



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXIX  
September 13, 2006

NUMBER 6  
Pages 337 to 384

## CONTENTS IN THIS ISSUE

Pages 347 to 369 include **ARC 5373B** to **ARC 5384B**

<b>ALL AGENCIES</b>	
Schedule for rule making .....	339
Publication procedures .....	340
Administrative rules on CD-ROM .....	340
Agency identification numbers .....	345
<b>CITATION OF ADMINISTRATIVE RULES</b> .....	344
<b>EXECUTIVE DEPARTMENT</b>	
Executive order numbers 45 to 49 .....	370
<b>IOWA FINANCE AUTHORITY[265]</b>	
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"	
Notice Terminated, Low-income housing tax credits, 12.3, 12.4 <b>ARC 5376B</b> .....	347
Filed, Low-income housing tax credits, 12.1, 12.2 <b>ARC 5381B</b> .....	368
<b>MEDICAL EXAMINERS BOARD[653]</b>	
PUBLIC HEALTH DEPARTMENT[641]"umbrella"	
Filed Emergency, Complaints and investigations; contested case proceedings, 24.2, 25.3(5), 25.17(5), 25.24(1), 25.29(2), 25.32 <b>ARC 5379B</b> .....	365
<b>PUBLIC HEARINGS</b>	
Summarized list .....	341
<b>PUBLIC SAFETY DEPARTMENT[661]</b>	
Notice, Fire marshal; general fire safety requirements; requirements for specific occupancies; smoke detectors, amend ch 5; adopt chs 201, 202, 210 <b>ARC 5375B</b> .....	347
Notice, Devices and methods to test body fluids for alcohol or drug content, rescind 7.1 to 7.7, 7.9; amend 7.8; adopt ch 155 <b>ARC 5373B</b> .....	351
Notice, Criminal justice information, rescind 8.201 to 8.207; adopt ch 81 <b>ARC 5378B</b> .....	353
Notice, Complaint against an employee, rescind ch 9; adopt ch 35 <b>ARC 5377B</b> .....	356
Notice, Criminalistics laboratory, rescind ch 12; adopt ch 150 <b>ARC 5374B</b> .....	357
<b>TREASURER OF STATE[781]</b>	
Notice, Linked investments for tomorrow (LIFT), rescind 4.1 to 4.11; adopt 4.1 to 4.6 <b>ARC 5383B</b> .....	359
Filed Emergency, Linked investments for tomorrow (LIFT), rescind 4.1 to 4.11; adopt 4.1 to 4.6 <b>ARC 5384B</b> .....	365
<b>UTILITIES DIVISION[199]</b>	
COMMERCE DEPARTMENT[181]"umbrella"	
Notice, Gas and electric line extension rules, 19.3, 20.3 <b>ARC 5382B</b> .....	359
Filed, Delegation of authority to issue procedural orders, 7.1 <b>ARC 5380B</b> .....	368

## 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.

<b>Subscriptions and Distribution</b> .....	Telephone:	(515)281-6766
	Fax:	(515)281-6625
KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Deputy Editor	Fax:	(515)281-8157 (515)281-5534

## SUBSCRIPTION INFORMATION

### Iowa Administrative Bulletin

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

July 1, 2006, to June 30, 2007	\$328
October 1, 2006, to June 30, 2007	\$246
January 1, 2007, to June 30, 2007	\$164
April 1, 2007, to June 30, 2007	\$ 82

Single copies may be purchased for \$23.

### Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets by subscription. Supplement (replacement pages) subscriptions must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplements are as follows:

**Iowa Administrative Code** – \$1,520

(Price includes complete set of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders may be purchased for \$20.)

**Iowa Administrative Code Supplement** – \$510

(Subscription expires June 30, 2006)

All checks should be made payable to the Treasurer, State of Iowa. Send all inquiries and subscription orders to:

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

## 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
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
***Nov. 15***	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan. 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
***Dec. 13***	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
***Dec. 27***	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
8	Friday, September 22, 2006	October 11, 2006
9	Friday, October 6, 2006	October 25, 2006
10	Friday, October 20, 2006	November 8, 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](mailto:bruce.carr@legis.state.ia.us) and  
[kathleen.west@legis.state.ia.us](mailto: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.

---

### IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM

#### 2006 IOWA LAW CD-ROM

Containing: **Iowa Administrative Code** (updated through December 2005)  
**Iowa Administrative Bulletins** (July 2005 through December 2005)  
**Iowa Court Rules** (updated through December 2005)

For free brochures and order forms contact:

Legislative Services Agency  
Attn: Nicole Navara  
Miller Building  
Des Moines, Iowa 50319  
Telephone: (515)281-6766 Fax: (515)281-6625  
[nicole.navara@legis.state.ia.us](mailto:nicole.navara@legis.state.ia.us)

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>ADMINISTRATIVE SERVICES DEPARTMENT[11]</b>		
Information technology operational standards, 25.9 IAB 8/30/06 <b>ARC 5338B</b>	Conference Room 4, Level A Hoover State Office Bldg. Des Moines, Iowa	September 19, 2006 10 a.m.
Assessment and enforcement of security operational standards, 25.11 IAB 8/30/06 <b>ARC 5339B</b>	Conference Room 4, Level A Hoover State Office Bldg. Des Moines, Iowa	September 19, 2006 10 a.m.
<b>CREDIT UNION DIVISION[189]</b>		
Electronic transfer of funds, 24.2, 24.4(3) IAB 8/30/06 <b>ARC 5347B</b>	Division Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 19, 2006 10 a.m.
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Housing fund, ch 25 IAB 8/30/06 <b>ARC 5336B</b>	NW Conference Room, First Floor 200 E. Grand Ave. Des Moines, Iowa	September 28, 2006 1:30 p.m.
Iowa wine and beer promotion grant program, 104.3(1) IAB 8/30/06 <b>ARC 5335B</b>	Tourism Conference Rm., First Floor 200 E. Grand Ave. Des Moines, Iowa	September 19, 2006 1:30 p.m.
<b>EDUCATIONAL EXAMINERS BOARD[282]</b>		
Practitioner endorsements, 14.106, 14.140(6), 14.140(8), 14.140(9), 14.141 IAB 8/30/06 <b>ARC 5343B</b>	Room 3 SW, Third Floor Grimes State Office Bldg. East 14th and Grand Ave. Des Moines, Iowa	September 20, 2006 1 p.m.
Evaluator endorsement and license, 20.57 IAB 8/30/06 <b>ARC 5344B</b>	Room 3 SW, Third Floor Grimes State Office Bldg. East 14th and Grand Ave. Des Moines, Iowa	September 20, 2006 1:30 p.m.
<b>HUMAN SERVICES DIVISION[441]</b>		
Remedial services, amendments to chs 77 to 79, 88 IAB 8/30/06 <b>ARC 5368B</b>	NE Conference Room, Fifth Floor Hoover State Office Bldg. 1305 E. Walnut St. Des Moines, Iowa	September 20, 2006 10 to 11:30 a.m.
Child welfare services, amendments to chs 156, 181, 182, 185, 202 IAB 8/30/06 <b>ARC 5372B</b>	NE Conference Room, Fifth Floor Hoover State Office Bldg. 1305 E. Walnut St. Des Moines, Iowa	September 20, 2006 10 to 11:30 a.m.
Family support subsidy program; comprehensive family support program, amendments to ch 184 IAB 8/30/06 <b>ARC 5367B</b>	ASK Resource Center 321 E. Sixth St. Des Moines, Iowa	September 20, 2006 4 to 6 p.m.

**INSURANCE DIVISION[191]**

Contested cases, amendments to ch 3 IAB 8/30/06 <b>ARC 5365B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	September 19, 2006 2 p.m.
Licensing of insurance producers, amendments to ch 10 IAB 8/30/06 <b>ARC 5361B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	September 19, 2006 2 p.m.
Continuing education for insurance producers, 11.1 to 11.14 IAB 8/30/06 <b>ARC 5366B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	September 19, 2006 2 p.m.
Property and casualty rate and form filing procedures, 20.1 to 20.4 IAB 8/30/06 <b>ARC 5363B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	September 20, 2006 9 a.m.
Life insurance policies, 30.5 IAB 8/30/06 <b>ARC 5364B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	September 20, 2006 9 a.m.
Accident and health insurance, 35.7 IAB 8/30/06 <b>ARC 5362B</b>	Division Conference Room 330 Maple St. Des Moines, Iowa	September 20, 2006 9 a.m.

**INTERIOR DESIGN EXAMINING BOARD[193G]**

Organization; registration, chs 1, 2 IAB 8/2/06 <b>ARC 5289B</b>	Second Floor Professional Licensing Conference Room 1920 S.E. Hulsizer Road Ankeny, Iowa	September 15, 2006 9 a.m.
--	---	------------------------------

**IOWA FINANCE AUTHORITY[265]**

Wastewater treatment financial assistance program, ch 28 IAB 8/30/06 <b>ARC 5346B</b>	IDED Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	September 22, 2006 10 a.m.
---	--	-------------------------------

**NATURAL RESOURCE COMMISSION[571]**

Game management areas, 51.1, 51.3(2), 51.4 to 51.12 IAB 8/30/06 <b>ARC 5353B</b>	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	September 27, 2006 10 a.m.
Recreation trails, 67.1 to 67.9 IAB 8/30/06 <b>ARC 5352B</b>	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	September 27, 2006 10 a.m.
Fishing regulations, 81.2(2) IAB 8/30/06 <b>ARC 5348B</b>	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	September 22, 2006 1 p.m.
	Clay County Conservation Board Oneota Cabin 420 10th Ave. SE Spencer, Iowa	September 25, 2006 7 p.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Fire safety requirements, amend ch 5; adopt chs 201, 202, 210 IAB 9/13/06 <b>ARC 5375B</b> (ICN Network)	Third Floor Conference Room Wallace State Office Bldg. 502 E. Ninth St. Des Moines, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Room 122 Emmetsburg High School Second and King St. Emmetsburg, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Room 550, Fifth Floor Department of Human Services 411 Third St. SE Cedar Rapids, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Mount Pleasant High School 2104 S. Grand Mount Pleasant, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Turner Room Green Valley AEA 14 1405N. Lincoln Creston, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Room 1, Altoona Public Library 700 8th Ave. SW Altoona, Iowa	October 17, 2006 6:30 to 8 p.m.
	Room 818 Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	October 17, 2006 6:30 to 8 p.m.
	Room 106A George Washington High School 2205 Forest Drive SE Cedar Rapids, Iowa	October 17, 2006 6:30 to 8 p.m.
	New London Jr-Sr High School 101 Jack Wilson Dr. New London, Iowa	October 17, 2006 6:30 to 8 p.m.
	Room 211 Orient-Macksburg Sr. High School Orient, Iowa	October 17, 2006 6:30 to 8 p.m.
Devices and methods to test body fluids for alcohol or drug content, 7.1 to 7.9; ch 155 IAB 9/13/06 <b>ARC 5373B</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 5, 2006 10:30 a.m.
Criminal justice information, 8.201 to 8.207; ch 81 IAB 9/13/06 <b>ARC 5378B</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 12, 2006 10 a.m.

**PUBLIC SAFETY DEPARTMENT[661] (Cont'd)**

Complaint against employee, rescind ch 9; adopt ch 35 IAB 9/13/06 <b>ARC 5377B</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 5, 2006 9:30 a.m.
Criminalistics laboratory, rescind ch 12; adopt ch 150 IAB 9/13/06 <b>ARC 5374B</b>	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 5, 2006 10 a.m.

**TRANSPORTATION DEPARTMENT[761]**

Declaratory orders, 10.1(3), 10.4, 11.5(3), 11.8(2); ch 12; 28.2, 122.2 IAB 8/30/06 <b>ARC 5327B</b>	First Floor South Conference Room 800 Lincoln Way Ames, Iowa	September 21, 2006 1 p.m. (If requested)
Driver licensing, amendments to chs 602, 604, 605, 607, 615, 620, 630, 634, 635 IAB 8/30/06 <b>ARC 5330B</b>	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	September 21, 2006 10 a.m. (If requested)
Aircraft registration, 750.3 IAB 8/30/06 <b>ARC 5329B</b>	Modal Conference Room 800 Lincoln Way Ames, Iowa	September 21, 2006 10 a.m. (If requested)

**UTILITIES DIVISION[199]**

Gas and electric line extensions, 19.3(10), 20.3(13) IAB 9/13/06 <b>ARC 5382B</b>	Hearing Room 350 Maple St. Des Moines, Iowa	November 14, 2006 10 a.m.
---	---	------------------------------

**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).

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CITIZENS’ AIDE[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
   Alcoholic Beverages Division[185]  
   Banking Division[187]  
   Credit Union Division[189]  
   Insurance Division[191]  
   Professional Licensing and Regulation Bureau[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
   Savings and Loan Division[197]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
   Arts Division[222]  
   Historical Division[223]  
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
   City Development Board[263]  
   Grow Iowa Values Board[264]  
   Iowa Finance Authority[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ELDER AFFAIRS DEPARTMENT[321]  
 EMPOWERMENT BOARD, IOWA[349]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 HUMAN RIGHTS DEPARTMENT[421]  
   Community Action Agencies Division[427]  
   Criminal and Juvenile Justice Planning Division[428]  
   Deaf Services Division[429]  
   Persons With Disabilities Division[431]  
   Latino Affairs Division[433]  
   Status of African-Americans, Division on the[434]  
   Status of Women Division[435]  
 HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

**ARC 5376B****IOWA FINANCE AUTHORITY[265]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 16.5(17) and 16.52, the Iowa Finance Authority terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5289B**, amending Chapter 12, "Low-Income Housing Tax Credits," Iowa Administrative Code.

The Notice proposed to amend Chapter 12 by incorporating by reference an updated and revised Compliance Manual to replace the current Compliance Manual.

The Authority is terminating the rule making commenced in **ARC 5289B** and may renounce the proposed amendments to incorporate further revisions to the Compliance Manual.

**ARC 5375B****PUBLIC SAFETY  
DEPARTMENT[661]****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 100.1 and 100.35, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 5, "Fire Marshal," and adopt new Chapter 201, "General Fire Safety Requirements," new Chapter 202, "Requirements for Specific Occupancies," and new Chapter 210, "Smoke Detectors," Iowa Administrative Code.

Iowa Code section 100.1, subsections 5 and 6, and section 100.35 assign broad authority to the State Fire Marshal to establish by administrative rule fire safety requirements applicable across the State of Iowa. Such rules have been in effect for over 50 years, and many of the current requirements refer to national codes and standards which are outdated. In addition, the current rules are not comprehensive and are complex and difficult to understand.

Recognizing the need to update the requirements while organizing the rules in a more understandable fashion, the State Fire Marshal established a Fire Code Advisory Committee, including representatives of several constituencies with an interest in fire prevention and suppression, in order to develop recommendations as to how the current rules should be revised. The Fire Code Advisory Committee held several public meetings at which public input into the process of developing recommendations was encouraged. Recently, the Committee recommended to the State Fire Marshal that new fire safety requirements be based upon adoption of the International Fire Code, 2006 edition, and provisions of the International Building Code, 2006 edition, which relate to fire safety. The International Fire Code and the International Building Code are published by the International Code Council. These codes are part of the "family" of international codes, or "I-Codes," and are in widespread use, both in

other states and in local jurisdictions in Iowa, many of which have adopted the International Fire Code in local fire ordinances.

After the State Fire Marshal received the recommendation of the Fire Code Advisory Committee, he announced a public hearing to allow an opportunity for public input prior to the publication of this Notice. The hearing was held on August 4, 2006, and comments were received from various individuals, each of whom represented either a fire service organization or a labor organization. One comment was received objecting to the recommendation of the Committee to adopt the International Fire Code with applicable portions of the International Building Code. All other comments received supported the Committee recommendation.

The rules proposed herein generally follow the recommendation received from the Fire Code Advisory Committee. The International Fire Code, 2006 edition, is proposed to be adopted by reference, along with selected sections of the International Building Code, 2006 edition, to establish the core fire safety requirements which will be applicable in Iowa. In several cases, rules established for specific occupancies will not be included. The largest such exclusion is for licensed health care facilities, which are covered in 661—Chapter 205. Other occupancies which are covered under rules specific to the occupancy, other than by provisions of the International Fire Code and International Building Code, include small foster care homes, and bed and breakfast inns. Also proposed are requirements for jails and other correctional facilities already in operation prior to the date on which these rules will become effective. There currently are no such rules; the establishment of these requirements will provide a baseline for fire safety compliance for existing correctional facilities.

Two public hearings on these proposed amendments will be held. The first hearing will be held on October 12, 2006, from 10:30 a.m. to 12 noon. This hearing will originate from the third floor conference room at the Wallace State Office Building in Des Moines and will be accessible over the Iowa Communications Network (ICN) from the following sites:

Des Moines	Wallace State Office Building Third Floor Conference Room 502 E. Ninth Street Des Moines, Iowa
Emmetsburg	Emmetsburg High School Room 122 Second and King St. Emmetsburg, Iowa
Cedar Rapids	Department of Human Services Fifth Floor, Room 550 411 Third Street SE Cedar Rapids, Iowa
Mount Pleasant	Mount Pleasant High School 2104 S. Grand Mount Pleasant, Iowa
Creston	Green Valley Area Education Agency 14 Turner Room 1405 N. Lincoln Creston, Iowa

The second hearing will be held on October 17, 2006, from 6:30 to 8 p.m. This hearing will originate from the Al-

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

Altoona Public Library and will be accessible over the Iowa Communications Network (ICN) from the following sites:

Altoona	Altoona Public Library Room 1 700 8th Avenue SW Altoona, Iowa
Spencer	Iowa Lakes Community College Room 818 1900 N. Grand Avenue Spencer, Iowa
Cedar Rapids	George Washington High School Room 106A 2205 Forest Drive SE Cedar Rapids, Iowa
New London	New London Jr-Sr High School 101 Jack Wilson Drive New London, Iowa
Orient	Orient-Macksburg Senior High School Room 211 Orient, Iowa

Persons may present their views orally or in writing at a public hearing. Persons who wish to make oral presentations at a public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)281-5524; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on October 19, 2006.

These amendments are intended to implement Iowa Code chapter 100.

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 **661—Chapter 5** as follows:  
Amend the title as follows:

CHAPTER 5  
FIRE MARSHAL ADMINISTRATION

Rescind and reserve the following rules:

**661—5.16(100)**  
**661—5.35(100)**  
**661—5.40(17A,80,100)**  
**661—5.42(100)**  
**661—5.50(100)**  
**661—5.51(100)**  
**661—5.100(100)** through **661—5.105(100)**  
**661—5.230(100)**  
**661—5.301(100)**  
**661—5.607(100)** through **661—5.613(100)**

**661—5.650(100)** through **661—5.661(100)**  
**661—5.663(100)** through **661—5.667(100)**  
**661—5.675(100)**  
**661—5.749(100)** through **661—5.759(100)**  
**661—5.761(100)** through **661—5.765(100)**  
**661—5.775(100)**  
**661—5.800(100)** through **661—5.806(100)**

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

CHAPTER 201  
GENERAL FIRE SAFETY REQUIREMENTS

**661—201.1(100) Scope.** The provisions of this chapter apply generally to buildings, structures, and facilities in which people congregate if the building, structure, or facility most recently began its current use on or after [insert effective date of this rule], unless the building, structure, or facility is subject to provisions of 661—Chapter 202 or 661—Chapter 205. “Current use” includes the intended use of a building, structure, or facility under construction or awaiting required approval for that intended use.

A building, structure, or facility which most recently began its current use prior to [insert effective date of this rule] is generally subject to the requirements in effect on the date on which the current continuous use of the building, structure, or facility began, unless either of the following conditions applies:

1. The fire marshal finds that any condition that is in violation of the provisions of this chapter, but that is permissible under the requirements in effect on the date on which the current continuous use of the building, structure, or facility began, creates an imminent threat to the safety of individuals or the public. If the fire marshal so finds, the fire marshal may order the correction of the condition found to create the hazard.

2. There were no fire safety requirements established by the fire marshal which applied to the building, structure, or facility at the time its current continuous use began. If no such requirements have been established by the fire marshal for the continued operation of such a building, structure, or facility, the provisions of this chapter shall apply as though the current continuous use of the building, structure, or facility began on or after [insert effective date of this rule].

**661—201.2(100) General provisions.** The following publications or indicated portions thereof are hereby adopted by reference as general fire safety requirements and shall apply to all occupancies other than those to which conflicting provisions specifically apply or to which provisions specific to an occupancy explicitly exclude these provisions or any individual provision contained therein:

**201.2(1)** International Fire Code, 2006 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, with the following amendments:

- a. Delete Chapter 1.
- b. Delete “International Fuel Gas Code” wherever it appears and insert in lieu thereof “rule 661—51.100(101).”
- c. Delete “ICC Electrical Code” wherever it appears and insert in lieu thereof “rule 661—201.3(100).”
- d. Delete “International Plumbing Code” wherever it appears and insert in lieu thereof “641—Chapter 25.”

NOTE: 641—Chapter 25 is the “State Plumbing Code,” adopted by the department of public health.

- e. Adopt Appendices B, C, and D.

**201.2(2)** The following chapters and section of the International Building Code, 2006 edition, published by the Inter-

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

national Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041:

- a. Chapter 2.
- b. Chapter 3.
- c. Chapter 4.
- d. Chapter 5.
- e. Chapter 6.
- f. Chapter 7.
- g. Section 804.

**661—201.3(100) Electrical installations.** Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, 2005 edition.

**661—201.4(100) Recognition of local fire ordinances and enforcement.** With the exception of a health care facility subject to the requirements of 661—Chapter 205, a building, structure, or facility shall be deemed to be in compliance with the requirements established in rules of the fire marshal if all of the following conditions are met:

1. The building, structure, or facility is in a local jurisdiction which has adopted a local fire ordinance which adopts by reference any edition of the International Fire Code, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041; any edition of NFPA 1, Uniform Fire Code, published by the National Fire Protection Association; or the Uniform Fire Code, 1997 edition, published by the Western Fire Chiefs Association.

2. The local fire ordinance is enforced through a process of review and approval of construction plans for compliance with the local fire ordinance and a process of regular inspections for compliance with the local fire ordinance.

3. The building, structure, or facility is subject to regular fire safety inspections.

4. The local jurisdiction has verified, during its most recent inspection, including any follow-up inspections, that the building, structure, or facility is in compliance with the local fire ordinance.

Provisions regarding the storage, handling, or use of flammable and combustible liquids are not covered by this chapter. Notwithstanding any conflicting provisions contained in any code adopted by reference in this chapter or by any local fire ordinance, compliance with the provisions of 661—Chapter 51 is required at any location or facility in which flammable or combustible liquids are stored, handled, or used.

These rules are intended to implement Iowa Code chapter 100.

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

#### CHAPTER 202

#### REQUIREMENTS FOR SPECIFIC OCCUPANCIES

**661—202.1(100) Scope.** The provisions of this chapter apply solely to buildings, structures, and facilities currently being used in the specific ways described in this chapter. All other buildings, structures, and facilities in which people congregate are subject to the provisions of 661—Chapter 201 or 661—Chapter 205.

This rule is intended to implement Iowa Code chapter 100.

**661—202.2(237) Facilities in which foster care is provided by agencies to fewer than six children.** Any facility, including a single-family residence, within which foster care is provided by an agency to fewer than six children, shall meet each of the requirements established in this rule.

**202.2(1)** Battery-operated smoke detectors shall be installed in each sleeping room and on each floor of the home

and shall be installed in compliance with the manufacturer's instructions.

**202.2(2)** Each exit and exit path shall remain clear and unobstructed at all times.

**202.2(3)** A five-pound 2A:10B:C fire extinguisher shall be installed in the primary caregiver's sleeping room. Additional extinguishers may be provided. Each extinguisher in the facility shall be inspected yearly by a third party in accordance with NFPA 10, Standard for Portable Fire Extinguishers, 2007 edition.

**202.2(4)** No combustible items shall be stored within a three-foot clearance of furnaces, hot water heaters, and electrical panels.

**202.2(5)** A carbon monoxide detector shall be installed on each floor of the residence. A detector shall be installed in proximity to any gas-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

**202.2(6)** If propane is used in the facility, a propane leak detector shall be installed in proximity to each propane-fired appliance. All detectors shall be installed in accordance with the manufacturer's installation instructions.

**202.2(7)** An evacuation plan shall be maintained, and fire drills shall be conducted at least once every other month.

**202.2(8)** If a child is sleeping in a basement room, then an egress window shall be provided in the room. "Egress window" means an existing operable window with a clear opening area of not less than 5.7 square feet, and with a minimum opening height and width of 24 inches and 20 inches, respectively.

This rule is intended to implement Iowa Code section 237.3, subsection 3.

#### **661—202.3(137C) Bed and breakfast inns.**

**202.3(1)** The following definitions apply to rule 661—202.3(137C):

"Bed and breakfast home" means a private residence which provides lodging and meals for guests, in which the host or hostess resides and in which no more than four guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to the public to be a restaurant, hotel, or motel; does not require reservations; and serves food only to overnight guests. Rule 661—202.3(137C) shall not apply to bed and breakfast homes. However, a bed and breakfast home shall have a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

"Bed and breakfast inn" means a building equipped, used, or advertised as or held out to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished for hire to transient guests and which has nine or fewer guest rooms.

**202.3(2) Appliances.** Heating, cooking and gas and electrical equipment and appliances must conform with nationally recognized codes and standards and be installed and maintained in accordance with the manufacturer's recommendations. If the building has an operable solid fuel fireplace, all components must be cleaned and maintained in accordance with NFPA 211, 2006 edition.

**202.3(3) Smoke detectors.** Each bed and breakfast inn shall have an operable smoke detector in each guest room, at the top of each stairwell, and at intervals not to exceed 30 feet in each exit corridor. Detectors shall be installed and maintained in accordance with NFPA 72, 2007 edition.

a. Existing facilities. In bed and breakfast inns which begin operation or are constructed or remodeled prior to Feb-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

ruary 1, 2002, required smoke detectors may be battery operated.

b. New facilities. Each bed and breakfast inn which began operation or is constructed or remodeled on or after February 1, 2002, shall be equipped with a system of interconnected smoke detectors with detectors at the top of each stairwell and at intervals not to exceed 30 feet in each exit corridor. These smoke detectors shall receive primary power from the building's electrical wiring and shall include battery backup. Each guest room shall be equipped with a smoke detector which may be a single station detector.

**202.3(4) Emergency lighting.** Each bed and breakfast inn must be equipped with approved emergency lighting so located and directed in a manner that will illuminate the routes of travel from each guest-occupied room to the outside of the building.

**202.3(5) Windows.** Each bed and breakfast inn guest sleeping room must have at least one outside window that is openable without the use of tools or special knowledge. The window must be large enough that, when open and without breaking glass, it will permit the emergency egress of guests.

**202.3(6) Exits.** Each story that has one or more guest sleeping rooms must have two means of exit that are remote from each other and so arranged and constructed as to minimize any possibility that both may be blocked by any one fire or other emergency.

**202.3(7) Exit door markings.** Exit doors must be marked in accordance with the International Fire Code, 2006 edition, chapter 10.

**202.3(8) Fire extinguishers.** Fire extinguishers must be installed and maintained in accordance with NFPA 10, 2007 edition.

**202.3(9) Smoking prohibited.** Smoking is not permitted in any sleeping room, and rooms shall be posted with plainly visible signs so stating.

**202.3(10) Additional prohibitions.** Candles, lamps with power sources other than electricity or solid fuel fireplaces shall not be used in guest sleeping rooms.

**202.3(11) Directions.** Each bed and breakfast inn shall have clearly displayed in each guest sleeping room printed directions and a diagram for emergency evacuation procedures. These directions must include the primary route to the outside and how to use the emergency egress window in the event the primary route cannot be traversed.

This rule is intended to implement Iowa Code section 137C.35.

**661—202.4(100) Existing jails and correctional facilities.** Any jail, correctional facility, detention facility, holding facility, or prison which has operated continuously as such a facility since prior to [insert effective date of this rule] shall comply with the provisions of NFPA 101, Life Safety Code, 1994 edition, chapter 15.

NOTE: Any jail, correctional facility, detention facility, holding facility, or prison which began continuous operation as such a facility on or after [insert effective date of this rule] is subject to the provisions of 661—Chapter 201.

This rule is intended to implement Iowa Code chapter 100.

ITEM 4. Adopt the following **new** chapter:

CHAPTER 210  
SMOKE DETECTORS

**661—210.1(100) Definition.** The following definition applies to rules 661—210.1(100) through 661—210.4(100):

“Approved” means acceptable to the state fire marshal. Any equipment, device or procedure which bears the stamp

of approval or meets applicable standards prescribed by an organization of national reputation such as the Underwriters Laboratories, Inc., National Bureau of Standards, Factory Mutual Laboratories, American Society for National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in this chapter, shall be deemed acceptable to the state fire marshal.

**661—210.2(100) General requirements.**

**210.2(1)** Approved single station smoke detectors shall be acceptable in all areas covered by this chapter, unless other fire warning equipment or materials are required by any provision of 661—Chapter 201, 202, or 205.

**210.2(2)** Any installation of wiring and equipment shall comply with NFPA 70, National Electrical Code, 2005 edition, and requirements established by the manufacturer of the equipment serviced by the wiring.

**210.2(3)** All devices, combinations of devices, and equipment to be installed in conformity with this chapter shall be approved and used for the purposes for which they are intended.

**210.2(4)** A combination system, such as a household fire warning system whose components may be used in whole or in part, in common with a nonfire emergency signaling system, such as a burglar alarm system or an intercom system, shall not be permitted or approved, except for one- or two-family dwellings.

**210.2(5)** All power supplies shall be sufficient to operate the smoke detector alarm for at least four continuous minutes.

**210.2(6) Power source.**

a. In new buildings and additions constructed after July 1, 1991, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than that required for overcurrent protection. Smoke detectors may be solely battery operated when installed in existing buildings, or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions subject to subrule 210.2(2).

b. New and replacement smoke detectors installed after May 1, 1993, which receive their primary power from the building wiring shall be equipped with a battery backup.

**210.2(7)** The failure of any nonreliable or short-life component which renders the detector inoperative shall be readily apparent to the occupant of the sleeping unit without the need for a test. Each smoke detector shall detect abnormal quantities of smoke that may occur and shall properly operate in the normal environmental condition.

**210.2(8)** Equipment shall be installed, located and spaced in accordance with the manufacturer's recommendations.

**210.2(9)** Installed fire warning equipment shall be mounted so as to be supported independently of its attachment to wires.

**210.2(10)** All apparatus shall be restored to normal immediately after each alarm or test.

**210.2(11) Location within dwelling units.**

a. In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two or more levels, the smoke detector shall be

PUBLIC SAFETY DEPARTMENT[661](cont'd)

installed on the upper level, except that when the lower level contains a sleeping area, a detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.

b. Location in efficiency dwelling units and hotels. In efficiency dwelling units, in hotel suites and in hotel sleeping rooms, detectors shall be located on the ceiling or wall of the main room or hotel sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit, hotel suite or sleeping room in which it is located.

**661—210.3(100) Smoke detectors—notice and certification of installation.**

**210.3(1)** Notice of installation. An owner of a rental residential building containing two or more units, who is required by law to install smoke detectors, shall notify the local fire department upon installation of required smoke detectors.

**210.3(2)** Certification—single-family dwelling units. A person who files for a homestead tax credit pursuant to Iowa Code chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector(s) installed in accordance with subrule 210.2(6) and paragraph 210.2(11)“a,” or that such smoke detector(s) will be installed within 30 days of the date of filing for credit.

**210.3(3)** Reports to fire marshal. Each county or city assessor charged with the responsibility of accepting homestead tax credit applications shall obtain certification of smoke detection on a form acceptable to the state fire marshal, signed by the person making application for credit, and shall file a quarterly report with the fire marshal listing the name and address and stating whether applicant attested to a detector(s) being present at the time of application or that a detector(s) would be installed as required within 30 days.

**661—210.4(100) Smoke detectors—new and existing construction.**

**210.4(1)** New construction. All multiple-unit residential buildings and single-family dwellings which are constructed after July 1, 1991, shall include the installation of smoke detectors meeting the requirements of rule 661—210.1(100) and rule 661—210.2(100).

**210.4(2)** Existing construction. All existing single-family units and multiple-unit residential buildings shall be equipped with smoke detectors as required in paragraph 210.2(11)“a.”

These rules are intended to implement Iowa Code section 100.18.

**ARC 5373B**

**PUBLIC SAFETY  
DEPARTMENT[661]**

**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 17A.3, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 7, “Devices and Methods to Test Body Fluids for Alcohol or Drug Content,” and adopt a new Chapter 155, “Devices and Methods to Test Body Fluids for Alcohol or Drug Content,” Iowa Administrative Code.

Iowa Code chapter 321J assigns responsibility for approval of various devices to be used for testing body fluids for alcohol content to the Commissioner of Public Safety and requires the Commissioner to establish “per se” levels for drugs other than alcohol found in body fluids. Iowa Administrative Code 661—Chapter 7 contains the current rules which implement these requirements. Chapter 7 currently specifies requirements for preliminary breath testing devices, evidentiary breath testing devices, ignition interlock devices, and detection of drugs other than alcohol.

These proposed amendments rescind the provisions of current Chapter 7, except for those for ignition interlock devices, and propose the replacement of the rescinded provisions with similar provisions that have been updated and clarified, as needed, in new 661—Chapter 155. The Department’s rules are in the process of being renumbered to make them more accessible to members of the public and persons subject to the provisions of the rules. The current provisions for ignition interlock devices, which are found in rule 661—7.8(321J), are being retained for now, with a few editorial changes. More substantial changes to these requirements, and their relocation in a newly numbered chapter, will be addressed in future rule makings.

A public hearing on these proposed amendments will be held on October 5, 2006, at 10:30 a.m. in the third floor conference room at the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515) 281-5524; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us), at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on October 5, 2006.

These amendments are intended to implement Iowa Code chapter 321J.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be

PUBLIC SAFETY DEPARTMENT[661](cont'd)

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 **661—Chapter 7** as follows:  
Amend the title of the chapter as follows:

CHAPTER 7  
DEVICES AND METHODS TO TEST BODY FLUIDS  
FOR ALCOHOL AND DRUG CONTENT  
*IGNITION INTERLOCK DEVICES*

Rescind and reserve rules **661—7.1(321J)** through **661—7.7(321J)** and rule **661—7.9(321J)**.

Amend subrule **7.8(1)**, paragraph “c,” as follows:

c. ~~The ignition interlock device shall meet the standard for accuracy in measuring alcohol concentration set for preliminary breath screening tests in subrule 7.5(4). The state division of criminal investigation criminalistics laboratory in the division of criminal investigation shall apply scientific tests or methods to a particular device in determining whether it meets the an acceptable standard for accuracy. The criminalistics laboratory may accept test results from other laboratories or authorities at its the discretion of the laboratory administrator.~~

Amend subrule 7.8(2) as follows:

**7.8(2)** The division of criminal investigation state criminalistics laboratory shall maintain a list of ignition interlock devices approved by the commissioner of public safety in a manner consistent with the provisions of subrule 7.5(4).

Amend subrule 7.8(13) as follows:

**7.8(13)** The department of public safety reserves the right to inspect any ignition interlock device or installer at any time at the department's discretion. All records of devices installed, results of calibrations, and results of known alcohol standards shall be made available for inspection upon request to representatives of the department of public safety, *the department of transportation, or any peace officer*. The results of the inspection shall be made available to the installer and to the department of transportation.

~~EXCEPTION: Ignition interlock devices installed pursuant to court orders issued prior to November 1, 1992, may continue to operate in conformance with standards applicable at the times those orders were issued.~~

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

CHAPTER 155  
DEVICES AND METHODS TO TEST BODY FLUIDS  
FOR ALCOHOL OR DRUGS

**661—155.1(321J) Approval of devices and methods to test for alcohol or drug concentration.** The commissioner, by these rules, approves the following devices and methods to take a specimen of a person's breath or urine for the purpose of determining the alcohol or drug concentration.

**661—155.2(321J) Breath testing.**

**155.2(1)** A peace officer desiring to perform testing of a subject's breath for the purpose of determining the alcohol concentration shall employ, or cause to be used, a breath testing device of a type meeting the minimum performance requirements established in Highway Safety Programs; Model Specifications for Devices to Measure Breath Alcohol, Federal Register, Volume 58, No. 179 (September 17, 1993), pp. 48705-48708. All devices so used must be certified to be in proper working order within a period of one year immedi-

ately preceding use according to procedures specified for that device.

Procedures for certification or recertification of the Datamaster cdm are contained in the document Certification or Re-certification of the Datamaster cdm, published by the division of criminal investigation criminalistics laboratory. A copy of the current version of this document may be obtained by contacting the division of criminal investigation criminalistics laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or at the Web site of the department of public safety.

NOTE: The current address for information on the Datamaster cdm from the criminalistics laboratory is: [http://www.dps.state.ia.us/DCI/Crime\\_Lab/Evidential\\_Breath\\_Testing/index.shtml](http://www.dps.state.ia.us/DCI/Crime_Lab/Evidential_Breath_Testing/index.shtml).

The operator of an evidentiary breath testing device shall have been certified as competent in the operation of the breath testing device, and shall proceed in accordance with the instructions included in an operating manual furnished by the division of criminal investigation criminalistics laboratory. An operating manual, with number and date, specific to a particular approved device and prepared by the division of criminal investigation criminalistics laboratory shall be available to operators using the device. The current version of the operating manual for each device currently approved for use in Iowa may be obtained by contacting the division of criminal investigation criminalistics laboratory at 2240 South Ankeny Boulevard, Ankeny, Iowa 50023, or from the department's Web site.

NOTE: The operating manual for the Datamaster cdm is titled “Operating the Datamaster cdm.” The current location of information regarding the Datamaster cdm on the department's Web site is: [http://www.dps.state.ia.us/DCI/Crime\\_Lab/Evidential\\_Breath\\_Testing/index.shtml](http://www.dps.state.ia.us/DCI/Crime_Lab/Evidential_Breath_Testing/index.shtml).

All certifications of devices shall be made by the division of criminal investigation criminalistics laboratory. All certifications of operators shall be made by the division of criminal investigation criminalistics laboratory or a designee. A designee shall be a person trained and certified by the division of criminal investigation criminalistics laboratory.

**155.2(2)** A breath testing device is a device designed and constructed to measure a subject's breath alcohol concentration by utilizing a sample of the subject's breath.

**155.2(3)** Although any breath testing device that meets the minimum performance requirements established by the National Highway Traffic Safety Administration, and cited in subrule 155.2(1), is authorized by the commissioner to be employed or to be caused to be used to determine the alcohol concentration, the following evidentiary device is being used in Iowa and meets the standards:

- a. Datamaster cdm, National Patents Analytical Systems, Inc.
- b. Reserved.

**661—155.3(321J) Urine collection.** A peace officer desiring to collect a sample of a subject's urine for the purpose of determining the alcohol or drug concentration shall proceed as follows:

**155.3(1)** The collection shall be made in the presence of a peace officer or other reliable person under the supervision of a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

**155.3(2)** As soon as practicable, the subject shall urinate into a bottle, cup, or other suitable container which is clean, dry, and free from any visible contamination.

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

**155.3(3)** It is not necessary that the bladder be completely emptied. Later samples may be taken if desired, but are not necessary.

**155.3(4)** Upon collection of the sample, a peace officer shall cause the sample to be sealed within a clean, dry container. The container shall be free of visible contamination. If the blood alcohol kit of any manufacturer is utilized for the preservation of a urine sample, the anticoagulant and antibacterial substances in that kit do not constitute visible contamination. The peace officer shall cause a tag or other device to be attached to the container showing the date and time the sample was collected and identifying the arresting officer, the subject, the collecting officer and the person present during the collection of the sample, if other than the collecting officer.

**661—155.4(321J) Submission of samples for alcohol and drug testing to the criminalistics laboratory.** Any sample of urine or blood may be submitted to the division of criminal investigation criminalistics laboratory or other appropriate laboratory via ordinary mail, private courier, or personal delivery.

**661—155.5(321J) Preliminary breath screening test.**

**155.5(1)** A peace officer desiring to perform a preliminary screening test of a person's breath shall use a device approved by the division of criminal investigation criminalistics laboratory. Such devices are approved for accuracy and precision using a dry gas standard or breath simulating device. The division of criminal investigation criminalistics laboratory shall employ scientifically established tests or methods appropriate to a particular device in determining whether the device meets an acceptable standard for operation including accuracy, or the laboratory may, at its discretion, accept test results from another laboratory. The standards shall include the requirement that in all cases the device shall indicate the alcohol concentration on a numerical display. Devices shall be of a type that may be calibrated on a monthly basis by officers in the field.

The division of criminal investigation criminalistics laboratory shall maintain a list of devices approved by the commissioner for use as preliminary breath screening devices. The list of currently approved devices is available on the Web site of the department.

**155.5(2)** Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. Each unit shall be calibrated at least once per month using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

- The identity of the officer performing the calibration.
- The date.
- The value and type of standard used.
- The unit type and identification number.

**661—155.6(123) Chemical test—alcohol concentration—public intoxication.** All devices and methods approved in this chapter for the purpose of determining a person's alcohol concentration for evidential purposes under Iowa Code chapter 321J, and the devices otherwise approved in this chapter only for use in performing preliminary breath screening tests, are equally approved for testing to determine alcohol concentration in connection with arrests for public intoxication under Iowa Code section 123.46. The chemical test results shall be expressed in terms of alcohol concentration as defined in Iowa Code section 321J.1.

**661—155.7(321J) Detection of drugs other than alcohol.**

**155.7(1)** Adoption of federal standards. Initial test requirements adopted by the federal Substance Abuse and Health Services Administration in "Mandatory Guidelines for Federal Workplace Drug Testing Programs," 59 FR 29908, as amended in "Revisions to the Mandatory Guidelines," 62 FR 51118, are hereby adopted as standards for determining detectable levels of controlled substances in the division of criminal investigation criminalistics laboratory initial screening for controlled substances detected by the presence of the following: marijuana metabolites, cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines. The following table shows the minimum levels of these substances which will result in a finding that a controlled substance is present at a detectable level:

Substance	Minimum Level (ng/ml)
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	2000
Phencyclidine	25
Amphetamines	1000

NOTE: "ng/ml" means "nanograms per milliliter."

**155.7(2)** Reserved.

These rules are intended to implement Iowa Code section 123.46 and chapter 321J.

**ARC 5378B**

**PUBLIC SAFETY  
DEPARTMENT[661]**

**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 692.10, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 8, "Criminal Justice Information," and to adopt a new Chapter 81, "Criminal Intelligence Information," Iowa Administrative Code.

The rules currently included in Iowa Administrative Code 661—Chapter 8, Division II, govern the collection, handling, and dissemination of criminal intelligence information. Criminal intelligence information is among the most sensitive information handled by criminal justice agencies, and the rules seek to strike a careful balance between confidentiality and privacy concerns and the need for timely and efficient sharing of information among criminal justice and other agencies to further crime prevention and homeland security. The current rules are in need of updating and these amendments accomplish this task. In addition, the rules on criminal intelligence information are being moved to new Chapter 81 as part of an ongoing effort to reorganize and renumber the Department's administrative rules into a more understandable framework.

A public hearing on these proposed amendments will be held on October 12, 2006, at 10 a.m. in the third floor conference room of the Wallace State Office Building, East 9th and Grand, Des Moines, Iowa 50319. Persons may present their

PUBLIC SAFETY DEPARTMENT[661](cont'd)

views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)281-5524; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us), at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on October 12, 2006, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments are intended to implement Iowa Code chapter 692.

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 661—Chapter 8 by rescinding and reserving rules **661—8.201(692)** through **661—8.207(692)**.

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

#### CHAPTER 81

#### CRIMINAL INTELLIGENCE INFORMATION

**661—81.1(692) Definitions.** The following definitions apply to rules 661—81.1(692) through 661—81.5(692).

“Criminal intelligence file” means information stored in a criminal intelligence system that is compiled in an effort to anticipate, prevent, or monitor possible criminal activity on:

1. An individual who, based upon reasonable grounds, is believed to be involved in the actual or attempted planning, organization, financing, promotion, or commission of criminal acts or is believed to be involved in criminal activities with known or suspected criminal offenders.

2. A group, organization or business which, based on reasonable grounds, is believed to be involved in the actual or attempted planning, organization, financing, promotion, or commission of criminal acts, or of being illegally operated, controlled, financed, promoted, or infiltrated by known or suspected criminal offenders.

3. An incident in which sufficient articulable facts give a trained law enforcement or criminal investigative agency officer, investigator, or employee a basis to believe that a definable criminal activity or enterprise is, has been, or may be committed.

“Criminal intelligence file” does not include surveillance data as defined in Iowa Code section 692.1.

“Criminal intelligence system” means the arrangements, equipment, facilities, and procedures used for the receipt, storage, interagency exchange or dissemination, and analysis of criminal intelligence information.

“Need to know” is established if criminal intelligence information will assist a recipient in anticipating, investigating, monitoring, or preventing possible criminal activity or if criminal intelligence information is pertinent to protecting a person or property from a threat of imminent serious harm.

“Noncriminal identifying information” means information about the characteristics and associations of an identifiable person suspected of being involved in criminal activity.

“Reasonable grounds” means information that establishes sufficient articulable facts that give a trained law enforcement or criminal investigative agency officer, investigator, or employee a reasonable basis to believe that a definable criminal activity or enterprise is, has been, or may be committed.

“Right to know” is established when a recipient of criminal intelligence information is legally permitted to receive intelligence data or an intelligence assessment.

“Surveillance data” means information on individuals, pertaining to participation in organizations, groups, meetings or assemblies, where there are no reasonable grounds to suspect involvement or participation in criminal activity by any person. Noncriminal identifying information does not constitute surveillance data.

“Threat of imminent serious harm” means a credible impending threat to the safety of a person or property. A threat of imminent serious harm justifies the dissemination of intelligence data or an intelligence assessment for the purpose of protecting a person or property from the threat.

#### **661—81.2(692) Iowa law enforcement intelligence network (LEIN) information system.**

**81.2(1)** LEIN information system. The Iowa law enforcement intelligence network (LEIN) information system is the statewide interjurisdictional intelligence system maintained and operated by the intelligence bureau of the department of public safety, for the regular interagency exchange of criminal intelligence files. Criminal intelligence files contained in the LEIN information system may be disseminated or redisseminated by the intelligence bureau of the department of public safety, consistent with Iowa Code chapter 692.

**81.2(2)** Direct computer access. The commissioner of public safety may authorize a peace officer, criminal justice agency, or state or federal regulatory agency to access the LEIN information system directly via a remote computer terminal, provided that the authorized individual or agency follows approved procedures regarding receipt, maintenance, dissemination, submission and security of information, and related training. Authorization may be provided in writing or electronically.

**81.2(3)** Termination of authorization for direct computer access. The commissioner of public safety may, at any time for good cause, terminate authorization for direct, remote computer access to the LEIN information system which has been previously approved. An individual or agency whose authorization to directly access the LEIN information system via remote computer has been terminated may appeal the termination in accordance with procedures for contested cases established in 661—Chapter 10.

**81.2(4)** Reinstatement of authorization for direct computer access. Any user whose authorization for direct, remote computer access to the LEIN information system has been terminated may apply for the authorization for access to be reinstated, provided that the problem which led to the termination has been corrected.

**81.2(5)** Applications for direct computer access. To apply for direct, remote computer access to the LEIN information system or to obtain further information about the LEIN information system, a person shall contact the Intelligence Bureau, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, or by electronic mail via the Internet at [intinfo@dps.state.ia.us](mailto:intinfo@dps.state.ia.us).

**81.2(6)** Entry of information—restrictions. Information about the political, religious, racial, or social views, associa-

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

tions, activities or sexual orientation of any individual shall not be entered into the LEIN information system unless such information constitutes noncriminal identifying information or is relevant to an investigation of criminal conduct or activity involving an identifiable individual.

**81.2(7)** Entry of information—conformance with applicable law. No information that is deemed unreliable because it has been obtained in violation of any applicable federal, state, or local law or ordinance, or these rules, may be entered into the LEIN information system.

**81.2(8)** Dissemination. Intelligence data from the LEIN information system may be disseminated only to peace officers, criminal justice agencies, or state or federal regulatory agencies. Intelligence data from the LEIN information system may be disseminated only when there is a right to know and a need to know in the performance of a law enforcement activity. Intelligence data from the LEIN information system shall not be disseminated to any user whose authorization to access the LEIN information system has been terminated and has not been reinstated.

EXCEPTION: Intelligence assessments may be disseminated to any agency or organization for an official purpose or to a person in order to protect a person or property from the threat of imminent serious harm as defined in rule 661—81.1(692).

**81.2(9)** Redissemination of intelligence data. An agency, organization, or person receiving intelligence data from the department pursuant to Iowa Code chapter 692 may redisseminate the intelligence data only if authorized by the agency or peace officer who originally provided the data and if the data is for an official purpose in connection with the prescribed duties of the recipient. If the agency, organization, or person receiving the information is not a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, redissemination is allowed only if such redissemination is for an official purpose and if the information is redisseminated in order to protect a person or property from the threat of imminent serious harm. The department may also place restrictions on the redissemination by the agency, organization, or person receiving the intelligence data. Any agency, organization, or person who redisseminates intelligence data pursuant to Iowa Code chapter 692 must maintain a list of the agencies, organizations, and persons receiving the intelligence data and the purpose of the redissemination. Intelligence data must be maintained separately from and should not be included in any form in any investigative or prosecutorial files.

**81.2(10)** Redissemination of intelligence assessment. An agency, organization, or person receiving an intelligence assessment from the department pursuant to Iowa Code chapter 692 may redisseminate the intelligence assessment only if authorized by the department and only if the redissemination is for an official purpose in connection with the prescribed duties of the recipient. If the agency, organization, or person receiving the intelligence assessment is not a peace officer, criminal or juvenile justice agency, or state or federal regulatory agency, redissemination is allowed only if such redissemination is to protect a person or property from the threat of imminent serious harm. The department may also place restrictions on the redissemination by the agency, organization, or person receiving the intelligence assessment. Any agency, organization, or person who redisseminates an intelligence assessment pursuant to Iowa Code chapter 692 must maintain a list of the agencies, organizations, and persons receiving the intelligence assessment and the purpose of the redissemination. An agency, organization, or person who redis-

seminates information without proper authorization may be prohibited from receiving further intelligence assessments.

**661—81.3(692) Criminal intelligence file security.** The intelligence bureau of the department of public safety shall adopt administrative, technical, and physical safeguards, including audit trails, to ensure against unauthorized access and against intentional or unintentional damage to the LEIN intelligence system. These safeguards shall include, but are not limited to, the following:

**81.3(1)** Records indicating who has been given the information, the reason for release of information, and the date of any dissemination shall be maintained until the information has been purged.

**81.3(2)** Criminal intelligence files shall be labeled to indicate security level and identities of submitting agencies and submitting individual.

**81.3(3)** Where appropriate, effective and technologically advanced computer software and hardware designs shall be implemented to prevent unauthorized access.

**81.3(4)** Any access to criminal intelligence files and computing facilities in which the files are stored shall be restricted to authorized personnel.

**81.3(5)** Criminal intelligence files shall be stored in such a manner that the files cannot be modified, destroyed, accessed, purged, or overlaid in any fashion by unauthorized personnel.

**81.3(6)** Computer systems on which criminal intelligence files are stored shall be programmed to detect, reject, and record any unauthorized attempt to access, modify, or destroy criminal intelligence files or to otherwise penetrate the security safeguards on such a system.

**81.3(7)** Access to any information required to gain authorized access to criminal intelligence files, including access codes and passwords, shall be restricted only to personnel authorized to access these files. The intelligence bureau shall ensure that criminal intelligence files remain confidential when specific agreements are entered into with individuals or organizations that provide computer or programming support to the agency.

**81.3(8)** Procedures shall be adopted to protect criminal intelligence files from unauthorized access, theft, sabotage, fire, flood, wind, and natural or other disasters.

**81.3(9)** Procedures shall be adopted which establish the right of the intelligence bureau to screen and, if appropriate, reject for employment any personnel who would, if hired, have access to criminal intelligence files.

**81.3(10)** Procedures shall be established which allow the removal or transfer, based on good cause, of any existing employees from positions in which they have access to criminal intelligence files.

**81.3(11)** Any compromise, or suspected compromise, of information that would allow unauthorized access into criminal intelligence files shall be reported without delay and, in any event, by the end of the next business day, to a supervisor within the intelligence bureau of the department of public safety.

**81.3(12)** Any compromise, or suspected compromise, of information contained in criminal intelligence files shall be reported without delay and, in any event, by the end of the next business day, to a supervisor within the intelligence bureau of the department of public safety.

**661—81.4(692) Review of criminal intelligence files—purging.**

**81.4(1)** The intelligence bureau of the department of public safety shall regularly review the information in crimi-

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

nal intelligence files for reclassification or purging. Decisions to retain, reclassify, or purge criminal intelligence files shall:

- a. Ensure that the information is current, accurate and relevant to the needs of the agency.
- b. Safeguard individual privacy interests protected by federal and state laws.
- c. Ensure that security classifications remain appropriate.

**81.4(2)** Information that is misleading, unreliable, or no longer useful shall be purged or reclassified when necessary, without delay and, in any event, within one business day of the discovery that the information is misleading, unreliable, or no longer useful. Any person or agency to which the criminal intelligence file was disseminated shall be notified of the reclassification or purge.

**81.4(3)** All information shall be reviewed within a five-year period of its submission to ensure compliance with subrule 81.5(1).

**81.4(4)** All information retained as a result of a review shall reflect the name of the reviewer, date of review, and an explanation of the decision to retain.

**81.4(5)** Information that is not retained in a criminal intelligence file after a review shall be deleted from the LEIN information system.

**661—81.5(692) Subpoenas and court orders.** Any agency or individual shall notify the department of public safety in writing without delay and, in any event, by the end of the next business day of the receipt of any subpoena, court order, request for production, or other legal process demanding the production of a criminal intelligence file, so that the department has an opportunity to make a timely resistance.

These rules are intended to implement Iowa Code chapter 692.

**ARC 5377B****PUBLIC SAFETY  
DEPARTMENT[661]****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 17A.3, the Department of Public Safety hereby gives Notice of Intended Action to rescind Chapter 9, “Complaint Against an Employee,” and to adopt a new Chapter 35, “Complaints Against Employees,” Iowa Administrative Code.

Rules establishing procedures for accepting and processing complaints against employees of the Department of Public Safety have been in place with little change for over 28 years. The current rules have become outdated in two regards. First, the traditional name for the unit charged with conducting investigations of allegations of misconduct by employees of the Department, the Internal Affairs Bureau, has been replaced with the more descriptive Professional Standards Bureau. Second, complaints against employees may now be filed electronically through the Web site of the Department. Both of these changes are incorporated in new Chapter 35. All administrative rules of the Department are

being renumbered to enhance their accessibility to members of the public and to those affected by the rules; the proposed rules reflect assignment of the rules on complaints against employees to new Chapter 35.

A public hearing on these proposed amendments will be held on October 5, 2006, at 9:30 a.m. in the third floor conference room at the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)281-5524; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us), at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on October 5, 2006.

These amendments are intended to implement Iowa Code chapter 80.

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 and reserve **661—Chapter 9**.

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

CHAPTER 35  
COMPLAINTS AGAINST EMPLOYEES

**661—35.1(80) Definitions.** The following definitions apply to rules 661—35.1(80) through 661—35.3(80):

“Complaint” means an allegation by any person of a breach of rules or orders, a violation of the law, or other misconduct by an employee of the department.

“Department” means the Iowa department of public safety.

“Employee” means any employee of the department.

**661—35.2(80) Filing a complaint.**

**35.2(1)** Any person may file a complaint against an employee or employees by:

- a. Mailing a complaint in writing to the professional standards bureau, at the following address:

Professional Standards Bureau  
Iowa Department of Public Safety  
Wallace State Office Building  
Des Moines, Iowa 50319

Complaints in writing may be mailed or submitted to any office of the department.

- b. Calling the professional standards bureau at (515) 281-5524 or by calling any office of the department.

- c. Completing the commendation/complaint form on line on the Web site of the department.

NOTE: The complaint form may be found at the following location: [www.dps.state.ia.us/commis/psb/complaint.shtml](http://www.dps.state.ia.us/commis/psb/complaint.shtml).

**35.2(2)** The complainant should describe as specifically and completely as possible the nature of the complaint and

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

the details of any incident or incidents which give rise to the complaint.

**35.2(3)** Each complaint received will be recorded and investigated.

**35.2(4)** The complainant need not be identified. Anonymous complaints will be accepted and investigated as thoroughly as possible.

**661—35.3(80) Notification to complainant.** The professional standards bureau shall provide any identified complainant with a written receipt of the complaint and may provide additional information regarding the complaint and its disposition as permitted by law.

These rules are intended to implement Iowa Code chapter 80.

**ARC 5374B****PUBLIC SAFETY  
DEPARTMENT[661]****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 691.3, the Department of Public Safety hereby gives Notice of Intended Action to rescind Chapter 12, “Criminalistics Laboratory,” and adopt a new Chapter 150, “Division of Criminal Investigation Criminalistics Laboratory,” Iowa Administrative Code.

Iowa Code chapter 691 creates a State Criminalistics Laboratory under the supervision of the Commissioner of Public Safety and authorizes the Commissioner to assign the laboratory to a division or bureau within the Department. Further, the Commissioner of Public Safety is required to adopt rules regarding the capabilities of the laboratory and procedures for submitting evidence to the laboratory for analysis.

The administrative rules for the Criminalistics Laboratory, contained in Iowa Administrative Code 661—Chapter 12, have become outdated. The rules proposed herein update those outdated provisions. In addition, the Department’s rules generally are being renumbered, which is intended to make the rules more accessible to members of the public and to persons subject to the provisions of these rules. In coordination with that initiative, Chapter 12 is proposed to be rescinded and to be replaced with a new Chapter 150.

A public hearing on these proposed amendments will be held on October 5, 2006, at 10 a.m. in the third floor conference room at the Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)281-5524; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us), at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated at least one day prior to the public hearing or may be

submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on October 5, 2006.

These amendments are intended to implement Iowa Code chapter 691.

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 and reserve **661—Chapter 12**.

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

## CHAPTER 150

DIVISION OF CRIMINAL INVESTIGATION  
CRIMINALISTICS LABORATORY

**661—150.1(691) Criminalistics laboratory.** The state criminalistics laboratory, created in Iowa Code section 691.1, is located, pursuant to that section, within the division of criminal investigation.

**150.1(1) Identification.** The state criminalistics laboratory shall be known as the division of criminal investigation criminalistics laboratory. Unless the context clearly implies otherwise, the term “laboratory,” when used in this chapter, shall mean the division of criminal investigation criminalistics laboratory.

**150.1(2) Administration.** The laboratory shall be headed by an administrator who shall report to the director of the division of criminal investigation.

**150.1(3) Contact information.**

a. The address of the laboratory for receiving mail or shipped materials is:

Iowa DCI Criminalistics Laboratory  
2240 South Ankeny Boulevard  
Ankeny, Iowa 50023

b. The telephone number of the laboratory is (515) 725-1500.

c. Information regarding the laboratory may be obtained from the department Web site.

NOTE: Currently, information about the laboratory may be found at [www.dps.state.ia.us/DCI/Crime\\_Lab/index.shtml](http://www.dps.state.ia.us/DCI/Crime_Lab/index.shtml).

**661—150.2(691) Purpose and scope of work.** The laboratory provides forensic science services to law enforcement agencies within the state of Iowa. The laboratory shall, within its capabilities, conduct analyses and comparative studies on physical evidence to aid in any criminal investigation, when requested by a prosecuting attorney, a medical examiner, or a law enforcement agency.

**150.2(1) Resource or capability limitations.**

a. The laboratory administrator may refuse any request to conduct an analysis when, in the judgment of the administrator, the laboratory is unable to adequately conduct the requested analysis, either because of resource limitations or because the analysis is not within the professional capabilities of laboratory personnel.

b. The laboratory administrator may establish a policy excluding evidence of specific types or evidence arising from certain types of cases from being accepted by the laboratory, if the administrator finds that such a policy is necessary either due to resource constraints, safety concerns, or the professional capabilities of laboratory personnel. Any policy

## PUBLIC SAFETY DEPARTMENT[661](cont'd)

adopted pursuant to this paragraph shall be provided to all county attorneys, medical examiners, and law enforcement agencies within Iowa.

c. If analysis by the laboratory of specific evidence arising from a criminal investigation in Iowa has been excluded pursuant to either paragraph "a" or "b," the administrator may, at the administrator's discretion, assist the agency requesting the analysis in locating the services of another laboratory able to perform the requested analysis.

**150.2(2)** Exclusion by law. The laboratory shall only perform analyses which have arisen from, or will aid in, criminal investigations or which are otherwise provided for by law.

**661—150.3(691) Laboratory capabilities.** The laboratory is capable of performing any forensic scientific analysis for which a laboratory staff member has received appropriate training and for which the necessary equipment and materials are available to the staff member performing the analysis.

The following subrules catalogue and explain specific laboratory capabilities. These descriptions and explanations are provided for informational purposes and in no way limit the authority of the laboratory to perform any analysis for which a staff person is appropriately trained and for which necessary equipment and materials are available. Further information regarding the current forensic science capabilities of the laboratory may be obtained in the Iowa Criminalistics Laboratory Quality Assurance Manual, published by the division of criminal investigation criminalistics laboratory.

**150.3(1)** Crime scene response. The laboratory may assist law enforcement agencies, when appropriate, by responding to a crime scene and may examine, collect and preserve physical evidence.

**150.3(2)** Breath alcohol section. The breath alcohol section provides testing, approval, repair, maintenance and certification of breath testing instruments, provides officer training and certification in the use of evidential breath testing equipment, and provides expert testimony in the area of breath testing instrumentation and the effects of alcohol on the human body.

**150.3(3)** Controlled substance identification. The laboratory will identify and quantify, when appropriate, materials suspected to contain controlled substances, and will identify items of significance recovered from clandestine drug laboratories.

**150.3(4)** DNA. The laboratory will examine evidence for human biological samples and characterize the samples using DNA technologies.

**150.3(5)** DNA profiling. The laboratory will generate and maintain DNA profiles from qualifying offenders.

**150.3(6)** Firearms. The firearms section examines firearms, ammunition and ammunition components to determine whether a specific firearm fired a specific bullet or cartridge case or, lacking a specific firearm, to determine the possible type of firearm which could have fired the evidentiary bullets and cartridge cases. The firearms section also reconstructs shooting scenes to determine the distance from the muzzle of the firearm to the target, and examines firearms to determine if they function as designed or have been altered from the original design.

The firearms section also maintains a reference collection of firearms and ammunition for comparison purposes and is responsible for the inventory and destruction of firearms forfeited to the laboratory under the Iowa Code.

**150.3(7)** Latent prints and impressions. The latent prints and impressions section:

- a. Examines evidence for visible or latent prints.

- b. Makes comparisons to known friction skin exemplars of the fingers, palms and soles of the feet.

- c. Examines footwear, tire tracks, and other impression evidence and compares the evidence to known exemplars.

**150.3(8)** Photography. The photography section provides photographic services, both digital and film-based, required by all divisions of the department of public safety.

**150.3(9)** Questioned documents. The questioned documents section characterizes and compares handwritten and machine-produced documents to determine facts about their origins.

**150.3(10)** Tool marks. The tool marks section examines tools and tool marks to determine whether a specific tool produced a specific mark on an item of evidence or, lacking the tool, what type of tool produced a specific mark.

**150.3(11)** Toxicology. The toxicology section examines biological samples for the presence of ethyl alcohol and common drugs of abuse.

**150.3(12)** Trace and arson. The trace and arson section examines submitted materials to characterize, identify, or compare them using various analytical techniques. Examples of materials include but are not limited to: ignitable liquids, glass, paint, soil, building materials, explosives, and fibers.

**661—150.4(691) Evidence submission to the laboratory.**

**150.4(1)** Evidence may be submitted to the laboratory by any law enforcement agency in Iowa.

**150.4(2)** Evidence may be submitted to the laboratory via regular, certified, or registered mail or personal service. All evidence submitted must be accompanied by a standard laboratory receipt form that describes each item and its container, if any, and lists examination requests.

NOTE: The standard laboratory receipt form may be found on the Web site of the department. Currently, it is located at [http://www.dps.state.ia.us/DCI/Crime\\_Lab/index.shtml](http://www.dps.state.ia.us/DCI/Crime_Lab/index.shtml).

**150.4(3)** Evidence submitted to the laboratory which is not personally delivered shall be packaged in such a manner that laboratory personnel can determine that the package has not been opened while in transit. If the laboratory receives an unsealed or damaged package, the laboratory may refuse to process such evidence, if the integrity of the evidence has been compromised.

**661—150.5(17A,691) Distribution of reports.**

**150.5(1)** A copy of each completed report of analyses performed by the laboratory shall be provided to the submitting officer and to the prosecuting attorney. The prosecuting attorney shall be responsible for providing copies of any laboratory report to the defendant or defendants as required by law.

**150.5(2)** Results of laboratory analyses shall not be made available to any unauthorized person or organization.

**661—150.6(17A,691) Disposition of evidence.**

**150.6(1)** Evidence will be returned to the submitting agency, unless one of the following conditions applies:

- a. Retention of the evidence would be beneficial for future laboratory analysis.

- b. Returning the evidence presents a hazard to health or safety. Any required notice to the defendant of destruction of evidence pursuant to this paragraph is the responsibility of the prosecuting attorney.

**150.6(2)** Evidence shall not be transferred or submitted to any person or agency other than the submitting agency without an applicable court order, unless authorized by the submitting agency.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

These rules are intended to implement Iowa Code chapter 691.

**ARC 5382B**

## UTILITIES DIVISION[199]

### Notice of Intended Action

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

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

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.8, the Utilities Board (Board) gives notice that on August 23, 2006, the Board issued an order in Docket No. RMU-06-6, In re: Amendments to Gas and Electric Line Extension Rules [199 IAC 19.3(10) and 20.3(13)], “Order Commencing Rule Making,” proposing to revise the requirements for natural gas and electric line extensions. The amendments to subrules 19.3(10) and 20.3(13) are being proposed based upon a review of the current extension rules by the Board and participants in Docket No. NOI-05-2. Amendments to clarify subrule 19.3(11) and to adopt new subrule 20.3(14) are also being proposed. 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](http://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 October 3, 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.

A public hearing to receive oral comments on the proposed amendments will be held at 10 a.m. on November 14, 2006, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.8.

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 19.3(10) as follows:

**19.3(10)** ~~Extensions and service line extensions to customers. Plant additions, distribution main extensions, and service lines.~~

a. Definitions. The following definitions shall apply to the terms as used in ~~these rules~~ *this subrule*.

~~“Advances Advance for construction costs,” as used in these subrules~~ *this subrule*, ~~are~~ *means* cash payments, ~~or surety bonds,~~ or equivalent surety made to the utility by an applicant for ~~an~~ *a* ~~distribution main~~ extension, portions of which may be refunded depending on any subsequent ~~connections made~~ *service line attached to the distribution main* extension. Cash payments, ~~surety bonds,~~ or equivalent ~~sureties~~ *surety* shall include a grossed-up amount for the income tax effect of such revenue.

**ARC 5383B**

## TREASURER OF STATE[781]

### 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 12.34(2), the Treasurer of State hereby gives Notice of Intended Action to amend Chapter 4, “Linked Investments for Tomorrow (LIFT),” Iowa Administrative Code.

This proposed rule making provides procedures for implementing 2006 Iowa Acts, House File 2661, as passed by the 2006 General Assembly. New rules 781—4.1(12) to 781—4.6(12) establish the application process for the Linked Investments for Tomorrow (LIFT) program and provide certificate of deposit qualifications, loan qualifications, and small business requirements.

2006 Iowa Acts, House File 2661, replaces the five existing LIFT programs (Focused Small Business, Horticulture and Alternative Crops, Rural Small Business, Value Added Agriculture, and Traditional Livestock) with one small business program that injects capital into small businesses owned and operated by Iowa residents. One-half of the moneys invested will be available for qualifying small businesses which are 51 percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with disabilities. The minimum interest rate on certificates of deposit deposited with lenders will decrease from 2 percent to 1 percent. Borrowers or businesses will be able to borrow up to \$200,000 through this program. The maximum combined net worth of all owners or borrowers will increase from \$500,000 to \$750,000. LIFT participants with certificates of deposit issued prior to July 1, 2006, are subject, for renewal certificates of deposit, to the requirements and terms which were in place prior to July 1, 2006.

Any interested person may make written comments on the proposed rules on or before October 3, 2006. Comments should be directed to Treasurer’s Office, LIFT Administration, State Capitol Building, Room 114, Des Moines, Iowa 50319; fax (515)281-7562. Persons may also contact the Treasurer’s Office by telephone at (515)281-6878 or by E-mail at [jina.lilly@iowa.gov](mailto:jina.lilly@iowa.gov).

These rules were also Adopted and Filed Emergency and are published herein as **ARC 5384B**. The content of that submission is incorporated by reference.

These rules are intended to implement Iowa Code sections 12.32 through 12.43 as amended by 2006 Iowa Acts, House File 2661.

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.

## UTILITIES DIVISION[199](cont'd)

"Contribution in aid of construction," as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of an *a distribution main extension or service line* that are in excess of *costs paid by the utility-funded allowances*. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

~~"Customer advances for construction records," as used in this subrule, means a separate record established and maintained by the utility, which includes, by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash or surety bond, or equivalent surety and if by surety bond or equivalent surety, all relevant information concerning the bond or surety, the amount of the refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project or work order the extension was installed on.~~

"Distribution main extension," as used in this subrule, means a segment of pipeline installed to convey gas to individual service lines or other distribution mains.

"Estimated annual revenues." No change.

"Estimated base revenues," as used in this subrule, shall be calculated by subtracting the cost of purchased gas and energy efficiency charges from estimated annual revenues.

"Estimated construction costs," as used in ~~the~~ *this* subrule, shall be calculated using average *current* costs in accordance with good engineering practices and upon the following factors: ~~Amount~~ *amount* of service required or desired by the customer requesting the *distribution main extension or service line*; size, location, and characteristics of the *distribution main extension or service line*, including appurtenances; and whether the ground is frozen or whether other adverse conditions exist. ~~The average cost per foot shall be computed utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by size of pipe for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. Actual permit fees may be included by the utility in the calculation of estimated construction costs.~~

~~"Extension" means a distribution main extension.~~

~~"Plant addition," as used in this subrule, means any additional plant, other than a distribution main or service line, required to be constructed to provide service to a customer.~~

"Service line extension," as used in this subrule, means the piping that extends from the gas *distribution main* to the meter set riser.

"Similarly situated customer," as used in this subrule, is means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are similar to other customers with approximately the same annual consumption or service requirements *approximately the same as the annual consumption or service requirements of other customers*.

"Utility," as used in ~~the~~ *this* subrule, means a rate-regulated utility.

b. ~~Distribution main extensions~~ *Plant additions*.

(1) ~~Plant additions~~. The utility ~~will~~ *shall* provide all gas plant at its cost and expense without requiring an advance for construction or a nonrefundable contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are

~~required before the customer can be served, or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A written contract between the utility and the customer, which requires an advance for construction or a nonrefundable contribution in aid of construction by the customer to make plant additions, shall be available for board inspection. The utility shall allow the customer or developer, at the customer's or developer's option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction, under subparagraphs 19.3(10)"b"(2) and (3).~~

~~(2) c. Distribution main extensions. Advances for construction costs for distribution main extensions for customers who will attach within the agreed-upon attachment period. Where The following shall apply where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:~~

~~4. (1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction or a nonrefundable contribution in aid of construction if the estimated construction costs to provide a distribution main extension is are less than or equal to the three times the estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than the three times estimated base revenue calculation, to determine what, if any, advance for construction or nonrefundable contribution in aid of construction is required of the customer. The feasibility model shall be filed as part of the utility's tariff.~~

~~2. (2) If the estimated construction cost to provide a distribution main extension is greater than three times the estimated base revenue calculated on the basis of similarly situated customers, the applicant for such an a distribution main extension shall contract with the utility and deposit make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times the estimated base revenue to be produced by the customer no more than 30 days prior to commencement of construction. The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction. The utility may use a feasibility model to determine whether an advance for construction or a nonrefundable contribution in aid of construction is required. The feasibility model shall be filed as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request.~~

~~(3) Advances for construction costs for distribution main extensions for customers who will not attach within the agreed-upon attachment period. Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the distribution main extension shall contract with the utility and deposit make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. A written contract between the utility and the customer shall be available for board inspection upon request.~~

## UTILITIES DIVISION[199](cont'd)

Advance payments for plant additions or extensions which are subject to refund for a ten-year period may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for five years.

(4)(5) Refunds. When the customer has chosen to make an advance for construction rather than a *nonrefundable* contribution in aid of construction, the utility shall refund to the depositor for a period of ten five years from the date of the original advance a pro-rata share for each service attachment line attached to the distribution main extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the depositor and each customer who has attached a service line to the distribution main extension exceeds the total estimated construction cost to provide the distribution main extension, the entire amount of the advance for construction provided by the depositor shall be refunded to the depositor. Utilities may include actual permit fees in the estimated cost of construction.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the depositor and each customer who has attached a service line to the distribution main extension is less than the total estimated construction cost to provide the distribution main extension, the amount to be refunded to the depositor shall equal three times estimated base revenue of the customer attaching, or the amount allowed by the feasibility model, where a service line is attached to the distribution main extension. Utilities may include permit fees in the cost of construction.

3. In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten five-year period, the customer depositor advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

(6) The utility shall keep a separate record by depositor of each work order under which the distribution main extension was installed, including the estimated customer revenues, the estimated construction costs, the actual cost, the amount of any deposit received, and any refunds paid to the depositor.

e. d. Service line extensions lines.

(1) The utility shall finance and construct a service line extension without requiring a *nonrefundable* contribution in aid of construction or any payment by the applicant where the length of the service extension line to the riser is up to 50 feet on private property or 100 feet on private property if polyethylene plastic pipe is used.

(2) Where the length of the service extension line exceeds 50 feet on private property or 100 feet if polyethylene plastic pipe is used, the applicant shall be required to provide a *nonrefundable* contribution in aid of construction, within 30 days after completion, for that portion of the service extension line on the private property, exclusive of the riser, in excess of 50 feet or in excess of 100 feet if polyethylene plastic pipe is used. The *nonrefundable* contribution in aid of construction for that portion of the extension service line shall be computed as follows:

$$\frac{(\text{Estimated Construction Costs}) \times (\text{Total Length in Excess of 50 Feet}) \text{ or } (\text{Total Length in Excess of 100 Feet})}{(\text{Total Length of Service Extension Line})}$$

(3) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line of more than 50 feet, or 100 feet if polyethylene plastic pipe is used, without requiring a *nonrefundable* contribution in aid of construction from the customer if the tariff or rule applies equally to all customers.

(4) Whether or not the construction of the service line would otherwise require a payment from the applicant, the utility may include actual permit fees in the cost of construction.

d. e. Extensions not required. Utilities shall not be required to make distribution main extensions or attach service lines as described in this rule subrule, unless the distribution main extension or service line shall be of a permanent nature.

e. f. Extensions permitted Different payment arrangement. This rule subrule shall not be construed as prohibiting any utility from making a contract with a customer in a different manner using a different payment arrangement, if the contract provides a more favorable method of extension payment arrangement to the customer, so long as no discrimination is practiced among customers or depositors.

ITEM 2. Amend subrule 19.3(11) as follows:

**19.3(11)** Cooperation and advance notice. In order that full benefit may be derived from these rules this chapter and in order to facilitate their proper application, all utilities shall observe the following cooperative practices:

a. Each Every utility shall give to other public utilities in the same general territory advance notice of any construction or change in construction or in operating conditions of its facilities concerned or likely to be concerned, in situations of proximity, provided, however, that the requirements of this rule chapter shall not apply in case of to routine extensions or minor changes in the local underground distribution facilities.

b. Each Every utility shall assist in promoting conformity with these rules this chapter. An arrangement should be set up between among all utilities whose facilities may occupy the same general territory, providing for the interchange of pertinent data and information including that relative to proposed and existing construction and changes in operating conditions concerned or likely to be concerned in situations of proximity.

ITEM 3. Amend subrule 20.3(13) as follows:

**20.3(13)** Extensions and service line extensions to customers. Electrical line extensions and service lines.

## UTILITIES DIVISION[199](cont'd)

a. Definitions. The following definitions shall apply to the terms used in this rule subrule:

~~“Advances Advance for construction costs,” as used in these subrules this subrule, are means cash payments, or surety bonds, or equivalent surety made to the utility by an applicant for an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent connections service line made to the electrical line extension. Cash payments, surety bonds, or equivalent sureties surety shall include a grossed-up amount for the income tax effect of such revenue.~~

~~“Contribution in aid of construction,” as used in this subrule, means a nonrefundable cash payment grossed-up for the income tax effect of such revenue covering the costs of an electrical line extension or service line that are in excess of costs paid by the utility-funded allowances. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.~~

~~“Customer advances for construction records,” as used in this subrule, means a separate record established and maintained by the utility, which includes, by depositor, the amount of advance for construction provided by the customer, whether the advance is by cash, surety bond, or equivalent surety and if by surety bond or equivalent surety, all relevant information concerning the bond, the amount of the refund, if any, to which the depositor is entitled, the amount of refund, if any, which has been made to the customer, the amount unrefunded, and the construction project or work order the extension was installed on.~~

~~“Electrical line extensions” means distribution line extensions and secondary line extensions as defined in subrule 20.1(3), except for “service lines” as defined in this subrule.~~

~~“Equivalent overhead transformer.” No change.~~

~~“Estimated annual revenues.” No change.~~

~~“Estimated base revenues,” as used in this subrule, shall be calculated by subtracting the fuel expense costs as described in the uniform system of accounts as adopted by the board and energy efficiency charges from the estimated annual revenues.~~

~~“Estimated construction costs,” as used in the this subrule, shall be calculated using average current costs in accordance with good engineering practices and upon the following factors: amount of service required or desired by the customer requesting the electrical line extension or service line; size, location, and characteristics of the electrical line extension or service line, including appurtenances, except equivalent overhead transformer cost; and whether the ground is frozen or whether other adverse conditions exist. The average cost per foot shall be computed utilizing the prior calendar year costs, to the extent such cost basis does not exceed the current costs using current construction cost methodologies, resources and material, and working conditions, divided by the total feet of extensions by type of service for the prior calendar year. In no event shall estimated construction costs include costs associated with facilities built for the convenience of the utility. Actual permit fees may be included by the utility in the calculation of estimated construction costs.~~

~~“Extension” means a distribution or secondary line extension other than a service line extension.~~

~~“Plant addition,” as used in this subrule, means any additional plant required to be constructed to provide service to a customer other than an electrical line extension or service line.~~

~~“Point of attachment.” No change.~~

~~“Service line extension,” shall mean as used in this subrule, means any secondary line extension, as defined in subrule 20.1(3), on private property serving a single customer or point of attachment of electric service.~~

~~“Similarly situated customer,” as used in this subrule, is means a customer whose annual consumption or service requirements, as defined by estimated annual revenue, are similar to other customers with approximately the same annual consumption or service requirements approximately the same as the annual consumption or service requirements of other customers.~~

~~“Utility,” as used in the subrules this subrule, means a rate-regulated utility.~~

~~b. Distribution or secondary lines extensions other than service lines Plant additions.~~

~~(1) Plant additions. The utility will shall provide all electric plant at its cost and expense without requiring an advance for construction or a nonrefundable contribution in aid of construction from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served, or where the customer will not attach within the agreed-upon attachment period after completion of construction. In such instances, the utility shall require, no more than 30 days prior to commencement of construction, the customer or developer to advance funds which are subject to refund as additional customers are attached. A written contract between the utility and the customer which requires an advance for construction or a nonrefundable contribution in aid of construction by the customer to make plant additions shall be available for board inspection. The utility shall allow the customer or developer, at the customer’s or developer’s option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction, under subparagraphs 20.3(13)“b”(2) and (3).~~

~~(2) c. Electrical line extensions. Advances for construction costs for extensions for customers who will attach within the agreed-upon attachment period. Where The following shall apply where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:~~

~~1. (1) If the estimated construction cost to provide an extension is less than or equal to three times the estimated base revenue calculated on the basis of similarly situated customers, the utility shall finance and make the extension without requiring an advance for construction. The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction or a nonrefundable contribution in aid of construction if the estimated construction costs to provide an electrical line extension are less than or equal to three times the estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than the three times estimated base revenue calculation, to determine what, if any, advance for construction or nonrefundable contribution in aid of construction is required by the customer. The feasibility model shall be filed as part of the utility’s tariff.~~

~~2. (2) If the estimated construction cost to provide an electrical line extension is greater than three times the estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and deposit make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times the estimated base revenue to be produced by the~~

## UTILITIES DIVISION[199](cont'd)

customer no more than 30 days prior to commencement of construction. The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction. The utility may use a feasibility model to determine whether an advance for construction or a nonrefundable contribution in aid of construction is required. A written contract between the utility and the customer shall be available for board inspection upon request.

(3) Advances for construction costs for extensions for customers who will not attach within the agreed-upon attachment period. Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and deposit, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost. The utility may use a feasibility model to determine the amount of the advance for construction. A written contract between the utility and the customer shall be available for board inspection upon request.

Advance payments for plant additions or extensions which are subject to refund for a ten-year period may be made by cash, surety bond, or equivalent surety. In the event a surety bond or an equivalent surety is used, the bonded amount shall have added to it a surcharge equal to the annual interest rate paid by the utility on customer bill deposits times the bonded amount. The bond shall be called by the utility at the end of one year or when the earned refunds are equal to the bonded amount, less the surcharge, whichever occurs first. If, upon termination of the surety bond, there are sufficient earned refunds to offset the amount of the surety bond, less the surcharge, the depositors shall provide the utility the amount of the surcharge. If, upon termination of the surety bond, there are not sufficient earned refunds to offset the full amount of the surety bond, less the surcharge, the depositors shall provide the utility a cash deposit equal to the amount of the surety bond, less refunds accumulated during the bonded period, plus the surcharge, or the depositor may pay the interest on the previous year's bond and rebond the balance due to the utility for a second or third one-year period. Upon receipt of such cash deposit, the utility shall release the surety bond. The cash deposit, less the surcharge, shall be subject to refund by the utility for the remainder of the ten-year period.

(4) Advances for construction may be paid by cash or equivalent surety and shall be refundable for five years.

(4) (5) Refunds. When the customer has chosen to make an advance for construction rather than a nonrefundable contribution in aid of construction, the utility shall refund to the depositor for a period of ten five years from the date of the original advance a pro-rata share for each service attachment line attached to the distribution electrical line extension. The pro-rata refund shall be computed in the following manner:

1. If the combined total of three times estimated base revenue for the depositor and each customer who has attached to the extension exceeds the total estimated construction cost to provide the extension, the entire amount of the advance provided by the depositor shall be refunded to the depositor. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the depositor and each customer who has attached a service line to the electrical line extension exceeds the total estimated construction cost to provide the electrical line extension, the entire amount of the advance for construction provided by the depositor shall be refunded to the depositor.

Utilities may include actual permit fees in the cost of construction.

2. If the combined total of three times estimated base revenue for the depositor and each customer who has attached to the extension is less than the total estimated construction cost to provide the extension, the amount to be refunded to the depositor shall equal three times estimated base revenue of the customer attaching to the extension. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the depositor and each customer who has attached a service line to the electrical line extension is less than the total estimated construction cost to provide the electrical line extension, the amount to be refunded to the depositor shall equal three times estimated base revenue of the customer, or the amount allowed by the feasibility model, where a service line is attached to the electrical line extension. Utilities may include actual permit fees in the cost of construction.

3. In no event shall the total amount to be refunded to a depositor exceed the amount of the advance for construction made by the depositor. Any amounts subject to refund shall be paid by the utility without interest. At the expiration of the above-described ten five-year period, the customer depositor advance for construction record shall be closed and the remaining balance shall be credited to the respective plant account.

(6) The utility shall keep a separate record by depositor of each work order under which the electrical line extension was installed, including the estimated customer revenues, the estimated construction costs, the actual cost, the amount of any deposit received, and any refunds paid to the depositor.

e d. Service line extensions lines.

(1) The utility shall finance and construct either an overhead or underground service line extension without requiring a nonrefundable contribution in aid of construction or any payment by the applicant where the length of the overhead extension service line to the first point of attachment is up to 50 feet on private property or where the cost of the underground extension service line to the meter or service disconnect is less than or equal to the estimated cost of constructing an equivalent overhead extension service line of up to 50 feet.

(2) Where the length of the overhead service extension line exceeds 50 feet on private property, the applicant shall be required to provide a nonrefundable contribution in aid of construction for that portion of the service extension line on the private property, exclusive of the point of attachment, within 30 days after completion. The nonrefundable contribution in aid of construction for that portion of the service extension line shall be computed as follows:

$$\frac{(\text{Estimated Construction Costs}) \times (\text{Total Length in Excess of 50 Feet})}{(\text{Total Length of Service Extension Line})}$$

(3) Where the cost of the underground service line extension exceeds the estimated cost of constructing an equivalent overhead service extension line of up to 50 feet, the applicant shall be required to provide a nonrefundable contribution in aid of construction within 30 days after completion equal to the difference between the estimated cost of constructing the underground service extension line and the estimated cost of constructing an equivalent overhead service extension line of up to 50 feet.

(4) A utility may adopt a tariff or rule that allows the utility to finance and construct a service line extension of more than 50 feet without requiring a nonrefundable contribution

## UTILITIES DIVISION[199](cont'd)

*in aid of construction from the customer* if the tariff or rule applies equally to all customers or members.

(5) *Whether or not the construction of the service line would otherwise require a payment from the customer, the utility may include actual permit fees in the cost of construction.*

d *e.* Extensions not required. Utilities shall not be required to make *electrical line extensions or install service lines* as described in this ~~rule~~ *subrule*, unless the *electrical line extension or service line* shall be of a permanent nature.

~~e f. Extensions permitted Different payment arrangement. This rule shall not be construed as prohibiting any utility from making a contract with a customer in a different manner, if the contract provides a more favorable method of extension to the customer, so long as no discrimination is practiced among customers or depositors. This subrule shall not be construed as prohibiting any utility from making a contract with a customer using a different payment arrangement, if the contract provides a more favorable payment arrangement to the customer, so long as no discrimination is practiced among customers or depositors.~~

ITEM 4. Adopt ~~new~~ *subrule 20.3(14)* as follows:

**20.3(14)** Cooperation and advance notice. In order that full benefit may be derived from this chapter and in order to facilitate its proper application, all utilities shall observe the following cooperative practices:

a. Every utility shall give to other public utilities in the same general territory advance notice of any construction or change in construction or in operating conditions of its facilities concerned or likely to be concerned in situations of proximity, provided, however, that the requirements of this chapter shall not apply to routine extensions or minor changes in the local underground distribution facilities.

b. Every utility shall assist in promoting conformity with this chapter. An arrangement should be set up among all utilities whose facilities may occupy the same general territory, providing for the interchange of pertinent data and information including that relative to proposed and existing construction and changes in operating conditions concerned or likely to be concerned in situations of proximity.

**ARC 5379B**  
**MEDICAL EXAMINERS**  
**BOARD[653]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 147.76, 148E.7, 272C.3, 272C.4, and 272C.5, the Board of Medical Examiners hereby amends Chapter 24, "Complaints and Investigations," and Chapter 25, "Contested Case Proceedings," Iowa Administrative Code.

Chapters 24 and 25 were published in the Iowa Administrative Bulletin as **ARC 5236B** on July 19, 2006, and went into effect on August 23, 2006. The amendments adopted in this emergency rule making correct terminology in Chapters 24 and 25. Specifically, the amendments replace references to a public record with the more accurate term "open record."

The Board of Medical Examiners adopted these amendments during its regularly held meeting on August 16, 2006.

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are unnecessary because these changes are editorial in nature and do not contain any change in policy. The amendments replace the word "public" with the word "open" in reference to records; this change clarifies the intended meaning of these provisions.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on August 23, 2006, as they confer a benefit on the public because the current language does not reflect the statute and would cause significant confusion to the public.

These amendments are intended to implement Iowa Code chapters 17A, 147, 148, 148E and 272C.

These amendments became effective on August 23, 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 **24.2(5)**, paragraph "e," as follows:

e. Informal letter. If the board concludes that there is not probable cause to file disciplinary charges, the board may issue the licensee an informal letter of warning or education. A letter of warning or education is an informal communication between the board and the licensee and is not formal disciplinary action or a ~~public~~ *an open* record.

ITEM 2. Amend subrule 24.2(9) as follows:

**24.2(9)** Confidentiality of investigative information. All investigative information obtained by the board or its employees or agents, including peer reviewers acting under the authority of the board, in the investigative process is privileged and confidential. Board investigative information is not subject to discovery, subpoena, or other means of legal compulsion for its release to any person other than the licensee and the board or its employees and agents and is not admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, the statement of charges, settlement agreement or decision of the board in a contested case disciplinary proceeding shall be a ~~public~~ *an open* record.

ITEM 3. Amend subrule 25.3(5) as follows:  
**25.3(5)** ~~Public~~ *Open* record. A combined statement of charges and settlement agreement is a ~~public~~ *an open* record.

ITEM 4. Amend subrule 25.17(5) as follows:  
**25.17(5)** A settlement agreement is a ~~public~~ *an open* record.

ITEM 5. Amend subrule 25.24(1) as follows:  
**25.24(1)** Final decisions. When a quorum of the board presides over the reception of the evidence at the hearing, its decision is a final decision. A majority of the members of the board shall constitute a quorum. A final decision of the board is a ~~public~~ *an open* record. Final decisions shall be served on the parties in accordance with subrule 25.11(2).

ITEM 6. Amend subrule **25.29(2)**, paragraph "a," as follows:

a. An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger and the board's decision to take immediate action. The order is a ~~public~~ *an open* record.

ITEM 7. Amend rule 653—25.32(17A) as follows:

**653—25.32(17A)** ~~Public~~ *Open* record. The final decision of the board is a ~~public~~ *an open* record. The board shall report final decisions to the appropriate organizations, including but not limited to the National Practitioner Data Bank, the Federation of State Medical Boards and all media and other organizations that have filed a request for public information.

[Filed Emergency 8/17/06, effective 8/23/06]

[Published 9/13/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/06.

**ARC 5384B**

**TREASURER OF STATE[781]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 12.34(2), the Treasurer of State hereby amends Chapter 4, "Linked Investments for Tomorrow (LIFT)," Iowa Administrative Code.

This rule making provides procedures for implementing 2006 Iowa Acts, House File 2661, as passed by the 2006 General Assembly. New rules 781—4.1(12) to 781—4.6(12) establish the application process for the Linked Investments for Tomorrow (LIFT) program and provide certificate of deposit qualifications, loan qualifications, and small business requirements.

2006 Iowa Acts, House File 2661, replaces the five existing LIFT programs (Focused Small Business, Horticulture and Alternative Crops, Rural Small Business, Value Added Agriculture, and Traditional Livestock) with one small business program that injects capital into small businesses owned and operated by Iowa residents. One-half of the moneys invested will be available for qualifying small businesses which are 51 percent or more owned, operated, and actively managed by one or more women, minority persons, or persons with disabilities. The minimum interest rate on certificates of deposit deposited with lenders will decrease from 2 percent to 1 percent. Borrowers or businesses will be able

TREASURER OF STATE[781](cont'd)

to borrow up to \$200,000 through this program. The maximum combined net worth of all owners or borrowers will increase from \$500,000 to \$750,000. LIFT participants with certificates of deposit issued prior to July 1, 2006, are subject, for renewal certificates of deposit, to the requirements and terms which were in place prior to July 1, 2006.

In compliance with Iowa Code section 17A.4(2), the Treasurer of State finds that notice and public participation are impracticable because of the immediate need for rule making to implement the new provisions of the law.

Furthermore, the Treasurer of State finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and the amendments should be made effective on November 1, 2006, after filing with the Administrative Rules Coordinator on August 23, 2006, as they confer a benefit upon small businesses by allowing them to receive low-interest loans through the LIFT program.

The Treasurer of State adopted these amendments on August 23, 2006.

These amendments are published herein under Notice of Intended Action as **ARC 5383B** to allow public comment. The emergency filing permits the Treasurer of State to implement the new provisions of the law.

These amendments are intended to implement Iowa Code sections 12.32 through 12.43 as amended by 2006 Iowa Acts, House File 2661.

These amendments will become effective November 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. Rescind rules **781—4.1(12)** to **781—4.11(12)** and adopt the following **new** rules in lieu thereof:

**781—4.1(12) Definitions.** The definitions found in Iowa Code section 12.32 as amended by 2006 Iowa Acts, House File 2661, are adopted by reference. In addition, the following definitions apply:

"Borrower" means a person, corporation, cooperative, partnership, or municipality located in Iowa that is qualified to participate in the linked investments for tomorrow program.

"Current market rate" means the one-year Treasury bill rate.

"Lender" means "eligible lending institution" as defined in Iowa Code section 12.32 and includes banks, savings and loans, converted savings banks, and credit unions that are located in Iowa and are in compliance with Iowa Code chapter 12C.

"Treasurer" means treasurer of the state of Iowa and members of staff carrying out duties delegated by the treasurer.

**781—4.2(12) Forms.** The following forms are used in this program:

- LIFT Lender/Borrower Application (Form 655-0142)
- LIFT Renewal Application (Form 655-0143)
- LIFT Master Agreement (Form 655-0144)

**781—4.3(12) Procedures for submitting and processing a linked investment loan application.**

**4.3(1)** To participate in the linked investments for tomorrow program, a lender's home office must complete and submit a LIFT Master Agreement (Form 655-0144) to the trea-

surer. By filing Form 655-0144 with the treasurer, a home office agrees that it and all its branches, when participating in the LIFT program, shall comply with the following:

a. Iowa Code sections 12.31 through 12.43 as amended by 2006 Iowa Acts, House File 2661 (Linked Investments for Tomorrow Act),

b. Iowa Code chapter 12C (Deposit of Public Funds), and

c. Iowa Administrative Code 781—Chapters 3, 4, 13, and 14.

**4.3(2)** Any lender whose home office is in compliance with subrule 4.3(1) may submit a LIFT Lender/Borrower Application (Form 655-0142) to the treasurer.

**4.3(3)** The lender shall submit applications only for those borrowers and businesses which the lender believes are eligible.

**4.3(4)** Forms and correspondence relating to the linked investments for tomorrow program shall be mailed to:

Treasurer of State  
LIFT Administration  
State Capitol Building  
Room 114  
Des Moines, Iowa 50319

**4.3(5)** Upon receipt of a LIFT Lender/Borrower Application (Form 655-0142), the treasurer will determine whether the application meets the requirements of the LIFT program and whether sufficient funds will be available for the investment.

**4.3(6)** Within a reasonable time, the treasurer will notify the lender whether the application has been approved or denied.

**4.3(7)** Funds will be deposited with the lender on the fifteenth day of the month. If the fifteenth day of the month falls on a weekend or holiday, funds will be transferred the following business day.

**4.3(8)** The lender must make all funds available to the borrower by the end of the business day following the day the lender receives the funds from the treasurer.

**4.3(9)** At the beginning of each month, the treasurer will determine the rate of interest for LIFT certificates of deposit that are new or are being renewed that month.

**4.3(10)** After approval of the application, the lender shall notify the treasurer, in writing, if the loan is paid off, if the loan is in default, if the business closes, or if the business is sold.

**4.3(11)** At any time it is determined that a borrower or business does not meet the requirements of participation in the LIFT program, the treasurer shall notify the lender and withdraw the certificate of deposit with no penalty. The lender shall have ten days from the date of notification to remit the outstanding balance and accrued interest to the treasurer.

**4.3(12)** As a requirement for renewal of the certificate of deposit, the lender shall verify that the borrower and business are still eligible for this program.

**781—4.4(12) Qualifications on the certificate of deposit.**

**4.4(1)** The minimum rate for the certificate of deposit shall be 1 percent. The term shall not exceed one year but may be renewed at the option of the treasurer.

**4.4(2)** Interest must be calculated for the actual number of days on a 365-day basis, except during leap year, when it must be calculated for the actual number of days on a 366-day basis. Interest must be paid to the treasurer upon maturity of the certificate of deposit.

**4.4(3)** The certificate of deposit and accrued interest must be secured either by federal deposit insurance or must be collateralized pursuant to Iowa Code chapter 12C.

TREASURER OF STATE[781](cont'd)

**4.4(4)** If the borrower pays the loan in full prior to the maturity date of the certificate of deposit, the lender shall, within ten days of the payment in full, remit the principal balance of the certificate of deposit and the accrued interest thereon to the treasurer.

**4.4(5)** Funds shall be transferred according to instructions from the treasurer.

**4.4(6)** When a certificate of deposit is issued or renewed, it shall be held in safekeeping by the lender. The lender shall provide the treasurer a safekeeping receipt or a photocopy of the certificate of deposit upon issuance and at the time of renewal of the certificate of deposit. The safekeeping receipt or photocopy must include:

- a. Certificate of deposit number.
- b. Certificate of deposit rate.
- c. Certificate of deposit amount.
- d. Term of the certificate of deposit.
- e. Maturity date of the certificate of deposit.

**4.4(7)** The maximum period of eligibility for any borrower or business is five years from the issue date of the first certificate of deposit.

**4.4(8)** If the certificate of deposit is not renewed within ten days of the maturity date, the funds must be remitted to the treasurer. During the ten-day period, the funds shall continue to earn interest.

**4.4(9)** At renewal of the certificate of deposit, the lender shall certify that the certificate of deposit balance does not exceed the loan balance.

**4.4(10)** A certificate of deposit for the purposes of the LIFT program shall not be subject to a penalty for early withdrawal or to any other terms and conditions that a financial institution may otherwise place upon a certificate of deposit.

**781—4.5(12) Qualifications on the loan.**

**4.5(1)** The interest rate on the loan shall not exceed the rate of interest on the certificate of deposit by more than 4 percent. Points shall not supplement the loan rate, and a compensating balance shall not be required.

**4.5(2)** All other terms and conditions on the loan must be negotiated by the lender and the borrower. The lender is required by law to use usual and customary lending standards to determine the creditworthiness of the loan.

**4.5(3)** Neither the treasurer nor the state is liable for any payment of principal or interest on the loan or any late payments. The certificate of deposit is not collateral and shall not constitute security in any manner for the repayment of principal or any interest or charges thereon.

**4.5(4)** The amount and term of the loan may exceed the amount and term of the certificate of deposit. It is permitted for the interest rate on the loan to be variable based on adjustments in the rate of the certificate of deposit.

**4.5(5)** Loans are subject to the restrictions set forth in rule 781—4.6(12).

**4.5(6)** Loan proceeds shall not be used to refinance existing debt, including credit card debt. However, proceeds may be used to refinance a short-term bridge loan made in anticipation of the treasurer's approval of an eligible LIFT participant.

**4.5(7)** The lender shall acquire sufficient information to verify that the applicant meets the requirements before the borrower or business may become eligible to participate in a LIFT program. The lender and borrower applying for a loan under this program shall verify on the LIFT Lender/Borrower Application (Form 655-0142) that the borrower, owner, and business qualify.

**4.5(8)** The lender must complete the LIFT Renewal Application (Form 655-0143) at the time of renewal and submit it to the treasurer to ensure that the borrower and business continue to be eligible to participate in the LIFT program.

**781—4.6(12) LIFT—small business program.**

**4.6(1)** New and existing small businesses are eligible for the LIFT small business program. An existing small business is defined as a business that has annual gross sales of \$2 million or less at the time of application.

**4.6(2)** A borrower is ineligible if the borrower has received financial assistance from the LIFT program prior to July 1, 2006.

**4.6(3)** All owners of the business or borrowers must not have a combined net worth exceeding \$750,000. Combined net worth, as defined by this program, shall equal assets less liabilities for each owner of the business and persons borrowing for the business combined. Married individuals may divide their total net worth and assign one half of the total to each individual. If both individuals are owners of the business or borrowers, then their combined net worth must be used to determine net worth requirements.

**4.6(4)** Proceeds of loans under this program shall be used for business expenses including land, improvements, fixtures, machinery, inventory, supplies, equipment, information technology, or licenses, or patent, trademark, or copyright fees and expenses.

**4.6(5)** The maximum amount that a borrower or business may borrow from this program is \$200,000. Once the borrower or business has received LIFT funds totaling \$200,000, the borrower or business is ineligible for additional LIFT proceeds.

**4.6(6)** Proceeds shall not be used to speculate in real estate or for real estate held for investment purposes. Proceeds shall not be used to buy real estate for the purposes of renting or leasing.

**4.6(7)** A home-based business qualifies as a LIFT small business only if the person whose home is used for operation of the small business qualifies for a tax deduction for that portion of a home used for business pursuant to regulations of the Internal Revenue Service. An applicant who wishes to borrow from the LIFT small business program, who otherwise qualifies, and who has a home-based business or wishes to begin a home-based business must establish to the satisfaction of the lender that the applicant qualifies for a tax deduction for that portion of the applicant's home that the applicant uses or intends to use for the business pursuant to regulations of the Internal Revenue Service.

**4.6(8)** If the business holds a class "C" liquor license, sales of liquor, beer, and wine must not exceed 20 percent of annual sales.

ITEM 2. Amend **781—Chapter 4**, implementation clause, as follows:

These rules are intended to implement Iowa Code sections 12.32 to 12.37 and Iowa Code Supplement sections 12.34, 12.34A, and 12.34B 12.43 as amended by 2006 Iowa Acts, House File 2661.

[Filed Emergency 8/23/06, effective 11/1/06]

[Published 9/13/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/06.

**ARC 5381B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the low-income housing tax credit program with the 2007 qualified allocation plan, which is incorporated by reference in rule 12.1(16).

The qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority’s Web site at [www.ifahome.com](http://www.ifahome.com). The 2007 qualified allocation plan is hereby incorporated by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules. The qualified allocation plan is subject to certain state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

Consistent with Executive Order Number 9, the Authority has considered the regulatory principles identified in the executive order and finds that the amendments will serve an important public need in furthering the housing policy of the state to encourage the production and availability of affordable housing in Iowa.

Notice of Intended Action was published in the July 5, 2006, Iowa Administrative Bulletin as **ARC 5228B**. The Authority held a public hearing over the Iowa Communications Network on July 25, 2006, to receive public comments on the 2007 qualified allocation plan (2007 QAP). The Authority received written comments in addition to the oral comments received at the public hearing. The only changes made to the actual text of the amendments were to the effective dates referenced in the noticed amendments: The date “October 4, 2006,” was changed to “October 18, 2006,” in order to comply with the requirements of Iowa Code chapter 17A. All other changes were to the qualified allocation plan incorporated by reference.

The Authority received both oral and written public comments on the draft 2007 QAP. These public comments addressed various aspects of the 2007 QAP, including the developer/consultant cap; service-enriched set-aside; preservation set-aside; rural set-aside; application process; operating reserves; debt service coverage ratio; developer characteristics related categories; and other general matters relating to the 2007 QAP.

The Authority revised the draft 2007 QAP based on the public comments received to clarify sections of the 2007 QAP that may have been subject to misunderstanding. The Authority also made other technical and grammatical changes recommended by Authority staff.

The Authority adopted these amendments on August 21, 2006.

These amendments will become effective on October 18, 2006.

These amendments are intended to implement Iowa Code sections 16.4(3), 16.52, 17A.12, and 17A.16 and IRC Section 42.

The following amendments are adopted.

ITEM 1. Amend rule 265—12.1(16) as follows:

**265—12.1(16) Qualified allocation plan.** The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 2006 2007 Qualified Allocation Plan effective ~~October 5, 2005~~ *October 18, 2006*, shall be the qualified allocation plan for the allocation of 2006 2007 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend rule 265—12.2(16) as follows:

**265—12.2(16) Location of copies of the plan.** The qualified allocation plan can be reviewed and copied in its entirety on the authority’s Web site at <http://www.ifahome.com>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library. The plan incorporates by reference IRC Section 42 and the regulations in effect as of ~~October 5, 2005~~ *October 18, 2006*. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority’s Web site. Copies are available upon request at no charge from the authority.

[Filed 8/23/06, effective 10/18/06]

[Published 9/13/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/06.

**ARC 5380B****UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 474.3, and 474.5, the Utilities Board (Board) gives notice that on August 15, 2006, the Board issued an order in Docket No. RMU-06-5, In re: Delegation of Authority to Issue Procedural Orders (199 IAC 7.1), “Order Adopting Amendments.” The amendments establish procedures for issuing procedural orders when a majority of the Board is not present due to emergencies or for other reasons. Notice of Intended Action was published in IAB Vol. XXVIII, No. 26 (6/21/06) p. 1866, as **ARC 5172B**. Comments concerning the proposed amendments were filed by the Consumer Advocate Division of the Department of Justice and the Iowa Telecommunications Association. No oral presentation was scheduled or requested.

The comments expressed concerns regarding the scope of the proposed amendments and that they could be used to issue orders dealing with substantive matters. The Board considered the comments and has revised subrule 7.1(8) by replacing the phrase “for any other reason” with the phrase “efficient and reasonable conduct of proceedings” to indicate

## UTILITIES DIVISION[199](cont'd)

that procedural orders may be issued to allow for the efficient operation of the Board. The subrule has also been revised to more clearly state that orders issued pursuant to this delegated authority may be reviewed by the Board on its own motion. The Board determined that the subrule provides the flexibility needed by the Board and offers sufficient safeguards. The order issued in Docket No. RMU-06-5 containing a discussion of the comments and support for this rule making can be found on the Board's Web site, [www.state.ia.us/iub](http://www.state.ia.us/iub).

These amendments are intended to implement Iowa Code sections 17A.4, 474.3, and 474.5.

These amendments shall become effective October 18, 2006.

The following amendments are adopted.

ITEM 1. Amend rule **199—7.1(17A,476)** by adding "474" to the parenthetical implementation statutes.

ITEM 2. Adopt **new** subrule 7.1(8) as follows:

**7.1(8)** Authority to issue procedural orders in contested case proceedings, investigations, hearings, and all other dockets and matters before the board when a majority of the board is not available due to emergency, or for the efficient

and reasonable conduct of proceedings, is granted to a single board member. If no member of the board is available to issue a procedural order due to emergency, or for the efficient and reasonable conduct of proceedings, the procedural order may be issued by an administrative law judge employed by the board. If an administrative law judge is not available to issue a procedural order due to an emergency, or for the efficient and reasonable conduct of proceedings, a procedural order may be issued by the executive secretary or general counsel of the board.

Procedural orders under this subrule shall be issued only upon the showing of good cause and when the prejudice to a nonmoving party is not great. The procedural order under this subrule shall state that it is issued pursuant to the delegation authority established in 199 IAC 7.1(8) and that the procedural order so issued is subject to review by the board upon its own motion or upon motion by any party or other interested person.

[Filed 8/23/06, effective 10/18/06]

[Published 9/13/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/13/06.



**State of Iowa**  
**Executive Department**  
 IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\*EXECUTIVE ORDER NUMBER FORTY-FIVE**

- WHEREAS,** Whereas, on any given day more than 180,000 Iowa children are in some form of child care while their parents work or attend school, and eighty-five percent of Iowa's youngest kids are in child care; and
- WHEREAS,** Iowa ranks fourth in the nation in the percentage of families with preschool children in which all parents in the household are employed, and Iowa ranks second in the nation in the percentage of families with school-aged children in which all parents in the household are employed; and
- WHEREAS,** safe, reliable and affordable child care is the primary support necessary for families to achieve and maintain self sufficiency, and the availability of quality child care enables parents to work and contribute directly to Iowa's economy; and
- WHEREAS,** infant brain research demonstrates that a child's first three years of life are a critical time for brain development with eighty percent of cognitive development occurring before a child's third birthday; and
- WHEREAS,** quality child care is a vital contributor to the healthy development of Iowa's young children, and numerous long-term studies have shown that high quality care during the formative early childhood years increases the likelihood of a child's success in school and later in life; and
- WHEREAS,** environments that support the stimulation and nurturing of children play a crucial role in developing the ability of a child to learn, and the caregiver relationship (both parent and care provider) is the single strongest determinant of a child's emotional and social development making the retention of quality providers to maintain continuity of caregivers critical for Iowa's youngest children; and
- WHEREAS,** a recent study by the Midwest Child Care Research Consortium found that across all forms of child care, eighteen percent of providers were in the poor quality range, forty-nine percent in the minimal range and thirty-three percent were in the good range; and
- WHEREAS,** there is a continuing need to expand access to quality child care including that provided by child care home providers and low reimbursement rates have contributed to the difficulties of parents in finding adequate care; and

**WHEREAS,** the State is continuously involved in child care quality improvement efforts supporting a number of state and community partnerships to augment the number and quality of settings serving Iowa's youngest and school-age children including recent efforts to implement Iowa's Quality Rating System to provide parents with a menu of key indicators to assess the quality of child care; and

**WHEREAS,** it is important to preserve freedom of choice for parents in selecting appropriate child care services for their children and to do so, the State must be able to ensure the availability of quality child care services on terms that will attract and retain sufficient numbers of child care providers in the State's child care assistance program; and

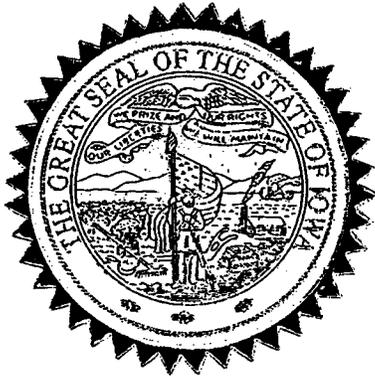
**WHEREAS,** child care providers are located throughout the State and therefore may not be able to effectively voice their common concerns about how to improve quality in child care, the State's child care assistance program, their role in the program, or the terms and conditions of their provision of services without representation; and

**WHEREAS,** it is essential for the State to receive input from the child development home providers in order to improve the delivery of child care services.

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct as follows:

- I. The Director of the Iowa Department of Human Services, or his or her designee, shall meet and confer with the authorized representative of registered child development home providers, as designated by the majority of individual providers. The verification of majority status shall be based on signed authorization cards, and shall be conducted by Iowa Mediation Service, Inc. on January 17, 2006 or as soon as possible thereafter based on the availability of Iowa Mediation Service, Inc. Any costs associated with verifying majority status shall be borne by the organizations seeking majority status. The Department of Human Services shall provide Iowa Mediation Service with a record of registered child development home providers covered by this executive order.

- II. In meeting and conferring with the authorized representative, the Department of Human Services shall discuss issues of mutual concern, including training requirements, reimbursement rates, payment procedures, health and safety conditions, and any other changes to current practice that would improve recruitment and retention of child development home providers, that would improve the quality of the programs they provide, or that would encourage providers to seek to become registered providers.
- III. The provisions of this executive order are not intended to alter or infringe upon the existing relationship between the child development home providers and consumers.
- IV. Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 16th day of January, in the year of our Lord two thousand six.

  
\_\_\_\_\_  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\* EXECUTIVE ORDER NUMBER FORTY-SIX**

- WHEREAS,** Whereas, on any given day more than 180,000 Iowa children are in some form of child care while their parents work or attend school, and eighty-five percent of Iowa's youngest kids are in child care; and
- WHEREAS,** Iowa ranks fourth in the nation in the percentage of families with preschool children in which all parents in the household are employed, and Iowa ranks second in the nation in the percentage of families with school-aged children in which all parents in the household are employed; and
- WHEREAS,** safe, reliable and affordable child care is the primary support necessary for families to achieve and maintain self sufficiency, and the availability of quality child care enables parents to work and contribute directly to Iowa's economy; and
- WHEREAS,** infant brain research demonstrates that a child's first three years of life are a critical time for brain development with eighty percent of cognitive development occurring before a child's third birthday; and
- WHEREAS,** quality child care is a vital contributor to the healthy development of Iowa's young children, and numerous long-term studies have shown that high quality care during the formative early childhood years increases the likelihood of a child's success in school and later in life; and
- WHEREAS,** environments that support the stimulation and nurturing of children play a crucial role in developing the ability of a child to learn, and the caregiver relationship (both parent and care provider) is the single strongest determinant of a child's emotional and social development making the retention of quality providers to maintain continuity of caregivers critical for Iowa's youngest children; and
- WHEREAS,** a recent study by the Midwest Child Care Research Consortium found that across all forms of child care, eighteen percent of providers were in the poor quality range, forty-nine percent in the minimal range and thirty-three percent were in the good range; and
- WHEREAS,** there is a continuing need to expand access to quality child care including that provided by child care home providers and low reimbursement rates have contributed to the difficulties of parents in finding adequate care; and

**WHEREAS,** the State is continuously involved in child care quality improvement efforts supporting a number of state and community partnerships to augment the number and quality of settings serving Iowa's youngest and school-age children including recent efforts to implement Iowa's Quality Rating System to provide parents with a menu of key indicators to assess the quality of child care; and

**WHEREAS,** it is important to preserve freedom of choice for parents in selecting appropriate child care services for their children and to do so, the State must be able to ensure the availability of quality child care services on terms that will attract and retain sufficient numbers of child care providers in the State's child care assistance program; and

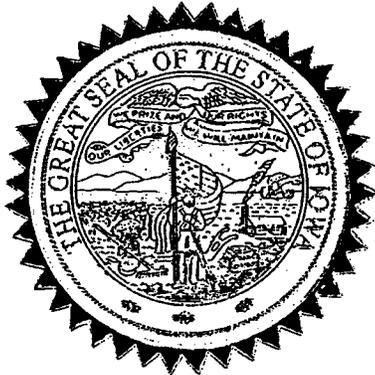
**WHEREAS,** child care providers are located throughout the State and therefore may not be able to effectively voice their common concerns about how to improve quality in child care, the State's child care assistance program, their role in the program, or the terms and conditions of their provision of services without representation; and

**WHEREAS,** it is essential for the State to receive input from the child care home providers in order to improve the delivery of child care services.

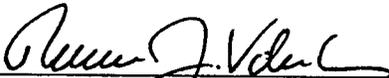
**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct as follows:

- I. The Director of the Iowa Department of Human Services, or his or her designee, shall meet and confer with the authorized representative of non-registered child care home providers not otherwise covered by Executive Order No. 45 and who receive payment from the State of Iowa Child Care Assistance Program, as designated by the majority of individual providers. The verification of majority status shall be based on signed authorization cards and shall be conducted by Iowa Mediation Service, Inc, on January 17, 2006 or as soon as possible thereafter based on the availability of Iowa Mediation Service, Inc. Any costs associated with verifying majority status shall be borne by the organizations seeking majority status. The Department of Human Services shall provide Iowa Mediation Service with a record of child care home providers covered by this executive order.

- II. In meeting and conferring with the authorized representative, the Department of Human Services shall discuss issues of mutual concern, including training, reimbursement rates, payment procedures, health and safety conditions, and any other changes to current practice that would improve recruitment and retention of non-registered child care home providers, that would improve the quality of the programs they provide, or that would encourage providers to seek to become registered providers.
- III. The provisions of this executive order are not intended to alter or infringe upon the existing relationship between child care home providers and consumers.
- IV. Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Iowa to be affixed. Done at Des Moines this 16th day of January, in the year of our Lord two thousand six.

  
\_\_\_\_\_  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE



**\* EXECUTIVE ORDER NUMBER FORTY-SEVEN**

- WHEREAS,** Litter affects quality of life, economic development, the image of the State, the environment and water quality in Iowa, and is a public safety, health and welfare issue for Iowa citizens; and
- WHEREAS,** Litter visually blights the State's roads, streets and highways, recreational areas and public lands, and contributes to derelict neighborhoods and is correlated with high incidents of crime that negatively impact economic development, tourism and community pride; and
- WHEREAS,** Litter is washed into and clogs community storm-water drains and is washed directly into Iowa rivers, streams and lakes negatively impacting water quality and degrading wetlands and river and lake shorelines; and
- WHEREAS,** Litter and illegally dumped refuse is a public health concern providing habitat for disease-bearing vermin and insects (i.e. mosquitoes carrying West Nile Virus, LaCrosse encephalitis); and
- WHEREAS,** Litter is a public safety concern causing motor vehicle accidents and fatalities as a result of improperly secured loads and vehicle related road debris and litter; and
- WHEREAS,** Litter is a public welfare concern as it costs millions of dollars for agencies, local governments and Iowa taxpayers to remove litter and clean-up illegal dumps diverting funds from education, public health and economic development efforts; and
- WHEREAS,** Litter abatement, prevention and enforcement are ineffective due to the current lack of resources available for these efforts and the absence of effective legal deterrents; and
- WHEREAS,** Litter and illegal dumping research has been conducted within the State to aid in identifying litter types, characteristics of the person that litters, factors related to littering and illegal dumping and the most effective strategies for motivating the public to change behavior and to become part of the solution to the problem; and

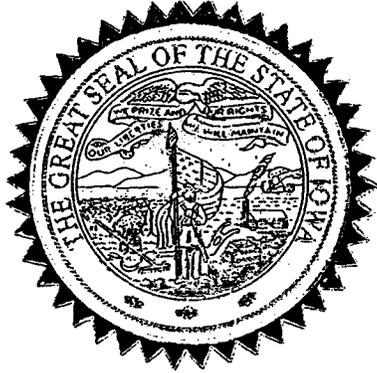
**WHEREAS,** An effective litter abatement and prevention strategy will only be successful if it addresses and coordinates research, collection, enforcement, prevention and education activities among and across agencies, organizations and the private sector resulting in the creation of a “culture” that does not accept litter and illegal dumping behavior.

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby create the Keep Iowa Clean and Beautiful Task Force, which shall function in the manner outlined below:

- I. Purpose: The Keep Iowa Clean and Beautiful Task Force shall assess the conditions and activities of litter control in Iowa.
  
- II. Responsibilities: The Task Force shall do the following:
  1. Develop a comprehensive litter abatement and prevention campaign leading to a long-term, sustainable approach for reducing litter and increasing public awareness, personal responsibility, and community involvement;
  2. Develop recommendations to promote litter prevention awareness and education, focusing on litter prevention, illegal dumping, and responsible waste disposal, and using recycling practices, technology, initiation of a toll free number for citizens to report litter, as well as community enhancement and beautification efforts;
  3. Coordinate existing and pursue future funding mechanisms for litter abatement and prevention;
  4. Ensure coordination, cooperation, reporting, and communication among state agencies and their litter abatement and prevention programs and activities;
  5. Evaluate current litter control and prevention laws and regulations and recommend changes that would significantly improve litter prevention through statutory, regulatory, or policy changes.

- III. Support: The Iowa Department of Natural Resources, Iowa Department of Public Safety, and the Iowa Department of Transportation, in conjunction with leadership from Keep Iowa Beautiful, are charged with coordinating and providing administrative support for the Keep Iowa Clean and Beautiful Task Force.

The task force shall submit its recommendation and report to the Office of the Governor by June 30, 2006.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 7<sup>th</sup> day of February, in the year of our Lord two thousand six.

  
\_\_\_\_\_  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\*EXECUTIVE ORDER NUMBER FORTY-EIGHT**

**WHEREAS,** HF 2792 signed into law on June 1, 2006, calls for the establishment of a commission within the executive branch of state government to design a pay-for-performance program and provide a study relating to teacher and staff compensation containing a pay-for-performance component; and

**WHEREAS,** the General Assembly created the Institute for Tomorrow's Workforce ("ITW") last year to provide a long-term forum for bold, innovative recommendations to improve Iowa's education system to meet the workforce needs of Iowa's new economy; and

**WHEREAS,** ITW is tasked with reviewing the state's education accountability measures and identifying effective education structure and delivery models that promote optimum student achievement; and

**WHEREAS,** ITW recommended that Iowa increase teacher salaries and complete the state's commitment to a bold new professional teacher performance and compensation model that rewards educators for their own knowledge, skills and practices that prepare students for the 21<sup>st</sup> century; and

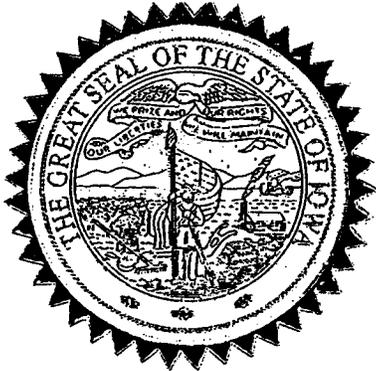
**WHEREAS,** the membership of ITW is broad-based and reflects the awareness that meaningful and lasting educational change requires sustained support and collaboration from leaders in business, industry, government and education.

**NOW, THEREFORE, I,** Thomas J. Vilsack, Governor of the State of Iowa, by the power vested in me by the laws and the Constitution of the State of Iowa, do hereby order and direct the Institute for Tomorrow's Workforce to propose a design for a pay-for-performance program and conduct a study of the design as set forth in Section 27 of HF 2792 as enacted. The study shall measure the cost and effectiveness in raising student achievement of a compensation system that provides financial incentives based on student performance.

The Iowa Department of Education shall provide technical and administrative assistance to ITW. In developing the design, ITW shall seek input from and consult with individuals including but not limited to the following individuals outside of the Institute's membership:

- (1) At least one classroom teacher from each level: elementary, middle school, and high school;
- (2) At least one local school board official;
- (3) At least one K-6 principal and one 7-12 principal;
- (4) A representative from the Iowa State Education Association, Iowa Association of School Boards, School Administrators of Iowa, Professional Educators of Iowa, and the Urban Education Network.

Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 1st day of June, in the year of our Lord two thousand six.

*Thomas J. Vilsack*  
 \_\_\_\_\_  
 THOMAS J. VILSACK  
 GOVERNOR

ATTEST:

*Chester J. Culver*  
 \_\_\_\_\_  
 CHESTER J. CULVER  
 SECRETARY OF STATE



IN THE NAME AND BY THE AUTHORITY OF THE STATE OF IOWA

**\* EXECUTIVE ORDER NUMBER FORTY-NINE**

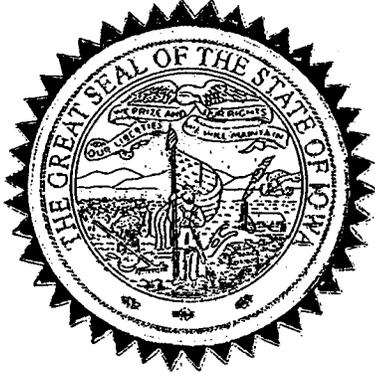
- WHEREAS,** State government is committed to helping all Iowans achieve their business goals; and
- WHEREAS,** the Iowa General Assembly established the Targeted Small Business programs to help develop businesses that are at least 51 percent owned, operated and actively managed by a minority, woman or disabled person; and
- WHEREAS,** the Targeted Small Business (TSB) Assistance Program is designed to help minorities, women and persons with disabilities receive business assistance; and
- WHEREAS,** the TSB program also has been able to help the unique population it serves by partnering with the Small Business Administration and local communities; and
- WHEREAS,** the TSB also helps businesses that are unable to secure traditional bank loans; and
- WHEREAS,** the TSB program supports multiculturalism in Iowa and helps grow and expand Iowa's economy; and
- WHEREAS,** funding for this program has been nearly eliminated; and
- WHEREAS,** the number of businesses owned by minorities requesting assistance has declined; and
- WHEREAS,** this past year, only a handful of minority owned businesses have received assistance; and
- WHEREAS,** a financial assistance program is still needed because of the limited amount of financial resources available to small businesses; and
- WHEREAS,** the TSB program is a unique program available to those small businesses that are at least 51 percent owned, operated and actively managed by women, minorities or persons with disabilities.

**NOW, THEREFORE, I, Thomas J. Vilsack, Governor of the State of Iowa, by virtue of the authority vested in me by the Laws and Constitution of the State of Iowa, do hereby order and direct the creation of the Targeted Small Business Taskforce.**

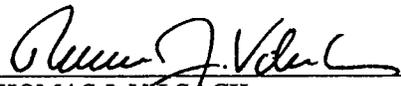
- I. Purpose. The task force shall study Iowa's targeted small business programs in order to determine if they are still needed and, if so, how to improve, enhance and increase the efficacy and efficiency of the programs. Items to be addressed by the task force should include but are not limited to:
  - A. the funding source and level provided for the TSB program;
  - B. the program's criteria for funding projects (e.g. suggested industries, retail, wage and/or benefits requirements);
  - C. the compatibility and integration of the TSB program with other economic development efforts of the state;
  - D. the level of assistance provided by the TSB program;
  - E. the training and technical assistance opportunities provided to targeted small businesses;
  - F. outreach efforts to increase awareness and participation in the program.
  
- II. Organization. Members of the taskforce shall be appointed by the Governor, except members of the Iowa House and Senate. Members of the taskforce shall include:
  - A. the Director of the Department of Economic Development, or her designee
  - B. the Director of the Department of Inspections and Appeals, or his designee
  - C. the Director of the Department of Administrative Services, or her designee
  - D. the Director of the Department of Human Rights, or his designee
  - E. seven small business owners who are minorities, women or persons with disabilities
  - F. two members of the Iowa House, one appointed by the majority leader and one by the minority leader
  - G. two members of the Iowa Senate, one appointed by the Democratic leader and one appointed by the Republican leader

III. Support. The Iowa Department of Economic Development is charged with coordinating and providing administrative support for the Targeted Small Business Taskforce.

The task force shall convene no later than September 1<sup>st</sup>, 2006. The taskforce shall submit a report of its findings, conclusions and recommendations to the Governor and General Assembly by December 1<sup>st</sup>, 2006. Nothing in this executive order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 4<sup>th</sup> day of August, in the year of our Lord two thousand six.

  
\_\_\_\_\_  
THOMAS J. VILSACK  
GOVERNOR

ATTEST:

  
\_\_\_\_\_  
CHESTER J. CULVER  
SECRETARY OF STATE

**IOWA ADMINISTRATIVE BULLETIN**  
**Customer Service Center**  
**Department of Administrative Services**  
**Hoover State Office Building, Level A**  
**Des Moines, Iowa 50319**

PRSRT STD  
U.S. Postage  
**PAID**  
Des Moines, Iowa  
Permit No. 1195

---