shall include an air dryer system having design features equal to or exceeding the Bendix Westinghouse Model AD9. The system shall be self-purging and capable of removing oil, dirt, and moisture. The dryer system shall also be equipped with a heater to prevent the freezing of moisture within the system. All plumbing from air compressor to input of air dryer or after-cooler shall provide soft flow bends not producing sumps in the air compressor line having direct entry into the dryer. An automatic moisture ejector or "spitter valve" does not meet the above requirement.

3. Automatic slack adjusters are required to be installed at all wheel positions.

4. The air compressor shall produce a minimum output of 12.0 cubic feet per minute (CFM).

(7) Vehicles with 10,000 pounds GVWR or less shall be equipped with a hydraulic, dual-braking system of manufacturer's standard, with power assist.

(8) Antilock brake systems for either air or hydraulic brakes shall include control of all axles in compliance with FMVSS 105 or 121.

ITEM 5. Amend subrule 44.3(7), catchwords, as follows:

44.3(7) ~~Front bumper~~ *Bumper, front*.

ITEM 6. Amend subrule **44.3(7)**, paragraph **"f,"** as follows:

f. Tow eyes or hooks are required on chassis of 14,500 pounds GVWR or greater. ~~All chassis shall be equipped with two~~ *Two* tow eyes or hooks *shall be* installed by the chassis manufacturer so as not to project beyond the front bumper. Tow eyes or hooks shall be attached to the chassis frame in accordance with the chassis manufacturer's standards.

ITEM 7. Amend subrule 44.3(8) as follows:

Amend catchwords as follows:

44.3(8) ~~Rear bumper~~ *Bumper, rear.*

Strike "Type A-II and insert in lieu thereof "Type A-2."

ITEM 8. Amend subrule 44.3(11) as follows:

44.3(11) Color.

a. No change.

b. Wheels and rims shall be gray, ~~or~~ black ~~as received from the wheel manufacturer~~ , *or national school bus yellow.*

c. The grille ~~may~~ *must* be ~~painted the manufacturer's standard color unless otherwise specified~~ *gray, black, or national school bus yellow. Chrome is not acceptable.*

~~d. On Type A-II chassis, wheels may be of the manufacturer's standard color.~~

ITEM 9. Rescind and reserve subrule **44.3(12)**.

ITEM 10. Amend subrule **44.3(16)**, paragraphs **"d"** and **"e,"** and subrule **44.3(17)**, introductory paragraph, by striking "Type A-I" and Type A-II" and inserting "Type A-1" and Type A-2," respectively, in lieu thereof.

ITEM 11. Amend subrule 44.3(19) as follows:

Amend the introductory paragraph as follows:

44.3(19) Fuels, alternative. An alternative fuel is defined as propane (LPG), compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, methanol, ethanol, clean diesel, *biodiesel, soydiesel,* ~~and~~ reformulated gasoline, *or any type of hybrid system*. Vehicles that operate on an alternative fuel shall meet the following requirements:

Rescind paragraph **"g"** and reletter paragraphs **"h"** through **"p"** as **"g"** through **"o."**

Adopt the following **new** paragraph **"p"**:

p. Storage batteries for hybrid power systems shall be protected from crash impacts and shall be encased in a nonconductive, acid-resistant compartment. This compartment must be well-ventilated to preclude the possibility of hydrogen gas buildup.

ITEM 12. Amend subrule **44.3(20)** as follows:

Amend paragraph **"a"** by striking the phrase "federal motor vehicle safety standards" and inserting the acronym "FMVSS" in lieu thereof.

Amend paragraph **"b"** as follows:

b. On all Type B, C, and D vehicles, the fuel tank shall ~~conform to~~ *comply with FMVSS 301, Fuel System Integrity, and with* Motor Carrier Safety Regulations, Section 393.67, paragraphs (c) through (f), with reference to material and

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method of construction, leak testing and certification. On Type A-~~I~~ *1* and A-~~II~~ *2* vehicles, the fuel tank may be of the manufacturer's standard construction.

ITEM 13. Rescind subrule 44.3(21) and adopt the following **new** subrule in lieu thereof:

44.3(21) Governor. An electronic engine speed limiter shall be provided and set to limit engine speed, not to exceed the maximum revolutions per minute as recommended by the engine manufacturer.

ITEM 14. Amend subrule **44.3(22)** as follows:

Amend paragraph **"a"** as follows:

a. The chassis engine shall have plugged openings for the purpose of supplying hot water for the bus heating system. The openings shall be suitable for attaching ¾-inch *or metric equivalent* pipe thread/hose connector.

Amend paragraph **"c"** by striking "Type A-II" and inserting "Type A-2" in lieu thereof.

ITEM 15. Amend subrule **44.3(23)**, paragraphs **"a"** and **"e,"** as follows:

a. Buses shall be equipped with a minimum of two headlamps ~~of proper intensity and fuses or~~ *meeting FMVSS 108 with* circuit ~~breakers~~ *protection*.

e. ~~Daytime running lights (DRL) are permissible in accordance with subrule 44.3(12).~~ *A daytime running lamp (DRL) system shall be provided.*

ITEM 16. Amend subrule 44.3(24) as follows:

44.3(24) Horn. Chassis shall be equipped with ~~dual horns~~ *a horn* of standard make~~. Each horn must be~~ capable of producing a complex sound in a band of audio frequencies between approximately 250 and 2,000 cycles per second and ~~shall be~~ tested in accordance with Society of Automotive Engineers Standard J377.

ITEM 17. Amend subrule **44.3(25)**, paragraph **"a,"** as follows:

a. Chassis shall be equipped with an instrument panel having, as a minimum, the following instrumentation: (Lights in lieu of gauges are not acceptable except as noted.)

(1) No change.

(2) Odometer with accrued mileage ~~(to seven digits),~~ including tenths of miles *unless tenths of miles are registered on a trip odometer.*

(3) to (7) No change.

(8) Air pressure ~~or vacuum~~ gauge, where air ~~or vacuum~~ brakes are used. A light indicator in lieu of a gauge is permitted on vehicles equipped with hydraulic-over-hydraulic brake system.

(9) to (11) No change.

ITEM 18. Amend subrule 44.3(26) as follows:

44.3(26) Oil filter. An oil filter with a replaceable element or cartridge shall be of manufacturer's ~~standard~~ *recommended* capacity and shall be connected by flexible oil lines if it is not of built-in or engine-mounted design.

ITEM 19. Amend subrule **44.3(28)**, paragraph **"b,"** as follows:

b. Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's GVWR for the chassis, nor shall the actual weight carried on any axle exceed the chassis manufacturer's ~~GVWR~~ *gross axle weight rating*.

ITEM 20. Rescind subrule 44.3(29) and adopt the following **new** subrule in lieu thereof:

44.3(29) Road speed control. When it is desired to accurately control vehicle maximum speed, a road speed control device may be utilized. A vehicle cruise control may also be utilized.

ITEM 21. Amend subrule 44.3(31), catchwords, as follows:

44.3(31) ~~Springs~~ *Suspensions*.

ITEM 22. Amend subrule **44.3(31)** by adopting **new** paragraph **"c"** as follows:

c. Air suspension systems are acceptable. Air bags, hoses, hose routing, and all related hardware shall conform to the chassis manufacturer's recommendations.

ITEM 23. Amend subrule **44.3(34)** by adopting **new** paragraph **"c"** as follows:

c. OEM adjustable pedals are acceptable as an option.

ITEM 24. Amend subrule **44.3(35)** as follows:

Amend paragraph **"c"** as follows:

c. *"Bud" type, hub-piloted steel rims are required.* Multipiece *and "Dayton"* rims are prohibited.

Amend paragraph **"d"** as follows:

d. Dual tires shall be provided on *all* ~~Type A-I, Type B, Type C, Type D~~ vehicles *listed in rule 281—44.2(285)* ~~and on Type A-II school buses exceeding 80 inches in exterior body width~~.

Amend paragraph **"h"** by striking "Type A-I" and "Type A-II" and inserting "Type A-1" and "Type A-2," respectively, in lieu thereof.

ITEM 25. Amend subrule **44.3(40)** as follows:

Amend paragraph **"a"** by striking "Type A-I" and "Type A-II" and inserting "Type A-1" and "Type A-2," respectively, in lieu thereof.

Rescind paragraph **"b"** and adopt the following **new** paragraph in lieu thereof:

b. A two-speed or variable speed windshield wiping system, with an intermittent feature, shall be provided and shall be operated by a single switch.

Adopt the following **new** paragraph **"c"** and reletter existing paragraphs **"c"** and **"d"** as **"d"** and **"e"**:

c. The wipers shall meet the requirements of FMVSS No. 104.

ITEM 26. Amend subrule **44.3(41)**, paragraph **"c,"** introductory paragraph, as follows:

c. The chassis manufacturer *of an incomplete vehicle* shall install a readily accessible terminal strip or plug on the body side of the cowl, or in an accessible location in the engine compartment of vehicles designed without a cowl, that shall contain the following terminals for the body connections:

ITEM 27. Amend subrule **44.4(1)**, paragraph **"a,"** as follows:

a. All emergency doors shall be accessible by a 12-inch minimum aisle. Aisles shall be unobstructed at all times by any type of barrier, seat, wheelchair or tiedown, unless a flip seat is installed and occupied. *The track of a track seating system is exempt from this requirement.* A flip seat in the unoccupied (up) position shall not obstruct the 12-inch minimum aisle to any side emergency door.

ITEM 28. Amend subrule 44.4(2) as follows:

44.4(2) Backup warning alarm. An automatic audible alarm shall be installed behind the rear axle and shall comply with the published Backup Alarm Standards (SAE *J994B*), providing a minimum of ~~97~~ *112* dBA ~~for rubber-tired vehicles~~. *A variable volume feature is not allowed.*

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ITEM 29. Amend subrule **44.4(3)**, paragraph **"d,"** as follows:

d. The battery compartment door or cover shall be hinged at the top, bottom or forward side of the door. When hinged at the top, a fastening device shall be provided which will secure the door in an open position. The door or cover over the compartment opening shall completely cover and, as completely as practical, seal the opening and shall be secured by an adequate and conveniently operated latch or other type fastener to prevent free leakage of the battery contents into the passenger compartment should the vehicle overturn. *Battery cables installed by the body manufacturer shall meet chassis manufacturer and SAE requirements. Battery cables shall be of sufficient length to allow the battery tray to fully extend. In Type A buses, if batteries cannot be installed under the hood, a battery compartment is required.*

ITEM 30. Rescind subrule 44.4(4) and adopt the following **new** subrule in lieu thereof:

44.4(4) Body sizes. Type A vehicles may be purchased with manufacturer's recommended seating capacities when the chassis is manufactured with rear dual tires.

ITEM 31. Amend subrule 44.4(5), catchwords, as follows:

44.4(5) ~~Front bumper~~ *Bumper, front.*

ITEM 32. Amend subrule 44.4(6) as follows:

Amend the catchwords as follows:

44.4(6) ~~Rear bumper~~ *Bumper, rear.*

Amend paragraph **"a"** by striking "Type A-I" and "Type A-II" and inserting "Type A-1" and "Type A-2," respectively, in lieu thereof.

Amend paragraph **"c"** as follows:

c. The rear bumper shall be attached to the chassis frame in such a manner that it may be easily removed. It shall be braced so as to ~~withstand~~ *resist deformation of the bumper resulting* ~~impact~~ from a rear or side impact. It shall be ~~attached~~ *designed* so as to discourage hitching of rides.

ITEM 33. Amend subrule 44.4(7) as follows:

44.4(7) Certification. The body manufacturer shall, upon request, certify to the department of education that the manufacturer's product(s) meets Iowa standards on items not covered by ~~certification issued under requirements of the National Traffic and Motor Vehicle Safety Act~~ *FMVSS certification requirements of 49 CFR Part 567.*

ITEM 34. Amend subrule 44.4(9) as follows:

44.4(9) Color. See also subrule 44.3(11).

a. The school bus body shall be painted national school bus yellow. (See color standard, Appendix B, ~~1995 National Standards for School Transportation~~ *National School Transportation Specifications & Procedures Manual 2005*, available from Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.)

b. The body exterior trim shall be ~~painted~~ glossy black, including the rear bumper, exterior lettering, numbering, body trim, *rub rails*, lamp hoods (if any), and emergency door arrow. *This may also include the entrance door and window sashes.* As an alternative, the rear bumper may be covered with a black retroreflective material as described in subrule 44.4(34). When the bus number is placed on the front or rear bumper, the number shall be yellow.

c. As an option, the roof of the bus may be painted white extending down to within 6 inches above the drip rails on the sides of the body, except that *the vertical portion of the* front and rear roof caps shall remain yellow.

d. Commercial advertising is forbidden on the exterior and in the interior of all school buses.

ITEM 35. Amend subrule **44.4(10)**, paragraphs **"a"** and **"c,"** as follows:

a. The school bus body shall be constructed of materials certified to be durable under normal operating conditions and shall meet all applicable ~~federal motor vehicle safety standards~~ *FMVSS* at the date of manufacture as certified by the bus body manufacturer.

c. Body joints present in that portion of the ~~Type A-II~~ *Type A-2* school bus body furnished exclusively by the body manufacturer shall conform to the performance requirements of FMVSS 221. This does not include the body joints created when body components are attached to components furnished by the chassis manufacturer.

ITEM 36. Amend subrule 44.4(11) as follows:

44.4(11) Crossing control arms.

a. Type A-~~I~~, B, and C school buses shall be equipped with a crossing control arm mounted on the right side of the front bumper, which shall not open more than 90 degrees. This requirement does not apply to ~~Type A-II or~~ Type D vehicles having transit-style design features.

b. The crossing control arm shall incorporate a system of quick-disconnect connectors (electrical, vacuum, or air) at the crossing control arm base unit and ~~shall be of sufficient length for connection to the control panel in the driver's compartment or~~ shall be easily ~~removed~~ *removable* to allow for towing of the bus.

c. ~~The crossing control arm shall meet or exceed SAE Standard J1133.~~ *All components of the crossing control arm and all connections shall be weatherproofed.*

d. The crossing control arm shall be constructed of ~~noncorrosive~~ *noncorrodible* or nonferrous material or treated in accordance with the body sheet metal standard. See subrule 44.4(25).

e. No change.

f. The crossing control arm shall extend ~~72~~ *a minimum of 70* inches from the front bumper when in the extended position. *This measurement shall be taken from the arm assembly attachment point on the bumper. However, the crossing control arm shall not extend past the ends of the bumper when in the stowed position.*

g. to i. No change.

~~j. A pressure-sensitive reverse switch, or slip clutch, or similar device in the base unit must be included to stop the cycle in the event the arm comes in contact with an object or person.~~

~~k~~ *j.* A single, cycle-interrupt switch with automatic reset shall be installed in the driver's compartment and shall be accessible to the driver from the driver's seat.

ITEM 37. Amend subrule **44.4(12)**, paragraphs **"a"** and **"b,"** as follows:

a. Defrosting and defogging equipment shall direct a sufficient flow of heated air onto *the interior surfaces of* the windshield, the window to the left of the driver, and the glass in the viewing area directly to the right of the driver to eliminate frost, fog and snow.

b. The defrosting system shall conform to SAE ~~Standards~~ *Standard* J381 ~~and J382~~.

ITEM 38. Amend subrule 44.4(13) as follows:

44.4(13) Doors and exits.

a. Service door.

(1) and (2) No change.

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(3) The service door shall have a minimum horizontal opening of 24 inches and a minimum vertical opening of 68 inches. ~~Type A-II~~ *Type A-2* vehicles shall have a minimum opening of 1,200 square inches.

(4) The service door shall be of split~~, sedan,~~ or jackknife type. (Split door includes any sectioned door which divides and opens inward or outward.) If one section of the split door opens inward and the other opens outward, the front section shall open outward.

(5) Lower as well as upper panels shall be of approved safety glass. The bottom of each lower glass panel shall not be more than 10 inches from the top surface of the bottom step. The top of each upper glass panel shall not be more than 3 inches from the top of the door. ~~Type A vehicles shall have an upper panel (windows) of safety glass with an area of at least 350 square inches.~~

(6) No change.

(7) Vertical closing edges on split or folding entrance doors shall be equipped with flexible material to protect children's fingers. ~~Type A-II vehicles may be equipped with the chassis manufacturer's standard entrance door.~~

(8) There shall be no door to the left of the driver on Type B, C or D vehicles. All Type A vehicles may be equipped with the chassis manufacturer's standard *left side (driver's side)* door.

(9) to (12) No change.

(13) On power-operated service doors, the emergency release valve, switch or device to release the service door must be placed above or to the left or right of the service door and be clearly labeled.

b. Emergency doors.

(1) No change.

(2) The upper portion of the emergency door shall be equipped with approved safety glazing, the exposed area of which shall be at least 400 square inches. The lower portion of the rear emergency doors on Type A-~~I~~ *2*, B, C and D vehicles shall be equipped with a minimum of 350 square inches of approved safety glazing.

(3) No change.

~~(4) The words "EMERGENCY DOOR," in letters at least 2 inches high, shall be placed at the top of or directly above the emergency door, or on the door in the metal panel above the top glass, both inside and outside the bus. Pressure-sensitive markings or vinyl material is acceptable for this lettering.~~

~~(5)~~ *(4)* The emergency door(s) shall be equipped with padding at the top edge of each door opening. Padding shall be at least 3 inches wide and 1 inch thick and shall extend the full width of the door opening.

~~(6) The side emergency door, if installed, must meet the requirements as set forth in FMVSS 217, regardless of its use with any other combination of emergency exits.~~

~~(7)~~ *(5)* There shall be no obstruction higher than ¼ inch across the bottom of any emergency door opening.

~~(8) Vandal lock system may be installed in accordance with subrule 44.4(52).~~

c. Emergency exit requirements.

(1) Any installed emergency exit shall comply with the design and performance requirements of FMVSS 217, Bus Emergency Exits and Window Retention and Release, applicable to that type of exit, regardless of whether or not that exit is required by FMVSS 217, and shall comply with any of the requirements of these rules that exceed FMVSS 217.

~~(1)~~ *(2)* An emergency exit may include either an emergency door or emergency exit-type windows. Where emergency exit-type windows are used, they shall be installed in pairs, one on each side of the bus. Type A, B, C, and D vehicles shall be equipped with a total number of emergency exits as follows for the ~~indicated~~ *designed* capacities of vehicles:

- 0 to 42 passenger = 1 emergency exit per side and 1 roof hatch.
- 43 to 78 passenger = 2 emergency exits per side and 2 roof hatches.
- 79 to 90 passenger = 3 emergency exits per side and 2 roof hatches.

These emergency exits are in addition to the rear emergency door or rear pushout window/side emergency door combination required by FMVSS 217. Additional emergency exits installed to meet the capacity-based requirements of FMVSS 217 may be included to comprise the total number of exits specified. All roof hatches shall have design features as specified in subrule 44.4(53).

~~(2)~~ *(3)* Side and rear emergency doors and each emergency window exit shall be equipped with an audible warning device.

~~(3)~~ *(4)* Roof hatches ~~may~~ *shall* be equipped with an audible warning device.

(5) Rear emergency windows on Type D, rear engine buses shall have a lifting-assistance device that will aid in lifting and holding the rear emergency window open.

(6) Side emergency windows may be either top-hinged or vertically hinged on the forward side of the window. No side emergency exit window will be located above a stop sign.

(7) On the inside surface of each school bus, located directly beneath or above all emergency doors and windows, shall be a "DO NOT BLOCK" label in a color that contrasts with the background of the label. The letters on this label shall be at least one inch high.

ITEM 39. Amend subrule **44.4(14)** by adopting the following **new** paragraph **"e"**:

e. A manual noise suppression switch shall be required and located in the control panel within easy reach of the driver while seated. The switch shall be labeled. This switch shall be an on/off type that deactivates body equipment that produces noise, including, at least, the AM/FM radio, heaters, air conditioners, fans, and defrosters. This switch shall not deactivate safety systems, such as windshield wipers, lighting systems, or two-way radio communication systems.

ITEM 40. Amend subrule 44.4(15) as follows:

44.4(15) Emergency equipment.

a. All *Type A, B, C, and D school buses shall be equipped with the following* emergency equipment*:* ~~including~~ first-aid kit, fire extinguisher*, webbing cutter, body fluid cleanup kit,* and triangular warning devices ~~shall be located within the driver's compartment~~.

~~b. Whenever the emergency equipment is mounted within an enclosed compartment, the compartment shall be plainly labeled to indicate the location of equipment.~~

~~c~~ *b*. All emergency equipment shall be securely mounted so that, in the event the bus is overturned, this equipment is held in place. *Emergency equipment may be mounted in an enclosed compartment provided that the compartment is labeled in not less than one-inch letters, stating the piece(s) of equipment contained therein.*

~~d~~ *c*. Fire extinguishers shall meet the following requirements:

(1) The bus shall be equipped with at least one five-pound capacity, UL-approved, pressurized dry chemical fire extinguisher complete with hose. The extinguisher shall be located in the driver's compartment readily accessible to the

driver and passengers and shall be *securely* mounted in a heavy-duty automotive bracket so as to prevent accidental release in case of a crash or in the event the bus overturns.

(2) No change.

(3) The fire extinguisher shall have a ~~total~~ rating of 2A-10BC or greater. The operating mechanism shall be sealed with a type of seal which will not interfere with the use of the fire extinguisher.

(4) and (5) No change.

~~e~~ *d.* First-aid kit.

(1) The bus shall have a removable moistureproof and dustproof first-aid kit in an accessible place in the driver's compartment. It shall be ~~properly~~ mounted *and secured,* and identified as a first-aid kit. The location for the first-aid kit shall be marked.

(2) No change.

(3) A first-aid kit *meeting the national standards (National Standards First Aid Kit) and* containing the following items is required on all Type A, B, C and D school buses:

2	1-inch × 2½-yard adhesive tape rolls.
24	3-inch × 3-inch sterile gauze pads.
100	¾-inch × 3-inch adhesive bandages.
~~12~~ *8*	2-inch bandage compresses.
~~12~~ *10*	3-inch bandage compresses.
2	2-inch x 6-foot sterile gauze roller bandages.
2	~~40~~ *39*-inch × ~~36~~ *35*-inch × 54-inch nonsterile triangular bandages with two safety pins.
3	36-inch × 36-inch sterile gauze pads.
3	sterile eye pads.
1	pair ~~latex~~ *medical examination* gloves.
1	mouth-to-mouth airway.

~~f~~ *e.* Body fluid cleanup kit. Each bus shall be equipped with a disposable, ~~sealed~~ *removable, and moistureproof* body fluid cleanup kit in a disposable container which includes the following items:

(1) to (8) No change.

~~g~~ *f.* Triangular warning devices. Each school bus shall contain at least three reflectorized triangle road warning devices mounted in an accessible place. These devices must meet requirements in FMVSS 125.

g. Each bus shall be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device shall be mounted in an easily detachable manner and in a location accessible to the seated driver.

h. ~~Emergency equipment may be mounted in an enclosed compartment provided the compartment is labeled in not less than one-inch letters, stating the piece(s) of equipment contained therein~~ *Axes are not allowed*.

ITEM 41. Amend subrule 44.4(16) as follows:

44.4(16) Floor insulation and covering.

a. The floor structure of Type ~~A-I,~~ *A-2,* B, C and D school buses shall be covered with an insulating layer of either a 5-ply ~~nominal~~ *minimum* 5/8-inch-thick plywood, or a material of equal or greater strength and insulation R-value, having properties equal to or exceeding exterior-type softwood plywood, C-D grade as specified in standards issued by the United States Department of Commerce. All edges shall be sealed.

b. Type ~~A-II~~ *A-1* buses may be equipped with ~~nominal~~ *a minimum* ½-inch-thick plywood meeting the above requirements.

c. The floor in the under-seat area *of Type B, C, and D buses*, including tops of ~~wheelhousing~~ *wheelhousings*, driver's compartment and toeboard, shall be covered with ~~rubber~~ *an elastomer* floor covering ~~or the equivalent,~~ having a minimum overall thickness of ~~0.125~~ *1/8* inch *and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302.* The floor covering of the driver's area *and toeboard area* on all Type A buses may be the manufacturer's standard flooring and floor covering.

d. The floor covering in aisles *of all buses* shall be of ~~aisle-type rubber or equivalent and shall be wear-resistant and ribbed~~ *a ribbed or other raised-pattern elastomer, having a coefficient of friction of 0.85, using ASTM 1894 or 0.65 using ASTM 2047, and a calculated burn rate of 0.1 or less using the test methods, procedures and formulas listed in FMVSS 302*. Minimum overall thickness shall be ~~0.187~~ *3/16* inch measured from tops of ribs.

e. No change.

f. On Type ~~A-I,~~ B, C and D buses, access to the fuel tank sending unit shall be provided. *The access opening shall be large enough and positioned to allow easy removal of the sending unit.* Any access opening in the body shall be capable of being sealed with a screw-down plate from within the body. *When in place, the screw-down plate shall seal out dust, moisture and exhaust fumes. This plate shall not be installed under flooring material.*

g. No change.

ITEM 42. Amend subrule 44.4(18) as follows:

Rescind paragraphs **"d," "e"** and **"h"** and reletter existing paragraphs **"f"** and **"g"** as **"d"** and **"e"** and paragraphs **"i"** to **"o"** as **"f"** to **"l."**

Amend relettered paragraph **"e,"** subparagraph **(7)**, by striking the phrase "federal motor vehicle safety standards" and inserting the acronym "FMVSS" in lieu thereof.

Amend relettered paragraphs **"h"** and **"i"** as follows:

h. ~~There shall be a water flow regulating valve installed in the pressure line for convenient operation by the driver while seated.~~ *Each hot water heating system shall be equipped with a device that is installed in the hot water pressure line that regulates the water flow to all heaters and that is located for convenient operation by the driver while seated.*

i. All combustion heaters shall be in compliance with *current* federal motor carrier safety regulations.

Amend relettered paragraph **"l"** as follows:

Amend subparagraph **(2)** by striking the phrase "federal motor vehicle safety standards" and inserting the acronym "FMVSS" in lieu thereof.

Adopt the following **new** subparagraph **(10)**:

(10) The installed air-conditioning system should cool the interior of the bus down to at least 80 degrees Fahrenheit, measured at a minimum of three points, located four feet above the floor at the longitudinal centerline of the bus. The three points shall be: near the driver's location; at the midpoint of the body; and two feet forward of the emergency door, or for Type D rear engine buses, two feet forward of the end of the aisle. Test conditions will be those as outlined in the National School Transportation Specifications & Procedures Manual 2005, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

ITEM 43. Amend subrule 44.4(19) as follows:

44.4(19) Hinges. All exposed metal passenger-door hinges subject to corrosion shall be designed to allow lubrication *without disassembly.* All passenger-door hinges shall be securely bolted to the bus body. Metal screws are not acceptable.

ITEM 44. Amend subrule **44.4(20)** as follows:

Amend paragraph **"b"** as follows:

b. The bus, whether school-owned or ~~privately~~ *contractor*-owned, shall have displayed at the beltline on each side of the vehicle the official name of the school in black standard unshaded letters at least five inches, but not more than seven inches high.

Examples:

(1) Blank community school district.

(2) Blank independent school district.

(3) Blank consolidated school district.

If there is insufficient space due to the length of the name of the school district, the words "community," "independent," "consolidated," and "district" may be abbreviated. If, after these abbreviations, there is still insufficient space available, the words "community school district" may be replaced by the uppercase letters "CSD" upon prior approval by the school transportation consultant of the Iowa department of education.

Reletter paragraphs **"d"** to **"k"** as **"e"** to **"l"** and adopt the following **new** paragraph **"d"**:

d. Buses privately owned and operated by an individual or individuals and used exclusively for transportation of students shall bear the name of the owner, at the beltline on each side of the vehicle in black standard unshaded letters at least five inches, but not more than seven inches high.

Amend relettered paragraphs **"g," "j"** and **"l"** as follows:

g. Buses privately owned by individuals, ~~or~~ a company, *or a contractor* shall also bear the name of the owner, followed by the word "OWNER" in not more than 2-inch characters printed approximately six inches below the bus capacity on the right side of the bus.

j. The words "UNLAWFUL TO PASS WHEN LIGHTS FLASH" shall be displayed on the rear emergency door of the bus between the upper and lower window glass sections. The letters shall be black and not less than *two inches nor more than* six inches in height. If there is not sufficient space on the emergency door, letter size may be reduced upon approval of the department of education.

l. Any lettering, including the name of the school's athletic team(s), numbers, drawings, bumper stickers, ~~or~~ characters, *or mascot symbols* other than the bus manufacturer's registered trademarks or those specifically noted in paragraphs "a" through "~~j~~ *k*" above are prohibited.

ITEM 45. Amend subrule **44.4(21)** by striking "Type A-II" and inserting "Type A-2" in lieu thereof.

ITEM 46. Amend subrule **44.4(22)**, paragraph **"a,"** as follows:

a. Thermal insulation in the ceiling and walls shall be fire-resistant, UL-approved, and approximately 1½-inch thick with a minimum R-value of 5.5. Insulation shall be installed *in such a way as* to prevent *it from* sagging.

ITEM 47. Amend subrule **44.4(23)** as follows:

Amend paragraph **"d"** as follows:

d. Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dBA when tested according to the procedure found in Appendix B, ~~National Standards for School Buses and School Bus Operations, 1995 Revised Edition~~ *National School Transportation Specifications & Procedures Manual 2005*, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.

Adopt the following **new** paragraph **"g"**:

g. An electronic "child check" monitor shall be installed. This monitor shall operate in such a way as to require the driver to physically walk to the back of the bus to disengage the monitor system after having first shut off the engine of the bus.

ITEM 48. Amend subrule **44.4(24)** as follows:

Amend paragraph **"a"** as follows:

a. All lamps and lamp components shall meet or exceed applicable standards established by the Society of Automotive Engineers (SAE), ~~and~~ the American Association of Motor Vehicle Administrators (AAMVA), *and FMVSS. These lamps shall be of incandescent or LED design.*

Amend paragraph **"e"** as follows:

Amend the introductory paragraph as follows:

e. Stop/tail (brake) lamps. Buses shall be equipped with four combination, red, stop/tail lamps meeting SAE specifications. Each lamp shall have double filament lamp bulbs *or LEDs* that are connected to the headlamp and brake-operated stop lamp circuits. These should be positioned as follows:

Amend subparagraph **(2)** by striking "Type A-II" and inserting "Type A-2" in lieu thereof.

Amend paragraph **"g"** as follows:

g. Backup lamps. The bus body shall be equipped with two white rear backup lamps. ~~Type A~~ *All* vehicles shall be equipped with lamps at least 4 inches in diameter or, if a shape other than round, a minimum of 13 square inches of illuminated area. ~~Type B, C and D vehicles shall be equipped with lamps of at least 7-inch diameter or of equal surface area if a shape other than round.~~ All lamps shall have a white or clear lens and shall meet SAE specifications. If backup lamps are placed on the same line as the brake lamps and turn signal lamps, they shall be to the inside.

Amend paragraph **"h,"** subparagraph **(3)**, as follows:

(3) Body instrument panel lights shall be controlled by ~~an independent~~ *a* rheostat switch.

Amend paragraph **"k,"** subparagraphs **(2)** and **(3)**, as follows:

(2) In addition to the four red lamps described above, four amber lamps shall be installed so that one amber lamp is located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus. The system of red and amber signal lamps shall be wired so that amber lamps are energized manually and the red lamps are automatically energized *(sequential)*, with amber lamps being automatically de-energized, when the stop signal arm is extended or when the bus service door is opened. An amber pilot light and a red pilot light shall be installed adjacent to the driver controls for the flashing signal lamp to indicate to the driver which lamp system is activated.

(3) The area *immediately* around the lens of each alternately flashing signal lamp ~~and extending outward approximately 3 inches~~ shall be black. In installations where there is no flat vertical portion of body immediately surrounding the entire lens of the lamp, there shall be a circular or square band of black ~~approximately 3 inches wide,~~ immediately below and to both sides of the lens, on the body or roof area against which the signal lamp is seen from a distance of 500 feet along the axis of the vehicle. Black visors or hoods, with a minimum depth of 4 inches, may be provided.

Amend paragraph **"l,"** subparagraph **(1)**, by striking "Type A-II" and inserting "Type A-2" in lieu thereof.

Amend paragraph **"m,"** introductory paragraph, as follows:

m. A white flashing strobe light rated for outdoor use and weather-sealed shall be installed on the roof of the bus not less than one foot or more than ~~ten~~ *four* feet from the rear center of the bus. The strobe light shall be located to the rear of the rearmost emergency roof hatch to prevent the roof hatch

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from diminishing the effectiveness of the strobe light. In addition:

ITEM 49. Amend subrule **44.4(25)**, paragraphs **"a"** and **"b,"** as follows:

a. All metal, *except high-grade stainless steel or aluminum,* used in construction of the bus body shall be zinc-coated or aluminum-coated ~~or be treated by an equivalent process before the bus is constructed. Included are~~ *to prevent corrosion. This requirement applies to, but is not limited to,* such items as structural members, inside and outside panels, door panels and floor sills. Excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts.

b. All metal parts that will be painted shall be, in addition to above requirements, chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed ~~or conditioned by an equivalent process~~ *to improve paint adhesion.*

ITEM 50. Amend subrule **44.4(26)** by adopting the following **new** paragraph **"e"**:

e. The right side rearview mirrors must be unobstructed by the unwiped section of the windshield.

ITEM 51. Amend subrule **44.4(27)**, paragraph **"b,"** as follows:

b. ~~Insulation material~~ *Isolators* shall be placed at all contact points between the body and chassis frame and shall be ~~attached~~ *secured by a positive means* to the chassis frame or body ~~so that it will not move~~ *to prevent shifting, separation, or displacement of the isolators* under severe operating conditions.

ITEM 52. Amend subrule **44.4(28)** by adopting the following **new** paragraph **"d"**:

d. All mud flaps shall be constructed of rubber. Vinyl or plastic is not acceptable.

ITEM 53. Amend subrule **44.4(34)**, paragraph **"a,"** subparagraph **(1)**, by striking "1995 National Standards for School Transportation" and inserting "National School Transportation Specifications & Procedures Manual 2005" in lieu thereof.

ITEM 54. Amend subrule 44.4(35) as follows:

44.4(35) Rub rails.

a. One rub rail located on each side of the bus ~~approximately~~ at, *or no more than 8 inches above, the* seat level shall extend from the rear side of the entrance door completely around the bus body (except for emergency door or any maintenance access door) to the point of curvature near the outside cowl on the left side.

b. One rub rail located ~~approximately~~ at, *or no more than 10 inches above, the* floor line shall cover the same longitudinal area as the upper rub rail, except at wheelhousings, and shall extend only to radii of the right and left rear corners.

c. ~~Both rub~~ *Rub* rails *at or above the floor line* shall be attached at each body post and all other upright structural members.

d. ~~Both~~ *Each* rub ~~rails~~ *rail* shall be four inches or more in width in ~~their~~ *its* finished form, shall be of 16-gauge steel or suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion.

e. ~~Both rub~~ *Rub* rails shall be applied to outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. ~~For Type A-II vehicles using the chassis manufacturer's body, or for Type A-I, B, C and D~~ *For all* buses using *a* rear luggage or rear engine compartment, rub rails need not extend around rear corners.

f. ~~There shall be a rub rail or equivalent bracing located horizontally at the~~ *The* bottom edge of the body side skirts *shall be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.*

ITEM 55. Amend subrule 44.4(36) as follows:

Amend the catchwords as follows:

44.4(36) ~~Driver's seat~~ *Seat, driver.*

Amend paragraphs **"a"** and **"b"** as follows:

a. Type A school buses shall be equipped with a driver's seat of manufacturer's standard design meeting ~~federal motor vehicle safety standards~~ *FMVSS.*

b. All Type B, C, and D school buses shall have a driver's seat equipped with a one-piece high back designed to minimize the potential for head and neck injuries in rear impacts, providing minimum obstruction to the driver's view of passengers and meeting applicable requirements of ~~Federal Motor Vehicle Safety Standard~~ *FMVSS* 222. The height of the seat back shall be sufficient to provide the specified protection for *a 5th percentile adult female* up to a 95th percentile adult male, as defined in FMVSS 208. The seat shall be centered behind the steering wheel with a backrest a minimum distance of 11 inches behind the steering wheel. The seat shall be securely mounted to the floor of the bus with Grade 5 or better bolts and shall be secured with locking nuts or lock washers and nuts.

Amend paragraph **"c,"** subparagraph **(8)**, as follows:

(8) The seat shall comply with all ~~federal motor vehicle safety standards~~ *FMVSS.*

ITEM 56. Amend subrule 44.4(37) as follows:

44.4(37) ~~Driver's seat belt/shoulder harness system~~ *Seat belt/should harness system, driver.* Buses shall be equipped with a Type 2 lap belt/shoulder harness seat belt assembly for the driver. *This assembly may be integrated into the driver's seat.* The design shall incorporate a fixed female push-button type latch on the right side at seat level, and a male locking bar tongue on the left retracting side. The assembly shall be equipped with a single, dual-sensitive emergency locking retractor (ELR) for the lap and shoulder belt. This system shall be designed to minimize "cinching down" on air sprung and standard seats. The lap portion of the belt shall be anchored or guided at the seat frame by a metal loop or other such device attached to the right side of the seat to prevent the driver from sliding sideways out of the seat. There shall be a minimum of 7 inches of adjustment of the "D" loop of the driver's shoulder harness *on a nonintegrated style of seat belt assembly.* Shoulder belt tension shall be no greater than is necessary to provide reliable retraction of the belt and removal of excess slack. The seat belt assembly and anchorage shall meet applicable ~~federal motor vehicle safety standards~~ *FMVSS.*

ITEM 57. Amend subrule **44.4(38)** as follows:

Amend paragraphs **"b," "d," "i,"** and **"j"** as follows:

b. All seats shall have a minimum *cushion* depth of 15 inches *and a seat back height of 24 inches above the seating reference point and shall comply with all other requirements of FMVSS 222.*

d. The following knee room requirements shall apply to all school bus bodies:

(1) Knee room shall meet the requirements of FMVSS 222 and shall be measured, on Type A-~~I~~ *2,* B, C and D school buses, at the center of the transverse line of the seat and at seat cushion height. The distance from the front of a seat back (cushion) to the back surface of the cushion on the preceding seat shall be not less than 24 inches. The seat upholstery may be placed against the seat cushion padding, but

without compressing the padding, before the measurement is taken.

(2) On Type A-~~II~~ *1* school buses, seat spacing shall be of the manufacturer's standard spacing.

i. Crash barriers shall be installed conforming to FMVSS 222; however, all ~~Type A-II~~ *Type A-2* school bus bodies shall be equipped with padded crash barriers, one located immediately to the rear of the driver's seat and one at the service door entrance immediately to the rear of the step well.

j. Crash barriers and passenger seats may be constructed with materials that enable them to meet the criteria contained in the school bus seat upholstery fire block test specified in the ~~manual, 1995 National Standards for School Transportation, Missouri Safety Center~~ *National School Transportation Standards & Procedures Manual 2005*, Central Missouri State University, Warrensburg, Missouri 64093. Fire block material, when used, shall include the covering of seat bottoms.

Adopt **new** paragraph **"k"** as follows:

k. Seat cushions may contain a positive locking mechanism that requires removal of a security device before the seat may be unlatched.

ITEM 58. Amend subrule **44.4(39)**, paragraphs **"a," "b,"** and **"c,"** as follows:

a. Type A-~~II~~ *1* vehicles shall conform to all ~~federal motor vehicle safety standards~~ *FMVSS* at date of manufacture.

b. Unless otherwise required by ~~federal motor vehicle safety standard~~ *FMVSS*, school bus seats may be equipped with passenger securement systems for passengers with disabilities in accordance with 281—Chapter 41 when it is determined by the child's individual education program staffing team that special seating and positioning are necessary during transportation. When the staffing team determines that a passenger securement system is necessary to safely transport a student with a disability, the need shall be documented in the student's individual education plan (IEP).

c. When a child securement system is required in 44.4(39)"b," the seat, including seat frame, seat cushion, belt attachment points, belts and hardware shall comply with all applicable ~~federal motor vehicle safety standards~~ *FMVSS* at the time of manufacture. When it is determined that the securement system is no longer necessary to provide seating assistance to a child with a disability, the securement system shall be removed from the seat frame.

ITEM 59. Amend subrule 44.4(41) as follows:

44.4(41) Step treads.

a. All steps, including floor line platform area, shall be covered with ~~3/16-inch rubber~~ *an elastomer* floor covering ~~or other materials equal in wear and abrasion resistance to top-grade rubber~~ *having a minimum overall thickness of 3/16 inch*.

b. ~~Metal back of tread, minimum 24-gauge cold roll steel, shall be permanently bonded to ribbed rubber.~~ Grooved design *step treads* shall be such that grooves run at a 90-degree angle to the long dimension of the step tread. *The step covering shall be permanently bonded to a durable backing material that is resistant to corrosion.*

c. ~~Three-sixteenth-inch ribbed step tread~~ *Step treads* shall have a 1½-inch white nosing as an integral piece without any joint.

d. ~~The rubber portion of step tread~~ *Step treads* shall have ~~the following characteristics:~~ *abrasion resistance, slip resistance, weathering resistance, and flame resistance as outlined in the National School Transportation Specifications & Procedures Manual 2005, Missouri Safety Center, Central Missouri State University, Humphreys Suite 201, Warrensburg, Missouri 64093.*

~~(1) Special compounding for good abrasion resistance and high coefficient of friction.~~

~~(2) Flexibility so it can be bent around a ½-inch mandrel at both 130 degrees Fahrenheit and 20 degrees Fahrenheit without breaking, cracking, or crazing.~~

~~(3) Durometer hardness of 85 to 95.~~

e. No change.

ITEM 60. Amend subrule **44.4(42)**, paragraph **"a,"** as follows:

a. ~~Unless the windshield and lamps are not easily accessible from the ground, there may~~ *There shall* be at least one folding stirrup step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning. Handles on the service door are prohibited.

ITEM 61. Amend subrule **44.4(43)** as follows:

Amend paragraph **"i"** as follows:

i. A second stop signal arm~~, meeting~~ *may be installed on the left side at or near the left rear corner of the school bus and shall meet* the ~~above~~ requirements~~, may be installed and located on the left side at or near the left rear corner of the school bus except that the forward side of the rear stop arm shall have no lights or markings~~ *of FMVSS 131*.

Amend paragraph **"j"** by striking the phrase "federal motor vehicle safety standards" and inserting the acronym "FMVSS" in lieu thereof.

ITEM 62. Amend subrule **44.4(53)**, paragraphs **"b"** and **"c,"** as follows:

b. Each combination roof ventilation/emergency escape hatch shall be installed by the school bus body manufacturer or the body manufacturer's approved representative and shall have the following design and installation features:

(1) and (2) No change.

(3) An audible warning system which sounds an alarm in the driver's compartment area when the emergency roof hatch is unlatched ~~may~~ *shall* be installed as a design feature by the manufacturer.

(4) No change.

(5) Ventilation/emergency escape hatches may include static-type nonclosable ventilation.

c. Auxiliary fans shall be installed and shall meet the following requirements:

(1) Two adjustable fans shall be installed on Type ~~A-I,~~ B, C and D buses. Fans for left and right sides shall be placed in a location where they can be adjusted for maximum effectiveness and do not obstruct vision to any mirror.

(2) and (3) No change.

(4) Type A-~~II~~ buses shall have at least one fan having a nominal diameter of at least 4 inches meeting the above requirements.

ITEM 63. Amend subrule **44.4(55)** as follows:

Amend paragraph **"c"** as follows:

c. Each full side window, other than emergency exits designated to comply with FMVSS 217, shall be split-sash type and shall provide an unobstructed emergency opening of at least 9 inches but not more than 13 inches high and 22 inches wide, obtained by lowering the window. When the driver's window consists of two sections, both sections shall be capable of being moved or opened. ~~All exposed edges of glass shall be banded.~~

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Amend paragraph **"e"** by striking "Type A-II" and inserting "Type A-2" in lieu thereof.

ITEM 64. Amend subrule **44.4(57)**, paragraphs **"a"** and **"d,"** as follows:

a. For Type A vehicles, windshield wipers shall be supplied by the chassis manufacturer and shall be of the manufacturer's standard design. *Windshield wipers shall meet the requirements of FMVSS 104.*

d. ~~All wiper controls~~ *Wiper control(s)* shall be located within easy reach of the driver and shall be designed to move the blades from the driver's view when the wiper control is in the "off" position.

ITEM 65. Amend subrule **44.4(58)**, paragraph **"b,"** subparagraph **(1)**, as follows:

(1) Wiring shall be arranged in circuits, as required, with each circuit protected by a fuse or circuit breaker *or circuit protection device*. All wiring shall use a standard color or number coding system or a combination of color and number coding. Each chassis shall be delivered with a wiring diagram that illustrates the wiring of the chassis.

ITEM 66. Amend rule **281—44.5(285)** as follows:

Amend the introductory paragraph by striking the phrase "federal motor vehicle safety standards" and inserting the acronym "FMVSS" in lieu thereof.

Amend subrule **44.5(1)** as follows:

Amend paragraph **"a"** by striking the phrase "federal motor vehicle safety standards" and inserting the acronym "FMVSS" in lieu thereof.

Amend paragraph **"c"** as follows:

c. Any school bus that is used for the transportation of children who are confined to a wheelchair or other restraining devices which prohibit use of the regular service entrance shall be equipped with a power lift located on the right side of the bus body and forward of the rear wheels *on a Type B, C, or D bus. Wheelchair lift placement behind the rear wheels is allowed on Type A buses only. See paragraph 44.5(2)"f."*

Amend subrule **44.5(2)** as follows:

Amend paragraph **"a,"** subparagraphs **(1)** and **(2)**, as follows:

(1) Aisles leading from wheelchair placement(s) to the special service door and the service door shall at all times be *a minimum of 30 inches* wide ~~enough to permit passage of a wheelchair~~.

(2) Aisles leading to *all* the emergency ~~door~~ *doors* from wheelchair placement(s) shall at all times be at least 20 inches in width.

Amend paragraph **"b,"** subparagraphs **(3)** and **(4)**, as follows:

(3) The power lift mechanism shall be padded and ~~adequately~~ protected to prevent a child from accidentally getting any part of the child's body caught in the power lift mechanism or special service door at any time.

~~(4) In the event that an elevator (body floor section serving as lift platform) lift is used, both the forward and rear side of the platform shall be protected with heavy-duty padded barriers extending from the wall of the body toward the aisle. A covered chain shall be fastened to the rear barrier adjacent to the lift platform, extend across the platform opening, and attach with hook and eye to the forward barrier adjacent to the lift platform.~~

Amend paragraphs **"e"** and **"f"** as follows:

e. Identification. Buses with wheelchair lifts used for transporting physically handicapped children ~~may~~ *shall* display universal handicapped symbols located on the front and rear of the vehicle below the window line. Emblems shall be white on blue, shall not exceed 12 *× 12* ~~square~~ inches in size, and may be reflectorized.

f. Power lift.

(1) No change.

(2) The power lift shall be located on the right side of the body and in no way be attached to the exterior sides of the bus, but should be confined within the perimeter of the school bus body when not extended. The power lift shall be located forward of the rear wheels of the vehicle *on Type B, C and D buses. Wheelchair lift placement behind the rear wheels is allowed on Type A buses only.*

(3) No change.

(4) All lift controls shall be portable and conveniently located on the inside of the bus near ~~the top of~~ the special service door opening. Controls shall be easily operable from inside or outside the bus by either a platform standee or person seated in a wheelchair when the lift is in any position. A master cut-off switch shall be located in the driver's compartment. There shall be a means of preventing the lift platform from falling while in operation due to a power failure.

(5) to (10) No change.

(11) An ~~inward~~ operating safety barrier shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground level. The barrier shall not be capable of being manually operated.

(12) to (14) No change.

(15) A circuit breaker, ~~or~~ fuse, *or other electrical protection device* shall be installed between the power source and the lift motor if electrical power is used.

(16) and (17) No change.

Amend paragraph **"h"** as follows:

h. Regular service entrance.

(1) An additional fold-out or slide-out step may be provided which will provide for the step level to be no more than 6 inches from the ground level to assist persons with handicapping conditions that prohibit the use of the standard entrance step. This step, when stored and not in use, shall not impede or in any way block the normal use of the entrance.

(2) On power lift-equipped vehicles, service entrance steps shall be the full width of the step well, excluding the thickness of the doors in the open position.

Amend paragraphs **"k"** to **"n"** as follows:

k. Special service opening.

(1) There shall be an enclosed service opening located on the right side (curb side) of the body forward of the rear wheels to accommodate a wheelchair lift *on Type B, C and D buses. This service opening may be placed on the right side (curb side) of the body behind the rear wheels on Type A buses only to accommodate a wheelchair lift in that location.*

(2) and (3) No change.

~~(4) The opening may extend below the floor through the bottom of the body skirt. If an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and shall give the same strength as other floor openings.~~

~~(5)~~ *(4)* A drip molding shall be installed above the opening to effectively divert water from the entrance.

~~(6)~~ *(5)* Doorposts, headers, and all floor sections around this special opening shall be reinforced to provide strength and support equivalent to adjacent side wall and floor construction of an unaltered model.

~~(7)~~ *(6)* A header pad at least 3 inches wide, extending the width of special service door, shall be placed above the opening on the inside of the bus.

l. Special service door(s).

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~~(1) A single door may be used if the width of the door opening does not exceed 42 inches. Two doors shall be used where the door opening exceeds 42 inches.~~

~~(2)~~ *(1)* All doors shall open outwardly.

~~(3)~~ *(2)* All doors shall have positive fastening devices to hold doors in the open position.

~~(4)~~ *(3)* All doors shall be equipped with heavy-duty hinges and shall be hinged to the side of the bus.

~~(5)~~ *(4)* All doors shall be weather sealed; and on buses with double doors, each door shall be of the same size and constructed so a flange on the forward door overlaps the edge of the rear door when closed.

~~(6)~~ *(5)* If optional power doors are installed, the design shall permit release of the doors for opening and closing by the attendant from the platform inside the bus.

~~(7)~~ *(6)* When manually operated dual doors are provided, the rear door shall have at least a one-point fastening device to the header. The forward-mounted door shall have at least three-point fastening devices: One shall be to the header, one shall be to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide the same type of use as that of a standard entrance door.

~~(8)~~ *(7)* If the door is made of one-piece construction, the door shall be equipped with a slidebar, cam-operated locking device.

~~(9)~~ *(8)* Each door shall have installed a safety glass window, set in ~~rubber~~ *a waterproof manner,* and aligned with the lower line of adjacent sash and as nearly as practical to the same size as other bus windows.

~~(10)~~ *(9)* Door materials, panels, and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering, and other exterior features shall match adjacent sections of the body.

~~(11)~~ *(10)* The door(s) shall be equipped with a device(s) that will actuate a flashing visible signal located in the driver's compartment when the door(s) is not securely closed. (An audible signal is not permitted.)

m. Special student restraining devices.

(1) ~~Wheelchairs shall be equipped with an appropriate passenger restraint system.~~ *Each wheelchair station shall be equipped with a lap and torso restraint system that meets applicable FMVSS.*

(2) Special restraining devices such as shoulder harnesses, lap belts, and chest restraint systems may be installed to the seats providing that the devices do not require the alteration in any form of the school bus seat, seat cushion, framework, or related seat components. These restraints must be for the sole purpose of restraining ~~handicapped students~~ *passengers.*

n. Wheelchair securement systems.

(1) Securement systems for wheelchairs shall ~~be approved by the bureau of administration and school improvement services, Iowa department of education~~ *meet or exceed applicable FMVSS.*

(2) No change.

~~(3) Wheelchair securement systems or devices shall be provided and attached to the floor of the vehicle with Grade "5" or better bolts and self-locking nuts or lock washers and nuts. The devices must be of the type that require human intervention to unlatch or disengage.~~

~~(4) The securement system must be designed to withstand forces up to 2,000 pounds per tiedown leg or clamping mechanism or 4,000 pounds total for each wheelchair, whichever is the lesser of the two.~~

~~(5)~~ *(3)* Straps or seat-belt devices running through the wheels of the wheelchair or around the student seated in the wheelchair for the purpose of securing the wheelchair to the floor are not acceptable.

~~(6)~~ *(4)* ~~When the~~ *The* wheelchair securement system(s) ~~is~~ *shall be* located in a school bus so that when a wheelchair is not secured in place the ~~device(s) may create a tripping hazard for school bus drivers, passengers, or attendants, the fastening device(s)~~ *floor attachment system* shall not extend above the floor level more than ½ inch.

ITEM 67. Amend subrule **44.6(1)**, paragraph **"a,"** by adopting the following **new** subparagraphs **(1)** and **(2)**:

(1) Vehicles classified as pickups are not allowed for use as student transportation.

(2) Vehicles used exclusively for driver's education are exempt from these requirements.

ITEM 68. Amend subrule 44.6(2) as follows:

44.6(2) Special equipment.

a. No change.

b. The vehicle, while transporting students to and from school, shall display a sign, visible to the rear, with the words "SCHOOL BUS." The sign shall be ~~painted~~ national school bus glossy yellow with black letters 6 inches high. The sign shall be a type that can be removed, dismounted, or covered when the vehicle is not transporting pupils to and from school.

c. A sign with the words "THIS VEHICLE STOPS AT ALL RAILROAD CROSSINGS," visible to the rear, may be used where appropriate and not in conflict with current statutes. If used, the words shall be ~~painted in~~ black letters on a yellow background. The sign shall be of a type that can be dismounted, turned down, or covered when the vehicle is not transporting pupils to and from school.

d. No change.

e. First-aid kit. The vehicle shall carry a *minimum* ten-unit first-aid kit. See 44.4(15)"~~e~~ *d*"(2).

f. No change.

g. Each vehicle shall be equipped with a durable webbing cutter having a full-width handgrip and a protected, replaceable or noncorrodible blade. This device shall be mounted in a location accessible to the seated driver in an easily detachable manner.

h. Each vehicle shall be equipped with a body fluid cleanup kit.

i. Each vehicle shall be equipped with a backup alarm beeper capable of a minimum of 112 db. NOTE: This is effective for 2007 model year vehicles and newer.

ITEM 69. Amend subrule 44.6(3) as follows:

44.6(3) Applicability of standards. The above standards apply to all ~~new~~ vehicles *(except as noted in 44.6(2)"i")* of this type and those currently in service used to transport students to and from school.

ITEM 70. Amend subrule **44.7(1)**, paragraph **"c,"** by striking the phrase "federal motor vehicle standard(s)" and inserting the acronym "FMVSS" in lieu thereof.

ITEM 71. Amend **281—Chapter 44** by adding the following **new** appendix to the end thereof:

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APPENDIX:

National Highway Traffic Safety Administration Federal Motor Vehicle Safety Standards
for School Buses and Transit Buses

FMVSS No.	Title of Standard	Transit Buses	School Buses under 10,000# GVWR	School Buses over 10,000# GVWR
101	Controls and Displays	x	x	x
102	Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect	x	x	x
103	Windshield Defrosting and Defogging Systems	x	x	x
104	Windshield Wiping and Washing Systems	x	x	x
105	Hydraulic Brake Systems	x	x	x
106	Brake Hoses	x	x	x
108	Lamps, Reflective Devices, and Associated Equipment	x	x	x
111	Rearview Mirrors	x	x	x
113	Hood Latch System	x	x	x
116	Motor Vehicle Brake Fluids	x	x	x
119	New Pneumatic Tires for Vehicles Other Than Passenger Cars	x	x	x
120	Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars	x	x	x
121	Air Brake Systems	x	x	x
124	Accelerator Control Systems	x	x	x
131	School Bus Pedestrian Safety Devices		x	x
201	Occupant Protection in Interior Impact		x	
202	Head Restraints		x	
203	Impact Protection for the Driver from the Steering Control System		x	
204	Steering Control Rearward Displacement		x	
205	Glazing Materials	x	x	x
207	Seating Systems	x	x	x
208	Occupant Crash Protection	x	x	x
209	Seat Belt Assemblies	x	x	x
210	Seat Belt Assembly Anchorages	x	x	x
212	Windshield Mounting		x	
213	Child Restraint Systems		x	x
214	Side Impact Protection		x	
217	Bus Emergency Exits and Window Retention and Release	x	x	x
219	Windshield Zone Intrusion		x	
220	School Bus Rollover Protection		x	x
221	School Bus Body Joint Strength		x	x
222	School Bus Passenger Seating and Crash Protection		x	x
225	Child Restraint Anchorage Systems		x	

FMVSS 105, 106, 121 Hydraulic Brake Systems, Brake Hoses, Air Brake Systems

Subpart C—Brakes

§393.40 Required brake systems.

(a) Each commercial motor vehicle must have brakes adequate to stop and hold the vehicle or combination of motor vehicles. Each commercial motor vehicle must meet the applicable service, parking, and emergency brake system requirements provided in this section.

(b) **Service brakes.** (1) **Hydraulic brake systems.** Motor vehicles equipped with hydraulic brake systems and manufactured on or after September 2, 1983, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 105 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 105 on the date of manufacture must have a service brake system that meets the applicable requirements of §§ 393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(2) **Air brake systems.** Buses, trucks and truck-tractors equipped with air brake systems and manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 121 in effect on the date of manufacture. Motor vehicles which were not subject

to FMVSS No. 121 on the date of manufacture must have a service brake system that meets the applicable requirements of §§ 393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(3) **Vacuum brake systems.** Motor vehicles equipped with vacuum brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(b)(4) **Electric brake systems.** Motor vehicles equipped with electric brake systems must have a service brake system that meets the applicable requirements of §§393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(c) **Parking brakes.** Each commercial motor vehicle must be equipped with a parking brake system that meets the applicable requirements of §393.41.

(d) **Emergency brakes—partial failure of service brakes.**

(d)(1) **Hydraulic brake systems.** Motor vehicles manufactured on or after September 2, 1983, and equipped with a split service brake system must, at a minimum, meet the partial failure requirements of FMVSS No. 105 in effect on the date of manufacture.

(d)(2) **Air brake systems.** Buses, trucks and truck tractors manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must be equipped with an emergency brake system which, at a minimum, meets the requirements of FMVSS No. 121 in effect on the date of manufacture.

(d)(3) **Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.** Buses, trucks and truck tractors not subject to FMVSS Nos. 105 or 121 on the date of manufacture must meet the requirements of §393.40(e). Trailers not subject to FMVSS No. 121 at the time of manufacture must meet the requirements of §393.43.

(e) **Emergency brakes, vehicles manufactured on or after July 1, 1973.** (1) A bus, truck, truck tractor, or a combination of motor vehicles manufactured on or after July 1, 1973, and not covered under paragraphs (d)(1) or (d)(2) of this section, must have an emergency brake system which consists of emergency features of the service brake system or an emergency system separate from the service brake system. The emergency brake system must meet the applicable requirements of §§393.43 and 393.52.

(e)(2) A control by which the driver applies the emergency brake system must be located so that the driver can operate it from the normal seating position while restrained by any seat belts with which the vehicle is equipped. The emergency brake control may be combined with either the service brake control or the parking brake control. However, all three controls may not be combined.

(f) **Interconnected systems.** (1) If the brake systems required by §393.40(a) are interconnected in any way, they must be designed, constructed, and maintained so that in the event of a failure of any part of the operating mechanism of one or more of the systems (except the service brake actuation pedal or valve), the motor vehicle will have operative brakes and, for vehicles manufactured on or after July 1, 1973, be capable of meeting the requirements of §393.52(b).

(f)(2) A motor vehicle to which the requirements of FMVSS No. 105 (S5.1.2), dealing with partial failure of the service brake, applied at the time of manufacture meets the requirements of §393.40(f)(1) if the motor vehicle is maintained in conformity with FMVSS No. 105 and the motor vehicle is capable of meeting the requirements of §393.52(b), except in the case of a structural failure of the brake master cylinder body.

(f)(3) A bus is considered to meet the requirements of §393.40(f)(1) if it meets the requirements of §393.44 and §393.52(b).

§393.51 Warning signals, air pressure and vacuum gauges.

(a) **General rule.** Every bus, truck and truck tractor, except as provided in paragraph (f), must be equipped with a signal that provides a warning to the driver when a failure occurs in the vehicle's service brake system. The warning signal must meet the applicable requirements of paragraphs (b), (c), (d) or (e) of this section.

(b) **Hydraulic brakes.** Vehicles manufactured on or after September 1, 1975, must meet the brake system indicator lamp requirements of FMVSS No. 571.105 (S5.3) applicable to the vehicle on the date of manufacture. Vehicles manufactured on or after July 1, 1973, but before September 1, 1975, or to which FMVSS No. 571.105 was not applicable on the date of manufacture, must have a warning signal which operates before or upon application of the brakes in the event of a hydraulic-type complete failure of a partial system. The signal must be either visible within the driver's forward field of view or audible. The signal must be continuous. (Note: FMVSS No. 105 was applicable to trucks and buses from September 1, 1975, to October 12, 1976, and from September 1, 1983, to the present. FMVSS No. 105 was not applicable to trucks and buses manufactured between October 12, 1976, and September 1, 1983. Motor carriers have the option of equipping those vehicles to meet either the indicator lamp requirements of FMVSS No. 105, or the indicator lamp requirements specified in this paragraph for vehicles which were not subject to FMVSS No. 105 on the date of manufacture.)

(c) **Air brakes.** A commercial motor vehicle (regardless of the date of manufacture) equipped with service brakes activated by compressed air (air brakes) or a commercial motor vehicle towing a vehicle with service brakes activated by compressed air (air brakes) must be equipped with a pressure gauge and a warning signal. Trucks, truck tractors, and buses manufactured on or after March 1, 1975, must, at a minimum, have a pressure gauge and a warning signal which meets the requirements of FMVSS No. 121 (S5.1.4 for the pressure gauge and S5.1.5 for the warning signal) applicable to the vehicle on the date of manufacture of the vehicle. Power units to which FMVSS No. 571.121 was not applicable on the date of manufacture of the vehicle must be equipped with:

(c)(1) A pressure gauge, visible to a person seated in the normal driving position, which indicates the air pressure (in kilopascals (kPa) or pounds per square inch (psi)) available for braking; and

(c)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the air pressure in the service reservoir system is at 379 kPa (55 psi) and below, or one-half of the compressor governor cutout pressure, whichever is less.

(d) **Vacuum brakes.** A commercial motor vehicle (regardless of the date it was manufactured) having service brakes activated by vacuum or a vehicle towing a vehicle having service brakes activated by vacuum must be equipped with:

(d)(1) A vacuum gauge, visible to a person seated in the normal driving position, which indicates the vacuum (in millimeters or inches of mercury) available for braking; and

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(d)(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the vacuum in the vehicle's supply reservoir is less than 203 mm (8 inches) of mercury.

(e) **Hydraulic brakes applied or assisted by air or vacuum.** Each vehicle equipped with hydraulically activated service brakes which are applied or assisted by compressed air or vacuum, and to which FMVSS No. 105 was not applicable on the date of manufacture, must be equipped with a warning signal that conforms to paragraph (b) of this section for the hydraulic portion of the system; paragraph (c) of this section for the air assist/air applied portion; or paragraph (d) of this section for the vacuum assist/vacuum applied portion. This paragraph shall not be construed as requiring air pressure gauges or vacuum gauges, only warning signals.

(f) **Exceptions.** The rules in paragraphs (c), (d) and (e) of this section do not apply to property carrying commercial motor vehicles which have less than three axles and (1) were manufactured before July 1, 1973, and (2) have a manufacturer's gross vehicle weight rating less than 4,536 kg (10,001 pounds).

§393.55 Antilock brake systems.

(a) **Hydraulic brake systems.** Each truck and bus manufactured on or after March 1, 1999 (except trucks and buses engaged in driveaway-towaway operations), and equipped with a hydraulic brake system, shall be equipped with an antilock brake system that meets the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 105 (49 CFR 571.105, S5.5).

(b) **ABS malfunction indicators for hydraulic braked vehicles.** Each hydraulic braked vehicle subject to the requirements of paragraph (a) of this section shall be equipped with an ABS malfunction indicator system that meets the requirements of FMVSS No. 105 (49 CFR 571.105, S5.3).

(c) **Air brake systems.** (1) Each truck tractor manufactured on or after March 1, 1997 (except truck tractors engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(b)).

(c)(2) Each air braked commercial motor vehicle other than a truck tractor, manufactured on or after March 1, 1998 (except commercial motor vehicles engaged in driveaway-towaway operations), shall be equipped with an antilock brake system that meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.1(a) for trucks and buses, S5.2.3 for semitrailers, converter dollies and full trailers).

(d) **ABS malfunction circuits and signals for air braked vehicles.** (1) Each truck tractor manufactured on or after March 1, 1997, and each single-unit air braked vehicle manufactured on or after March 1, 1998, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction that affects the generation or transmission of response or control signals to the vehicle's antilock brake system (49 CFR 571.121, S5.1.6.2(a)).

(d)(2) Each truck tractor manufactured on or after March 1, 2001, and each single-unit vehicle that is equipped to tow another air-braked vehicle, subject to the requirements of paragraph (c) of this section, shall be equipped with an electrical circuit that is capable of transmitting a malfunction signal from the antilock brake system(s) on the towed vehicle(s) to the trailer ABS malfunction lamp in the cab of the towing vehicle, and shall have the means for connection of the electrical circuit to the towed vehicle. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.6.2(b)).

(d)(3) Each semitrailer, trailer converter dolly, and full trailer manufactured on or after March 1, 2001, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an electrical circuit that is capable of signaling a malfunction in the trailer's antilock brake system, and shall have the means for connection of this ABS malfunction circuit to the towing vehicle. In addition, each trailer manufactured on or after March 1, 2001, subject to the requirements of paragraph (c)(2) of this section, that is designed to tow another air-brake equipped trailer shall be capable of transmitting a malfunction signal from the antilock brake system(s) of the trailer(s) it tows to the vehicle in front of the trailer. The ABS malfunction circuit and signal shall meet the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.2).

(e) **Exterior ABS malfunction indicator lamps for trailers.** Each trailer (including a trailer converter dolly) manufactured on or after March 1, 1998, and before March 1, 2009, and subject to the requirements of paragraph (c)(2) of this section, shall be equipped with an ABS malfunction indicator lamp which meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.2.3.3).

§393.41 Parking brake system.

(a) **Hydraulic-braked vehicles manufactured on or after September 2, 1983**. Each truck and bus (other than a school bus) with a GVWR of 4,536 kg (10,000 pounds) or less which is subject to this part and school buses with a GVWR greater than 4,536 kg (10,000 pounds) shall be equipped with a parking brake system as required by FMVSS No. 571.105 (S5.2) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). Hydraulic-braked vehicles which were not subject to the parking brake requirements of FMVSS No. 571.105 (S5.2) must be equipped with a parking brake system that meets the requirements of paragraph (c) of this section.

(b) **Air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.** Each air-braked bus, truck and truck tractor manufactured on and after March 1, 1975, and each air-braked trailer except an agricultural commodity trailer, converter dolly, heavy hauler trailer or pulpwood trailer, shall be equipped with a parking brake system as required by FMVSS No. 121 (S5.6) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). An agricultural commodity trailer, heavy hauler or pulpwood trailer shall carry sufficient chocking blocks to prevent movement when parked.

(c) **Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.** (1) Each singly driven motor vehicle not subject to parking brake requirements of FMVSS Nos. 105 or 121 at the time of manufacturer, and every combination of motor vehicles must be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated, under any condition of loading in which it is found on a public road (free of ice and snow).

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(c)(2) The parking brake system shall, at all times, be capable of being applied by either the driver's muscular effort or by spring action. If other energy is used to apply the parking brake, there must be an accumulation of that energy isolated from any common source and used exclusively for the operation of the parking brake.

Exception: This paragraph shall not be applicable to air-applied, mechanically-held parking brake systems which meet the parking brake requirements of FMVSS No. 121 (S5.6).

(c)(3) The parking brake system shall be held in the applied position by energy other than fluid pressure, air pressure, or electric energy. The parking brake system shall not be capable of being released unless adequate energy is available to immediately reapply the parking brake with the required effectiveness.

§393.45 Brake tubing and hoses; hose assemblies and end fittings.

(a) **General construction requirements for tubing and hoses, assemblies, and end fittings.** All brake tubing and hoses, brake hose assemblies, and brake hose end fittings must meet the applicable requirements of FMVSS No. 106 (49 CFR 571.106).

(b) **Brake tubing and hose installation.** Brake tubing and hose must:

(b)(1) Be long and flexible enough to accommodate without damage all normal motions of the parts to which it is attached;

(b)(2) Be secured against chaffing, kinking, or other mechanical damage; and

(b)(3) Be installed in a manner that prevents it from contacting the vehicle's exhaust system or any other source of high temperatures.

(c) **Nonmetallic brake tubing.** Coiled nonmetallic brake tubing may be used for connections between towed and towing motor vehicles or between the frame of a towed vehicle and the unsprung subframe of an adjustable axle of the motor vehicle if:

(c)(1) The coiled tubing has a straight segment (pigtail) at each end that is at least 51 mm (2 inches) in length and is encased in a spring guard or similar device which prevents the tubing from kinking at the fitting at which it is attached to the vehicle; and

(c)(2) The spring guard or similar device has at least 51 mm (2 inches) of closed coils or similar surface at its interface with the fitting and extends at least 38 mm (1½ inches) into the coiled segment of the tubing from its straight segment.

(d) **Brake tubing and hose connections.** All connections for air, vacuum, or hydraulic braking systems shall be installed so as to ensure an attachment free of leaks, constrictions or other conditions which would adversely affect the performance of the brake system.

§393.50 Reservoirs required.

(a) **Reservoir capacity for air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.** Buses, trucks, and truck-tractors manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975, must meet the reservoir requirements of FMVSS No. 121, S5.1.2, in effect on the date of manufacture.

(b) **Reservoir capacity for air-braked vehicles not subject to FMVSS No. 121 on the date of manufacture and all vacuum braked vehicles.** Each motor vehicle using air or vacuum braking must have either reserve capacity, or a reservoir, that would enable the driver to make a full service brake application with the engine stopped without depleting the air pressure or vacuum below 70 percent of that indicated by the air or vacuum gauge immediately before the brake application is made. For the purposes of this paragraph, a full service brake application means depressing the brake pedal or treadle valve to the limit of its travel.

(c) **Safeguarding of air and vacuum.** Each service reservoir system on a motor vehicle shall be protected against a loss of air pressure or vacuum due to a failure or leakage in the system between the service reservoir and the source of air pressure or vacuum, by check valves or equivalent devices whose proper functioning can be checked without disconnecting any air or vacuum line, or fitting.

(d) **Drain valves for air braked vehicles.** Each reservoir must have a condensate drain valve that can be manually operated. Automatic condensate drain valves may be used provided (1) they may be operated manually, or (2) a manual means of draining the reservoirs is retained.

FMVSS 301 Fuel System Integrity

§393.67 Liquid fuel tanks.

(a) **Application of the rules in this section.** The rules in this section apply to tanks containing or supplying fuel for the operation of commercial motor vehicles or for the operation of auxiliary equipment installed on, or used in connection with commercial motor vehicles.

(a)(1) A liquid fuel tank manufactured on or after January 1, 1973, and a side mounted gasoline tank must conform to all the rules in this section.

(a)(2) A diesel fuel tank manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(7)(iii) and (d)(2) of this section.

(a)(3) A diesel fuel tank manufactured before January 1, 1973, and mounted on a vehicle other than bus must conform to the rules in paragraph (c)(7)(iii) of this section.

(a)(4) A gasoline tank, other than a side mounted gasoline tank, manufactured before January 1, 1973, and mounted on a bus must conform to the rules in paragraphs (c)(1) through (10) and (d)(2) of this section.

(a)(5) A gasoline tank, other than a side mounted gasoline tank, manufactured before January 1, 1973, and mounted on a vehicle other than a bus must conform to the rules in paragraphs (c)(1) through (10), inclusive, of this section.

(a)(6) **Private motor carrier of passengers.** Motor carriers engaged in the private transportation of passengers may continue to operate a commercial motor vehicle which was not subject to this section or 49 CFR §571.301 at the time of its manufacture, provided the fuel tank of such vehicle is maintained to the original manufacturer's standards.

(a)(7) Motor vehicles that meet the fuel system integrity requirements of 49 CFR 571.301 are exempt from the requirements of this subpart, as they apply to the vehicle's fueling system.

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(b) **Definitions.** As used in this section:

(b)(1) The term "liquid fuel tank" means a fuel tank designed to contain a fuel that is liquid at normal atmospheric pressures and temperatures.

(b)(2) A "side-mounted" fuel tank is a liquid fuel tank which:

(b)(2)(i) If mounted on a truck tractor, extends outboard of the vehicle frame and outside of the plan view outline of the cab; or

(b)(2)(ii) If mounted on a truck, extends outboard of a line parallel to the longitudinal centerline of the truck and tangent to the outboard side of a front tire in a straight ahead position. In determining whether a fuel tank on a truck or truck tractor is side mounted, the fill pipe is not considered a part of the tank.

(c) **Construction of liquid fuel tanks.**

(c)(1) **Joints.** Joints of a fuel tank body must be closed by arc, gas, seam, or spot welding, by brazing, by silver soldering, or by techniques which provide heat resistance and mechanical securement at least equal to those specifically named. Joints must not be closed solely by crimping or by soldering with a lead based or other soft solder.

(c)(2) **Fittings.** The fuel tank body must have flanges or spuds suitable for the installation of all fittings.

(c)(3) **Threads.** The threads of all fittings must be Dryseal American Standard Taper Pipe Thread or Dryseal SAE Short Taper Pipe Thread, specified in Society of Automotive Engineers Standard J476, as contained in the 1971 edition of the "SAE Handbook", except that straight (non tapered) threads may be used on fittings having integral flanges and using gaskets for sealing. At least four full threads must be in engagement in each fitting.

(c)(4) **Drains and bottom fittings.**

(c)(4)(i) Drains or other bottom fittings must not extend more than 3/4 of an inch below the lowest part of the fuel tank or sump.

(c)(4)(ii) Drains or other bottom fittings must be protected against damage from impact.

(c)(4)(iii) If a fuel tank has drains the drain fittings must permit substantially complete drainage of the tank.

(c)(4)(iv) Drains or other bottom fittings must be installed in a flange or spud designed to accommodate it.

(c)(5) **Fuel withdrawal fittings.** Except for diesel fuel tanks, the fittings through which fuel is withdrawn from a fuel tank must be located above the normal level of fuel in the tank when the tank is full.

(c)(6) [Reserved]

(c)(7) **Fill pipe.**

(c)(7)(i) Each fill pipe must be designed and constructed to minimize the risk of fuel spillage during fueling operations and when the vehicle is involved in a crash.

(c)(7)(ii) For diesel-fueled vehicles, the fill pipe and vents of a fuel tank having a capacity of more than 94.75 L (25 gallons) of fuel must permit filling the tank with fuel at a rate of at least 75.8 L/m (20 gallons per minute) without fuel spillage.

(c)(7)(iii) For gasoline- and methanol-fueled vehicles with a GVWR of 3,744 kg (8,500 pounds) or less, the vehicle must permit filling the tank with fuel dispensed at the applicable fill rate required by the regulations of the Environmental Protection Agency under 40 CFR 80.22.

(c)(7)(iv) For gasoline- and methanol-fueled vehicles with a GVWR of 14,000 pounds (6,400 kg) or less, the vehicle must comply with the applicable fuel-spitback prevention and onboard refueling vapor recovery regulations of the Environmental Protection Agency under 40 CFR part 86.

(c)(7)(v) Each fill pipe must be fitted with a cap that can be fastened securely over the opening in the fill pipe. Screw threads or a bayonet-type point are methods of conforming to the requirements of paragraph (c) of this section.

(c)(8) **Safety venting system.** A liquid fuel tank with a capacity of more than 25 gallons of fuel must have a venting system which, in the event the tank is subjected to fire, will prevent internal tank pressure from rupturing the tank's body, seams, or bottom opening (if any).

(c)(9) **Pressure resistance.** The body and fittings of a liquid fuel tank with a capacity of more than 25 gallons of fuel must be capable of withstanding an internal hydrostatic pressure equal to 150% of the maximum internal pressure reached in the tank during the safety venting systems test specified in paragraph (d)(1) of this section.

(c)(10) **Air vent.** Each fuel tank must be equipped with a nonspill air vent (such as a ball check). The air vent may be combined with the fill pipe cap or safety vent, or it may be a separate unit installed on the fuel tank.

(c)(11) **Markings.** If the body of the fuel tank is readily visible when the tank is installed on the vehicle, the tank must be plainly marked with its liquid capacity. The tank must also be plainly marked with a warning against filling it to more than 95% of its liquid capacity.

(c)(12) **Overfill restriction.** A liquid fuel tank manufactured on or after January 1, 1973, must be designed and constructed so that:

(c)(12)(i) The tank cannot be filled, in a normal filling operation, with a quantity of fuel that exceeds 95% of the tank's liquid capacity; and

(c)(12)(ii) When the tank is filled, normal expansion of the fuel will not cause fuel spillage.

(d) **Liquid fuel tank tests.** Each liquid fuel tank must be capable of passing the tests specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance standards may be used.

(d)(1) **Safety venting system test.**

(d)(1)(i) **Procedure.** Fill the tank three fourths full with fuel, seal the fuel feed outlet, and invert the tank. When the fuel temperature is between 50°F and 80°F, apply an enveloping flame to the tank so that the temperature of the fuel rises at a rate of not less than 6°F and not more than 8°F per minute.

(d)(1)(ii) **Required performance.** The safety venting system required by paragraph (c)(8) of this section must activate before the internal pressure in the tank exceeds 50 pounds per square inch, gauge, and the internal pressure must not thereafter exceed the pressure at which the system activated by more than five pounds per square inch despite any further increase in the temperature of the fuel.

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(d)(2) **Leakage test.**

(d)(2)(i) **Procedure.** Fill the tank to capacity with fuel having a temperature between 50°F and 80°F. With the fill pipe cap installed, turn the tank through an angle of 150° in any direction about any axis from its normal position.

(d)(2)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of one ounce by weight of fuel per minute in any position the tank assumes during the test.

(e) **Side-mounted liquid fuel tank tests.** Each side-mounted liquid fuel tank must be capable of passing the tests specified in paragraphs (e)(1) and (2) of this section and the test specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance criteria may be used.

(e)(1) **Drop test.**

(e)(1)(i) **Procedure.** Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 30 feet onto an unyielding surface so that it lands squarely on one corner.

(e)(1)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.

(e)(2) **Fill-pipe test.**

(e)(2)(i) **Procedure.** Fill the tank with a quantity of water having a weight equal to the weight of the maximum fuel load of the tank and drop the tank 10 feet onto an unyielding surface so that it lands squarely on its fill-pipe.

(e)(2)(ii) **Required performance.** Neither the tank nor any fitting may leak more than a total of 1 ounce by weight of water per minute.

(f) **Certification and markings.** Each liquid fuel tank shall be legibly and permanently marked by the manufacturer with the following minimum information:

(f)(1) The month and year of manufacture,

(f)(2) The manufacturer's name on tanks manufactured on and after July 1, 1989, and means of identifying the facility at which the tank was manufactured, and

(f)(3) A certificate that it conforms to the rules in this section applicable to the tank. The certificate must be in the form set forth in either of the following:

(f)(3)(i) If a tank conforms to all rules in this section pertaining to side mounted fuel tanks: "Meets all FMCSA sidemounted tank requirements."

(f)(3)(ii) If a tank conforms to all rules in this section pertaining to tanks which are not side mounted fuel tanks: "Meets all FMCSA requirements for non side mounted fuel tanks."

(f)(3)(iii) The form of certificate specified in paragraph (f)(3)(i) or (ii) of this section may be used on a liquid fuel tank manufactured before July 11, 1973, but it is not mandatory for liquid fuel tanks manufactured before March 7, 1989. The form of certification manufactured on or before March 7, 1989, must meet the requirements in effect at the time of manufacture.

(f)(4) **Exception.** The following previously exempted vehicles are not required to carry the certification and marking specified in paragraphs (f)(1) through (3) of this section:

(f)(4)(i) Ford vehicles with GVWR over 10,000 pounds identified as follows: The vehicle identification numbers (VINs) contain A, K, L, M, N, W, or X in the fourth position.

(f)(4)(ii) GM G-Vans (Chevrolet Express and GMC Savanna) and full-sized C/K trucks (Chevrolet Silverado and GMC Sierra) with GVWR over 10,000 pounds identified as follows: The VINs contain either a "J" or a "K" in the fourth position. In addition, the seventh position of the VINs on the G-Van will contain a "1."

[36 FR 15445, Aug. 14, 1971, as amended at 37 FR 4341, Mar. 2, 1972; 37 FR 28753, Dec. 29, 1972; 45 FR 46424, July 10, 1980; 53 FR 49400, Dec. 7, 1988; 59 FR 8753, Feb. 23, 1994; 66 FR 49874, Oct. 1, 2001; 69 FR 31305, June 3, 2004; 70 FR 48053, Aug. 15, 2005]

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ELDER AFFAIRS DEPARTMENT[321]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 231.14, the Elder Affairs Department hereby gives Notice of Intended Action to amend Chapter 6, "Area Agency on Aging Planning and Administration," Iowa Administrative Code.

The proposed amendment establishes the membership, structure, scope, function, orientation, and training of an Area Agency on Aging Board of Directors.

Any interested person may make written suggestions or comments on this proposed amendment before 4 p.m., June 28, 2006. Written comments should be directed to the Department of Elder Affairs, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319; E-mailed to sherry.james@iowa.gov; or faxed to (515)725-3300.

There will be a public hearing on June 28, 2006, at 1:30 p.m. over the Iowa Communications Network (ICN), at which time persons may present their views either orally or in writing. Access to the public hearing will be available through the following locations:

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

Des Moines
State Library, Ola Babcock Miller Building,
East 12th and Grand Avenue,
Third Floor

Sioux City
Western Hills AEA, 1520 Morningside Avenue,
Room 209A

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Cedar Rapids
Grant Wood AEA, 4401 Sixth St. SW,
Revere Room

Spencer
High School, 800 East 3rd Street

Burlington
AEA, 3601 West Avenue Road

Dubuque
Community School, 2300 Chaney

Council Bluffs
Public Library, 400 Willow Avenue

Creston
Gibson Public Library, 200 West Howard Street

Ottumwa
Indian Hills Community College,
626 Indian Hills Drive, Building 14

Davenport
Kimberly Center, 1002 W. Kimberly, Room 119

Waterloo
West High School, Baltimore and Ridgeway

Decorah
Decorah High School, 100 East Claiborne Drive

Any persons who intend to attend the public hearing and who have special requirements, such as those related to hearing or mobility impairments, should contact the Elder Affairs Department and communicate specific needs.

This amendment is intended to implement Iowa Code chapter 231.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Renumber rules **321—6.7(231)** through **321—6.16(231)** as **321—6.8(231)** through **321—6.17(231)** and adopt the following **new** rule:

321—6.7(231) AAA board of directors.

6.7(1) Each designated AAA shall establish a board of directors in accordance with its individual articles of incorporation and bylaws.

6.7(2) The AAA board membership shall be representative of the geographic planning and service area.

6.7(3) Each AAA board of directors shall have board nominating and election procedures specified in its bylaws.

6.7(4) Each AAA shall specify in its bylaws the scope, function and responsibilities of the board, board committees and individual board members.

6.7(5) Each AAA shall provide an orientation process for newly elected board members that includes, at a minimum, the scope, function and responsibilities of the AAA and the responsibilities of the board, board committees and individual board members.

6.7(6) The department shall provide a minimum of four hours of training annually to AAA board members.

6.7(7) The AAA board of directors shall comply with Iowa Code chapter 504, "Revised Iowa Nonprofit Corporation Act."

ARC 5154B

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 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 22, "Controlling Pollution," and to adopt a new Chapter 33, "Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality," Iowa Administrative Code.

On December 31, 2002, the U.S. Environmental Protection Agency (EPA) promulgated revisions to the Nonattainment New Source Review (NSR) provisions in 40 CFR 51.165 and the Prevention of Significant Deterioration (PSD) provisions for attainment area NSR in 40 CFR 51.166 and 52.21. Both of these programs are mandated by Parts C and D of Title I of the federal Clean Air Act. EPA states in the preamble to the federal rule making that these revisions are intended to "reduce burden, maximize operating flexibility, improve environmental quality, provide additional certainty, and promote administrative efficiency."

The NSR program contained in Parts C and D of Title I of the Clean Air Act is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the Clean Air Act. The Department estimates that there are approximately 300 major stationary sources in the state.

Areas that do not meet the National Ambient Air Quality Standards (NAAQS) are referred to as nonattainment areas. In these areas, the nonattainment NSR program applies to new or modified major stationary sources. In areas that meet the NAAQS, referred to as attainment areas, the PSD program applies to new or modified major stationary sources. Collectively, the nonattainment NSR and PSD programs are referred to as the major NSR program.

Three elements of the major NSR program are affected by this rule making. These elements include the procedure for calculating baseline actual emissions, actual-to-projected-actual emissions calculation methodology, and plantwide applicability limitations (PALs). This rule making also adds a new definition of "regulated NSR pollutant" that clarifies which pollutants are regulated for the purposes of major NSR.

By federal law, the Department must adopt this rule making and submit revisions to its major NSR permitting program to implement these minimum program elements in the Iowa State Implementation Plan (SIP). The SIP contains provisions, such as the preconstruction review program, that are intended to ensure that the NAAQS are achieved and maintained in the state. The SIP revision request was required to have been submitted to EPA by no later than January 6, 2006.

The Department originally proposed NSR Reform rules in a Notice of Intended Action published in the Iowa Adminis-

trative Bulletin as **ARC 4005B** on February 16, 2005. The public comment period for **ARC 4005B** closed on May 2, 2005. The Department was in the process of preparing final rules when the U.S. Court of Appeals, District of Columbia, issued a ruling on June 24, 2005, for State of New York, et al. (Petitioners) v. U.S. EPA (Respondent), vacating and remanding several provisions of the federal regulations. This ruling had serious implications for the rules proposed in **ARC 4005B**. The Department awaited guidance from EPA, which was not forthcoming at the time. Additionally, the Department was required to either issue an Adopted and Filed rule making or terminate the Notice by September 23, 2005. The Department could not adopt final rules in light of the Court action and the lack of EPA guidance. As such, the Department elected to terminate the Notice of Intended Action. The Notice of Termination was published in the Iowa Administrative Bulletin as **ARC 4563B** on October 12, 2005.

Since the termination of the Department's original NSR Reform rules, EPA has provided guidance that is sufficient for the Department to draft new NSR Reform rules and to proceed with a new Notice of Intended Action. The Department is now renoticing the rule making to comply with EPA's requirements that Iowa modify its SIP to adopt NSR Reform.

The Department has elected not to propose amendments for adopting the nonattainment portion of NSR Reform, as federally promulgated under 40 CFR 51.165. In a letter dated June 1, 2005, to the Department, EPA Region VII confirmed that the Department does not need to propose nonattainment NSR Reform rules at this time because Iowa does not have any nonattainment areas. The Department may wait to propose nonattainment NSR Reform rules until such time as Iowa has an area designated as nonattainment. As such, the current rules for major sources in nonattainment areas, as required under Part D of Title I of the federal Clean Air Act, and as currently set forth under 567—22.5(455B) and 567—22.6(455B), will remain in effect.

Prior to proposing the original NSR Reform rule making, the Department convened a technical workgroup on March 30, 2004, facilitated by the Iowa Department of Economic Development, to review the elements of the major NSR program affected by the federal NSR Reform regulations. The workgroup was tasked with making recommendations to the Department regarding the adoption of the federal rule making into the Iowa Administrative Code. The workgroup was composed of affected stakeholders who have experience with and knowledge of the major NSR program and was supported by permitting staff from the Department. The recommendations of the workgroup and the Department's actions regarding the recommendations are summarized in the "NSR Reform Workgroup Recommendation Summary" document, available from the Department.

The consensus reached by the workgroup was that the text of EPA's major NSR rules should be adopted directly into the Iowa Administrative Code rather than adopted by reference. This approach allows the Department to reorganize and consolidate portions of the federal major NSR rules to make them easier for the regulated public to understand and implement. The ability of the Department to have additional flexibility to address issues subject to interpretation on a case-by-case basis was a feature desired by many of the workgroup members.

Since the Department's original NSR Reform proposal, the Department has conferred with EPA on this approach. EPA had concerns about tracking the Department's changes from the federal regulations, even though the Department provided a summary of all changes and a spreadsheet that cross-referenced the federal and state citations. EPA requested that the Department consider adopting the NSR Reform rules by reference to ease EPA approval of Iowa's rules into the SIP. EPA also suggested that, since significant changes to the federal regulations in the future were possible, adoption by reference would make it easier for the Department to modify state rules in the future.

In this proposed rule making, the Department has elected to use a combination of EPA's and the workgroup's recommendations. The definitions and applicability portions for the PSD program are written into the proposed rules rather than adopted by reference. These provisions are the basis of PSD applicability and constitute the provisions which potentially affected facilities and Department staff access and reference the most frequently.

Other federal sections, such as those pertaining to required PSD analyses, and the provisions for Plantwide Applicability Limits (PALs), are adopted by reference. In the original rule making, the Department had made very few changes from the federal regulations for these provisions. Adoption by reference of these sections will also allow for some brevity and succinctness to these very lengthy federal regulations.

One workgroup member submitted an individual recommendation for consideration. This recommendation, which was also submitted as a written comment during the public comment period for the original Notice, pertained to the exemption from some provisions of the PSD rules for nonprofit health or nonprofit educational institutions. The PSD rules currently adopted by the Department allow a nonprofit health or nonprofit educational institution to be exempted from the requirements of 40 CFR Part 52.21, paragraphs "j" through "r," if the Governor so requests. The provisions of 40 CFR Part 52.21, paragraphs "j" through "r," include the requirements to conduct a control technology review; a source impact analysis; preconstruction and postconstruction monitoring; analysis of the impairment to visibility, soils and vegetation as a result of the project; and an analysis of the impact on nearby protected federal Class I areas. The individual recommendation was that the Department instead allow exemption from the requirements of 40 CFR Part 52.21, paragraphs "j" through "r," for nonprofit health or nonprofit educational institutions without gubernatorial approval, as provided for in 40 CFR Part 51.166(i).

However, the Department has determined that it will continue with its current practice of allowing exemptions from the PSD permitting requirements of paragraphs "j" through "r" of 40 CFR Part 52.21 only upon the request of the Governor, as provided for under 40 CFR Part 52.21(i). Continuing this practice will ensure that possible public health and welfare consequences of proposed changes at a nonprofit health or nonprofit educational institution are considered before an exemption is granted from the specified PSD permitting requirements.

Item 1 amends 567—Chapter 20 to refer to 567—Chapter 33 for special requirements for permitting of major stationary sources.

Item 2 rescinds rule 567—22.4(455B) and adopts a new rule that refers to the PSD requirements in 567—Chapter 33. Item 2 will direct users of the Iowa Administrative Code from rule 567—22.4(455B) to 567—Chapter 33 until all references to rule 567—22.4(455B) are identified and changed to 567—Chapter 33 in a subsequent rule making. Once this process has been accomplished, new rule 567—22.4(455B) will be rescinded.

Item 3 amends rule 567—22.6(455B) to update the reference to the federal regulation that lists nonattainment area

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designations. Although the list of Iowa's nonattainment designations did not change, EPA made changes to other nonattainment area designations.

Item 4 adopts new 567—Chapter 33. This chapter contains the PSD regulations and construction permitting requirements for major stationary sources.

These amendments contain some significant changes to 567—Chapter 33 from the Notice proposed under **ARC 4005B**. The previous provisions for Clean Units and Pollution Control Projects (PCP), including the definitions and all references to these classifications, are not included in these amendments. The Court vacated these provisions in its ruling in June 2005. EPA has indicated that not including these provisions in the state rules is an acceptable approach.

In a separate action on March 17, 2006, the D.C. Court of Appeals, in State of New York et al. (Petitioners) v. U.S. EPA (Respondent), overturned what is commonly called the Equipment Replacement Rule portion of NSR Reform. The provisions of the Equipment Replacement Rule had been previously stayed by the Court, and thus were not included in the Department's original Notice. However, EPA commented that the original PSD provisions for routine maintenance and repair had not been stayed. As such, the Department is including in proposed 567—Chapter 33 the existing PSD provisions currently adopted by reference in 567—Chapter 22 for routine maintenance and repair of equipment.

In addition, the Department has included record-keeping requirements under the source obligation provisions of subrule 33.3(18) that are different from the corresponding federal regulations. This change addresses the Court's remand of the federal provisions back to EPA. EPA has yet to take any action on the Court's remand, and has not issued guidance to states on how to address this issue in state rule makings. However, EPA Region VII has offered informal recommendations that may address the Court's underlying concerns. The Department is proposing herein record-keeping language that incorporates EPA Region VII's informal recommendations, as well as text that is similar to that which some other states are currently proposing.

Any person may make written suggestions or comments on the proposed amendments on or before July 12, 2006. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515) 242-5094; or by electronic mail to christine.paulson@dnr.state.ia.us.

A public hearing will be held on Monday, July 10, 2006, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at the public hearing. All comments must be received no later than July 12, 2006.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515)242-5154 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 455B.133.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **567—20.1(455B,17A)**, second unnumbered paragraph, as follows:

Chapter 21 contains the provisions requiring compliance schedules, allowing for variances, and setting forth the emission reduction program. Chapter 22 contains the standards and procedures for permitting of emission sources and the special requirements for nonattainment areas. Chapter 23 contains the air emission standards for contaminants. Chapter 24 provides for the reporting of excess emissions and the equipment maintenance and repair requirements. Chapter 25 contains the testing and sampling requirements for new and existing sources. Chapter 26 identifies air pollution emergency episodes and the preplanned abatement strategies. Chapter 27 sets forth the conditions political subdivisions must meet in order to secure acceptance of a local air pollution control program. Chapter 28 identifies the state ambient air quality standards. Chapter 29 sets forth the qualifications for an observer for reading visible emissions. Chapter 31 contains the conformity of general federal actions to the Iowa state implementation plan or federal implementation plan. Chapter 32 specifies requirements for conducting the animal feeding operations field study. *Chapter 33 contains special regulations and construction permit requirements for major stationary sources and includes the requirements for prevention of significant deterioration (PSD).* Chapter 34 contains provisions for air quality emissions trading programs.

ITEM 2. Rescind rule 567—22.4(455B) and adopt the following **new** rule in lieu thereof:

567—22.4(455B) Special requirements for major stationary sources located in areas designated attainment or unclassified (PSD). The rules for prevention of significant deterioration (PSD) are contained in 567—Chapter 33.

ITEM 3. Amend rule 567—22.6(455B) as follows:

567—22.6(455B) Nonattainment area designations. Section 107(d) of the Act, 41 U.S.C. §7457(d), requires each state to submit to the Administrator of the federal Environmental Protection Agency a list of areas that exceed the *national* ambient air quality standards, that are lower than those standards, or that cannot be classified on the basis of current data. A list of Iowa's nonattainment area designations is found at 40 CFR Part 81.316 as amended through ~~March 19, 1998~~ *April 30, 2004*. The commission uses the document entitled "Criteria for Revising Nonattainment Area Designations"* (June 14, 1979) to determine when and to what extent the list will be revised and resubmitted.

*Filed with the Administrative Rules Coordinator; also available from the department.

ITEM 4. Adopt **new** 567—Chapter 33 as follows:

CHAPTER 33
SPECIAL REGULATIONS AND CONSTRUCTION PERMIT REQUIREMENTS FOR MAJOR STATIONARY SOURCES—PREVENTION OF SIGNIFICANT DETERIORATION (PSD) OF AIR QUALITY

567—33.1(455B) Purpose. This chapter implements the major New Source Review (NSR) program contained in Part C of Title I of the federal Clean Air Act as amended on November 15, 1990, and as promulgated under 40 CFR 51.166 and 52.21 as amended through November 29, 2005. This is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under Part C of the Clean Air Act as amended on November 15, 1990. In areas that do not meet the national ambient air quality standards (NAAQS), the nonattainment NSR program applies. The requirements for the nonattain-

ment NSR program are set forth in 567—22.5(455B) and 567—22.6(455B). In areas that meet the NAAQS, the PSD program applies. Collectively, the nonattainment NSR and PSD programs are referred to as the major NSR program.

Rule 567—33.2(455B) is reserved.

Rule 567—33.3(455B) sets forth the definitions, standards and permitting requirements that are specific to the PSD program.

Rules 567—33.4(455B) through 567—33.8(455B) are reserved.

Rule 567—33.9(455B) includes the conditions under which a source subject to PSD may obtain a plantwide applicability limitation (PAL) on emissions.

In addition to the requirements in this chapter, stationary sources may also be subject to the permitting requirements in 567—Chapter 22, including requirements for Title V operating permits.

567—33.2(455B) Reserved.

567—33.3(455B) Special construction permit requirements for major stationary sources in areas designated attainment or unclassified (PSD).

33.3(1) Definitions. Definitions included in this subrule apply to the provisions set forth in this rule (PSD program requirements). For purposes of this rule, the definitions herein shall apply, rather than the definitions contained in 40 CFR 52.21 and 51.166, except for the PAL program definitions referenced in rule 567—33.9(455B). For purposes of this rule, the following terms shall have the meanings indicated in this subrule:

"Act" means the Clean Air Act, 42 U.S.C. Sections 7401, et seq., as amended through November 15, 1990.

"Actual emissions" means:

1. The actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with paragraphs "2" through "4," except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under rule 567—33.9(455B). Instead, the requirements specified under the definitions for "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.

2. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

3. The department may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

4. For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means the administrator for the United States Environmental Protection Agency (EPA) or designee.

"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits or enforceable permit conditions which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 567—subrules 23.1(2) through 23.1(5) (new source performance standards, emissions standards for hazardous air pollutants, and federal emissions guidelines) or an applicable federal standard not adopted by the state, as set forth in 40 CFR Parts 60, 61 and 63;

2. The applicable state implementation plan (SIP) emissions limitation, including those with a future compliance date; or

3. The emissions rate specified as an enforceable permit condition.

"Baseline actual emissions," for the purposes of this chapter, means the rate of emissions, in tons per year, of a regulated NSR pollutant, as "regulated NSR pollutant" is defined in this subrule, and as determined in accordance with paragraphs "1" through "4."

1. For any existing electric utility steam generating unit, "baseline actual emissions" means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the five-year period immediately preceding the date on which the owner or operator begins actual construction of the project. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

(a) The average rate shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions.

(b) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emissions limitation that was legally enforceable during the consecutive 24-month period.

(c) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated NSR pollutant.

(d) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph "1"(b) of this definition.

2. For an existing emissions unit, other than an electric utility steam generating unit, "baseline actual emissions" means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the ten-year period immediately preceding either the date on which the owner or operator begins actual construction of the project, or the date on which a complete permit application is received by the department for a permit required either under this chapter or under a SIP approved by the Administrator, whichever is earlier, except that the ten-year period shall not include any period earlier than November 15, 1990.

(a) The average rate shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions.

(b) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emissions limitation that was legally enforceable during the consecutive 24-month period.

(c) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emissions limitation with which the major stationary source must currently comply, had such major stationary source been re-

quired to comply with such limitations during the consecutive 24-month period. However, if an emissions limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) as amended through November 29, 2005.

(d) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated NSR pollutant.

(e) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraphs "2"(b) and "2"(c) of this definition.

3. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

4. For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in paragraph "1"; for other existing emissions units in accordance with the procedures contained in paragraph "2"; and for a new emissions unit in accordance with the procedures contained in paragraph "3."

"Baseline area" means:

1. Any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(D) or (E) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m^3 (annual average) of the pollutant for which the minor source baseline date is established.

2. Area redesignations under Section 107(d)(1)(D) or (E) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which establishes a minor source baseline date or is subject to regulations specified in this rule or in 40 CFR 52.21 (PSD requirements), and would be constructed in the same state as the state proposing the redesignation.

3. Any baseline area established originally for the total suspended particulate increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that such baseline area shall not remain in effect if the permitting authority rescinds the corresponding minor source baseline date in accordance with the definition specified in this subrule.

"Baseline concentration" means:

1. The ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(a) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph "2" of this definition;

(b) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

2. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(a) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(b) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"Baseline date" means:

1. Either "major source baseline date" or "minor source baseline date" as follows:

(a) The "major source baseline date" means, in the case of particulate matter and sulfur dioxide, January 6, 1975, and in the case of nitrogen dioxide, February 8, 1988.

(b) The "minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 as amended through November 29, 2005, or subject to this rule (PSD program requirements) submits a complete application under the relevant regulations. The trigger date for particulate matter and sulfur dioxide is August 7, 1977. For nitrogen dioxide, the trigger date is February 8, 1988.

2. The "baseline date" is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under Section 107(d)(i)(D) or (E) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 as amended through November 29, 2005, or under regulations specified in this rule (PSD program requirements); and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

Any minor source baseline date established originally for the total suspended particulate increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the reviewing authority may rescind any such minor source baseline date where it can be shown, to the satisfaction of the reviewing authority, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

"Best available control technology" or "BACT" means an emissions limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the reviewing authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel

cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 567—subrules 23.1(2) through 23.1(5) (standards for new stationary sources, federal standards for hazardous air pollutants, and federal emissions guidelines), or federal regulations as set forth in 40 CFR Parts 60, 61 and 63 but not yet adopted by the state. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation and shall provide for compliance by means which achieve equivalent results.

"Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

"CFR" means the Code of Federal Regulations, with standard references in this chapter by title and part, so that "40 CFR 51" or "40 CFR Part 51" means "Title 40 Code of Federal Regulations, Part 51."

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy—Clean Coal Technology," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Commence," as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the department from requesting or accepting any additional information.

"Construction" means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, that would result in a change in emissions.

"Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements of this chapter, to sample, to condition (if applicable), to analyze, and to provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this chapter, to monitor the process device operational parameters and the control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O_2 or CO_2 concentrations), and to record the average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of this chapter, there are two types of emissions units:

1. A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than two years from the date such emissions unit first operated.

2. An existing emissions unit is any emissions unit that does not meet the requirements in "1" above. A replacement unit is an existing emissions unit.

"Enforceable permit condition," for the purpose of this chapter, means any of the following limitations and conditions: requirements development pursuant to new source performance standards, prevention of significant deterioration standards, emissions standards for hazardous air pollutants, requirements within the SIP, and any permit requirements established pursuant to this chapter, any permit requirements established pursuant to 40 CFR 52.21 or Part 51, Subpart I, as amended through November 29, 2005, or under conditional, construction or Title V operating permit rules.

"Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

"Federally enforceable" means all limitations and conditions which are enforceable by the Administrator and the department, including those federal requirements not yet adopted by the state, developed pursuant to 40 CFR Parts 60, 61 and 63; requirements within 567—subrules 23.1(2) through 23.1(5); requirements within the SIP; any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I,

as amended through November 29, 2005, including operating permits issued under an EPA-approved program, that are incorporated into the SIP and expressly require adherence to any permit issued under such program.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

"Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or Act of Congress.

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

"Lowest achievable emissions rate" or "LAER" means, for any source, the more stringent rate of emissions based on the following:

1. The most stringent emissions limitation which is contained in the SIP for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

2. The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

"Low terrain" means any area other than high terrain.

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.

1. Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or NO_x shall be considered significant for ozone.

2. A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair and replacement;

(b) Use of an alternative fuel or raw material by reason of any order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition, or that the source is approved to use under any federally enforceable permit condition;

(f) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975;

(g) Any change in ownership at a stationary source;

(h) Reserved.

(i) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with the requirements within the SIP; and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated;

(j) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis;

(k) The reactivation of a very clean coal-fired electric utility steam generating unit.

3. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under rule 567—33.9(455B) for a PAL for that pollutant. Instead, the definition under rule 567—33.9(455B) shall apply.

"Major source baseline date" is defined under the definition of "baseline date."

"Major stationary source" means:

1. (a) Any one of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant:

- Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
- Coal cleaning plants (with thermal dryers);
- Kraft pulp mills;
- Portland cement plants;
- Primary zinc smelters;
- Iron and steel mill plants;
- Primary aluminum ore reduction plants;
- Primary copper smelters;
- Municipal incinerators capable of charging more than 250 tons of refuse per day;
- Hydrofluoric, sulfuric, and nitric acid plants;
- Petroleum refineries;
- Lime plants;
- Phosphate rock processing plants;
- Coke oven batteries;
- Sulfur recovery plants;
- Carbon black plants (furnace process);
- Primary lead smelters;
- Fuel conversion plants;
- Sintering plants;
- Secondary metal production plants;
- Chemical process plants;
- Fossil-fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input;
- Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- Taconite ore processing plants;
- Glass fiber processing plants; and
- Charcoal production plants.

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(b) Notwithstanding the stationary source size specified in paragraph "1"(a), any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(c) Any physical change that would occur at a stationary source not otherwise qualifying under this definition as a major stationary source if the change would constitute a major stationary source by itself.

2. A major source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

3. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this rule whether it is a major stationary source, unless the source belongs to one of the categories of stationary sources listed in paragraph "1"(a) of this definition or to any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Act.

"Minor source baseline date" is defined under the definition of "baseline date."

"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the SIP.

"Net emissions increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the following exceeds zero:

- The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated according to the applicability requirements under subrule 33.3(2); and
- Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this definition of "net emissions increase" shall be determined as provided for under the definition of "baseline actual emissions," except that paragraphs "1"(c) and "2"(d) of the definition of "baseline actual emissions," which describe provisions for multiple emissions units, shall not apply.

1. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if the increase or decrease in actual emissions occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs.

2. An increase or decrease in actual emissions is creditable only if:

(a) The increase or decrease in actual emissions occurs within the contemporaneous time period, as noted in paragraph "1" of this definition; and

(b) The department has not relied on the increase or decrease in actual emissions in issuing a permit for the source under this rule, which permit is in effect when the increase in actual emissions from the particular change occurs.

3. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if the increase or decrease in actual emissions is required to be considered in calculating the amount of maximum allowable increases remaining available.

4. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

5. A decrease in actual emissions is creditable only to the extent that:

(a) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(b) The decrease in actual emissions is enforceable as a practical matter at and after the time that actual construction on the particular change begins; and

(c) The decrease in actual emissions has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

6. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

7. The definition of "actual emissions," paragraph "2," shall not apply for determining creditable increases and decreases.

"Nonattainment area" means an area so designated by the Administrator, acting pursuant to Section 107 of the Act.

"Permitting authority" means the Iowa department of natural resources or the director thereof.

"Pollution prevention" means any activity that, through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; "pollution prevention" does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor the process device operational parameters and the control device operational parameters (e.g., control device secondary voltages and electric currents) and other information (e.g., gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

"Prevention of significant deterioration (PSD) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the SIP or means the program in 40 CFR 52.21. Any permit issued under such a program is a major NSR permit.

"Project" means a physical change in, or change in method of operation of, an existing major stationary source.

"Projected actual emissions," for the purposes of this chapter, means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five years (12-month period) beginning on the first day of the month following the date when the unit commences or resumes regular operation after the project, or in any one of the ten years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions in-

crease at the major stationary source. For purposes of this definition, "regular" shall be determined by the department on a case-by-case basis.

In determining the projected actual emissions before beginning actual construction, the owner or operator of the major stationary source:

1. Shall consider all relevant information including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved plan; and

2. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and

3. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

4. In lieu of using the method set out in paragraphs "1" through "3," may elect to use the emissions unit's potential to emit, in tons per year.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

1. Has not been in operation for the two-year period prior to the enactment of the Act, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory at the time of the enactment;

2. Was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

3. Is equipped with low-NO_X burners prior to the time of commencement of operations following reactivation; and

4. Is otherwise in compliance with the requirements of the Act.

"Regulated NSR pollutant" means the following:

1. Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (e.g., volatile organic compounds and NO_X are precursors for ozone);

2. Any pollutant that is subject to any standard promulgated under Section 111 of the Act;

3. Any Class I or Class II substance subject to a standard promulgated under or established by Title VI of the Act; or

4. Any pollutant that otherwise is subject to regulation under the Act; except that any or all hazardous air pollutants either listed in Section 112 of the Act or added to the list pursuant to Section 112(b)(2) of the Act, which have not been delisted pursuant to Section 112(b)(3) of the Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under Section 108 of the Act.

"Replacement unit" means an emissions unit for which all the criteria listed in paragraphs "1" through "4" of this definition are met. No creditable emissions reductions shall be generated from shutting down the existing emissions unit that is replaced.

1. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1) as amended through December 16, 1975, or the emissions unit completely takes the place of an existing emissions unit.

2. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

3. The replacement does not change the basic design parameter(s) of the process unit.

4. The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

"Repowering" means:

1. Replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion; integrated gasification combined cycle; magnetohydrodynamics; direct and indirect coal-fired turbines; integrated gasification fuel cells; or, as determined by the Administrator in consultation with the Secretary of Energy, a derivative of one or more of these technologies; and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

2. Repowering shall also include any oil or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

3. The department shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under Section 409 of the Act.

"Reviewing authority" means the department, or the Administrator in the case of EPA-implemented permit programs under 40 CFR 52.21.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this chapter, "secondary emissions" must be specific, well-defined, and quantifiable, and impact the same general areas as the stationary source modification which causes the secondary emissions. "Secondary emissions" includes emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. "Secondary emissions" does not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means:

1. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

- Carbon monoxide: 100 tons per year (tpy)
- Nitrogen oxides: 40 tpy
- Sulfur dioxide: 40 tpy
- Particulate matter: 25 tpy of particulate matter emissions or 15 tpy of PM_{10} emissions
- Ozone: 40 tpy of volatile organic compounds or NO_x

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- Lead: 0.6 tpy
- Fluorides: 3 tpy
- Sulfuric acid mist: 7 tpy
- Hydrogen sulfide (H_2S): 10 tpy
- Total reduced sulfur (including H_2S): 10 tpy
- Reduced sulfur compounds (including H_2S): 10 tpy
- Municipal waste combustor organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)
- Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)
- Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)
- Municipal solid waste landfill emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

2. "Significant" means, for purposes of this rule and in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant not listed in paragraph "1," any emissions rate.

3. Notwithstanding paragraph "1," "significant," for purposes of this rule, means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within ten kilometers of a Class I area, and have an impact on such area equal to or greater than 1 ug/m^3 (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"State implementation plan" or "SIP" means the plan adopted by the state of Iowa and approved by the Administrator which provides for implementation, maintenance, and enforcement of such primary and secondary ambient air quality standards as they are adopted by the Administrator, pursuant to the Act.

"Stationary source" means any building, structure, facility, or installation which emits or may emit a regulated NSR pollutant.

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of five years or less and that complies with the SIP and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.

"Title V permit" means an operating permit under Title V of the Act.

"Volatile organic compounds" or "VOC" means any compound included in the definition of "volatile organic compound" found at 50 CFR 51.100(s) as amended through November 29, 2004.

33.3(2) Applicability. The requirements of this rule (PSD program requirements) apply to the construction of any new "major stationary source" as defined in subrule 33.3(1) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the Act. In addition to the provisions set forth in rules 567—33.3(455B) through 567—33.9(455B), the following federal regulations as amended through November 29, 2005, are adopted by reference: 40 CFR Part 51, Appendices L, M, P, S, and W (Guidelines on Air Dispersion Models) and 40 CFR Part 52, Appendices D and F.

a. The requirements of subrules 33.3(10) through 33.3(18) apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this rule (PSD program requirements) otherwise provides.

b. No new major stationary source or major modification to which the requirements of subrule 33.3(10) through paragraph 33.3(18)"e" apply shall begin actual construction without a permit that states that the major stationary source or major modification will meet those requirements.

c. Except as otherwise provided in paragraphs 33.3(2)"i" and "j," and consistent with the definition of "major modification" contained in subrule 33.3(1), a project is a major modification for a "regulated NSR pollutant" if it causes two types of emissions increases: a "significant emissions increase"; and a "net emissions increase" which is "significant." The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

d. The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs "e" through "h" of this subrule. The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition of "net emissions increase." Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

e. Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the "projected actual emissions" and the "baseline actual emissions" for each existing emissions unit equals or exceeds the significant amount for that pollutant.

f. Actual-to-potential test for projects that involve only construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the "potential to emit" from each new emissions unit following completion of the project and the "baseline actual emissions" for a new emissions unit before the project equals or exceeds the significant amount for that pollutant.

g. Reserved.

h. Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs "e" through "g" of this subrule, as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.

i. For any major stationary source with a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under rule 567—33.9(455B).

j. Reserved.

33.3(3) Ambient air increments. The provisions for ambient air increments as specified in 40 CFR 52.21(c) as amended through November 29, 2005, are adopted by reference.

33.3(4) Ambient air ceilings. The provisions for ambient air ceilings as specified in 40 CFR 52.21(d) as amended through November 29, 2005, are adopted by reference.

33.3(5) Restrictions on area classifications. The provisions for restrictions on area classifications as specified in 40 CFR 52.21(e) as amended through November 29, 2005, are adopted by reference.

33.3(6) Exclusions from increment consumption. The provisions by which the SIP may provide for exclusions from increment consumption as specified in 40 CFR 51.166(f) as amended through November 29, 2005, are adopted by reference. The following phrases contained in 40 CFR 51.166(f) are not adopted by reference: "the plan may provide that," "the plan provides that," and "it shall also provide that." Additionally, the term "the plan" shall mean "SIP."

33.3(7) Redesignation. The provisions for redesignation as specified in 40 CFR 52.21(g) as amended through November 29, 2005, are adopted by reference.

33.3(8) Stack heights. The provisions for stack heights as specified in 40 CFR 52.21(h) as amended through November 29, 2005, are adopted by reference.

33.3(9) Exemptions. The provisions for allowing exemptions from certain requirements for PSD-subject sources as specified in 40 CFR 52.21(i) as amended through November 29, 2005, are adopted by reference.

33.3(10) Control technology review. The provisions for control technology review as specified in 40 CFR 52.21(j) as amended through November 29, 2005, are adopted by reference.

33.3(11) Source impact analysis. The provisions for a source impact analysis as specified in 40 CFR 52.21(k) as amended through November 29, 2005, are adopted by reference.

33.3(12) Air quality models. The provisions for air quality models as specified in 40 CFR 52.21(l) as amended through November 29, 2005, are adopted by reference.

33.3(13) Air quality analysis. The provisions for an air quality analysis as specified in 40 CFR 52.21(m) as amended through November 29, 2005, are adopted by reference.

33.3(14) Source information. The provisions for providing source information as specified in 40 CFR 52.21(n) as amended through November 29, 2005, are adopted by reference.

33.3(15) Additional impact analyses. The provisions for an additional impact analysis as specified in 40 CFR 52.21(o) as amended through November 29, 2005, are adopted by reference.

33.3(16) Sources impacting federal Class I areas—additional requirements. The provisions for sources impacting federal Class I areas as specified in 40 CFR 51.166(p) as amended through November 29, 2005, are adopted by reference. The following phrases contained in 40 CFR 51.166(p) are not adopted by reference: "the plan may provide that," "the plan shall provide that," and "the plan shall provide."

33.3(17) Public participation.

a. The department shall notify all applicants within 30 days as to the completeness of the application or any deficiency in the application or information submitted. In the event of such a deficiency, the date of receipt of the application shall be the date on which the department received all required information.

b. Within one year after receipt of a complete application, the department shall:

(1) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(2) Make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(3) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, of the preliminary determination, of the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment. At least 30 days shall be provided for public comment and for notification of any public hearing.

(4) Send a copy of the notice of public comment to the applicant, to the Administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: any other state or local air pollution control agencies; the chief executives of the city and county where the source would be located; any comprehensive regional land use planning agency; and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification.

(5) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to the proposed source or modification, the control technology required, and other appropriate considerations. At least 30 days' notice shall be provided for any public hearing.

(6) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The department shall make all comments available for public inspection at the same locations where the department made available preconstruction information relating to the proposed source or modification.

(7) Make a final determination whether construction should be approved, approved with conditions, or disapproved.

(8) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same locations where the department made available preconstruction information and public comments relating to the proposed source or modification.

33.3(18) Source obligation.

a. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any other requirements under local, state or federal law.

b. At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of subrules 33.3(10) through 33.3(19) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

c. to e. Reserved.

f. The following specific provisions shall apply to projects at existing emissions units at a major stationary source, other than projects at a source with a PAL, in circumstances in which a project is not part of a major modification, and the owner or operator elects to use the method for calculating projected actual emissions as specified in subrule 33.3(1),

paragraphs "1" through "3" of the definition of "projected actual emissions."

(1) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

1. A description of the project;

2. Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

3. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under paragraph "3" of the definition of "projected actual emissions" in subrule 33.3(1), an explanation why such amount was excluded, and any netting calculations, if applicable.

(2) No less than 30 days before beginning actual construction, the owner or operator shall meet with the department to discuss the owner's or operator's determination of projected actual emissions for the project and shall provide to the department a copy of the information specified in paragraph "f." The owner or operator is not required to obtain a determination from the department regarding the project's projected actual emissions prior to beginning actual construction.

(3) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subparagraph (1) to the department. Nothing in this subparagraph shall be construed to require the owner or operator of such a unit to obtain any determination from the department before beginning actual construction.

(4) The owner or operator shall:

1. Monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subparagraph (1);

2. Calculate the annual emissions, in tons per year on a calendar-year basis, for a period of five years following resumption of regular operation and maintain a record of regular operations after the change, or for a period of ten years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit (for purposes of this requirement, "regular" shall be determined by the department on a case-by-case basis); and

3. Maintain a written record containing the information required in this subparagraph.

(5) The written record containing the information required in subparagraph (4) shall be retained by the owner or operator for a period of ten years after the project is completed.

(6) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the department within 60 days after the end of each year during which records must be generated under subparagraph (4) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(7) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the department if the annual emissions, in tons per year, from the project identified in subparagraph (1), exceed the baseline actual emissions, as documented and maintained pursuant to subparagraph (4), by an amount that is "significant" as defined in paragraph 33.3(1) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to subparagraph (4). Such report shall be submitted to the department within 60 days after the end of such year. The report shall contain the following:

1. The name, address and telephone number of the major stationary source;

2. The annual emissions as calculated pursuant to subparagraph (4); and

3. Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

g. The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph "f" available for review upon request for inspection by the department or the general public pursuant to the requirements for Title V operating permits contained in 567—subrule 22.107(6).

33.3(19) Innovative control technology. The provisions for innovative control technology as specified in 40 CFR 51.166(s) as amended through November 29, 2005, are adopted by reference. The following phrases contained in 40 CFR 51.166(s) are not adopted by reference: "the plan may provide that" and "the plan shall provide that."

33.3(20) Conditions for permit issuance. Except as explained below, a permit may not be issued to any new "major stationary source" or "major modification" as defined in subrule 33.3(1) that would locate in any area designated as attainment or unclassifiable for any national ambient air quality standard pursuant to Section 107 of the Act, when the source or modification would cause or contribute to a violation of any national ambient air quality standard. A major stationary source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable national standard:

	Averaging Time				
	Annual	24 Hrs.	8 Hrs.	3 Hrs.	1 Hr.
Pollutant	(ug/m^3)	(ug/m^3)	(ug/m^3)	(ug/m^3)	(ug/m^3)
SO_2	1.0	5	—	25	—
PM_{10}	1.0	5	—	—	—
NO_2	1.0	—	—	—	—
CO	—	—	500	—	2000

A permit may be granted to a major stationary source or major modification as identified above if the major stationary source or major modification reduces the impact of its emissions upon air quality by obtaining sufficient emissions reductions to compensate for its adverse ambient air impact where the major stationary source or major modification would otherwise contribute to a violation of any national ambient air quality standard. This subrule shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that the source is located in an area designated under Section 107 of the Act as nonattainment for that pollutant.

567—33.4(455B) to **567—33.8(455B)** Reserved.

567—33.9(455B) Plantwide applicability limitations (PALs). This rule provides an existing major source the option of establishing a plantwide applicability limitation (PAL) on emissions, provided the conditions in this rule are met. The provisions for a PAL as set forth in 40 CFR 52.21(aa) as amended through November 29, 2005, are adopted by refer-

ence, except that the term "Administrator" shall mean "the department of natural resources."

567—33.10(455B) Exceptions to adoption by reference. All references to Clean Units and Pollution Control Projects set forth in 40 CFR Parts 52.21 and 51.166 are not adopted by reference.

These rules are intended to implement Iowa Code chapter 455B.

ARC 5133B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, chapter 175, section 6(5), the Department of Human Services proposes to amend Chapter 75, "Conditions of Eligibility," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments bring Iowa Medicaid rules into compliance with the provisions of Sections 6011 through 6016 of the Deficit Reduction Act of 2005, which was signed in February 2006. The amendments relate to Medicaid eligibility for people receiving various types of long-term care services.

When one spouse enters a medical facility and the other remains in the community, the Department makes an attribution of the couple's financial resources to allocate the amount of resources to be protected for the community spouse. If the couple believes that the amount of protected resources will not generate enough income for the community spouse, the couple can appeal the attribution decision. The amendment to subrule 75.5(3) changes the way income is considered for the appeal decision on whether to protect a higher amount of resources.

Currently, only the income of the community spouse is considered. The amendment provides that the income that the institutionalized spouse has available to give to the community spouse will also be considered. Therefore, the amount of resources protected for the community spouse will be less likely to increase on appeal, and a couple who is affected by this provision will need to spend more of their total resources in order to qualify for Medicaid.

New rule 441—75.6(249A) provides that certain entrance fees that a person paid on admission to a continuing care retirement community or to a life care community will be considered a resource available to that person for purposes of determining the person's Medicaid eligibility and the amount of benefits. (In Iowa, continuing care retirement communities are regulated by the Commissioner of Insurance under Iowa Code chapter 523D. "Continuing care" is defined as housing furnished together with supportive services and nursing, medical, and other health-related services pursuant to a lifelong or time-limited contract in consideration of an entrance fee.)

New rule 441—75.15(249A) provides that an equity interest in a home that exceeds $500,000 will cause ineligibility for Medicaid payment of long-term care services unless the applicant's spouse or minor, blind, or disabled child is residing in the home. The equity limit will be increased for inflation beginning in 2011.

Amendments to rule 441—75.23(249A) impose additional requirements related to the transfer of assets for less than fair market value. Current rules apply the 60-month period to transfers from trusts; other transfers are examined only for the past 36 months. The amendments increase the period for looking back at transfers of assets to 60 months for all transfers.

The penalty for asset transfers is changed to begin on the later of the first of the month in which the assets were transferred (current policy) or the date the person is otherwise eligible for Medicaid long-term care payment. Thus, people will no longer be able to make transfers and then wait to apply for Medicaid when the penalty period has expired. Partial months of penalty will no longer be rounded down or dropped.

The amendments also provide that funds used to purchase annuities, loans, mortgages, promissory notes, or life estates in others' homes will automatically be treated as funds transferred for less than fair market value unless the conditions specified in the rule are met. Iowa currently examines these transfers for their fair market value but does not impose additional conditions. Language on qualifying for a hardship exemption to the penalty is clarified.

These amendments do not provide for waivers in specified situations because the Deficit Reduction Act of 2005 does not provide for waivers. Requests for the waiver of any rule may be submitted 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 28, 2006. Comments should be directed to Mary Ellen Imlau, 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.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 5134B**. 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 section 249A.4 and the Deficit Reduction Act of 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 5153B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 92, "IowaCare," Iowa Administrative Code.

These amendments:

- Allow IowaCare members to pay their premiums in cash at the Broadlawns Medical Center. Broadlawns has requested this procedure so that members do not have to pay the cost of a money order to mail in the payment. Broadlawns will transport the payments to the Department's agent by armored car.
- Require a written statement for a hardship based on a partial premium payment. The federal Centers for Medicare and Medicaid Services has ruled that the Department's current policy of considering submission of a partial payment as a request for hardship exemption is not acceptable. Members must attest to their inability to pay the premium in order for the Department to exempt the member from paying the remainder of the premium.

These amendments also reflect the Department's interpretation of current rules by clarifying that:

- A person who is not able to meet the spenddown for Medically Needy coverage shall be treated as a person who is not eligible for Medicaid and, therefore, may be eligible for IowaCare coverage; and
- A person who is disqualified for Medicaid due to excess resources is not eligible for IowaCare.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted 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 28, 2006. Comments should be directed to Mary Ellen Imlau, 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.

These amendments are intended to implement Iowa Code Supplement chapter 249J.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 441—92.2(249A,81GA,ch167) as follows:

Amend subrule **92.2(1)**, paragraph **"a,"** subparagraph **(1)**, as follows:

(1) Are not eligible for medical assistance under 441—subrules 75.1(1) through 75.1(40), *including persons unable to meet spenddown under 441—subrule 75.1(35)*; and

Amend subrule 92.2(3) as follows:

92.2(3) Other disqualification. A person who has been disqualified ~~for~~ *from* Medicaid for reasons other than excess income, *excess resources,* or lack of categorical eligibility is not eligible for IowaCare benefits.

ITEM 2. Amend rule 441—92.7(249A,81GA,ch167) as follows:

Amend subrule **92.7(2)**, paragraph **"a,"** as follows:

a. Method of payment. Members shall submit premium payments to the following address: Iowa Medicaid Enterprise Revenue Collection Unit, P.O. Box 10391, Des Moines, Iowa 50306-0391. *Members may also submit premium payments to the Broadlawns Medical Center or other designated office that makes arrangements for armored delivery of the payments to the department's agent for receiving payments.*

Amend subrule **92.7(3)**, paragraph **"a,"** as follows:

a. A partial payment *submitted with a written statement indicating that full payment of the monthly premium will be a financial hardship that is* postmarked *or received* on or before the end of the month for which the premium is due shall be considered a request for a hardship exemption. The exemption shall be granted for the balance owed for that month.

ARC 5141B

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 61, "State Parks and Recreation Areas," Iowa Administrative Code.

This amendment establishes rental fees for new cabins at Waubonsie State Park. The cabins are part of the newly acquired WaShawtee property, which had been operated as a girl scout camp.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 27, 2006. Such written materials should be directed to the State Parks Bureau, Department of Natural Resources, 502 East Ninth Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)242-6233 or TDD (515)242-5967 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing June 27, 2006, at 1 p.m. in the Fourth Floor East 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.

NATURAL RESOURCE COMMISSION[571](cont'd)

This amendment is intended to implement Iowa Code sections 461A.3, 461A.3A, 461A.35, 461A.47, and 461A.57.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **61.5(1)**, paragraph **"a,"** as follows:

a. Cabin rental. This fee does not include tax. Tax will be calculated at time of *final* payment.

	Per Night*	Per Week
Backbone State Park, Delaware County		
Renovated modern cabins	$ 50	$300
Two-bedroom modern cabins	85	510
Deluxe cabins	100	600
Black Hawk, Sac County	100	600
Brushy Creek State Recreation Area, Webster County		
Nonequestrian camping cabins	35	210
Equestrian camping cabins	40	240
Dolliver Memorial State Park, Webster County	35	210
Green Valley State Park, Union County	35	210
Honey Creek State Park, Appanoose County	35	210
Lacey-Keosauqua State Park, Van Buren County	50	300
Lake Darling State Park, Washington County	35	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	50	300
Pine Lake State Park, Hardin County		
Studio cabins (four-person occupancy limit)	65	390
One-bedroom cabins	75	450
Pleasant Creek State Recreation Area, Linn County	25	150
Springbrook State Park, Guthrie County	35	210
Stone State Park, Woodbury County	35	210
Waubonsie State Park, Fremont County		
Two-bedroom modern cabins	*85*	*510*
One-bedroom modern cabin	*60*	*360*
Two-bedroom camping cabins	*50*	*300*
One-bedroom camping cabin	*35*	*210*
Camping cabin	*25*	*150*
Wilson Island State Recreation Area, Pottawattamie County	25	150
Extra cots, where available	1	

*Minimum two nights

ARC 5146B

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 section 455A.5, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

The amendments require hunters who harvest a turkey to report their kill, require landowners and tenants to preregister before obtaining free wild turkey licenses, and clarify tagging requirements.

Any interested person may make written suggestions or comments on the proposed amendments on or before June 27, 2006. Written comments may be directed to the Wildlife Bureau's Web site at www.iowadnr.com or may be sent to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515) 281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

NATURAL RESOURCE COMMISSION[571](cont'd)

Also, a public hearing will be held in the Fourth Floor West Conference Room of the Wallace State Office Building on June 27, 2006, at 9 a.m. At the hearing, 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 related to hearing or mobility impairments should contact the Department of Natural Resources and request specific accommodations.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48 and 483A.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 571—99.1(481A) as follows:

571—99.1(481A) General. When hunting wild turkey, all hunters must have in ~~their~~ possession a ~~valid~~ fall wild turkey hunting license *valid for the current year, the unused transportation tag issued with that license,* ~~and~~ a ~~valid resident~~ hunting license, and ~~must have~~ *evidence of having* paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person shall carry or have in possession a fall wild turkey hunting license or transportation tag issued to another person while hunting wild turkey. *No one who is issued a wild turkey hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while turkey hunting or tagging a turkey.*

ITEM 2. Amend rule 571—99.10(481A) as follows:

571—99.10(481A) Transportation tag. Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. *The hunter who shot the turkey must use the transportation tag issued to that hunter to tag the turkey. No one may tag a turkey with a transportation tag issued to another hunter.* The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

ITEM 3. Adopt **new** subrule 99.11(8) as follows:

99.11(8) Registration of landowners and tenants. Landowners and tenants and their eligible family members who want to obtain free fall wild turkey hunting licenses must register with DNR before the free licenses will be issued. Procedures for registering are described in 571—95.2(481A).*

ITEM 4. Adopt **new** rule 571—99.12(481A) as follows:

571—99.12(481A) Harvest reporting. Each hunter who bags a turkey must report that kill according to procedures described in 571—95.1(481A).*

*See Notice of Intended Action published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5020B**.

ARC 5142B

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 105, "Deer Population Management Zones," Iowa Administrative Code.

Chapter 105 gives the regulations for hunting deer in deer population management zones. This amendment provides a penalty for failing to obey hunting zone regulations.

Any interested person may make written suggestions or comments on the proposed amendment on or before June 27, 2006. Comments may be made by visiting the Department's Web site at www.iowadnr.com/wildlife or by writing to the Wildlife Bureau Chief, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Bureau at (515)281-6156 or at the Bureau offices on the fourth floor of the Wallace State Office Building.

There will be a public hearing on June 27, 2006, at 9 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 inform the Department of Natural Resources of specific needs.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39 and 481A.48.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt the following **new** subrule 105.3(6) and renumber existing subrule **105.3(6)** as **105.3(7)**:

105.3(6) Penalty for violating regulations. A hunter who violates the hunting regulations in a deer population management zone may forfeit the license for the remainder of the hunt and may forfeit the right to participate in a future year in addition to the imposition of any legal penalties.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

June 1, 2005 — June 30, 2005	6.25%
July 1, 2005 — July 31, 2005	6.25%
August 1, 2005 — August 31, 2005	6.00%
September 1, 2005 — September 30, 2005	6.25%
October 1, 2005 — October 31, 2005	6.00%
November 1, 2005 — November 30, 2005	6.25%
December 1, 2005 — December 31, 2005	6.50%
January 1, 2006 — January 31, 2006	6.50%
February 1, 2006 — February 28, 2006	6.50%
March 1, 2006 — March 31, 2006	6.50%
April 1, 2006 — April 30, 2006	6.50%
May 1, 2006 — May 31, 2006	6.75%
June 1, 2006 — June 30, 2006	7.00%

ARC 5156B

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 section 17A.4, Iowa Code Supplement section 68B.4, and 351 IAC 6.11(68B), the Utilities Board (Board) gives notice that on May 16, 2006, the Board issued an order in Docket No. RMU-06-4, In re: Sale of Goods and Services by Officials or Employees of the Iowa Utilities Board (199 IAC 1.6), "Order Commencing Rule Making." The proposed amendment is required because of recent legislation, Iowa Code Supplement section 68B.4, that requires the Ethics and Campaign Disclosure Board (Ethics Board) to adopt a rule regarding the sale of goods and services by officials and employees of regulatory agencies, including the Board. The Ethics Board has adopted 351 IAC 6.11(68B), and the Board is proposing to amend 199 IAC 1.6(68B) to rescind the current provisions and add a reference to the new Ethics Board rule. The order containing the background and support for this rule making 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 27, 2006, 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, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board, on its own motion after reviewing the statements, may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code section 17A.4, Iowa Code Supplement section 68B.4, and 351 IAC 6.11(68B).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 199—1.6(68B), introductory paragraph, as follows:

199—1.6(68B) Consent for the sale of goods and services. *An official or employee shall not sell, either directly or indirectly, any goods or services to individuals, associations, or corporations subject to the regulatory authority of the board without complying with the provisions of rule 351—6.11(68B) of the Iowa ethics and campaign disclosure board.*

ITEM 2. Rescind subrules **1.6(1)** to **1.6(9)**.

ARC 5159B

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, 476.1D, and 476.2, the Utilities Board (Board) gives notice that on May 17, 2006, the Board issued an order in Docket No. RMU-06-3, In re: Accounting Rules For Local Exchange Utilities (199 IAC 16.5 and 16.9), "Order Commencing Rule Making." The proposed amendment to 199 IAC 16.5(476) will remove the current requirements for Iowa-specific accounting rules for local exchange telephone utilities and allow utilities to use either generally accepted accounting principles or the uniform system of accounts adopted by the Federal Communications Commission. The Board is also proposing to amend 199 IAC 16.9(476) so that it no longer applies to local exchange utilities. The order containing the background and explanation for this rule making 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 27, 2006, 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, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)"b," an oral presentation may be requested or the Board, on its own motion and after review-

ing the statements, may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1D and 476.2.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 199—16.5(476) and adopt the following **new** rule in lieu thereof:

199—16.5(476) Uniform systems of accounts—telephone. Local exchange utilities subject to regulation by the board shall keep accounts consistent with generally accepted accounting principles (GAAP) or the accounting regulations adopted by the Federal Communications Commission. Each local exchange utility shall indicate in its annual report which method of accounting it has adopted and the location of the accounting records associated with Iowa operations.

ITEM 2. Amend rule 199—16.9(476) as follows:

199—16.9(476) Postemployment benefits other than pensions.

16.9(1) Accrual accounting for postemployment benefits other than pensions in accordance with Statement of Financial Accounting Standard No. 106 (SFAS 106) will be permitted where:

~~1~~ *a.* The accrued postemployment benefit obligations have been funded in a segregated and restricted account or alternative arrangements have been approved by the board.

~~2~~ *b.* The net periodic postemployment benefit cost and accumulated postemployment benefit obligations have been determined by an actuarial study completed in accordance with the specific methods and outline by SFAS 106.

~~3~~ *c.* The transition obligation is amortized in accordance with SFAS 106.

16.9(2) *The requirements of this rule do not apply to a local exchange utility regulated by the board if the utility accounts for its postemployment benefits other than pensions in a manner consistent with the regulations of the Federal Communications Commission.*

ARC 5134B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2005 Iowa Acts, chapter 175, section 6(5), the Department of Human Services amends Chapter 75, "Conditions of Eligibility," and Chapter 81, "Nursing Facilities," Iowa Administrative Code.

These amendments bring Iowa Medicaid rules into compliance with the provisions of Sections 6011 through 6016 of the Deficit Reduction Act of 2005, which was signed in February 2006. The amendments relate to Medicaid eligibility for people receiving various types of long-term care services.

When one spouse enters a medical facility and the other remains in the community, the Department makes an attribution of the couple's financial resources to allocate the amount of resources to be protected for the community spouse. If the couple believes that the amount of protected resources will not generate enough income for the community spouse, the couple can appeal the attribution decision. The amendment to subrule 75.5(3) changes the way income is considered for the appeal decision on whether to protect a higher amount of resources.

Currently, only the income of the community spouse is considered. The amendment provides that the income that the institutionalized spouse has available to give to the community spouse will also be considered. Therefore, the amount of resources protected for the community spouse will be less likely to increase on appeal, and a couple who is affected by this provision will need to spend more of their total resources in order to qualify for Medicaid.

New rule 441—75.6(249A) provides that certain entrance fees that a person paid on admission to a continuing care retirement community or to a life care community will be considered a resource available to that person for purposes of determining the person's Medicaid eligibility and the amount of benefits. (In Iowa, continuing care retirement communities are regulated by the Commissioner of Insurance under Iowa Code chapter 523D. "Continuing care" is defined as housing furnished together with supportive services and nursing, medical, and other health-related services pursuant to a lifelong or time-limited contract in consideration of an entrance fee.)

New rule 441—75.15(249A) provides that an equity interest in a home that exceeds $500,000 will cause ineligibility for Medicaid payment of long-term care services unless the applicant's spouse or minor, blind, or disabled child is residing in the home. The equity limit will be increased for inflation beginning in 2011.

Amendments to rule 441—75.23(249A) impose additional requirements related to the transfer of assets for less than fair market value. Current rules apply the 60-month period to transfers from trusts; other transfers are examined only for the past 36 months. The amendments increase the period for looking back at transfers of assets to 60 months for all transfers.

The penalty for asset transfers is changed to begin on the later of the first of the month in which the assets were transferred (current policy) or the date the person is otherwise eligible for Medicaid long-term care payment. Thus, people will no longer be able to make transfers and then wait to apply for Medicaid when the penalty period has expired. Partial months of penalty will no longer be rounded down or dropped.

The amendments also provide that funds used to purchase annuities, loans, mortgages, promissory notes, or life estates in others' homes will automatically be treated as funds transferred for less than fair market value unless the conditions specified in the rule are met. Iowa currently examines these transfers for their fair market value but does not impose additional conditions. Language on qualifying for a hardship exemption to the penalty is clarified.

These amendments do not provide for waivers in specified situations because the Deficit Reduction Act of 2005 does not provide for waivers. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on May 10, 2006.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because 2005 Iowa Acts, chapter 175, section 6(5) authorizes the Department to adopt emergency rules when necessary to comply with federal Medicaid requirements. The effective date of this federal legislation has already passed.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived, as authorized by 2005 Iowa Acts, chapter 175, section 6(5).

These amendments are also published herein under Notice of Intended Action as **ARC 5133B** to allow for public comment.

These amendments are intended to implement Iowa Code section 249A.4 and the Deficit Reduction Act of 2005.

These amendments became effective June 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule **75.5(3)**, paragraph **"f,"** subparagraph **(1)**, as follows:

(1) To establish that the resource allowance is inadequate and receive a substituted allowance, the applicant must provide verification of all the income of the community spouse. *For an applicant who became an institutionalized spouse on or after February 8, 2006, all income of the institutionalized spouse that could be made available to the community spouse pursuant to 75.16(2)"d" shall be treated as countable income of the community spouse when the attribution decision was made on or after February 8, 2006.*

ITEM 2. Adopt **new** rule 441—75.6(249A) as follows:

441—75.6(249A) Entrance fee for continuing care retirement community or life care community. When an individual resides in a continuing care retirement community or life care community that collects an entrance fee on admission, the entrance fee paid shall be considered a resource available to the individual for purposes of determining the individual's Medicaid eligibility and the amount of benefits to the extent that:

1. The individual has the ability to use the entrance fee, or the contract between the individual and the community provides that the entrance fee may be used to pay for care should the individual's other resources or income be insufficient to pay for such care;

2. The individual is eligible for a refund of any remaining entrance fee when the individual dies or when the individual terminates the community contract and leaves the community; and

3. The entrance fee does not confer an ownership interest in the community.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 3. Amend subrule 75.13(2), introductory paragraph and the first four unnumbered paragraphs, as follows:

75.13(2) SSI-related Medicaid. Except as otherwise provided in ~~subrule 75.13(3) and in~~ 441—Chapters 75 and 76, persons who are 65 years of age or older, blind, or disabled are eligible for Medicaid only if eligible for the Supplemental Security Income (SSI) program administered by the United States Social Security Administration.

a. SSI policy reference. The statutes, regulations, and policy governing eligibility for SSI are found in Title XVI of the Social Security Act (42 U.S.C. Sections 1381 to 1383f), in the federal regulations promulgated pursuant to Title XVI (20 CFR ~~Sections~~ 416.101 to 416.2227), and in Part 5 of the Program Operations Manual System published by the United States Social Security Administration. The Program Operations Manual System is available at Social Security Administration offices in Ames, Burlington, Carroll, Cedar Rapids, Clinton, Council Bluffs, Creston, Davenport, Decorah, Des Moines, Dubuque, Fort Dodge, Iowa City, Marshalltown, Mason City, Oskaloosa, Ottumwa, Sioux City, Spencer, Storm Lake, and Waterloo, or through the Department of Human Services, Division of Financial, Health, and Work Supports, Hoover State Office Building, 1305 East Walnut, Des Moines, Iowa 50319-0114.

b. Income considered. For SSI-related Medicaid eligibility purposes, income shall be considered prospectively.

c. Trust contributions. Income that a person contributes to a trust as specified at 75.24(3)"b" shall not be considered for purposes of determining eligibility for SSI-related Medicaid.

d. Conditional eligibility. For purposes of determining eligibility for SSI-related Medicaid, the SSI conditional eligibility process, by which a client may receive SSI benefits while attempting to sell excess resources, found at 20 CFR 416.1240 to 416.1245, is not considered an eligibility methodology.

e. Valuation of life estates and remainder interests. In the absence of other evidence, the value of a life estate or remainder interest in property shall be determined using the following table by multiplying the fair market value of the entire underlying property (including all life estates and all remainder interests) by the life estate or remainder interest decimal corresponding to the age of the life estate holder or other person whose life controls the life estate.

ITEM 4. Adopt **new** rule 441—75.15(249A) as follows:

441—75.15(249A) Disqualification for long-term care assistance due to substantial home equity. Notwithstanding any other provision of this chapter, if an individual's equity interest in the individual's home exceeds $500,000, the individual shall not be eligible for medical assistance with respect to nursing facility services or other long-term care services except as provided in 75.15(2). This provision is effective for all applications or requests for payment of long-term care services filed on or after January 1, 2006.

75.15(1) The limit on the equity interest in the individual's home for purposes of this rule shall be increased from year to year, beginning with 2011, based on the percentage increase in the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest $1,000.

75.15(2) Disqualification based on equity interest in the individual's home shall not apply when one of the following persons is lawfully residing in the home:

a. The individual's spouse; or

b. The individual's child who is under age 21 or is blind or disabled as defined in Section 1614 of the federal Social Security Act.

This rule is intended to implement Iowa Code section 249A.4.

ITEM 5. Amend rule 441—75.23(249A) as follows:

Amend subrules 75.23(1) and 75.23(2) as follows:

75.23(1) Ineligibility for services. *When an individual or spouse has transferred or disposed of assets for less than fair market value as defined in 75.23(11) on or after the look-back date specified in 75.23(2), the individual shall be ineligible for medical assistance as provided in this subrule.*

a. *Institutionalized individual.* ~~If~~ *When* an institutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date ~~specified in 75.23(2)~~, the institutionalized individual is ineligible for medical assistance *payment* for nursing facility services, a level of care in any institution equivalent to that of nursing facility services, and home- and community-based waiver services ~~during the period beginning on the first day of the first month during or after which assets were transferred for less than fair market value and which does not occur in any other periods of ineligibility under this rule and~~. *The period of ineligibility is* equal to the number of months specified in 75.23(3). *The department shall determine the beginning of the period of ineligibility as follows:*

(1) Transfer before February 8, 2006. When the transfer of assets was made before February 8, 2006, the period of ineligibility shall begin on the first day of the first month during which the assets were transferred, except as provided in subparagraph (3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph (3), when the transfer of assets was made on or after February 8, 2006, the period of ineligibility shall begin on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving nursing facility services, a level of care in any institution equivalent to that of nursing facility services, or home- and community-based waiver services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer shall not begin during any other period of ineligibility under this rule.

b. *Noninstitutionalized individual.* When a noninstitutionalized individual or the spouse of the individual disposed of assets for less than fair market value on or after the look-back date ~~specified in 75.23(2)~~, the individual is ineligible for medical assistance *payment* for home health care services, home and community care for functionally disabled elderly individuals, personal care services, and other long-term care services ~~during the period beginning on the first day of the first month during or after which assets have been transferred for less than fair market value and which does not occur in any other periods of ineligibility under this rule and~~. *The period of ineligibility is* equal to the number of months

specified in 75.23(3). *The department shall determine the beginning of the period of ineligibility as follows:*

(1) Transfer before February 8, 2006. When the transfer of assets was made before February 8, 2006, the period of ineligibility shall begin on the first day of the first month during which the assets were transferred, except as provided in subparagraph (3).

(2) Transfer on or after February 8, 2006. Within the limits of subparagraph (3), when the transfer of assets was made on or after February 8, 2006, the period of ineligibility shall begin on the later of:

1. The first day of the first month during which the assets were transferred; or

2. The date on which the individual is eligible for medical assistance under this chapter and would be receiving home health care services, home and community care for functionally disabled elderly individuals, personal care services, or other long-term care services, based on an approved application for such care, but for the application of this rule.

(3) Exclusive period. The period of ineligibility due to the transfer shall not begin during any other period of ineligibility under this rule.

75.23(2) Look-back date.

a. Transfer before February 8, 2006. ~~The~~ *For transfers made before February 8, 2006, the* look-back date is the date that is 36 months (or, in the case of payments from a trust or portion of a trust that are treated as assets disposed of by the individual, 60 months) before*:*

(1) ~~the~~ *The* date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) ~~the~~ *The* date ~~the~~ *a* noninstitutionalized individual applies for medical assistance.

b. Transfer on or after February 8, 2006. For transfers made on or after February 8, 2006, the look-back date is the date that is 60 months before:

(1) The date an institutionalized individual is both an institutionalized individual and has applied for medical assistance; or

(2) The date a noninstitutionalized individual applies for medical assistance.

Amend subrule **75.23(5)**, paragraph **"d,"** subparagraphs **(1)** and **(3)**, as follows:

(1) Application of the transfer of asset penalty would deprive the individual of ~~food, clothing, shelter,~~ medical care~~, or other necessities of life,~~ such that the individual's health or life would be endangered *or of food, clothing, shelter, or other necessities of life*.

(3) The person's remaining available resources (after the attribution for the community spouse) are less than the monthly statewide average cost of nursing facility services to a private pay resident, counting the value of all resources except for:

1. The home if occupied by a dependent relative or if a licensed physician verifies that the person is expected to return home.
2. Household goods.
3. A vehicle required by the client for transportation.
4. Funds for burial of $4,000 or less.

Hardship will not be found if the resource was transferred to a person who was handling the financial affairs of the client or to the spouse or children of a person handling the financial affairs of the client unless the client demonstrates that payments cannot be obtained from the funds of the person who handled the financial affairs to pay for ~~nursing facility~~ *long-term care* services.

Adopt **new** subrules 75.23(9), 75.23(10), and 75.23(11) as follows:

75.23(9) Purchase of annuities.

a. The entire amount used to purchase an annuity on or after February 8, 2006, shall be treated as assets transferred for less than fair market value unless the annuity meets one of the conditions described in subparagraphs (1) through (4) of this paragraph.

(1) The annuity is an annuity described in Subsection (b) or (q) of Section 408 of the United States Internal Revenue Code of 1986.

(2) The annuity is purchased with proceeds from:

1. An account or trust described in Subsection (a), (c), or (p) of Section 408 of the United States Internal Revenue Code of 1986;
2. A simplified employee pension (within the meaning of Section 408(k) of the United States Internal Revenue Code of 1986); or
3. A Roth IRA described in Section 408A of the United States Internal Revenue Code of 1986.

(3) The annuity:

1. Is irrevocable and nonassignable;
2. Is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration); and
3. Provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

(4) Iowa is named as the remainder beneficiary either:

1. In the first position for at least the total amount of medical assistance paid on behalf of the annuitant; or
2. In the second position after the community spouse or minor or disabled child and in the first position if the spouse or a representative of the child disposes of any of the remainder for less than fair market value.

b. Funds used to purchase an annuity for less than its fair market value shall be treated as assets transferred for less than fair market value regardless of whether:

(1) The annuity was purchased before February 8, 2006; or

(2) The annuity was purchased on or after February 8, 2006, and a condition described in 75.23(9)"a"(1) to (4) was met.

75.23(10) Purchase of promissory notes, loans, or mortgages.

a. Funds used to purchase a promissory note, loan, or mortgage after February 8, 2006, shall be treated as assets transferred for less than fair market value in the amount of the outstanding balance due on the note, loan, or mortgage as of the date of the individual's application for medical assistance for services described in 75.23(1), unless the note, loan, or mortgage meets all of the following conditions:

(1) The note, loan, or mortgage has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Office of the Chief Actuary of the United States Social Security Administration).

(2) The note, loan, or mortgage provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made.

(3) The note, loan, or mortgage prohibits the cancellation of the balance upon the death of the lender.

b. Funds used to purchase a promissory note, loan, or mortgage for less than its fair market value shall be treated as assets transferred for less than fair market value regardless of whether:

HUMAN SERVICES DEPARTMENT[441](cont'd)

(1) The note, loan, or mortgage was purchased before February 8, 2006; or

(2) The note, loan, or mortgage was purchased on or after February 8, 2006, and the conditions described in 75.23(9)"a" were met.

75.23(11) Purchase of life estates.

a. The entire amount used to purchase a life estate in another individual's home after February 8, 2006, shall be treated as assets transferred for less than fair market value, unless the purchaser resides in the home for at least one year after the date of the purchase.

b. Funds used to purchase a life estate in another individual's home for less than its fair market value shall be treated as assets transferred for less than fair market value regardless of whether:

(1) The life estate was purchased before February 8, 2006; or

(2) The life estate was purchased on or after February 8, 2006, and the purchaser resided in the home for one year after the date of purchase.

ITEM 6. Amend subrule **81.13(6)**, paragraph **"d,"** subparagraph **(1)**, as follows:

(1) The facility shall *not require residents or potential residents to*:

1. ~~Not require residents or potential residents to waive~~ *Waive* their rights to Medicare or Medicaid~~.~~*; or*

2. ~~Not require~~ *Give* oral or written assurance that ~~residents or potential residents~~ *they* are not eligible for, or will not apply for, Medicare or Medicaid benefits. *However, a continuing care retirement community or a life care community that is licensed, registered, certified, or the equivalent by the state, including a nursing facility that is part of such a community, may require in its contract for admission that before a resident applies for medical assistance, the resources that the resident declared for the purposes of admission must be spent on the resident's care, subject to 441—subrule 75.5(3), 441—paragraph 75.5(4)"a," and 441—subrule 75.16(2).*

[Filed Emergency 5/12/06, effective 6/1/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5130B

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 170, "Child Care Services," Iowa Administrative Code.

These amendments update the fee schedule for Child Care Assistance to conform to the federal poverty levels used in determining eligibility for the program. Federal poverty levels are released in the spring of each year, and the new figures are applied to Child Care Assistance eligibility determinations effective July 1. The fee schedule is revised so that:

- A family with an income at or below 100 percent of the poverty level for a family of that size pays no fee, and
- The fee table extends to 200 percent of the federal poverty level, which is the income limit for families with a child needing special-needs care.

The amendments also reflect the development of a new form that may be used to apply for Child Care Assistance as well as other health and financial support programs administered by the Department. Families that also want to apply for other programs may do so using a single form, rather than submitting a separate form for Child Care Assistance.

These amendments do not provide for waivers in specified situations because they benefit the people affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments May 10, 2006.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary in that the fee schedule changes merely apply established methodology based on existing policy, and the choice of application is a technical change that does not impose additional restrictions or responsibilities on the public.

The Department finds that these amendments confer a benefit on the people affected by maintaining a level of fees related to their income and by not requiring a separate application form when the family wants to apply for both Child Care Assistance and another financial or health support program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 237A.13.

These amendments shall become effective July 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at http://www.legis.state.ia.us/IAC.html or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule **170.3(1)**, paragraph **"a,"** as follows:

a. Application for child care assistance may be made at any ~~county~~ *local* office of the department on*:*

(1) Form 470-3624 or 470-3624(S), Child Care Assistance Application, *or*

(2) Form 470-0462 or 470-0466(S), Health and Financial Support Application.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend subrule **170.4(2)**, paragraph **"a,"** chart titled "Monthly Income Increment Levels According to Family Size," as follows:

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	~~$758~~ *$776*	~~$1017~~ *$1045*	~~$1274~~ *$1315*	~~$1532~~ *$1584*	~~$1791~~ *$1853*	~~$2048~~ *$2122*	~~$2307~~ *$2391*	~~$2565~~ *$2660*	~~$2822~~ *$2930*	~~$3081~~ *$3199*	$0.00
B	~~798~~ *817*	~~1070~~ *1100*	~~1341~~ *1384*	~~1613~~ *1667*	~~1885~~ *1950*	~~2156~~ *2234*	~~2428~~ *2517*	~~2700~~ *2800*	~~2971~~ *3084*	~~3243~~ *3367*	$0.50
C	~~843~~ *863*	~~1130~~ *1162*	~~1416~~ *1462*	~~1703~~ *1760*	~~1991~~ *2059*	~~2277~~ *2359*	~~2564~~ *2658*	~~2851~~ *2957*	~~3137~~ *3257*	~~3425~~ *3556*	$1.00
D	~~890~~ *911*	~~1193~~ *1227*	~~1495~~ *1543*	~~1799~~ *1859*	~~2102~~ *2175*	~~2404~~ *2491*	~~2708~~ *2807*	~~3011~~ *3122*	~~3313~~ *3439*	~~3616~~ *3755*	$1.50
E	~~940~~ *962*	~~1260~~ *1295*	~~1579~~ *1630*	~~1899~~ *1963*	~~2220~~ *2296*	~~2539~~ *2631*	~~2859~~ *2964*	~~3179~~ *3297*	~~3499~~ *3632*	~~3819~~ *3965*	$2.00
F	~~992~~ *1016*	~~1331~~ *1368*	~~1668~~ *1721*	~~2006~~ *2073*	~~2344~~ *2425*	~~2681~~ *2778*	~~3019~~ *3130*	~~3358~~ *3482*	~~3695~~ *3835*	~~4033~~ *4187*	$2.50
G	~~1048~~ *1073*	~~1405~~ *1444*	~~1761~~ *1817*	~~2118~~ *2189*	~~2475~~ *2561*	~~2831~~ *2934*	~~3188~~ *3305*	~~3546~~ *3677*	~~3901~~ *4050*	~~4259~~ *4421*	$3.00
H	~~1107~~ *1133*	~~1484~~ *1525*	~~1860~~ *1919*	~~2237~~ *2312*	~~2614~~ *2704*	~~2990~~ *3098*	~~3367~~ *3490*	~~3744~~ *3883*	~~4120~~ *4277*	~~4497~~ *4669*	$3.50
I	~~1169~~ *1196*	~~1567~~ *1611*	~~1964~~ *2027*	~~2362~~ *2441*	~~2760~~ *2855*	~~3157~~ *3271*	~~3555~~ *3686*	~~3954~~ *4100*	~~4351~~ *4516*	~~4749~~ *4930*	$4.00
J	~~1234~~ *1263*	~~1655~~ *1701*	~~2074~~ *2140*	~~2494~~ *2578*	~~2915~~ *3015*	~~3334~~ *3455*	~~3755~~ *3892*	~~4175~~ *4330*	~~4594~~ *4769*	~~5015~~ *5207*	$4.50
K	~~1303~~ *1334*	~~1747~~ *1796*	~~2190~~ *2260*	~~2634~~ *2722*	~~3078~~ *3184*	~~3521~~ *3648*	~~3965~~ *4110*	~~4409~~ *4572*	~~4852~~ *5036*	~~5296~~ *5498*	$5.00
L	~~1376~~ *1409*	~~1845~~ *1897*	~~2312~~ *2387*	~~2781~~ *2875*	~~3251~~ *3363*	~~3718~~ *3852*	~~4187~~ *4340*	~~4656~~ *4828*	~~5123~~ *5318*	~~5592~~ *5806*	$5.50
M	~~1453~~ *1488*	~~1948~~ *2003*	~~2442~~ *2520*	~~2937~~ *3036*	~~3433~~ *3551*	~~3926~~ *4068*	~~4421~~ *4583*	~~4917~~ *5099*	~~5410~~ *5616*	~~5905~~ *6131*	$6.00
N	~~1535~~ *1571*	~~2058~~ *2115*	~~2579~~ *2661*	~~3102~~ *3206*	~~3625~~ *3750*	~~4146~~ *4296*	~~4669~~ *4840*	~~5192~~ *5384*	~~5713~~ *5930*	~~6236~~ *6475*	$6.50
O	~~1620~~ *1659*	~~2173~~ *2234*	~~2723~~ *2810*	~~3275~~ *3385*	~~3828~~ *3960*	~~4378~~ *4536*	~~4930~~ *5111*	~~5483~~ *5686*	~~6033~~ *6262*	~~6585~~ *6837*	$7.00

[Filed Emergency 5/12/06, effective 7/1/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5126B

ACCOUNTANCY EXAMINING BOARD[193A]

Adopted and Filed

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board hereby amends Chapter 10, "Continuing Education," Iowa Administrative Code.

The amendment to rule 193A—10.5(542) adopts a mandatory requirement for continuing education in ethics and clarifies the way hours of credit are determined for courses that cover multiple topics.

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

Notice of Intended Action was published in the January 18, 2006, Iowa Administrative Bulletin as **ARC 4813B**. The Board received two comments from the public which were not germane to the amendment. The adopted amendment is identical to the one published under Notice.

The amendment was adopted by the Accountancy Examining Board at its meeting on April 27, 2006.

This amendment will become effective July 12, 2006.

This amendment is intended to implement Iowa Code chapters 542 and 272C.

The following amendment is adopted.

Amend rule 193A—10.5(542) as follows:

193A—10.5(542) Mandatory education required.

10.5(1) In each biennial period in which compilation reports are issued, every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant's compilation report on the financial statements on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of seven hours of continuing education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates. When required, the ~~SSARS~~ *financial statement presentation* continuing education shall be completed within the two-year period ending on the December 31 preceding the application for certificate or license renewal. *For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.4(1) shall be devoted to financial statement presentation and credit shall be claimed as one contact hour of credit for each hour of participation devoted to each particular topic. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour shall be claimed toward meeting the requirement of this subrule.*

10.5(2) Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing education devoted to ethics and rules of professional conduct during the two-year period ending December 31, prior to the July 1 biennial renewal date. *For a course to qualify to meet this requirement, the course description shall clearly outline the subject matter covered as professional or business ethics. If credit is to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.4(1) shall be devoted to business or professional ethics and credit shall be claimed as one contact hour of credit for each hour of participation devoted to each particular topic. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to business or professional ethics, then only one hour shall be claimed toward meeting the requirement of this subrule.* The first requirement shall be completed by December 31, 2007, for individuals whose renewal date is July 1, 2008, and December 31, 2008, for individuals whose renewal date is July 1, 2009.

[Filed 5/10/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5139B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 21, "Compliance," and Chapter 22, "Controlling Pollution," and adopts new Chapter 34, "Provisions for Air Quality Emissions Trading Programs," Iowa Administrative Code.

The purpose of the amendments is to adopt the recently finalized federal Clean Air Interstate Rule (CAIR) into the state air quality rules. The amendments also make necessary updates and changes to existing air quality rules to implement CAIR.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 18, 2006, as **ARC 4823B**. Two public hearings were held, one on February 21, 2006, and a second on February 22, 2006. Two oral comments were presented at the hearing on February 21. No oral comments were presented at the hearing on February 22. Five written comments were received prior to the close of the public comment period. The public comment period closed on February 27, 2006.

The submitted comments and the Department's response to the comments are summarized in a responsiveness summary available from the Department. These final rules have been modified from the proposed rules published under Notice of Intended Action to address the public comments, and to make minor corrections, updates and clarifications, as detailed below.

On May 12, 2005, the U.S. Environmental Protection Agency (EPA) promulgated CAIR to address interstate transport of sulfur dioxide (SO_2) and nitrogen oxide (NO_x) emissions from eastern and midwestern states, including Iowa, which were found to contribute to unhealthy levels of fine particles and ozone in downwind states. Fine particles and ozone are associated with thousands of premature deaths and illnesses each year. Additionally, these pollutants reduce visibility and damage sensitive ecosystems.

Iowa is currently in attainment for all national ambient air quality standards (NAAQS). Iowa is included in the CAIR provisions because EPA found that Iowa's emissions contribute to downwind nonattainment of air quality standards. As such, Iowa is required to meet EPA-prescribed emission targets for SO_2 and NO_x in two phases. The first phase begins in 2009. The second phase begins in 2015.

EPA determined that controlling NO_x and SO_2 emissions from fossil fuel-fired electric generating units (EGUs) to

meet CAIR reduction goals was highly cost-effective. EPA provided two options for affected states to adopt CAIR: (1) adopt EPA regulations that require EGUs to participate in an EPA-administered interstate cap and trade program, or (2) mandate emissions controls and cap emissions from one or more industry sectors.

In May 2005, the Department convened a workgroup to assist with rule-making activities related to the adoption of CAIR. The workgroup's goal was to provide rule-making recommendations on the implementation options of the federal regulations. The Department invited the following parties to participate in the workgroup:

- Investor-owned, municipal and rural electric cooperative utilities;
- Iowa Association of Municipal Utilities and Iowa Utilities Association;
- Iowa Utilities Board and Consumer Advocate Office;
- Iowa's university power plants;
- Sierra Club and Iowa Environmental Council;
- Iowa Association of Business and Industry;
- Iowa Department of Economic Development;
- U.S. EPA Region VII; and
- DNR's Air Quality and Energy Bureaus.

The workgroup met five times between May and August 2005. All workgroup invitees, even those that elected not to participate in meetings, remained on the Department's E-mail distribution list and were kept informed of the workgroup's activities and meeting dates.

The majority of the workgroup members recommended that the Department adopt EPA's cap and trade program for regulating NO_x and SO_2 emissions from EGUs. The Iowa Sierra Club did not endorse the cap and trade recommendation, stating that it does not support a cap and trade approach to emissions reductions.

Under the cap and trade approach for CAIR, EPA allocates emissions allowance budgets to the state for NO_x emissions. CAIR SO_2 allowances are allocated by EPA to affected EGUs from the current allowances under the existing Acid Rain program. The state is responsible for allocating the NO_x allowances to CAIR-affected facilities. Each allowance is equal to one ton of emissions. Upon allocation of NO_x and SO_2 allowances, EGUs can then trade them through an EPA-managed trading program. Market forces determine the trade currency (allowance) values. At the end of each year, each affected EGU must hold one allowance for each ton of SO_2 or NO_x emitted.

Adopting the cap and trade approach to CAIR offers several advantages. The affected facilities (EGUs) are allowed the flexibility to determine the most appropriate method of compliance by securing allowances, reducing emissions, or instituting some combination of these approaches. The affected EGUs must still comply with CAIR's requirements for continuous emissions monitoring for NO_x and SO_2.

The EPA-managed trading program also establishes automatic and punitive penalties on facilities that do not hold the required number of allowances at the end of each year. Further, states that adopt EPA's cap and trade program to implement CAIR are afforded "automatic approval" of the required revisions to their state implementation plans (SIPs). Iowa has until September 11, 2006, to adopt CAIR and submit the revisions for incorporation into Iowa's SIP.

After carefully reviewing the CAIR provisions, considering the recommendations from all workgroup members, and reviewing all public comments submitted during the public comment period for the Notice, the Department is adopting EPA's cap and trade program for implementing CAIR. This approach is the appropriate method for meeting the federal requirements for reducing cumulative, regional emissions of NO_x and SO_2 and will meet EPA's goals for reducing interstate transport of these pollutants.

These amendments to implement CAIR amend a number of the air quality rules. The federal CAIR regulations established some new requirements for emissions inventories, which the Department is adopting in Chapter 21. The federal CAIR regulations also amended several of the acid rain program definitions. The Department is amending the state acid rain rules in Chapter 22 to adopt the federal definitions by reference, while retaining the definitions specific to Iowa's Acid Rain program.

Additionally, the Department is adopting a new Chapter 34 that contains the emissions trading provisions for CAIR. It is expected that EPA will promulgate other regulations in the future that will use the cap and trade approach similar to that of CAIR for reducing air pollutant emissions. The creation of Chapter 34 for air emissions trading will facilitate having all of these similar provisions in one location in the Iowa Administrative Code.

The Department is simultaneously adopting separate, similar amendments to implement the Clean Air Mercury Rule (CAMR) (see **ARC 5140B** herein). CAIR and CAMR are closely related because both allow primary implementation through an EPA-administered emissions cap and trade program. However, the Department proposed the CAIR and CAMR Notices of Intended Action separately in the event that one of the rule makings was delayed or terminated.

Item 1 amends rule 567—20.1(455B,17A) to add information about the content of Chapters 31, 32 and 34.

Item 2 adopts new subrule 21.1(4) to add the requirement for emissions sources to submit emissions inventories related to emissions of SO_2 and NO_x upon the Director's written request. This change is being made to implement the emissions inventory provisions of CAIR, which require the Department to compile and maintain an emissions inventory of these pollutants. The new subrule is similar to the existing emissions inventory requirements under 567—21.3(455B). Because the information required for CAIR is program-specific, and is more comprehensive than previous federal emissions inventory requirements, the Department proposes a distinct subrule for these requirements.

Item 3 rescinds rule 567—22.120(455B), the listing of definitions for the Acid Rain program, and adopts the federal definitions by reference, while retaining the definitions specific to Iowa's Acid Rain program. This change is being made to accommodate the amendments that EPA made to the federal acid rain program definitions to implement CAIR. In adopting the federal definitions by reference, the Department will not need to continually update the text in the state's rules when EPA makes changes to the federal regulations. The listed definitions in the final rule are specific to Iowa's Acid Rain program or serve to further simplify updating the acid rain program rules. The Department is adopting acid rain program definitions for 40 CFR Parts 72 through 78 that will cover all references to these federal regulations and the amendment dates.

The Department, in response to public comment, made minor corrections and updates to Item 3. An error in the definition of "tonnage" is corrected in the final rule. The definition is corrected back to the definition contained in existing state rules for the Acid Rain program. An error in the federal amendment date for 40 CFR Part 76 is also corrected. EPA did not amend Part 76 in the federal promulgation of CAIR, so the date is corrected back to the most current federal

amendment date of October 15, 1999. Additionally, the federal amendment dates for 40 CFR Parts 72, 73, 74, and 78 are updated in the final rule to reflect EPA's recent amendments to the Acid Rain program and CAIR. These federal amendments were published in the Federal Register on April 28, 2006, after the Notice was published. Since these recent federal amendments consisted only of clarifications and technical corrections, these federal provisions are adopted in the final rules.

Items 4 to 21 consist of amendments that were not included in the Notice. Items 4 to 21 are adopted for the sole purpose of removing federal regulation amendment dates that are inconsistent with the amendments adopted under Item 3, and are no longer needed. The amendments adopted in Item 3 encompass the federal regulation amendment dates for 40 CFR Parts 72, 73, 74, 75, 76, 77, and 78.

Item 22 adopts new 567—Chapter 34 to set forth the provisions for air quality emissions trading programs. The provisions in this chapter include the NO_x and SO_2 emissions cap and trade requirements for CAIR.

In general, the federal regulations for a NO_x and SO_2 emissions cap and trade program are adopted by reference. The rules do include several sections of the federal regulations that are not adopted by reference. Additionally, the federal amendment dates for 40 CFR Part 96 are updated in the final rule to reflect EPA's recent changes to the federal CAIR provisions. These federal amendments were published in the Federal Register on April 28, 2006, after the Notice was published. Since these recent federal amendments consisted only of clarifications and technical corrections, these federal provisions are adopted by reference in the final rules.

The provisions of Chapter 34 include the total state trading budgets for Iowa for annual NO_x allowances. The rules include four tables showing the annual allowance allocations to each designated CAIR unit for annual NO_x and ozone season NO_x, for existing units and new units. The Department adopts the federal provisions for determining the allowance allocations. Upon annual allocation, the designated units may track, transfer, bank and record the allowances, as specified in the federal regulations adopted by reference. EPA will be the designated authority for implementing these components of the CAIR cap and trade program.

The Department adopts the federal provisions for classifying existing units and new units. However, the Department, upon recommendation from the workgroup members, allocates the annual allowances for all new units at the time that Chapter 34 is adopted. A "new unit" is always considered to be a "new unit," and does not become an "existing unit" unless revisions to these rules are made at a later date. The Notice preamble included an explanation of this methodology, as well as annual NO_x and ozone season NO_x allowance allocation tables in the text of the rule that illustrated this methodology. However, in the Notice, the Department inadvertently proposed to adopt by reference a portion of the federal regulations that would be inconsistent with this intent. EPA Region VII identified this inconsistency in comments that they provided during the public comment period.

EPA also provided comments stating that the proposed rules, as specified in the Notice, could be interpreted to indicate that the EPA Administrator, as manager of the annual NO_x and ozone season NO_x trading programs, could elect to record the allowances specified in the Department's allowance allocation tables indefinitely into the future, rather than allocating the allowances only according to the minimum timing requirements specified in the federal regulations. This was not the Department's intent.

To address these EPA comments, the Department is adopting clarifying language in Chapter 34 to specify the allocation methodology for designating annual NO_x and ozone season NO_x allowances for "existing units" and "new units." The language in Chapter 34 is consistent with the federal regulations, except that the language clarifies that allowances will be allocated in future years only to meet the minimum timing requirements specified in the federal regulations. Additionally, the language in Chapter 34 does not include the portions of the federal regulations which contain the methodology specifying how a "new unit" automatically becomes an "existing unit" over time. The language in Chapter 34 is adopted in lieu of adopting by reference the applicable portions of 40 CFR 96.142 and 96.342. Under EPA's regulations, the states have full discretion and flexibility to decide the initial allowance allocations.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments become effective on July 12, 2006.

The following amendments are adopted.

ITEM 1. Amend rule **567—20.1(455B,17A)**, second unnumbered paragraph, as follows:

Chapter 21 contains the provisions requiring compliance schedules, allowing for variances, and setting forth the emission reduction program. Chapter 22 contains the standards and procedures for the permitting of emission sources and the special requirements for nonattainment areas. Chapter 23 contains the air emission standards for contaminants. Chapter 24 provides for the reporting of excess emissions and the equipment maintenance and repair requirements. Chapter 25 contains the testing and sampling requirements for new and existing sources. Chapter 26 identifies air pollution emergency episodes and the preplanned abatement strategies. Chapter 27 sets forth the conditions political subdivisions must meet in order to secure acceptance of a local air pollution control program. Chapter 28 identifies the state ambient air quality standards. Chapter 29 sets forth the qualifications for an observer for reading visible emissions. *Chapter 31 contains the conformity of general federal actions to the Iowa state implementation plan or federal implementation plan. Chapter 32 specifies requirements for conducting the animal feeding operations field study. Chapter 34 contains provisions for air quality emissions trading programs.*

ITEM 2. Adopt **new** subrule 21.1(4) as follows:

21.1(4) Emissions inventory to fulfill requirements of the Clean Air Interstate Rule (CAIR). Upon the director's written request, the owner or operator shall provide information on fuel use, materials processed, air contaminants emitted, estimated rate of emissions, periods of emission or other air pollutant information related to the emissions of SO_2 and NO_x. The information requested shall be submitted on forms supplied by the department. The information shall be used by the department in compiling and maintaining an emissions inventory to fulfill the reporting requirements under 40 CFR 51.125 as amended through May 12, 2005.

ITEM 3. Rescind rule 567—22.120(455B) and adopt the following **new** rule in lieu thereof:

567—22.120(455B) Acid rain program—definitions. The terms used in rules 22.120(455B) through 22.147(455B) shall have the meanings set forth in Title IV of the Clean Air Act, 42 U.S.C. 7401, et seq., as amended through November 15,

1990, and in this rule. The definitions set forth in 40 CFR Part 72 as amended through April 28, 2006, and 40 CFR Part 76 as amended through October 15, 1999, are adopted by reference.

"40 CFR Part 72," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 72, or the cited provision therein, as amended through April 28, 2006.

"40 CFR Part 73," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 73, or the cited provision therein, as amended through April 28, 2006.

"40 CFR Part 74," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 74, or the cited provision therein, as amended through April 28, 2006.

"40 CFR Part 75," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 75, or the cited provision therein, as amended through May 18, 2005.

"40 CFR Part 76," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 76, or the cited provision therein, as amended through October 15, 1999.

"40 CFR Part 77," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 77, or the cited provision therein, as amended through May 12, 2005.

"40 CFR Part 78," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 78, or the cited provision therein, as amended through April 28, 2006.

"Acid rain permit" means the legally binding written document, or portion of such document, issued by the department (following an opportunity for appeal as set forth in 561—Chapter 7, as adopted by reference at 567—Chapter 7), including any permit revisions, specifying the acid rain program requirements applicable to an affected source, to each affected unit at an affected source, and to the owner and operators and the designated representative of the affected source or the affected unit.

"Department" means the department of natural resources and is the state acid rain permitting authority.

"Draft acid rain permit" means the version of the acid rain permit, or the acid rain portion of a Title V operating permit, that the department offers for public comment.

"Permit revision" means a permit modification, fast-track modification, administrative permit amendment, or automatic permit amendment, as provided in rules 22.140(455B) through 22.144(455B).

"Proposed acid rain permit" means the version of the acid rain permit that the department submits to the Administrator after the public comment period, but prior to completion of the EPA permit review under 40 CFR 70.8(c) as amended through July 21, 1992.

"Title V operating permit" means a permit issued under rules 22.100(455B) through 22.116(455B) implementing Title V of the Act.

"Ton" or "tonnage" means any short ton (i.e., 2,000 pounds). For purposes of determining compliance with the acid rain emissions limitations and reduction requirements, total tons for a year shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions) in accordance with rule 567—25.2(455B), with any remaining fraction of a ton equal to or greater than 0.50 ton deemed to equal one ton and any fraction of a ton less than 0.50 ton deemed not equal to a ton.

ITEM 4. Amend paragraph **22.122(1)"a"** as follows:

a. A unit listed in Table 1 of 40 CFR 73.10(a) ~~(as amended through September 28, 1998)~~.

ITEM 5. Amend paragraph **22.122(1)"b"** as follows:

b. An existing unit that is identified in Table 2 or 3 of 40 CFR 73.10 ~~as amended through September 28, 1998~~, and any other existing utility unit, except a unit under subrule 22.122(2).

ITEM 6. Amend subrule 22.122(3) as follows:

22.122(3) A certifying official of any unit may petition the administrator for a determination of applicability under 40 CFR 72.6(c) ~~as amended through March 1, 2001~~. The administrator's determination of applicability shall be binding upon the department, unless the petition is found to have contained significant errors or omissions.

ITEM 7. Amend rule 567—22.123(455B) as follows:

567—22.123(455B) Acid rain exemptions.

22.123(1) New unit exemption. The new unit exemption, as specified in 40 CFR §72.7 ~~as amended through March 1, 2001~~, except for 40 CFR §72.7(c)(1)(i), is adopted by reference. This exemption applies to new utility units.

22.123(2) Retired unit exemption. The retired unit exemption, as specified in 40 CFR §72.8 ~~as amended through December 18, 1997~~, is adopted by reference. This exemption applies to any affected unit that is permanently retired.

22.123(3) Industrial utility-unit exemption. The industrial utility-unit exemption, as specified in 40 CFR §72.14 ~~as amended through October 24, 1997~~, is adopted by reference. This exemption applies to any noncogeneration utility unit.

ITEM 8. Amend subparagraph **22.125(3)"a"(1)** as follows:

(1) Hold allowances, as of the allowance transfer deadline, in the unit's compliance subaccount (after deductions under 40 CFR 73.34(c) ~~as amended through December 11, 1998~~) not less than the total annual emissions of sulfur dioxide for the previous calendar year from the unit; and

ITEM 9. Amend subrule 22.125(4) as follows:

22.125(4) Nitrogen oxides requirements. The owners and operators of the source and each affected unit at the source shall comply with the applicable acid rain ~~emissions~~ *emission* limitation for nitrogen oxides, as specified in 40 CFR Sections 76.5 and 76.7 ~~as amended through December 19, 1996~~; 76.6 ~~as amended through October 15, 1999~~; and 76.8, 76.11, 76.12, and 76.15 ~~as amended through December 19, 1996~~; or by alternative emission limitations provided for by 40 CFR 76.10 ~~as amended through December 19, 1996~~, as long as the alternative emission limitation has been petitioned and demonstrated according to 40 CFR 76.14 ~~as amended through April 13, 1995,~~ and approved by the department.

ITEM 10. Amend subrule 22.125(5) as follows:

22.125(5) Excess emissions requirements.

a. The designated representative of an affected unit that has excess emissions in any calendar year shall submit a proposed offset plan to the administrator, as required under 40 CFR Part 77 ~~as amended through October 24, 1997~~, and submit a copy to the department.

b. The owners and operators of an affected unit that has excess emissions in any calendar year shall:

(1) Pay to the administrator without demand the penalty required, and pay to the administrator upon demand the interest on that penalty, as required by 40 CFR Part 77 ~~as amended through October 24, 1997~~; and

(2) Comply with the terms of an approved offset plan, as required by 40 CFR Part 77 ~~as amended through October 24, 1997~~.

ITEM 11. Amend subparagraph **22.125(6)"a"(1)** as follows:

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(1) The certificate of representation for the designated representative for the source and each affected unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation, in accordance with 40 CFR 72.24 ~~as amended through October 24, 1997~~; provided that the certificate and documents shall be retained on site at the source beyond such five-year period until such documents are superseded because of the submission of a new certificate of representation changing the designated representative.

ITEM 12. Amend subrule 22.126(1) as follows:

22.126(1) The designated representative shall submit a certificate of representation, and any superseding certificate of representation, to the administrator in accordance with Subpart B of 40 CFR Part 72 ~~as amended through October 24, 1997~~, and, concurrently, shall submit a copy to the department. Whenever the term "designated representative" is used in this rule, the term shall be construed to include the alternate designated representative.

ITEM 13. Amend subrule 22.127(1) as follows:

22.127(1) Except as provided in 40 CFR 72.23 ~~as amended through January 11, 1993~~, no objection or other communication submitted to the administrator or the department concerning the authorization, or any submission, action or inaction, of the designated representative shall affect any submission, action, or inaction of the designated representative, or the finality of any decision by the department, under the acid rain program. In the event of such communication, the department is not required to stay any submission or the effect of any action or inaction under the acid rain program.

ITEM 14. Amend subrule 22.131(1) as follows:

22.131(1) For each affected unit included in an acid rain permit application, a complete compliance plan shall include:

a. For sulfur dioxide emissions, a certification that, as of the allowance transfer deadline, the designated representative will hold allowances in the unit's compliance subaccount (after deductions under 40 CFR 73.34(c) ~~as amended through December 11, 1998~~) not less than the total annual emissions of sulfur dioxide from the unit. The compliance plan may also specify, in accordance with rule 22.131(455B), one or more of the acid rain compliance options.

b. For nitrogen oxides emissions, a certification that the unit will comply with the applicable limitation established by subrule 22.125(4) or shall specify one or more acid rain compliance options, in accordance with Section 407 of the Act, and 40 CFR Section 76.9 ~~as amended through April 13, 1995~~.

ITEM 15. Amend subrule 22.138(4) as follows:

22.138(4) No acid rain permit including a draft or proposed permit shall be issued unless the administrator has received a certificate of representation for the designated representative of the source in accordance with Subpart B of 40 CFR Part 72 ~~as amended through October 24, 1997~~.

ITEM 16. Amend paragraph **22.139(4)"e"** as follows:

e. The terms of a certificate of representation submitted by a designated representative under Subpart B of 40 CFR Part 72 ~~as amended through October 24, 1997~~.

ITEM 17. Amend paragraph **22.143(2)"b"** as follows:

b. Changes in the designated representative or alternative designated representative; provided that a new certificate of representation is submitted to the administrator in accordance with Subpart B of 40 CFR Part 72 ~~as amended through October 24, 1997~~;

ITEM 18. Amend paragraph **22.143(2)"e"** as follows:

e. Changes in the owners or operators; provided that a new certificate of representation is submitted within 30 days to the administrator and the department in accordance with Subpart B of 40 CFR Part 72 ~~as amended through October 24, 1997~~;

ITEM 19. Amend subrule 22.144(2) as follows:

22.144(2) Incorporation of an offset plan that has been approved by the administrator under 40 CFR Part 77 ~~as amended through October 24, 1997~~.

ITEM 20. Amend subrule 22.146(1) as follows:

22.146(1) Applicability and deadline. For each calendar year in which a unit is subject to the acid rain emissions limitations, the designated representative of the source at which the unit is located shall submit to the administrator and the department, within 60 days after the end of the calendar year, an annual compliance certification report for the unit in compliance with 40 CFR 72.90 ~~as amended through May 26, 1999~~.

ITEM 21. Amend rule 567—22.148(455B) as follows:

567—22.148(455B) Sulfur dioxide opt-ins. The department adopts by reference the provisions of 40 CFR Part 74, Acid Rain Opt-Ins~~, as amended through March 1, 2001~~.

ITEM 22. Adopt **new** 567—Chapter 34 as follows:

CHAPTER 34
PROVISIONS FOR AIR QUALITY
EMISSIONS TRADING PROGRAMS

567—34.1(455B) Purpose. This chapter implements the provisions for certain federal air emissions trading programs to control emissions of specific pollutants.

567—34.2 to **34.199** Reserved.

567—34.200(455B) Provisions for air emissions trading and other requirements for the Clean Air Interstate Rule (CAIR). The CAIR regulations contained in 40 CFR Part 96 are adopted as indicated in rules 567—34.200(455B) through 567—34.229(455B). Additional provisions for CAIR are set forth in 567—subrule 21.1(4), emissions inventory requirements, and in rules 567—22.120(455B) through 567—22.123(455B), acid rain program requirements.

567—34.201(455B) CAIR NO_x annual trading program general provisions. The provisions in 40 CFR Part 96, Subpart AA (96.101 through 96.108), as amended through April 28, 2006, are adopted by reference, except that the definition of "permitting authority" in 96.102 shall mean the department of natural resources. Other terms contained in rules 567—34.200(455B) through 567—34.209(455B), and in Tables 1A and 1B, shall have the meanings set forth in 96.102.

567—34.202(455B) CAIR designated representative for CAIR NO_x sources. The provisions in 40 CFR Part 96, Subpart BB, as amended through April 28, 2006, are adopted by reference.

567—34.203(455B) Permits. The provisions in 40 CFR Part 96, Subpart CC, as amended through April 28, 2006, are adopted by reference.

567—34.204 Reserved.

567—34.205(455B) CAIR NO_x allowance allocations. The provisions in 40 CFR Part 96, Subpart EE, 96.141 and

96.143, as amended through April 28, 2006, are adopted by reference, except as indicated in this rule.

34.205(1) State trading budget. The provisions in 40 CFR 96.140 are not adopted by reference. The state's trading budget for annual allocations of CAIR NO_x allowances for each control period from 2009 through 2014 is 32,692 tons. The state's trading budget for annual allocations of CAIR NO_x allowances for each control period, starting in 2015, and for each control period thereafter, is 27,243 tons.

34.205(2) CAIR NO_x allowance allocations. The provisions in 40 CFR 96.142 are not adopted by reference. The provisions in this subrule for CAIR NO_x allowance allocations are adopted in lieu thereof.

a. The baseline heat input used with respect to CAIR NO_x allowance allocations under paragraph 34.205(2)"b" for each CAIR NO_x unit will be:

(1) For units commencing operation before January 1, 2001 (existing units), the average of the three highest amounts of the units' adjusted control period heat input (in mmBTU) for 2000 through 2004, with the adjusted control period heat inputs for each year calculated as follows:

1. If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 100 percent;
2. If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by 60 percent; and
3. If numbered paragraphs "1" and "2" are not applicable to the unit, the unit's control period heat input for such year is multiplied by 40 percent.

(2) For units commencing operation on or after January 1, 2001, and commencing construction before January 1, 2006 (new units), the nameplate capacity of the generator being served, provided that if a generator is served by two or more units, then the nameplate capacity will be attributed to each unit in equal fraction of the total nameplate capacity, multiplied by:

1. 7900 BTU/kW, if the unit is coal-fired for the year; or
2. 6675 BTU/kW, if the unit is not coal-fired for the year.

b. (1) For each control period in 2009 and thereafter, but for no control period later than that control period required to meet the minimum timing requirements specified in 40 CFR 96.141(a) and 96.141(b), the department will allocate to all CAIR NO_x units with a baseline heat input as determined in subparagraph 34.205(2)"a"(1) for existing units a total amount of CAIR NO_x allowances equal to 95 percent for each control period from 2009 through 2014, and 97 percent for each control period in 2015 and thereafter, of the tons of NO_x emissions in the state trading budget specified in subrule 34.205(1).

(2) The department will allocate CAIR NO_x allowances to each CAIR NO_x unit under subparagraph 34.205(2)"b"(1) for existing units in an amount determined by multiplying the total amount of CAIR NO_x allowances allocated under subparagraph 34.205(2)"b"(1) by the ratio of the baseline heat input of such a CAIR NO_x unit to the total amount of baseline heat input of all such CAIR NO_x units and rounding to the nearest whole allowance as appropriate.

c. (1) For each control period in 2009 and thereafter, but for no control period later than is required to meet the minimum timing requirements set forth in 40 CFR 96.141(a) and 96.141(b), the department will allocate to all CAIR NO_x units with a baseline heat input as determined in subparagraph 34.205(2)"a"(2) for new units a total amount of CAIR NO_x allowances equal to 5 percent for each control period from 2009 through 2014, and 3 percent for each control period in 2015 and thereafter, of the tons of NOx emissions in the state trading budget as specified in subrule 34.205(1).

(2) The department will allocate CAIR NO_x allowances to each CAIR NO_x unit under subparagraph 34.205(2)"c"(1) for new units in an amount determined by multiplying the total amount of CAIR NO_x allowances allocated under subparagraph 34.205(2)"c"(1) by the ratio of the baseline heat input of such a CAIR NO_x unit to the total amount of baseline heat input of all such CAIR NO_x units and rounding to the nearest whole allowance as appropriate.

d. The unit allocations of CAIR NO_x allowances described in subparagraphs 34.304(2)"b"(2) and 34.304(2)"c"(2) are set forth in Tables 1A and 1B. Upon allocation, allowances may be tracked, transferred, banked and recorded as specified under 40 CFR 96.150 through 96.162 as amended through April 28, 2006.

Table 1A. Annual NO_x Allocations for Existing Units in Tons Per Year

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	7	100	85
Ames	Story	8	351	299
Burlington Generating Station	Des Moines	1	1151	979
Cedar Falls Gas Turbine	Black Hawk	1	0	0
Cedar Falls Gas Turbine	Black Hawk	2	0	0
Council Bluffs Energy Center	Pottawattamie	1	307	261
Council Bluffs Energy Center	Pottawattamie	2	461	392
Council Bluffs Energy Center	Pottawattamie	3	4138	3521
Dubuque Generation Station	Dubuque	1	211	179
Dubuque Generation Station	Dubuque	5	145	123
Dubuque Generation Station	Dubuque	6	21	18
Earl F Wisdom Generation Station	Clay	1	75	64
Electrifarm Turbines	Black Hawk	GT1	7	6
Electrifarm Turbines	Black Hawk	GT2	8	7
Electrifarm Turbines	Black Hawk	GT3	8	7
Fair Station	Muscatine	2	205	174
George Neal North	Woodbury	1	765	651
George Neal North	Woodbury	2	1426	1213
George Neal North	Woodbury	3	2690	2289
George Neal South	Woodbury	4	3530	3004
Lansing Generating Station	Allamakee	1	5	5
Lansing Generating Station	Allamakee	2	13	11
Lansing Generating Station	Allamakee	3	161	137
Lansing Generating Station	Allamakee	4	1165	991

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Lime Creek Combustion Turbines Station	Cerro Gordo	**1	3	2
Lime Creek Combustion Turbines Station	Cerro Gordo	**2	2	2
Louisa Station	Muscatine	101	3945	3357
Marshalltown	Marshall	**1	4	4
Marshalltown	Marshall	**2	7	6
Marshalltown	Marshall	**3	5	5
Milton L Kapp Generating Station	Clinton	2	1089	926
Muscatine	Muscatine	8	488	415
Muscatine	Muscatine	9	959	816
North Centerville Combustion Turbines	Appanoose	**1	1	1
North Centerville Combustion Turbines	Appanoose	**2	1	1
Ottumwa Generating Station	Wapello	1	4168	3547
Pella Station	Marion	6	69	59
Pella Station	Marion	7	71	60
Pella Station	Marion	8	0	0
Pleasant Hill	Polk	GT1	1	1
Pleasant Hill	Polk	GT2	1	1
Pleasant Hill	Polk	GT3	5	4
Prairie Creek Generating Station	Linn	3	317	270
Prairie Creek Generating Station	Linn	4	771	656
Riverside Station	Scott	9	591	502
Sixth Street Generating Station	Linn	2	118	100
Sixth Street Generating Station	Linn	3	124	106
Sixth Street Generating Station	Linn	4	93	79
Sixth Street Generating Station	Linn	5	198	169
Streeter Station	Black Hawk	7	105	89
Summit Lake Facility	Union	1G	5	4
Summit Lake Facility	Union	2G	6	5
Sutherland Generating Station	Marshall	1	211	180
Sutherland Generating Station	Marshall	2	213	181
Sutherland Generating Station	Marshall	3	529	450
Sycamore Turbines	Polk	GT1	6	5
Sycamore Turbines	Polk	GT2	8	7

**Denotes an affected unit for which the unit ID is unavailable.

Table 1B. Annual NO_x Allocations for New Units in Tons Per Year

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	GT2	52	26
Council Bluffs Energy Center	Pottawattamie	4	713	356
Earl F Wisdom Generation Station	Clay	2	73	36
Emery Station	Cerro Gordo	11	130	65
Emery Station	Cerro Gordo	12	130	65
Emery Station	Cerro Gordo	13	187	93
Exira Station	Audubon	CT U-1	38	19
Exira Station	Audubon	CT U-2	38	19
Greater Des Moines Energy Center	Polk	GT1	137	69
Greater Des Moines Energy Center	Polk	GT2	137	69

34.205(3) Compliance supplement pool. In addition to the CAIR NO_x trading budget specified in subrule 34.205(1), and the allocations specified in subrule 34.205(2), the department may allocate to CAIR NO_x units for the control period in 2009 up to 6,978 CAIR NO_x allowances from the state's compliance supplement pool. The allocation criteria set forth in 40 CFR 96.143 as amended through April 28, 2006, specifying requirements for affected units to request such allowances and for the department to allocate such allowances, are adopted by reference.

a. Public notice and public participation. The department shall provide public notice and an opportunity for public comments, including an opportunity for a hearing, before allocating allowances from the compliance supplement pool.

b. Public notice requirements. For purposes of this rule, the department shall give notice in a format designed to give general public notice including, but not limited to, electronic mail listserver, the department's official Web site, or a press release. The public notice shall include the following:

(1) Identification of the source requesting the allowances.

(2) Name and address of the requester.

(3) The number of allowances requested.

(4) The reason for the request.

(5) The time and place of any scheduled public hearing.

(6) A statement that any person may submit written comments or may request a public hearing, or both, on the proposed allowance allocation.

(7) A statement of the procedures to request a public hearing.

(8) The name, address and telephone number of a person from whom additional information may be obtained.

(9) Locations where copies of the complete allowance request and the department's proposed allowance allocation may be reviewed, including the nearest department office, and the times at which the copies will be available for public inspection.

c. At least 30 days shall be provided for public comment. Notice of any public hearing shall be given at least 30 days in advance of the hearing.

d. The department shall keep a record of the commenters and the issues raised during the public participation process and shall prepare written responses to all comments received.

e. At the time that the department submits to the Administrator the final allowance allocations from the compliance supplement pool, the record and copies of the department's responses shall be made available to the public.

567—34.206(455B) CAIR NO_x allowance tracking system. The provisions in 40 CFR Part 96, Subpart FF, as amended through April 28, 2006, are adopted by reference.

567—34.207(455B) CAIR NO_x allowance transfers. The provisions in 40 CFR Part 96, Subpart GG, as amended through May 12, 2005, are adopted by reference.

567—34.208(455B) Monitoring and reporting. The provisions in 40 CFR Part 96, Subpart HH, as amended through April 28, 2006, are adopted by reference.

567—34.209(455B) CAIR NO_x opt-in units. The provisions in 40 CFR Part 96, Subpart II, as amended through April 28, 2006, are adopted by reference.

567—34.210(455B) CAIR SO_2 trading program. The provisions in 40 CFR Part 96, Subparts AAA through III, as amended through April 28, 2006, are adopted by reference, except that the definition of "permitting authority" contained in 96.202 shall mean the department of natural resources.

567—34.211 to **34.219** Reserved.

567—34.220(455B) CAIR NO_x ozone season trading program. The provisions in 40 CFR Part 96, Subparts AAAA through IIII, are adopted as indicated in rules 567—34.221(455B) through 567— 34.229(455B).

567—34.221(455B) CAIR NO_x ozone season trading program general provisions. The provisions in 40 CFR Part 96, Subpart AAAA (96.301 through 96.308), as amended through April 28, 2006, are adopted by reference, except that the definition of "permitting authority" in 96.302 shall mean the department of natural resources. Other terms contained in rules 567—34.221(455B) through 567—34.229(455B), and in Tables 2A and 2B, shall have the meanings set forth in 96.302.

567—34.222(455B) CAIR designated representative for CAIR NO_x ozone season sources. The provisions in 40 CFR Part 96, Subpart BBBB, as amended through April 28, 2006, are adopted by reference.

567—34.223(455B) CAIR NO_x ozone season permits. The provisions in 40 CFR Part 96, Subpart CCCC, as amended through April 28, 2006, are adopted by reference.

567—34.224 Reserved.

567—34.225(455B) CAIR NO_x ozone season allowance allocations. The provisions in 40 CFR Part 96, Subpart EEEE, 96.341, as amended through April 28, 2006, are adopted by reference, except as indicated in this rule.

34.225(1) State trading budget. The provisions in 40 CFR 96.340 are not adopted by reference. The state's trading budget for annual allocations of CAIR NO_x ozone season allowances for each control period from 2009 through 2014 is 14,263 tons. The state's trading budget for annual allocations of CAIR NO_x ozone season allowances for each control period, starting in 2015, and for each control period thereafter, is 11,886 tons.

34.225(2) CAIR NO_x ozone season allowance allocations. The provisions in 40 CFR 96.342 are not adopted by reference. The provisions in this subrule for CAIR NO_x ozone season allowance allocations are adopted in lieu thereof.

a. The baseline heat input used with respect to CAIR NO_x ozone season allowance allocations under paragraph 34.225(2)"b" for each CAIR NO_x ozone season unit will be:

(1) For units commencing operation before January 1, 2001 (existing units), the average of the three highest amounts of the units' adjusted control period heat input (in mmBTU) for the five-month period from May 1 through September 30 (ozone season) for 2000 through 2004, with the adjusted control period heat inputs for each year calculated as follows:

1. If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 100 percent;

2. If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by 60 percent; and

3. If numbered paragraphs "1" and "2" are not applicable to the unit, the unit's control period heat input for such year is multiplied by 40 percent.

(2) For units commencing operation on or after January 1, 2001, and commencing construction before January 1, 2006 (new units), the nameplate capacity of the generator being served, provided that if a generator is served by two or more units, then the nameplate capacity will be attributed to each unit in equal fraction of the total nameplate capacity, multiplied by:

1. 7900 BTU/kW, if the unit is coal-fired for the year; or

2. 6675 BTU/kW, if the unit is not coal-fired for the year.

b. (1) For each control period in 2009 and thereafter, but for no control period later than that control period required to meet the minimum timing requirements specified in 40 CFR 96.341(a) and 96.341(b), the department will allocate to all CAIR NO_x units with an ozone season baseline heat input as determined in subparagraph 34.225(2)"a"(1) for existing units a total amount of CAIR NO_x ozone season allowances equal to 95 percent for each control period from 2009 through 2014, and 97 percent for each control period in 2015 and thereafter, of the tons of NO_x ozone season emissions in the state trading budget specified in subrule 34.225(1).

(2) The department will allocate CAIR NO_x ozone season allowances to each CAIR NO_x ozone season unit under subparagraph 34.225(2)"b"(1) for existing units in an amount determined by multiplying the total amount of CAIR NO_x allowances allocated under subparagraph 34.225(2)"b"(1) by the ratio of the ozone season baseline heat input of such a CAIR NO_x unit to the total amount of ozone season baseline heat input of all such CAIR NO_x ozone season units and rounding to the nearest whole allowance as appropriate.

c. (1) For each control period in 2009 and thereafter, but for no control period later than is required to meet the minimum timing requirements set forth in 40 CFR 96.341(a) and 96.341(b), the department will allocate to all CAIR NO_x ozone season units with an ozone season baseline heat input as determined in subparagraph 34.225(2)"a"(2) for new units a total amount of CAIR NO_x ozone season allowances equal to 5 percent for each control period from 2009 through 2014, and 3 percent for each control period in 2015 and thereafter, of the tons of NO_x ozone season emissions in the state trading budget as specified in subrule 34.225(1).

(2) The department will allocate CAIR NO_x ozone season allowances to each CAIR NO_x ozone season unit under subparagraph 34.225(2)"c"(1) for new units in an amount determined by multiplying the total amount of CAIR NO_x ozone season allowances allocated under subparagraph 34.225(2)"c"(1) by the ratio of the ozone season baseline heat input of such a CAIR NO_x ozone season unit to the total amount of ozone season baseline heat input of all such CAIR NO_x units and rounding to the nearest whole allowance as appropriate.

d. The unit allocations of CAIR NO_x ozone season allowances described in subparagraphs 34.225(2)"b"(2) and 34.225(2)"c"(2) are set forth in Tables 2A and 2B. Upon allocation, allowances may be tracked, transferred, banked and recorded as specified under 40 CFR 96.350 through 96.362 as amended through April 28, 2006.

Table 2A. Ozone Season NO_x Allocations for Existing Units in Tons Per Year

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	7	54	46
Ames	Story	8	158	134
Burlington Generating Station	Des Moines	1	549	467
Cedar Falls Gas Turbine	Black Hawk	1	0	0
Cedar Falls Gas Turbine	Black Hawk	2	4	3
Council Bluffs Energy Center	Pottawattamie	1	133	114
Council Bluffs Energy Center	Pottawattamie	2	191	163
Council Bluffs Energy Center	Pottawattamie	3	1822	1550
Dubuque Generation Station	Dubuque	1	104	88
Dubuque Generation Station	Dubuque	5	66	56
Dubuque Generation Station	Dubuque	6	14	12
Earl F Wisdom Generation Station	Clay	1	32	27
Electrifarm Turbines	Black Hawk	GT1	6	5
Electrifarm Turbines	Black Hawk	GT2	7	6
Electrifarm Turbines	Black Hawk	GT3	6	5
Fair Station	Muscatine	2	92	79
George Neal North	Woodbury	1	331	281
George Neal North	Woodbury	2	603	513
George Neal North	Woodbury	3	1189	1012
George Neal South	Woodbury	4	1522	1295
Lansing Generating Station	Allamakee	1	4	3
Lansing Generating Station	Allamakee	2	6	5
Lansing Generating Station	Allamakee	3	77	66
Lansing Generating Station	Allamakee	4	495	421
Lime Creek Combustion Turbines Station	Cerro Gordo	**1	2	2
Lime Creek Combustion Turbines Station	Cerro Gordo	**2	2	1
Louisa Station	Muscatine	101	1632	1389
Marshalltown	Marshall	**1	3	2
Marshalltown	Marshall	**2	3	2
Marshalltown	Marshall	**3	3	2
Milton L Kapp Generating Station	Clinton	2	486	414
Muscatine	Muscatine	8	201	171
Muscatine	Muscatine	9	441	375
North Centerville Combustion Turbines	Appanoose	**1	1	1
North Centerville Combustion Turbines	Appanoose	**2	1	1
Ottumwa Generating Station	Wapello	1	1761	1498
Pella Station	Marion	6	28	24
Pella Station	Marion	7	35	30
Pella Station	Marion	8	0	0
Pleasant Hill	Polk	GT1	1	1
Pleasant Hill	Polk	GT2	1	1
Pleasant Hill	Polk	GT3	2	2
Prairie Creek Generating Station	Linn	3	134	114
Prairie Creek Generating Station	Linn	4	366	312
Riverside Station	Scott	9	252	214
Sixth Street Generating Station	Linn	2	54	46
Sixth Street Generating Station	Linn	3	52	44
Sixth Street Generating Station	Linn	4	44	38
Sixth Street Generating Station	Linn	5	83	71
Streeter Station	Black Hawk	7	40	34
Summit Lake Facility	Union	1G	4	3
Summit Lake Facility	Union	2G	5	4
Sutherland Generating Station	Marshall	1	95	81
Sutherland Generating Station	Marshall	2	94	80
Sutherland Generating Station	Marshall	3	245	209

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Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Sycamore Turbines	Polk	GT1	6	5
Sycamore Turbines	Polk	GT2	8	7

**Denotes an affected unit for which the unit ID is unavailable.

Table 2B. Ozone Season NO_x Allocations for New Units in Tons Per Year

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	GT2	22	11
Council Bluffs Energy Center	Pottawattamie	4	311	155
Earl F Wisdom Generation Station	Clay	2	32	16
Emery Station	Cerro Gordo	11	57	29
Emery Station	Cerro Gordo	12	57	29
Emery Station	Cerro Gordo	13	81	41
Exira Station	Audubon	CT U-1	16	8
Exira Station	Audubon	CT U-2	17	8
Greater Des Moines Energy Center	Polk	GT1	60	30
Greater Des Moines Energy Center	Polk	GT2	60	30

567—34.226(455B) CAIR NO_x ozone season allowance tracking system. The provisions in 40 CFR Part 96, Subpart FFFF, as amended through April 28, 2006, are adopted by reference.

567—34.227(455B) CAIR NO_x ozone season allowance transfers. The provisions in 40 CFR Part 96, Subpart GGGG, as amended through May 12, 2005, are adopted by reference.

567—34.228(455B) CAIR NO_x ozone season monitoring and reporting. The provisions in 40 CFR Part 96, Subpart HHHH, as amended through April 28, 2006, are adopted by reference.

567—34.229(455B) CAIR NO_x ozone season opt-in units. The provisions in 40 CFR Part 96, Subpart IIII, as amended through April 28, 2006, are adopted by reference.

These rules are intended to implement Iowa Code section 455B.133.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5140B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby amends Chapter 22, "Controlling Pollution," Chapter 23, "Emission Standards for Contaminants," and Chapter 25, "Measurement of Emissions," and adopts new Chapter 34, "Provisions for Air Quality Emissions Trading Programs," Iowa Administrative Code.

The purpose of the amendments is to adopt the recently finalized federal Clean Air Mercury Rule (CAMR) into the state air quality rules. The amendments also make necessary updates and changes to existing air quality rules to implement CAMR.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 18, 2006, as **ARC 4824B**. Two public hearings were held, one on February 21, 2006, and a second on February 22, 2006. Two oral comments were presented at the hearing on February 21. No oral comments were presented at the hearing on February 22. Five written comments were received prior to the close of the public comment period. The public comment period closed on February 27, 2006.

The submitted comments and the Department's response to the comments are summarized in a responsiveness summary available from the Department. These final rules have been modified from the proposed rules published under Notice of Intended Action to address the public comments, as detailed below.

On May 18, 2005, the U.S. Environmental Protection Agency (EPA) promulgated CAMR. These regulations will permanently cap and reduce mercury emissions from coal-fired power plants, the largest remaining sources of mercury emissions in the country. EPA estimates that, when fully implemented, CAMR will reduce utility mercury emissions in 48 states to 15 tons, a reduction of 70 percent from current levels.

Mercury is a toxic, persistent pollutant that accumulates in the food chain. Atmospheric mercury falls to earth through rain, snow and dry deposition and enters lakes and rivers. Once there, it can transform into methylmercury and can build up in fish tissue. Women of childbearing age who may be exposed to mercury from eating contaminated fish are regarded as the population of greatest concern. Children exposed to methylmercury before birth may be at risk for neurobehavioral problems.

EPA states that it has conducted extensive analysis of mercury emissions from power plants and subsequent regional patterns of deposition in U.S. waters. Those analyses conclude that regional transport of mercury emissions from power plants in the U.S. account for very little of the mercury deposition in the U.S. About 99 percent of global mercury emissions come from various natural sources throughout the world, and human-caused sources, primarily coal-fired power plants from outside the U.S. The small contribution of mercury deposition from U.S. power plants will be significantly reduced when CAMR is fully implemented.

CAMR builds upon another closely related federal regulation, the Clean Air Interstate Rule (CAIR). The first phase of CAMR, set to occur in 2010, is a nationwide, 38-ton cap on mercury, which EPA states will be achieved by the "co-benefit" reductions of reducing SO_2 and NO_x under CAIR. That is, control technologies expected to be used to comply with CAIR, primarily flue gas desulfurization (FGD) for SO_2 control, and selective catalytic reduction (SCR) for NO_x control, will also control mercury emissions and will achieve the first phase cap.

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The second phase of CAMR is a nationwide, 15-ton cap on mercury emissions, which will occur in 2018. The second phase cap is based on the expectation that emerging control technologies for mercury, such as activated carbon injection (ACI), will become proven, cost-effective and deployable on a large scale.

CAMR also includes a new source performance standard for coal-fired electrical generating units (EGUs) constructed after January 30, 2004. These new sources will be required to meet a stringent emissions standard for mercury, as well as to conduct emissions testing and continuous monitoring for mercury.

Under CAMR, each state is provided with an annual emissions cap for mercury. Each state must meet the required mercury reductions either by (1) adopting EPA regulations that will require affected coal-fired, electric generating units (EGUs) to participate in an EPA-administered interstate cap and trade program, or (2) mandating source-by-source controls in such a way as to stay under the EPA-prescribed mercury cap.

In May 2005, the Department convened a workgroup to assist with rule-making activities related to the adoption of CAMR. The workgroup's goal was to provide rule-making recommendations on the implementation options of the federal regulations. The Department invited the following parties to participate in the workgroup:

- Investor-owned, municipal and rural electric cooperative utilities;
- Iowa Association of Municipal Utilities and Iowa Utilities Association;
- Iowa Utilities Board and Consumer Advocate Office;
- Iowa's university power plants;
- Sierra Club and Iowa Environmental Council;
- Iowa Association of Business and Industry;
- Iowa Department of Economic Development;
- U.S. EPA Region VII; and
- Department's Air Quality and Energy Bureaus.

The workgroup met five times between May and August 2005. All workgroup invitees, even those that elected not to participate in meetings, remained on the Department's E-mail distribution list and were kept informed of the workgroup's activities and meeting dates.

The majority of the workgroup members recommended that the Department adopt EPA's cap and trade program for regulating mercury emissions from coal-fired electric generating units (EGUs). The Iowa Sierra Club did not endorse the cap and trade recommendation, stating that it does not support a cap and trade approach to emissions reductions, particularly for control of mercury emissions.

Under an emissions trading approach to CAMR, each ounce of mercury emitted annually from an affected facility (EGU) will require that the affected facility use one mercury allowance. The mercury allowances are traded on an EPA-administered open market, which will establish the trade currency (allowance) value.

Adopting the cap and trade approach to CAMR offers several advantages. The affected facilities are allowed the flexibility to determine the most appropriate method of compliance by securing allowances, reducing emissions, or instituting some combination of these approaches. The affected EGUs must still comply with CAMR's requirements for continuous emissions monitoring for mercury.

The EPA-managed trading program also establishes automatic and punitive penalties on facilities that do not hold the required number of allowances at the end of each year. Further, states that adopt EPA's cap and trade program to implement CAMR are afforded "automatic approval" of the required revisions to their state implementation plans (SIPs). Iowa has until November 17, 2006, to adopt CAMR and submit the revisions for incorporation into Iowa's SIP.

After carefully reviewing the CAMR provisions, considering the recommendations from all workgroup members, and reviewing all public comments submitted during the comment period, the Department is adopting EPA's cap and trade program for implementing CAMR. This approach is the appropriate method for meeting the federal requirements for reducing cumulative, national emissions of mercury from coal-fired EGUs.

The Department responded to the Commission's concerns, raised at the November 2005 Commission meeting, that the CAMR cap and trade provisions could allow adverse, local impacts resulting from mercury emissions from specific sources. To address this concern, the Department is adopting an amendment to Chapter 22, described below in the paragraph that summarizes Item 1.

These amendments to implement CAMR amend a number of other air quality rules. CAMR amended the federal new source performance standards in 40 CFR Part 60 for electric utility steam generating units. The Department adopts these changes in Chapter 23. CAMR also amended emissions testing methods under 40 CFR Parts 60 and 75. The Department amends Chapter 25 to adopt these changes.

Additionally, the Department adopts a new Chapter 34 that contains the emissions trading provisions for CAMR. It is expected that EPA will promulgate other regulations in the future that will use the cap and trade approach similar to that of CAMR for reducing air pollutant emissions. The creation of Chapter 34 for air emissions trading will facilitate having all of these similar provisions in one location in the Iowa Administrative Code.

The Department is adopting a separate, similar rule making to implement the Clean Air Interstate Rule (CAIR) (see **ARC 5139B** herein). CAMR and CAIR are closely related because both allow primary implementation through an EPA-administered emissions cap and trade program. However, the Department proposed the CAMR and CAIR Notices of Intended Action separately in the event that one of the rule makings was delayed or terminated.

Item 1 amends subrule 22.3(5), which contains the conditions under which the Director may, after public notice of such a decision, modify an existing air construction permit for a major stationary source. The Department is adopting this amendment to address issues raised at the November 2005 Environmental Protection Commission meeting. Some members of the Commission expressed concern that the CAMR cap and trade provisions would not prevent adverse, local impacts resulting from the mercury emissions from specific sources. This amendment specifies that the Director may modify such permits to mitigate excessive mercury deposition.

Item 2 amends subrule 23.1(2) to update the new source performance standards to the May 18, 2005, date on which EPA promulgated CAMR, and thus amended 40 CFR Part 60, including the general provisions, certain subparts, and the appendices.

Item 3 amends paragraph 23.1(2)"z," standards for electric utility steam generating units, to adopt changes that EPA made to this standard to implement CAMR. In particular, EPA amended the definition for electric utility steam generating units, and added an emission standard for mercury for coal-fired units constructed or reconstructed after January 30, 2004.

Item 4 amends subrule 23.1(4) to note that the standards for mercury emissions from electric utility steam generating units are set forth in subrules 23.1(2) and 23.1(5), and in 567—Chapter 34. Subrule 23.1(4) is the location in which the Department has adopted federal regulations under 40 CFR Part 63 for hazardous air pollutants (HAPs) for source categories. Although mercury remains listed as a HAP, EPA is regulating mercury emissions from the electric utility steam generating units under 40 CFR Part 60, and not under 40 CFR Part 63. This amendment to subrule 23.1(4) directs the reader to the correct location of these rules.

Item 5 amends subrule 23.1(5) to reflect the May 18, 2005, date on which EPA promulgated CAMR and amended the emission guidelines contained in 40 CFR Part 60, including Subpart B and several appendices.

Item 6 amends subrule 23.1(5) to adopt a new paragraph "d," containing a reference to the emission guidelines for mercury from coal-fired electric utility steam generating units. Subrule 23.1(5) is the subrule in which other federal emissions guidelines have been adopted. However, the CAMR provisions for 40 CFR Part 60, Subpart HHHH, are adopted in 567—Chapter 34. This new paragraph directs the reader to 567—Chapter 34.

Item 7 amends subrule 25.1(9), methods and procedures, to reflect the May 18, 2005, date on which EPA promulgated CAMR and amended the stack sampling methods and specifications contained in the appendices of 40 CFR Parts 60 and 75.

Item 8 amends rule 567—25.2(455B), continuous emission monitoring under the acid rain program, to reflect the May 18, 2005, date on which EPA promulgated CAMR and amended 40 CFR Part 75 and its appendices.

Item 9 amends 567—Chapter 25 to add new rule 25.3(455B) for continuous emissions monitoring under CAMR, which adopts 40 CFR Part 75 and its appendices, as amended through May 18, 2005.

Item 10 adopts new 567—Chapter 34 for air quality emissions trading programs. The provisions included in these rules include the requirements for CAMR.

In general, the federal regulations for the CAMR emissions cap and trade program are adopted in Chapter 34 by reference. However, the rules do note several sections of the federal regulations that are not adopted by reference.

The provisions of Chapter 34 include the total mercury (Hg) state trading budget for Iowa, and two tables showing the annual Hg allowance allocations to each designated Hg unit in the state. The two tables show Hg allocations for existing and new Hg units. The Department is adopting the federal rule provisions for determining the Hg allowance allocations. Upon annual allocation, the designated units may track, transfer, bank and record the allowances, as specified in the federal regulations adopted by reference. EPA will be the designated authority for implementing these components of the CAMR cap and trade program.

The Department is adopting the federal rule provisions for classifying existing units and new units. However, the Department, based on recommendations from the workgroup members, is allocating the annual allowances for all new units at the time that Chapter 34 is adopted. A "new unit" is always considered to be a "new unit," and does not become an "existing unit" unless revisions to these rules are made at a later date. The Notice preamble included an explanation of this methodology, as well as mercury allowance allocation tables in the text of the rule that illustrated this methodology. However, in the Notice, the Department inadvertently proposed to adopt by reference a portion of the federal regulations that would be inconsistent with this intent. EPA Region VII identified this inconsistency in comments that they provided during the public comment period.

EPA also provided comments stating that the proposed rules, as specified in the Notice, could be interpreted to indicate that the EPA Administrator, as manager of the mercury trading program, could elect to record the allowances specified in the Department's allowance allocation tables indefinitely into the future, rather than allocating the allowances only according to the minimum timing requirements specified in the federal regulations. This was not the Department's intent.

To address these EPA comments, the Department is adopting clarifying language in Chapter 34 to specify the allocation methodology for designating mercury allowances for "existing units" and "new units." The language in Chapter 34 is consistent with the federal regulations, except that the language clarifies that allowances will be allocated in future years only to meet the minimum timing requirements specified in the federal regulations. Additionally, the language in Chapter 34 does not include the portions of the federal regulations which contain the methodology for how a "new unit" automatically becomes an "existing unit" over time. The language in Chapter 34 is adopted in lieu of adopting by reference the applicable portions of 40 CFR 60.4142. Under EPA's regulations, the states have full discretion and flexibility on allowance allocations.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective on July 12, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule 22.3(5) as follows:

22.3(5) Modification of a permit. The director may, after public notice of such decision, modify a condition of approval of an existing permit for a major stationary source or an emission limit contained in an existing permit for a major stationary source if necessary to attain or maintain an ambient air quality standard, *or to mitigate excessive deposition of mercury.*

ITEM 2. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~July 14, 2004~~, *May 18, 2005*, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 3. Amend paragraph **23.1(2)"z"** as follows:

z. Electric utility steam generating units. An electric utility steam generating unit that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input of fossil fuel for which construction or modification or reconstruction is commenced after September 18, 1978, or an electric utility combined cycle gas turbine that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input. *An electric utility steam generating unit is any fossil fuel-fired combustion unit of more than 25 mega-*

watts electric (MW) that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 MW output to any utility power distribution system for sale is also an electric utility steam generating unit. This standard also includes a provision for mercury emissions for any coal-fired electric utility steam generating unit other than an integrated gasification combined cycle electric steam generating unit, for which construction or reconstruction commenced after January 30, 2004. (Subpart Da *as amended through May 18, 2005*)

ITEM 4. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through January 10, 2005, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purpose of this subrule, "hazardous air pollutant" has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an "area source" means any stationary source of hazardous air pollutants that is not a "major source" as defined in this subrule. Paragraph 23.1(4)"a," general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below. *The provisions of 40 CFR Part 60, Subparts A, B, Da, and HHHH for the Clean Air Mercury Rule (CAMR), are found at subrules 23.1(2) and 23.1(5) and in 567—Chapter 34.*

ITEM 5. Amend subrule 23.1(5), introductory paragraph, as follows:

23.1(5) Emission guidelines. The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations Part 60 as amended through ~~July 23, 2001~~ *May 18, 2005*, shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. The control of the designated pollutants will be in accordance with federal standards established in Sections 111 and 129 of the Act and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the applicable subpart(s) for the existing source. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 6. Amend subrule **23.1(5)** by adopting **new** paragraph **"d"** as follows:

d. Emission guidelines for mercury for coal-fired electric utility steam generating units. The provisions of 40 CFR Part 60, Subpart HHHH, are set forth in 567—Chapter 34.

ITEM 7. Amend subrule 25.1(9) as follows:

25.1(9) Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are those specified in the "Compliance Sampling Manual*" adopted by the commission on May 19, 1977, as revised through January 30, 2003. Sampling methods, analytical determinations, minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are those found in Appendices A (as amended through October 17, 2000), B (as amended through ~~January 12, 2004~~ *May 18, 2005*) and F (as amended through January 12, 2004) of 40 CFR Part 60, and Appendices A (as amended through ~~August 16, 2002~~ *May 18, 2005*), ~~and~~ B (as amended through ~~September 9, 2002~~ *May 18, 2005*), *F (as amended through May 18, 2005) and K (as amended through May 18, 2005)* of 40 CFR Part 75.
*Available from the department.

ITEM 8. Amend rule 567—25.2(455B) as follows:

567—25.2(455B) Continuous emission monitoring under the acid rain program. The continuous emission monitoring requirements for affected units under the acid rain program as provided in 40 CFR *Part* 75, ~~as adopted January 11, 1993, and~~ *including Appendices A, B, F and K* as ~~corrected or~~ amended through ~~October 24, 1997~~ *May 18, 2005,* are adopted by reference.

ITEM 9. Amend 567—Chapter 25 by adopting **new** rule 567—25.3(455B) as follows:

567—25.3(455B) Continuous emission monitoring under the Clean Air Mercury Rule (CAMR). The provisions in 40 CFR Part 75, including Appendices A, B, F and K as amended through May 18, 2005, are adopted by reference.

ITEM 10. Adopt **new** 567—Chapter 34 as follows:

CHAPTER 34
PROVISIONS FOR AIR QUALITY EMISSIONS TRADING PROGRAMS

567—34.1(455B) Purpose. This chapter implements the provisions for certain federal air emissions trading programs to control emissions of specific pollutants.

567—34.2 to **34.299** Reserved.

567—34.300(455B) Provisions for air emissions trading and other requirements for the Clean Air Mercury Rule (CAMR). The CAMR provisions in 40 CFR Part 60, Subpart HHHH, as amended through May 18, 2005, are adopted as indicated in rules 567—34.301(455B) through 567—34.308(455B). Additional provisions for CAMR are set forth in 567—subrule 23.1(2), paragraph 23.1(2)"z," subrule 23.1(5), and subrule 25.1(9) and rule 567—25.3(455B).

567—34.301(455B) Mercury (Hg) budget trading program general provisions. The provisions in 40 CFR 60.4101 through 60.4108 as amended through May 18, 2005, are adopted by reference, except that the definition of "permitting authority" in 60.4102 shall mean the department of natural resources. Other terms contained in rules 567—

34.301(455B) through 567—34.308(455B), and in Tables 3A and 3B, shall have the meanings set forth in 60.4102.

567—34.302(455B) Hg designated representative for Hg budget sources. The provisions in 40 CFR 60.4110 through 60.4114 as amended through May 18, 2005, are adopted by reference.

567—34.303(455B) General Hg budget trading program permit requirements. The provisions in 40 CFR 60.4120 through 60.4124 as amended through May 18, 2005, are adopted by reference.

567—34.304(455B) Hg allowance allocations. The provisions in 40 CFR 60.4141 as amended through May 18, 2005, are adopted by reference, except as indicated in this rule.

34.304(1) State trading budget. The provisions of 40 CFR 60.4140 are not adopted by reference. The state's trading budget for annual allocations of Hg allowances for each control period from 2010 through 2017 is 0.727 tons (23,264 ounces). The state's trading budget for annual allocations of Hg allowances for the control period, starting in 2018, and for each control period thereafter, is 0.287 tons (9,184 ounces).

34.304(2) Hg allowance allocations. The provisions of 40 CFR 60.4142 are not adopted by reference. The provisions in this subrule for Hg allowance allocations are adopted in lieu thereof.

a. The baseline heat input used with respect to CAMR Hg allowance allocations under paragraph 34.302(4)"b" for each CAMR Hg unit will be:

(1) For units commencing operation before January 1, 2001 (existing units), the average of the three highest amounts of the units' adjusted control period heat input (in mmBTU) for 2000 through 2004, with the adjusted control period heat inputs for each year calculated as follows:

1. Any portion of the unit's control period heat input for the year that results from the unit's combustion of lignite, multiplied by 3.0;

2. Any portion of the unit's control period heat input for the year that results from the unit's combustion of subbituminous coal, multiplied by 1.25; and

3. Any portion of the unit's control period heat input for the year that is not covered by numbered paragraphs "1" and "2," multiplied by 1.0.

(2) For units commencing operation on or after January 1, 2001 and commencing construction before January 1, 2006 (new units), the nameplate capacity of the generator being served, provided that if a generator is served by two or more units, then the nameplate capacity will be attributed to each unit in equal fraction of the total nameplate capacity, multiplied by 7900 BTU/kW.

b. (1) For each control period in 2010 and thereafter, but for no control period later than that control period required to meet the minimum timing requirements specified in 40 CFR 60.4141(a) and 60.4141(b)(1), the department will allocate to all CAMR Hg units with a baseline heat input as determined in subparagraph 34.304(2)"a"(1) for existing units a total amount of CAMR Hg allowances equal to 95 percent for each control period from 2010 through 2017, and 97 percent for each control period in 2018 and thereafter, of the tons of Hg emissions in the state trading budget specified in subrule 34.304(1).

(2) The department will allocate CAMR Hg allowances to each CAMR Hg unit under subparagraph 34.304(2)"b"(1) for existing units in an amount determined by multiplying the total amount of CAMR Hg allowances allocated under subparagraph 34.304(2)"b"(1) by the ratio of the baseline heat input of such a CAMR Hg unit to the total amount of baseline heat input of all such CAMR Hg units and rounding to the nearest whole allowance as appropriate.

c. (1) For each control period in 2010 and thereafter, but for no control period later than is required to meet the minimum timing requirements set forth in 40 CFR 60.4141(a) and 60.4141(b)(1), the department will allocate to all CAMR Hg units with a baseline heat input as determined in subparagraph 34.304(2)"a"(2) for new units a total amount of CAMR Hg allowances equal to 5 percent for each control period from 2010 through 2017, and 3 percent for each control period in 2018 and thereafter, of the tons of Hg emissions in the state trading budget as specified in subrule 34.304(1).

(2) The department will allocate CAMR Hg allowances to each CAMR Hg unit under subparagraph 34.304(2)"c"(1) for new units in an amount determined by multiplying the total amount of CAMR Hg allowances allocated under subparagraph 34.304(2)"c"(1) by the ratio of the baseline heat input of such a CAMR Hg unit to the total amount of baseline heat input of all such CAMR Hg units and rounding to the nearest whole allowance as appropriate.

d. The unit allocations of CAMR Hg allowances described in subparagraphs 34.304(2)"b"(2) and 34.304(2)"c"(2) are set forth in Tables 3A and 3B. Upon allocation, allowances may be tracked, transferred, banked and recorded as specified under 40 CFR 60.4150 through 60.4176 as amended through May 18, 2005.

Table 3A. Mercury (Hg) Allowance Allocations for Existing Units in Ounces Per Year

Facility ID	County	Unit ID	2010 – 2017	2018 and thereafter
Ames	Story	7	68	28
Ames	Story	8	244	98
Burlington Generating Station	Des Moines	1	823	332
Council Bluffs Energy Center	Pottawattamie	1	220	88
Council Bluffs Energy Center	Pottawattamie	2	330	133
Council Bluffs Energy Center	Pottawattamie	3	2961	1194
Dubuque Generation Station	Dubuque	1	151	61
Dubuque Generation Station	Dubuque	5	104	42
Dubuque Generation Station	Dubuque	6	15	6
Earl F Wisdom Generation Station	Clay	1	43	17
Fair Station	Muscatine	2	117	47
George Neal North	Woodbury	1	547	221
George Neal North	Woodbury	2	1020	411
George Neal North	Woodbury	3	1925	776
George Neal South	Woodbury	4	2526	1018
Lansing Generating Station	Allamakee	1	4	2
Lansing Generating Station	Allamakee	2	9	4
Lansing Generating Station	Allamakee	3	116	47

Facility ID	County	Unit ID	2010 – 2017	2018 and thereafter
Lansing Generating Station	Allamakee	4	834	336
Louisa Station	Muscatine	101	2823	1138
Milton L Kapp Generating Station	Clinton	2	779	314
Muscatine	Muscatine	8	349	141
Muscatine	Muscatine	9	686	277
Ottumwa Generating Station	Wapello	1	2982	1202
Pella Station	Marion	6	50	20
Pella Station	Marion	7	51	20
Prairie Creek Generating Station	Linn	3	227	91
Prairie Creek Generating Station	Linn	4	552	222
Riverside Station	Scott	9	423	170
Sixth Street Generating Station	Linn	2	84	34
Sixth Street Generating Station	Linn	3	89	36
Sixth Street Generating Station	Linn	4	66	27
Sixth Street Generating Station	Linn	5	142	57
Streeter Station	Black Hawk	7	60	24
Sutherland Generating Station	Marshall	1	151	61
Sutherland Generating Station	Marshall	2	152	61
Sutherland Generating Station	Marshall	3	378	152

Table 3B. Mercury (Hg) Allowance Allocations for New Units in Ounces Per Year

Facility ID	County	Unit ID	2010 – 2017	2018 and thereafter
Council Bluffs Energy Center	Pottawattamie	4	1163	276

567—34.305(455B) Hg allowance tracking system. The provisions in 40 CFR 60.4150 through 60.4157 as amended through May 18, 2005, are adopted by reference.

567—34.306(455B) Hg allowance transfers. The provisions in 40 CFR 60.4160 through 60.4162 as amended through May 18, 2005, are adopted by reference.

567—34.307(455B) Monitoring and reporting. The provisions in 40 CFR 60.4170 through 60.4176 as amended through May 18, 2005, are adopted by reference.

567—34.308(455B) Performance specifications. The provisions in 40 CFR Part 60, Appendix B, as amended through May 18, 2005, are adopted by reference.

These rules are intended to implement Iowa Code section 455B.133.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5155B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3, 455B.105, 455B.171, 455B.261, 455B.262, 455B.264 through 455B.274, 455B.278, 455B.279, and 455B.281, and chapter 460, the Environmental Protection Commission amends Chapter 50, "Scope of Division—Definitions—Forms—Rules of Practice," Chapter 51, "Water Permit or Registration—When Required," Chapter 52, "Criteria and Conditions for Authorizing Withdrawal, Diversion, and Storage of Water," Chapter 53, "Protected Water Sources—Purposes—Designation Procedures—Information in Withdrawal Applications—Limitations—List of Protected Sources," and Chapter 54, "Criteria and Conditions for Permit Restrictions or Compensation by Permitted Users to Nonregulated Users Due to Well Interference," Iowa Administrative Code.

These chapters pertain to the water use/water allocation program, which is a permit program that was administered by the Natural Resources Council until it merged in 1983 with the agency now called the Department of Natural Resources. Few changes have been made to the program or its rules since that time, and revisions are needed. The administrative updates include eliminating expired dates, updating references, eliminating obsolete rules, and clarifying existing language in the rules. Other changes to these chapters:

- Clarify existing definitions, including the definition of "consumptive use" as it applies to community public water supply systems (Ch. 50);
- Adopt definitions for "specialty crop" and "general crop" (Ch. 50);
- Update forms and clarify usage of the forms in the rules (Ch. 50);
- Correct the references to the Department's Iowa Geological Survey (IGS), certified well contractor, and licensed professional engineer (Chs. 50 to 54);
- Eliminate the requirement for the IDNR's Flood Plain Section to review a surface runoff plan at a rock quarry (Ch. 50);
- Incorporate new legislation that requires water use permits for community public water supply systems to be posted in the newspaper of largest circulation in the county as well as the newspaper nearest the locale of the permittee to comply with the new requirement (Iowa Code section 455B.265 as amended by 2005 Iowa Acts, House File 768) (Ch. 50);
- Clarify the water use permitting of cooling/heating systems using groundwater (Ch. 51);
- Exempt public water system "consumptive use" from the protected flow restrictions (Ch. 52);
- Remove six "protected water use" locations from the protected streamflow table (Ch. 52); and
- Modify the emergency conservation rules to be consistent with other rules of the Iowa Administrative Code (Ch. 52).

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 15, 2006, as **ARC 4982B**. A public hearing was held on April 5, 2006. Two comments

were received during the public comment period, which ended April 12, 2006. In response to the comments, 567—51.2(455B) has been revised to read as follows:

"**567—51.2(455B) Storage (surface).** A permit shall be required for the storage of 18 acre-feet or more of water in permanent storage. No such storage permit shall be granted by the department prior to issuance of a flood plain permit, if applicable, approving the plans and specifications for the impounding structure. No water storage permit from the department shall be required for waste stabilization lagoons, waste storage basins, or similar structures which are used solely for wastewater treatment or disposal. A storage permit is required for a stormwater retention basin of at least 18 acre-feet. A permit authorizing withdrawals of water from an artificial reservoir formed by an officially designated grade stabilization structure which was constructed with federal, state, or local cost-sharing funds shall not be granted unless the person applying for such a permit provides written approval for such withdrawals from the soil and water conservation district in which the structure is located."

These amendments were adopted by the Commission on May 15, 2006.

These amendments are intended to implement Iowa Code sections 17A.3(1)"b," 455B.105, and 455B.171 and chapters 455B, division III, part 4, and 460.

These amendments shall become effective on July 12, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 50 to 54] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 4982B**, IAB 3/15/06.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

[For replacement pages for IAC, see IAC Supplement 6/7/06.]

ARC 5149B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.304, 455D.7 and 455D.9, the Environmental Protection Commission hereby amends Chapter 105, "Organic Materials Composting Facilities," Iowa Administrative Code.

The amendments pertain to animal mortality composting and include other composting rule updates. The amendments are needed to address the increased use of composting by Iowa farmers as a means to manage dead livestock. These revisions will add flexibility for farmers wanting to compost routine livestock mortalities from multiple sites at a centralized site, as well as aid compliance with the rules. Under these amendments, a farmer wishing to compost routine livestock mortalities from multiple sites would no longer be required to obtain a permit to do so. Additionally, further provisions are included in the rules to ensure proper livestock mortality composting methods are used, related rules are modified to conform to the revised rules regarding mortality composting, references to DNR form numbers are updated and corrected, and the definition and filing of a "current cost estimate" are updated.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 15, 2006, as **ARC 4893B**. A public hearing was held on March 15, 2006. No oral comments were received; however, 12 written comments were received. A responsiveness summary is available from the Department. Due to comments received and further staff review, the following changes were made to the proposed amendments:

- Rule 567—105.6(455B,455D), introductory paragraph, was changed to help avoid confusion and clarify the Department's intent.
- Subrules 105.6(1), 105.6(3), 105.6(4), 105.6(5) and 105.6(6) have been struck and replaced with new language to address concerns presented in the comments received.
- The last sentence in subrule 105.6(7) has been removed.

These amendments are intended to implement Iowa Code sections 455B.304, 455D.7 and 455D.9.

These amendments shall become effective July 12, 2006.

The following amendments are adopted.

ITEM 1. Amend paragraph **105.1(2)"b"** as follows:

b. Permit by rule. Yard waste composting facilities are exempt from ~~having a permit~~ *permitting* if operated in conformance with 105.3(455B,455D) and 105.4(455B,455D). ~~Composting of dead farm animals generated on the same premises as the composting facility is~~ *Facilities that compost dead farm animals are* exempt from ~~having a permit~~ *permitting* if operated in conformance with 105.3(455B,455D) and 105.6(455B,455D). Small quantity solid waste compost operations as defined in 105.5(455B,455D) are exempt from permitting if operated in conformance with 105.3(455B, 455D) and 105.5(455B,455D).

ITEM 2. Amend subrule 105.3(3) as follows:

105.3(3) Measures shall be taken to prevent water from running onto the facility from adjacent land and to prevent compost leachate and runoff from leaving the composting facility. *Runoff from the composting facility must be properly managed.*

ITEM 3. Amend subrule 105.5(1) as follows:

105.5(1) Acceptable materials and amounts. Yard waste~~,~~ *and* 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, ~~or~~ in combination, *or with agricultural waste*. 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~~, food residuals and agricultural waste~~ per week in any combination from off premises must obtain a permit (Form 50*A* (542-1542*A*)) 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 4. Amend rule 567—105.5(455B,455D) by adopting the following **new** subrule 105.5(3) and renumbering existing subrule **105.5(3)** as **105.5(4)**:

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

105.5(3) Signage. The facility shall have a permanent sign posted at the entrance specifying:

a. Name of operation.

b. Operating hours.

c. Materials which are accepted or the statement "All materials must have prior approval."

d. Telephone number of 24-hour emergency contact person.

ITEM 5. Rescind rule 567—105.6(455B,455D) and adopt the following **new** rule in lieu thereof:

567—105.6(455B,455D) Specific requirements for composting of dead farm animals. Operators of dead farm animal composting facilities are encouraged to be trained, tested, and certified by a department-approved certification program upon approval of such a program by the department. A facility that composts dead farm animals is exempt from permitting if the following operating requirements are met and the facility is in compliance with 105.3(455B,455D). Businesses or individuals that are neither the owner nor operator of any of the sites where dead farm animals are generated and that want to compost dead farm animals must obtain a permit in accordance with 567—105.8(455B,455D).

105.6(1) Before commencing operation, the operator is encouraged to notify the department field office with jurisdiction over the facility. The department may provide general assistance, such as locating bulking agents and providing advice in regard to siting considerations such as pad location, sizing and design, to facilities notifying the department and requesting assistance.

105.6(2) Farm animals known or suspected to have died from an infectious disease that can be spread by scavengers or insects or that died from a reportable disease shall be disposed of in accordance with the requirements of the Iowa department of agriculture and land stewardship and the department.

105.6(3) Transportation vehicles shall be constructed to prevent the release of mortality contaminated materials under normal operating conditions. The most direct haul route that avoids biosecurity risks shall be utilized.

105.6(4) The composting facility shall be designed to accommodate at least the average annual death loss for all sites using the composting facility. Facility design shall also take into account space requirements for managing raw materials (e.g., additional bedding and bulking agents needed for mortality composting) and finished compost.

105.6(5) Animal mortalities from a catastrophic event, such as a fire or electrical outage, shall not be composted until the department field office is contacted and arrangements are approved for the appropriate treatment or disposal of the animals. The facility shall contact the department field office with jurisdiction over the facility as soon as possible after such a catastrophic event occurs to receive approval of the disposal option.

105.6(6) Dead farm animals shall be incorporated into the composting process within 24 hours of death. An adequate base layer (from 12 to 24 inches thick, depending on the size and number of dead farm animals) with 6 to 12 inches of bulking agent between carcasses and an additional 12 inches of cover material shall be maintained around carcasses at all times to control mortality leachate and odors and to prevent access by scavenging domestic and wild animals.

105.6(7) Dead farm animals shall not be removed from composting until all soft tissue is fully decomposed.

105.6(8) Compost (including bones that have not fully decomposed) shall be applied to cropland in a manner that minimizes the runoff into a water of the state. Application of the compost to lands other than cropland shall require prior approval by the department.

ITEM 6. Amend subrule 105.7(8) as follows:

105.7(8) Request for and approval of permit renewal. Requests for permit renewals shall be in writing and must be filed at least 90 days before the expiration of the current permit and submitted on a Form 50*A* to the department. The department may request that additional information be submitted for review in order to make a permit renewal decision. Comprehensive plan update requirements are satisfied through the information provided in the permit renewal application submittal and by compliance with the reporting requirements set forth in 105.12(455B,455D). If a solid waste composting facility is formally part of a planning area's integrated waste management system, the operator must participate in that area's plan update submittals. The department shall renew the permit if, after a review and inspection of the facility and its compliance history, the department finds that the facility is in compliance with its current permit and these rules. If the facility is found not to be in compliance with its current permit and these rules, then the sanitary disposal project shall be brought into compliance, or placed on a compliance schedule approved by the department, before the permit is renewed pursuant to 105.7(5).

ITEM 7. Amend subrule 105.8(1), introductory paragraph, as follows:

105.8(1) A permit application for a new facility shall include a completed Form 50*A* (542-1542*A*) and a map or aerial photograph. This map or aerial photograph shall identify:

ITEM 8. Amend subrule **105.8(2)** by adopting **new** paragraph **"g"** as follows:

g. Proof of the applicant's ownership of the site and legal entitlement to use the site as a composting facility.

ITEM 9. Amend subrule **105.14(1)**, paragraph **"b,"** as follows:

b. "Current cost estimate" means the cost estimate for 105.14(2), prepared and submitted to the department ~~on an annual basis~~ *at the time of application for a new composting facility permit and with each permit renewal thereafter* by an Iowa-licensed professional engineer or other professional as approved by the department.

ITEM 10. Amend subrule 105.14(2), introductory paragraph, as follows:

105.14(2) Current cost estimate. The current cost estimate shall be based upon ~~of~~ the following factors:

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5132B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78,

"Amount, Duration, and Scope of Medical and Remedial Services," Iowa Administrative Code.

This amendment excludes from Medicaid coverage drugs used for the treatment of sexual or erectile dysfunction. The Iowa Medicaid program stopped paying for drugs used to treat male or female sexual dysfunction effective November 1, 2005. That decision was based on the advice of the Drug Utilization Review Commission that such drugs were not medically necessary, since existing rules at 441 IAC 79.9(2)"c" limit all Medicaid services to those "required to meet the medical need of the patient."

Effective for drugs dispensed on or after January 1, 2006, Title XIX of the federal Social Security Act has been amended to:

- Allow the exclusion of "agents when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration," and
- Prohibit federal funding for any such drugs.

The prohibition of federal funding provides additional grounds for the exclusion of drugs used for the treatment of sexual or erectile dysfunction and justifies an explicit exclusion in state rules.

This amendment does not provide for waiver in specified situations because the prohibition of federal funding does not provide for any exceptions and because the Drug Utilization Review Commission advised that drugs used to treat sexual dysfunction (male or female) are never medically necessary. Requests for the waiver of any rule may be submitted 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 15, 2006, as **ARC 4979B**. The Department received no comments on the Notice of Intended Action. This amendment is identical to that published under Notice of Intended Action.

The Council on Human Services adopted this amendment on May 10, 2006.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment shall become effective on August 1, 2006.

The following amendment is adopted.

Amend paragraph **78.1(2)"a,"** subparagraph **(2)**, by adopting **new** numbered paragraph **"9"** as follows:

9. Drugs used for the treatment of sexual or erectile dysfunction, except when used to treat a condition other than sexual or erectile dysfunction, for which the drug has been approved by the U.S. Food and Drug Administration.

[Filed 5/12/06, effective 8/1/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5131B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 252D.22, the Department of Human Services amends Chapter 98, "Support Enforcement Services," Iowa Administrative Code.

These amendments change provisions for determining the amount that shall be withheld from the income of a person who is obligated to pay a delinquent child support obligation, as recommended by the Child Support Advisory Committee created under Iowa Code section 252B.18. Members of the Advisory Committee include both parents who owe child support and parents who are owed support. The Committee seeks to balance the needs of both parties. These amendments do not change the amount of the delinquency, but will lower the amount withheld and increase time needed to pay off delinquent child support by income withholding.

These amendments remove time limits for a low-income parent receiving Social Security disability benefits or Supplemental Security Income disability benefits to request a decrease in the amount to be withheld to pay past-due support.

Current rules set the amounts to be withheld and allow parents to request a reduction in the amount to withhold to pay off arrears, but the reduction must be requested within 15 days of the notice of withholding. The rules provide for a lower rate of withholding for past-due support when a parent's income is at or below 200 percent of the federal poverty level.

These amendments allow withholding of the lower "hardship" amount to continue as long as the disability benefits continue, even if the amount to be withheld would otherwise change.

The Child Support Advisory Committee requested these changes to assist customers who are disabled. Many disabled obligors have limited income and, because they are disabled, cannot work to increase their incomes. Expanding exceptions to parents who are disabled under the Social Security Act provides a uniformly recognized standard that can be applied across the state and avoids subjective determinations of ability to pay. These amendments will apply to parents who become disabled after the effective date of the rules and to those who are currently disabled. The proposed amendments require the Department to identify parents who are already receiving disability benefits and notify them of the change in rules.

These amendments also lower the amount to withhold for past-due support when a parent asks the Child Support Recovery Unit to review and adjust the current support obligation, but the parent's income has not changed enough for an adjustment. Rules adopted in 1998 require the Unit to lower the amount withheld for arrears from 50 percent to 20 percent of the current obligation for orders entered or modified on or after July 1, 1998. For older orders that are not modified because the parent's income has not changed enough, the Unit currently can lower the withholding amount to 20 percent only if the Unit requested the review of the obligation. The proposed change would require the Unit to lower the withholding amount for arrears to 20 percent of the current obligation when either the Unit or the parent requests the review.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments do not provide for waivers in specified situations because they remove restrictions and expand opportunities for parents who owe support. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on February 15, 2006, as **ARC 4900B**. The Department held seven public hearings to receive comment on the amendments. No one attended the hearings. The Department received two written comments on the Notice of Intended Action, one in support of the amendments and one against. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on May 10, 2006.

These amendments are intended to implement Iowa Code chapter 252D.

These amendments shall become effective on September 1, 2006.

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 [98.24(5), 98.43(2)"e," 98.45(5), 98.45(6), 98.47] is being omitted. These amendments are identical to those published under Notice as **ARC 4900B**, IAB 2/15/06.

[Filed 5/12/06, effective 9/1/06]
[Published 6/7/06]

[For replacement pages for IAC, see IAC Supplement 6/7/06.]

ARC 5148B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby adopts an amendment to Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

This amendment deletes the Iowa River Corridor Wildlife Area from the list of wildlife refuges.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5019B**. A public hearing was held on April 18, 2006. 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.5, 481A.6, 481A.8 and 481A.39.

This amendment shall become effective July 12, 2006.

The following amendment is adopted.

Amend subrule **52.1(2)**, paragraph **"a,"** by rescinding the entry for Iowa River Corridor Wildlife Area, Iowa County, from the list of wildlife refuges.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5143B

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 82, "Commercial Fishing," Iowa Administrative Code.

The amendments provide for three changes in shovelnose sturgeon rules on the Mississippi River: (1) establish size limit harvest restrictions; (2) establish a harvest season from October 15 through May 15; and (3) specify that all eggs or roe must remain intact with shovelnose sturgeon while the commercial fisher is on the water.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 1, 2006, as **ARC 4922B**. Public hearings were held on March 28, 29, and 30, 2006. There are no changes from the Notice.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 482.1.

These amendments will become effective July 12, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule 82.2(2) as follows:

82.2(2) Size limits. ~~The minimum length limit for all catfish is 15 inches. Catfish less than 15 inches shall be returned unharmed to the water.~~ *Fish less than a minimum length or longer than the maximum length shall be returned to the water unharmed. The minimum total length for all catfish is 15 inches. The minimum fork length for shovelnose sturgeon is 27 inches. No shovelnose sturgeon longer than 34 inches fork length may be harvested from waters of the Mississippi River bordering Wisconsin.*

ITEM 2. Amend rule 571—82.2(482) by adopting the following **new** subrules:

82.2(8) Seasons. There is a continuous open season for commercial fishing of all species listed in 82.2(1) except there is a closed season for shovelnose sturgeon from May 16 through October 14.

82.2(9) Special shovelnose regulations. A shovelnose sturgeon must remain intact until the fish reaches the final processing facility or business. For the purposes of this subrule, final processing facility does not include vessels or vehicles.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5147B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5, the Natural Resource Commission hereby amends Chapter 98, "Wild Turkey Spring Hunting," Iowa Administrative Code.

NATURAL RESOURCE COMMISSION[571](cont'd)

These rules give the regulations for hunting wild turkey during the spring and include season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements. The amendments eliminate resident spring turkey hunting zones and license quotas, change the daily bag limit, require reporting of harvested turkeys through the harvest reporting system, require landowners and tenants to preregister to obtain free turkey hunting licenses, and clarify the rules for tagging turkeys by resident and nonresident hunters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5021B**. A public hearing was held on April 18, 2006. Thirteen comments were received on the proposed amendments. Six were in favor of all proposals; six were against eliminating the zones. One was against increasing the daily bag limit, and one wanted a longer youth season. The only change from the Notice of Intended Action was to include new language that clarifies the rules for tagging turkeys by residents and nonresidents.

These amendments are intended to implement Iowa Code sections 483A.38, 483A.39, 483A.48 and 483A.7.

These amendments shall become effective July 12, 2006.

The following amendments are adopted.

ITEM 1. Amend rule 571—98.1(483A) as follows:

571—98.1(483A) General. Wild turkey may be taken during the spring season subject to the following:

98.1(1) License. ~~All~~ *When hunting wild turkey, all* hunters must have in possession a wild turkey spring hunting license valid for the current year ~~when hunting wild turkey,~~ *the unused transportation tag issued with that license, a hunting license, and evidence of having paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt).* No one, while hunting wild turkey, shall carry or have in possession any license or transportation tag issued to another hunter. *No one who is issued a wild turkey license and transportation tag shall allow another person to use or possess that license or transportation tag while turkey hunting or tagging a turkey.* A hunter having a license valid for one of the spring turkey seasons may accompany, call for, or otherwise assist any other hunter who has a valid turkey hunting license for any of the spring seasons ~~in any zone~~. The hunter who is assisting may not shoot a turkey or carry a firearm or bow unless the hunter has a valid license with an unused tag for the current season ~~and zone. If a turkey is taken, it must be tagged with the tag issued to the hunter who shot the turkey~~.

a. Two types of licenses will be issued.

(1) Combination shotgun-or-archery license. Combination shotgun-or-archery licenses shall be issued by ~~zone and~~ season and shall be valid *statewide* in the ~~designated zone and for the~~ designated season only.

(2) Archery-only license. Archery-only licenses shall be valid statewide and shall be valid during all seasons open for spring turkey hunting, except the youth season.

b. Number of licenses. No one may apply for or obtain more than two paid spring wild turkey hunting licenses. A hunter may obtain no more than two combination shotgun-or-archery licenses, or two archery-only licenses, or one of each. If two paid combination shotgun-or-archery licenses are obtained, at least one must be for season 4 ~~in any zone~~. If one paid combination shotgun-or-archery license and one archery-only license are obtained, the combination shotgun-or-archery license must be for season 4 ~~in any zone~~.

98.1(2) Daily bag and possession ~~limits~~ *limit.* ~~Daily bag limit,~~ *Season possession limit, including daily bag limit, is* one bearded (or male) wild turkey~~. Possession limit and season limit is one bearded (or male) wild turkey~~ per license.

98.1(3) Shooting hours. Shooting hours shall be from one-half hour before sunrise to sunset.

ITEM 2. Amend rule 571—98.3(483A) as follows:

571—98.3(483A) Procedures to obtain licenses. All spring wild turkey hunting licenses will be sold ~~or may be applied for~~ using the electronic licensing system for Iowa (ELSI). Licenses ~~and license applications~~ may be purchased through ELSI license agents, by calling the ELSI telephone ordering system, or through the ELSI Internet license sales Web site.

98.3(1) Spring wild turkey hunting licenses will be sold beginning December 15 through the last day of the season for which the license is valid. ~~or until quotas (if any) are filled, whichever occurs first. No one may obtain more than one limited quota license.~~

98.3(2) License quotas. ~~Separate quotas will be established for each license type.~~ *There will be no quotas for combination shotgun-or-archery licenses or for archery-only licenses for resident hunters.*

~~a. Combination shotgun-or-archery licenses. A limited number of combination shotgun-or archery hunting licenses will be issued for each season in Zones 1, 2 and 3. There shall be no limit on combination shotgun-or-archery licenses in any season in Zone 4. The same quota shall apply to Zones 1, 2 and 3 in all four seasons. The maximum number of combination shotgun-or-archery licenses that will be issued in each zone for each season is as follows:~~

~~(1) Zone 1. 65.~~

~~(2) Zone 2. 125.~~

~~(3) Zone 3. 80.~~

~~(4) Zone 4. No limit.~~

~~b. Archery-only licenses. The number of archery-only licenses shall not be limited.~~

98.3(3) Landowner/tenant licenses. An eligible landowner or tenant may obtain a free combination shotgun-or-archery license or a free archery-only license. Nonresident landowners are not eligible for free turkey hunting licenses.

a. Free combination shotgun-or-archery licenses. A free combination shotgun-or-archery license will be issued by season and will be valid only on the farm unit of the landowner or tenant.

b. Free archery-only licenses. A free archery-only license will be valid for all seasons but only on the farm unit of the landowner or tenant.

c. Number of licenses. One paid combination shotgun-or-archery license or one paid archery-only license may be obtained in addition to the free shotgun-or-archery license or the free archery-only license. If a free archery-only license and a paid combination shotgun-or-archery license are obtained, the shotgun-or-archery license must be for season 4 ~~in any zone~~. If a free shotgun-or-archery license and a paid ~~archery only~~ *shotgun-or-archery* license are obtained, ~~the free license must be for season 4~~ *one of the licenses must be for season 4*.

ITEM 3. Amend rule 571—98.4(483A) as follows:

571—98.4(483A) Transportation tag. Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. *The hunter who shot the turkey must use the transportation tag issued to that hunter to*

NATURAL RESOURCE COMMISSION[571](cont'd)

tag the turkey. No one may tag a turkey with a transportation tag issued to another hunter. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey spring hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

ITEM 4. Adopt **new** subrule 98.5(8) as follows:

98.5(8) Registration of landowners and tenants. Landowners and tenants and their eligible family members who want to obtain free spring wild turkey hunting licenses must register with DNR before the free licenses will be issued. Procedures for registering are described in 571—95.2(481A).*

ITEM 5. Amend subrule 98.6(1) as follows:

98.6(1) Licenses. A special youth spring wild turkey hunting license valid statewide may be issued to any Iowa resident who is 15 years old or younger on the date the youth purchases the license. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free license for which the youth's family is eligible. Each participating youth must be accompanied by an adult who possesses a valid wild turkey spring hunting license for one of the seasons and a hunting license, and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). The accompanying adult must not possess a firearm or bow and must be in the direct company of the youth at all times. A person may obtain only one youth turkey hunting license but may also obtain one ~~wild turkey spring hunting~~ *archery-only license or one combination shotgun-or-archery* license for season 4 ~~in any zone~~.

ITEM 6. Adopt **new** rule 571—98.7(481A) as follows:

571—98.7(481A) Harvest reporting. Each hunter who bags a turkey must report that kill according to procedures described in 571—95.1(481A).*

ITEM 7. Amend subrule 98.9(1) as follows as follows:

98.9(1) License. When hunting wild turkey, all hunters must have in possession a valid nonresident wild turkey spring hunting license, *the unused transportation tag issued with that license,* a valid nonresident hunting license, and proof of having paid the current year's habitat fee. No one, while hunting turkey, shall carry or have in possession any license or transportation tag issued to another hunter. *No one who is issued a wild turkey license and transportation tag shall allow another person to possess that license or transportation tag while turkey hunting or tagging a turkey.* Licenses will be issued by zone and season and will be valid in the designated zone and season only. No one shall obtain more than one nonresident wild turkey spring hunting license. *A hunter having a license valid for one of the spring turkey seasons may accompany, call for, or otherwise assist any other hunter who has a valid turkey hunting license in that season and zone. The hunter who is providing assistance may not shoot a turkey or carry a firearm or bow unless that hunter has a valid license and an unused tag for the current season and zone.* Two types of licenses will be issued:

a. Combination shotgun-or-archery license. Shotguns, muzzleloading shotguns and archery equipment as defined in subrule 98.12(1) may be used.

b. Muzzleloading shotgun-only license. Only muzzleloading shotguns as defined in subrule 98.12(1) may be used.

ITEM 8. Amend rule 571—98.14(483A) as follows:

571—98.14(483A) Transportation tag. Immediately upon the killing of a wild turkey, the transportation tag issued with the license and bearing the license number of the licensee, year of issuance, and date of kill properly shown shall be visibly attached to one leg of the turkey. *The hunter who shot the turkey must use the transportation tag issued to that hunter to tag the turkey. No one may tag a turkey with a transportation tag issued to another hunter.* The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. The tag must be attached before the carcass can be moved in any manner from the place of kill. The transportation tag shall remain affixed to the leg of the turkey until the turkey is processed for consumption. The leg that bears the tag must be attached to the carcass of any wild turkey being transported within the state during any wild turkey spring hunting season. The tag shall be proof of possession of the carcass by the above-mentioned licensee.

ITEM 9. Adopt **new** rule 571—98.15(481A) as follows:

571—98.15(481A) Harvest reporting. Each hunter who bags a turkey must report that kill according to procedures described in 571—95.1(481A).*

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

*See Notice of Intended Action published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5020B**.

ARC 5145B

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 107, "Rabbit and Squirrel Hunting," Iowa Administrative Code.

This amendment reduces the bag limit for white-tailed jackrabbits from two daily and four in possession to one daily and two in possession.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5016B**. A public hearing was held on April 18, 2006. 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.5, 481A.6, 481A.8 and 481A.39.

This amendment shall become effective July 12, 2006.

The following amendment is adopted.

Amend rule 571—107.2(481A) as follows:

571—107.2(481A) Jackrabbit season. Open season for hunting jackrabbits shall be from the last Saturday in October through December 1 of each year. Bag limit shall be ~~2~~ *1* per

day; possession limit ~~4~~ *2*. Legal hunting hours shall be from sunrise to sunset. Entire state open.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5144B

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 108, "Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons," Iowa Administrative Code.

These amendments add a new trapping season for river otters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5017B**. A public hearing was held on April 18, 2006. Twenty-four comments were received during the comment period. Fifteen individuals were in favor of the proposal, but one stated that the grace period should be 24 hours. One stated that the season limit of two otters was unnecessary. One proposed that there be quotas by county, and one wanted to allow tagging of otters after they are skinned. Eight individuals opposed the season; one advocated that all trapping be banned. The only changes from the Notice of Intended Action were editorial modifications to clarify the meaning of some rules. No changes affected the content of the rules.

These amendments are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

These amendments will become effective July 12, 2006.

The following amendments are adopted.

ITEM 1. Amend **571—Chapter 108**, title, as follows:

CHAPTER 108
MINK, MUSKRAT, RACCOON, BADGER, OPOSSUM, WEASEL, STRIPED SKUNK, FOX (RED AND GRAY), BEAVER, COYOTE, *RIVER* OTTER, BOBCAT, GRAY (TIMBER) WOLF AND SPOTTED SKUNK SEASONS

ITEM 2. Amend rule 571—108.6(481A) as follows:

571—108.6(481A) ~~Otter, bobcat~~ *Bobcat,* gray (timber) wolf, and spotted skunk. Continuous closed season.

ITEM 3. Renumber rule **571—108.7(481A)** as **571—108.9(481A)** and adopt the following **new** rules:

571—108.7(481A) River otter trapping.

108.7(1) License requirements. Each person who traps river otters shall have a valid fur harvester license and pay the habitat fee if normally required to have a license to trap.

108.7(2) Areas open to trapping. Trapping for river otters is open statewide.

108.7(3) Quotas and seasonal bag limit.

a. Seasonal bag limit. The seasonal bag limit is two river otters per trapper.

b. Quotas. The quota for the number of river otters that may be taken is 400 statewide. The season shall end when the number of river otters trapped, as determined by the harvest reporting system, reaches 400. Trappers shall be allowed a 72-hour grace period after the quota is reached to clear their traps of river otters. River otters found in traps during the grace period may be kept even though the quota is exceeded provided that the trapper has not reached the trapper's personal bag limit. River otters trapped after the grace period or in excess of the seasonal bag limit must be turned over to the department; the trapper shall not be penalized.

108.7(4) Season dates. The season for trapping river otters opens on the same date as the trapping seasons described in 571—108.1(481A) and closes when the quota has been reached, as explained in this rule, or on January 31 of the following year, whichever occurs first.

108.7(5) Reporting requirements.

a. A trapper, including a landowner or tenant not required to have a fur harvester license, who traps a river otter must report the harvest to a DNR conservation officer within 24 hours. The trapper must arrange to receive a CITES tag or Iowa river otter harvest tag from the officer within 72 hours of the time the harvest is reported or before the river otter is skinned, whichever first occurs.

b. Conservation officer reporting. Upon receiving a telephone report from a trapper that a river otter has been legally taken, conservation officers will call the department's harvest reporting system. The number of river otters taken will be updated daily, and a message will be recorded on the department's telephone system. The number taken will be available 24 hours a day. Trappers may check the message daily to determine when the season closes and when the grace period begins and ends. The department will use all practical means to publicize these dates.

108.7(6) Tagging requirements. Every river otter that may legally be kept by a trapper must have a CITES tag or Iowa river otter harvest tag attached. Tags will be supplied by the conservation officer. The tag must remain with the pelt until the pelt is sold or used for other purposes that render it no longer available for sale. Persons displaying river otters as taxidermy mounts or as other decorative items must keep the tags in their possession as proof of legal harvest.

571—108.8(481A) Accidental capture of a river otter or bobcat during a closed season. A person who accidentally captures a river otter or bobcat during a closed season or after the person's individual bag limit has been reached shall not be penalized provided that:

1. The river otter or bobcat is captured during a legal trapping season or as part of a legal depredation control process; and

2. A conservation officer is contacted within 24 hours and the river otter or bobcat and all parts thereof are turned over to a conservation officer as soon as practical.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5150B

PHARMACY EXAMINERS BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301, 124B.11, and 147.76, the Board of Pharmacy Examiners hereby amends Chapter 2, "Pharmacist Licenses," Chapter 3, "Pharmacy Technicians," Chapter 8, "Universal Practice Standards," Chapter 10, "Controlled Substances," Chapter 12, "Precursor Substances," and Chapter 17, "Wholesale Drug Licenses," Iowa Administrative Code.

The amendments increase fees related to the issuance of new and renewed pharmacist licenses processed between July 1, 2006, and June 30, 2007, including examination, reexamination, and license transfer processing fees. The amendments also increase 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, 2006, and June 30, 2007.

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

Notice of Intended Action was published in the April 12, 2006, Iowa Administrative Bulletin as **ARC 5030B**. The Board received no comments regarding the amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the May 17, 2006, teleconference meeting of the Board of Pharmacy Examiners.

These amendments will become effective on July 12, 2006.

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.

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 [2.3(1), 2.6, 2.9(4), 2.11, 3.10(1), 3.10(2), 8.35(4), 10.3, 12.7(2)"a," 17.3(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 5030B**, IAB 4/12/06.

[Filed 5/17/06, effective 7/12/06]
[Published 6/7/06]

[For replacement pages for IAC, see IAC Supplement 6/7/06.]

ARC 5151B

PHARMACY EXAMINERS BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby amends Chapter 8, "Universal Practice Standards," Iowa Administrative Code.

The amendment establishes criteria for collaborative drug therapy management between Iowa physicians and pharmacists in community and hospital practice settings. In the community setting, a pharmacist and a physician may execute a protocol to define collaborative drug therapy management with patients who consent to the collaborative practice. In the hospital setting, a hospital pharmacy and therapeutics committee may establish a protocol authorizing hospital pharmacists to perform drug therapy management for hospital inpatients or patients in a hospital's clinics. The amendment identifies the requirements of community and hospital practice protocols.

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

Notice of Intended Action was published in the February 15, 2006, Iowa Administrative Bulletin as **ARC 4874B**. A public hearing was held jointly with the Board of Medical Examiners on March 8, 2006. Written and oral comments were received. The adopted amendment has been revised based on public comment and negotiation with the Board of Medical Examiners and differs from that published under Notice. The amendment was changed to define the terms "P&T committee" and "therapeutic interchange."

The amendment was approved during the April 26, 2006, meeting of the Board of Pharmacy Examiners.

This amendment will become effective on October 1, 2006.

This amendment is intended to implement Iowa Code sections 155A.2 and 155A.13.

The following amendment is adopted.

Adopt **new** rule 657—8.34(155A) as follows:

657—8.34(155A) Collaborative drug therapy management. An authorized pharmacist may only perform collaborative drug therapy management pursuant to protocol with a physician pursuant to the requirements of this rule. The physician retains the ultimate responsibility for the care of the patient. The pharmacist is responsible for all aspects of drug therapy management performed by the pharmacist.

8.34(1) Definitions.

"Authorized pharmacist" means an Iowa-licensed pharmacist whose license is in good standing and who meets the drug therapy management criteria defined in this rule.

"Board" means the board of pharmacy examiners.

"Collaborative drug therapy management" means participation by an authorized pharmacist and a physician in the management of drug therapy pursuant to a written community practice protocol or a written hospital practice protocol.

"Collaborative practice" means that a physician may delegate aspects of drug therapy management for the physician's patients to an authorized pharmacist through a community practice protocol. "Collaborative practice" also means that a P&T committee may authorize hospital pharmacists to perform drug therapy management for inpatients and hospital clinic patients through a hospital practice protocol.

"Community practice protocol" means a written, executed agreement entered into voluntarily between an authorized pharmacist and a physician establishing drug therapy management for one or more of the pharmacist's and physician's patients residing in a community setting. A community practice protocol shall comply with the requirements of subrule 8.34(2).

"Community setting" means a location outside a hospital inpatient, acute care setting or a hospital clinic setting. A community setting may include, but is not limited to, a home,

group home, assisted living facility, correctional facility, hospice, or long-term care facility.

"Drug therapy management criteria" means one or more of the following:

1. Graduation from a recognized school or college of pharmacy with a doctor of pharmacy (Pharm.D.) degree;
2. Certification by the Board of Pharmaceutical Specialties (BPS);
3. Certification by the Commission for Certification in Geriatric Pharmacy (CCGP);
4. Successful completion of a National Institute for Standards in Pharmacist Credentialing (NISPC) disease state management examination and credentialing by the NISPC;
5. Successful completion of a pharmacy residency program accredited by the American Society of Health-System Pharmacists (ASHP); or
6. Approval by the board of pharmacy examiners.

"Hospital clinic" means an outpatient care clinic operated and affiliated with a hospital and under the direct authority of the hospital's P&T committee.

"Hospital pharmacist" means an Iowa-licensed pharmacist who meets the requirements for participating in a hospital practice protocol as determined by the hospital's P&T committee.

"Hospital practice protocol" means a written plan, policy, procedure, or agreement that authorizes drug therapy management between hospital pharmacists and physicians within a hospital and the hospital's clinics as developed and determined by the hospital's P&T committee. Such a protocol may apply to all pharmacists and physicians at a hospital or the hospital's clinics or only to those pharmacists and physicians who are specifically recognized. A hospital practice protocol shall comply with the requirements of subrule 8.34(3).

"IBME" means the Iowa board of medical examiners.

"P&T committee" means a committee of the hospital composed of physicians, pharmacists, and other health professionals that evaluates the clinical use of drugs within the hospital, develops policies for managing drug use and administration in the hospital, and manages the hospital drug formulary system.

"Physician" means a person who is currently licensed in Iowa to practice medicine and surgery, osteopathic medicine and surgery, or osteopathy. A physician who executes a written protocol with an authorized pharmacist shall supervise the pharmacist's activities involved in the overall management of patients receiving medications or disease management services under the protocol. The physician may delegate only drug therapies that are in areas common to the physician's practice.

"Therapeutic interchange" means an authorized exchange of therapeutic alternate drug products in accordance with a previously established and approved written protocol.

8.34(2) Community practice protocol.

a. An authorized pharmacist shall engage in collaborative drug therapy management with a physician only under a written protocol that has been identified by topic and has been submitted to the board or a committee authorized by the board. A protocol executed after July 1, 2008, will no longer be required to be submitted to the board; however, written protocols executed or renewed after July 1, 2008, shall be made available upon request of the board or the IBME.

b. The community practice protocol shall include:

(1) The name, signature, date, and contact information for each authorized pharmacist who is a party to the protocol and is eligible to manage the drug therapy of a patient. If more than one authorized pharmacist is a party to the agreement, the pharmacists shall work for a single licensed pharmacy and a principal authorized pharmacist shall be designated in the protocol.

(2) The name, signature, date, and contact information for each physician who may prescribe drugs and is responsible for supervising a patient's drug therapy management. The physician who initiates a protocol shall be considered the main caregiver for the patient respective to that protocol and shall be noted in the protocol as the principal physician.

(3) The name and contact information of the principal physician and the principal authorized pharmacist who are responsible for development, training, administration, and quality assurance of the protocol.

(4) A detailed written protocol pursuant to which the authorized pharmacist will base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the patient's physician. The protocol shall not authorize the pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.
2. Laboratory tests. The protocol may authorize the pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.
3. Physical findings. The protocol may authorize the pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the patient's physician for follow-up.
4. Patient activities. The protocol may authorize the pharmacist to monitor specific patient activities.

(5) Procedures for securing the patient's written consent. If the patient's consent is not secured by the physician, the authorized pharmacist shall secure such and notify the patient's physician within 24 hours.

(6) Circumstances that shall cause the authorized pharmacist to initiate communication with the physician including but not limited to the need for new prescription orders and reports of the patient's therapeutic response or adverse reaction.

(7) A detailed statement identifying the specific drugs, laboratory tests, and physical findings upon which the authorized pharmacist shall base drug therapy management decisions.

(8) A provision for the collaborative drug therapy management protocol to be reviewed, updated, and reexecuted or discontinued at least every two years.

(9) A description of the method the pharmacist shall use to document the pharmacist's decisions or recommendations for the physician.

(10) A description of the types of reports the authorized pharmacist is to provide to the physician and the schedule by which the pharmacist is to submit these reports. The schedule shall include a time frame within which a pharmacist shall report any adverse reaction to the physician.

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(11) A statement of the medication categories and the type of initiation and modification of drug therapy that the physician authorizes the pharmacist to perform.

(12) A description of the procedures or plan that the pharmacist shall follow if the pharmacist modifies a drug therapy.

(13) Procedures for record keeping, record sharing, and long-term record storage.

(14) Procedures to follow in emergency situations.

(15) A statement that prohibits the authorized pharmacist from delegating drug therapy management to anyone other than another authorized pharmacist who has signed the applicable protocol.

(16) A statement that prohibits a physician from delegating collaborative drug therapy management to any unlicensed or licensed person other than another physician or an authorized pharmacist.

(17) A description of the mechanism for the pharmacist and the physician to communicate with each other and for documentation by the pharmacist of the implementation of collaborative drug therapy.

c. Collaborative drug therapy management is valid only when initiated by a written protocol executed by at least one authorized pharmacist and at least one physician.

d. The collaborative drug therapy protocol must be filed with the board, kept on file in the pharmacy, and be made available upon request of the board or the IBME. After July 1, 2008, protocols shall no longer be filed with the board but shall be maintained in the pharmacy and made available upon request of the board or the IBME.

e. A physician may terminate or amend the collaborative drug therapy management protocol with an authorized pharmacist if the physician notifies, in writing, the pharmacist and the board. Notification shall include the name of the authorized pharmacist, the desired change, and the proposed effective date of the change. After July 1, 2008, the physician shall no longer be required to notify the board of changes in a protocol but the written notification shall be maintained in the pharmacy and made available upon request of the board or the IBME.

f. The physician or pharmacist who initiates a protocol with a patient is responsible for securing a patient's written consent to participate in drug therapy management and for transmitting a copy of the consent to the other party within 24 hours. The consent shall indicate which protocol is involved. Any variation in the protocol for a specific patient shall be communicated to the other party at the time of securing the patient's consent. The patient's physician shall maintain the patient consent in the patient's medical record.

8.34(3) Hospital practice protocol.

a. A hospital's P&T committee shall determine the scope and extent of collaborative drug therapy management practices that may be conducted by the hospital's pharmacists.

b. Collaborative drug therapy management within a hospital setting or the hospital's clinic setting is valid only when approved by the hospital's P&T committee.

c. The hospital practice protocol shall include:

(1) The names or groups of pharmacists and physicians who are authorized by the P&T committee to participate in collaborative drug therapy management.

(2) A plan for development, training, administration, and quality assurance of the protocol.

(3) A detailed written protocol pursuant to which the hospital pharmacist shall base drug therapy management decisions for patients. The protocol shall authorize one or more of the following:

1. Medication orders and prescription drug orders. The protocol may authorize therapeutic interchange or modification of drug dosages based on symptoms or laboratory or physical findings defined in the protocol. The protocol shall include information specific to the dosage, frequency, duration, and route of administration of the drug authorized by the physician. The protocol shall not authorize the hospital pharmacist to change a Schedule II drug or to initiate a drug not included in the established protocol.

2. Laboratory tests. The protocol may authorize the hospital pharmacist to obtain or to conduct specific laboratory tests as long as the tests relate directly to the drug therapy management.

3. Physical findings. The protocol may authorize the hospital pharmacist to check certain physical findings, e.g., vital signs, oximetry, or peak flows, that enable the pharmacist to assess and adjust the drug therapy, detect adverse drug reactions, or determine if the patient should be referred back to the physician for follow-up.

(4) Circumstances that shall cause the hospital pharmacist to initiate communication with the patient's physician including but not limited to the need for new medication orders and prescription drug orders and reports of a patient's therapeutic response or adverse reaction.

(5) A statement of the medication categories and the type of initiation and modification of drug therapy that the P&T committee authorizes the hospital pharmacist to perform.

(6) A description of the procedures or plan that the hospital pharmacist shall follow if the hospital pharmacist modifies a drug therapy.

(7) A description of the mechanism for the hospital pharmacist and the patient's physician to communicate and for the hospital pharmacist to document implementation of the collaborative drug therapy.

[Filed 5/17/06, effective 10/1/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5128B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology Examiners amends Chapter 239, "Administrative and Regulatory Authority for the Board of Psychology Examiners," Iowa Administrative Code.

The amendment provides the Board the ability to retain licensure overpayments of less than $10 to reduce program administrative costs.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 1, 2006, as **ARC 4916B**. A public hearing was held on March 24, 2006, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No comments were received. This amendment is identical to that published under Notice.

This amendment was adopted by the Board of Psychology Examiners on May 5, 2006.

This amendment will become effective July 12, 2006.

This amendment is intended to implement Iowa Code chapters 21, 147, 154B and 272C.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The following amendment is adopted.

Amend rule **645—239.1(17A,154B)** by adding the following **new** definition in alphabetical order:

"Overpayment" means payment in excess of the required fee. Overpayment of less than $10 received by the board shall not be refunded.

[Filed 5/10/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5127B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Social Work Examiners amends Chapter 279, "Administrative and Regulatory Authority for the Board of Social Work Examiners," and Chapter 281, "Continuing Education for Social Workers," Iowa Administrative Code.

The amendments provide the Board the ability to retain licensure overpayments of less than $10 to reduce program administrative costs and remove language relating to sponsors from the continuing education chapter.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 15, 2006, as **ARC 4958B**. A public hearing was held on April 20, 2006, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. These amendments are identical to those published under Notice.

The amendments were adopted by the Board of Social Work Examiners on May 8, 2006.

These amendments will become effective July 12, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 154C and 272C.

The following amendments are adopted.

ITEM 1. Amend rule **645—279.1(17A)** by adding the following **new** definition in alphabetical order:

"Overpayment" means payment in excess of the required fee. Overpayment of less than $10 received by the board shall not be refunded.

ITEM 2. Amend subrule **281.3(2)** by striking paragraph **"f"** as follows and relettering paragraphs **"g"** through **"k"** as **"f"** through **"j"**:

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

[Filed 5/10/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

ARC 5129B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends Chapter 42, "Minimum Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists," Iowa Administrative Code.

The following itemize the proposed changes.

Item 1 amends the definition of "radiologist assistant" by deleting wording that refers to a radiologist practitioner.

Item 2 deletes requirements for continuing education and adds a reference for these requirements.

Item 3 rescinds rule 641—42.6(136C) and replaces it with updated language specific to radiologist assistant requirements.

Item 4 adopts a new appendix which specifies what procedures a radiologist assistant may perform.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 29, 2006, as **ARC 5001B**. One person attended the public hearing held on April 18, 2006. Seven sets of written comments, numerous E-mails, and notes from an informal meeting were received and reviewed, and changes were incorporated as appropriate. The changes made from the Notice of Intended Action are as follows:

In Item 1, the proposed change from "supervision" to "authority" was removed. "Supervision" more accurately defines the role of the radiologist. "Supervision" is defined in subrule 42.1(2).

In Item 3, the words "culminating in a baccalaureate degree and" in paragraph "c" of subrule 42.6(1) were removed because a baccalaureate degree does not affect the practice of radiography. The requirement that a radiologist assistant work only under the supervision of a board-certified or board-eligible radiologist in medicine or osteopathy was added as a new paragraph "f" in subrule 42.6(1). Radiologist assistants must work directly with a radiologist.

In Item 4, the sentence which stated that a radiologist must be able to be physically present and available to the radiologist assistant on one hour's notice was removed from the introductory paragraph of Appendix A. Comments from radiologists indicated that any procedure resulting in an emergency situation that would require more than verbal help from the radiologist would require the presence of a physician other than the radiologist. The physician is on site for any procedure at which the radiologist is not physically present.

In the table titled "Clinical Activities," the activities listed in paragraphs "1" to "3" were not adopted. These activities are performed under the radiologic technologist part of the radiologist assistant's requirements and are not specific to the radiologist assistant. As a result of consultations with radiologists, examinations and wording were added to the table as new paragraphs "j" to "m" and in a new unlettered paragraph which states that, in order to approve other procedures, the radiologist must submit a request in writing that specifies the scope of the procedure and verifies the competency of the radiologist assistant who will perform the procedure and that approval will be limited to the radiologist assistant named in the request.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

The State Board of Health adopted these amendments on May 10, 2006.

These amendments will become effective on July 12, 2006.

These amendments are intended to implement Iowa Code chapter 136C.

The following amendments are adopted.

ITEM 1. Amend subrule **42.1(2)**, definition of "radiologist assistant," as follows:

"Radiologist assistant" means an advanced-level radiographer, other than a licensed practitioner, who works under the supervision of a radiologist to enhance patient care by assisting the radiologist in the diagnostic imaging environment. ~~The radiologist assistant may exercise autonomy in decision making in the role of a primary caregiver with regard to patient assessment and patient management and in providing a broad range of radiology diagnostic and interventional services.~~

ITEM 2. Amend subrule **42.2(3)**, paragraph **"a,"** subparagraph **(8)**, as follows:

(8) Radiologist assistant: ~~proof of 24.0 clock hours with at least 12.0 hours in the subjects in 42.6(1)"c." The remaining hours may be in general radiography subjects.~~ *See 641—42.6(136C).*

ITEM 3. Rescind rule 641—42.6(136C) and adopt the following **new** rule in lieu thereof:

641—42.6(136C) Specific eligibility requirements for radiologist assistant.

42.6(1) Any person seeking a permit to practice as a radiologist assistant shall:

a. Hold a current permit to practice as a general radiographer in Iowa under 641—42.3(136C).

b. Have three years of experience as a general diagnostic radiographer. Experience in ultrasound, MRI, or nuclear medicine does not qualify.

c. Satisfactorily complete an advanced academic program approved by this agency and encompassing a nationally recognized radiologist assistant curriculum which has a radiologist-directed clinical preceptorship.

d. Satisfactorily complete a proficiency examination for radiologist assistants that is recognized by this agency.

e. Upon completion of the above, apply for a permit to practice as a radiologist assistant.

f. Work only under the supervision of a board-certified or board-eligible radiologist in medicine or osteopathy.

42.6(2) Performance standards.

a. A radiologist assistant may not interpret images, make diagnoses, or prescribe medications or therapies.

b. A radiologist assistant is limited to the clinical activities in Appendix A of this chapter.

42.6(3) Continuing education. A radiologist assistant must complete 12.0 hours of continuing education each year that must be specific to the discipline or specialty of the radiologist assistant's area of practice. Hours earned to meet this requirement shall not be used to satisfy the continuing education requirement for a general permit to practice.

ITEM 4. Amend **641—Chapter 42** by adopting the following **new** appendix:

Appendix A

In order for the radiologist assistant to perform the following procedures, the radiologist must be immediately available to communicate with the radiologist assistant. The radiologist is ultimately responsible for the care provided by the radiologist assistant.

Clinical Activities
Perform the following fluoroscopic examinations and procedures including contrast media administration and operation of the fluoroscopic unit. Examinations and procedures must follow written procedures established by the supervising radiologist. a. Upper GI. b. Esophagus. c. Small bowel studies. d. Barium enema. e. Cystogram. f. T-tube cholangiogram. g. Nasoenteric and oroenteric feeding tube placement. h. Port injection. i. Swallowing study. j. Hysterosalpingogram (imaging only). k. Fistulogram/sonogram. l. Loopogram. m. Shoulder or knee joint injection/aspiration (under fluoroscopy). In order to approve other procedures, the radiologist must submit a request in writing that specifies the scope of the procedure and verifies the competency of the radiologist assistant who will perform the procedure. The approval will be limited to the radiologist assistant named in the request.

[Filed 5/12/06, effective 7/12/06]
[Published 6/7/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/7/06.

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