



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action 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.

KATHLEEN K. WEST, Administrative Code Editor  
STEPHANIE A. HOFF, Deputy Editor

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## Schedule for Rule Making 2007

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
<b>*Dec. 27 '06*</b>	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07
Jan. 12	Jan. 31	Feb. 20	Mar. 7	Mar. 9	Mar. 28	May 2	July 30
Jan. 26	Feb. 14	Mar. 6	Mar. 21	Mar. 23	Apr. 11	May 16	Aug. 13
Feb. 9	Feb. 28	Mar. 20	Apr. 4	Apr. 6	Apr. 25	May 30	Aug. 27
Feb. 23	Mar. 14	Apr. 3	Apr. 18	Apr. 20	May 9	June 13	Sept. 10
Mar. 9	Mar. 28	Apr. 17	May 2	May 4	May 23	June 27	Sept. 24
Mar. 23	Apr. 11	May 1	May 16	<b>***May 16***</b>	June 6	July 11	Oct. 8
Apr. 6	Apr. 25	May 15	May 30	June 1	June 20	July 25	Oct. 22
Apr. 20	May 9	May 29	June 13	June 15	July 4	Aug. 8	Nov. 5
May 4	May 23	June 12	June 27	<b>***June 27***</b>	July 18	Aug. 22	Nov. 19
<b>***May 16***</b>	June 6	June 26	July 11	July 13	Aug. 1	Sept. 5	Dec. 3
June 1	June 20	July 10	July 25	July 27	Aug. 15	Sept. 19	Dec. 17
June 15	July 4	July 24	Aug. 8	Aug. 10	Aug. 29	Oct. 3	Dec. 31
<b>***June 27***</b>	July 18	Aug. 7	Aug. 22	<b>***Aug. 22***</b>	Sept. 12	Oct. 17	Jan. 14 '08
July 13	Aug. 1	Aug. 21	Sept. 5	Sept. 7	Sept. 26	Oct. 31	Jan. 28 '08
July 27	Aug. 15	Sept. 4	Sept. 19	Sept. 21	Oct. 10	Nov. 14	Feb. 11 '08
Aug. 10	Aug. 29	Sept. 18	Oct. 3	Oct. 5	Oct. 24	Nov. 28	Feb. 25 '08
<b>***Aug. 22***</b>	Sept. 12	Oct. 2	Oct. 17	Oct. 19	Nov. 7	Dec. 12	Mar. 10 '08
Sept. 7	Sept. 26	Oct. 16	Oct. 31	Nov. 2	Nov. 21	Dec. 26	Mar. 24 '08
Sept. 21	Oct. 10	Oct. 30	Nov. 14	<b>***Nov. 14***</b>	Dec. 5	Jan. 9 '08	Apr. 7 '08
Oct. 5	Oct. 24	Nov. 13	Nov. 28	Nov. 30	Dec. 19	Jan. 23 '08	Apr. 21 '08
Oct. 19	Nov. 7	Nov. 27	Dec. 12	<b>***Dec. 12***</b>	Jan. 2 '08	Feb. 6 '08	May 5 '08
Nov. 2	Nov. 21	Dec. 11	Dec. 26	<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 20 '08	May 19 '08
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Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
<b>***Dec. 12***</b>	Jan. 2 '08	Jan. 22 '08	Feb. 6 '08	Feb. 8 '08	Feb. 27 '08	Apr. 2 '08	June 30 '08
<b>***Dec. 26***</b>	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
24	Friday, May 4, 2007	May 23, 2007
25	Wednesday, May 16, 2007	June 6, 2007
26	Friday, June 1, 2007	June 20, 2007

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\*\*\***

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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.

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January 1, 2007, to June 30, 2007	\$164
April 1, 2007, to June 30, 2007	\$ 82

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All checks should be made payable to the Treasurer, State of Iowa, and mailed to:

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

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For free brochures and order forms for 2007 IOWA LAW CD-ROM, contact Nicole Navara at the above address or at [nicole.navara@legis.state.ia.us](mailto:nicole.navara@legis.state.ia.us).

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, May 8, 2007, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

#### **ARCHITECTURAL EXAMINING BOARD[193B]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Reinstatement of lapsed licenses, 2.6(1)"a"(4), 2.6(2)"a"(4), Notice **ARC 5845B** ..... 4/25/07  
 Certification of architectural documents, 4.1(7)"e," Filed **ARC 5843B** ..... 4/25/07

#### **ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

- Entrepreneurial ventures assistance program, 60.2, 60.3(3), Filed **ARC 5832B** ..... 4/11/07  
 Definition of "employee"; contract administration, 168.302, 168.401, 168.402, Filed **ARC 5833B** ..... 4/11/07  
 Renewable fuel infrastructure program—contract administration, 312.2(3)"f,"  
 314.5, Filed **ARC 5831B** ..... 4/11/07  
 Renewable fuel infrastructure program—criteria for waiver of repayment requirements,  
 314.5(4), 314.5(5), Notice **ARC 5834B** ..... 4/11/07

#### **ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Water quality certification, 61.2(2)"h," Filed **ARC 5851B** ..... 4/25/07

#### **HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]**

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

- Homeland security and emergency response teams, ch 12, Filed **ARC 5826B** ..... 4/11/07

#### **HUMAN SERVICES DEPARTMENT[441]**

- Removal of references to rehabilitative and nonrehabilitative family-centered, family preservation,  
 family foster care, and group care service, amendments to chs 7, 114, 130, 152, 156,  
 181, 182, 185, 202 Filed **ARC 5819B** ..... 4/11/07  
 Annual adjustments to eligibility and payment levels for state supplementary assistance program,  
 51.4(1), 51.7, 52.1(1) to 52.1(3), 52.1(3)"a"(2), Filed **ARC 5816B** ..... 4/11/07  
 Home- and community-based habilitation services, 77.25, 78.27, 79.1(2), 79.1(24),  
Filed Emergency After Notice **ARC 5813B** ..... 4/11/07  
 Case management added as covered service under HCBS elderly waiver,  
 77.33(21), 78.37(10), 78.37(17), 79.1(2), 83.21, 83.22(1)"f," 83.22(2), 83.22(3),  
 83.23(3)"c," 83.23(4)"a," 83.26, 83.27, 83.28(2)"d," Filed **ARC 5817B** ..... 4/11/07  
 Early ACCESS program—face-to-face meetings, 78.49(2)"b" and "c,"  
Filed Emergency After Notice **ARC 5814B** ..... 4/11/07  
 Annual update of IowaCare premiums, 92.7(1)"a," Filed Emergency **ARC 5815B** ..... 4/11/07  
 Child welfare case plan, 130.7(3), Filed **ARC 5818B** ..... 4/11/07  
 Citizenship requirements for receipt of child care assistance, 170.2(2)"d," Notice **ARC 5838B** ..... 4/11/07  
 Addendum to child abuse assessment summary, 175.26(1)"h," Notice **ARC 5840B** ..... 4/11/07  
 Staff qualifications for family-centered parental counseling service providers,  
 182.5(4)"b" and "c," Notice **ARC 5672B**, Terminated **ARC 5812B** ..... 4/11/07

#### **IOWA FINANCE AUTHORITY[265]**

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]"umbrella"

- Cross references updated, 7.15(5), 7.22(6), 9.20(8)"d," Filed Emergency **ARC 5849B** ..... 4/25/07  
 Military service member home ownership assistance program, 27.2, 27.4(1),  
Filed Emergency **ARC 5848B** ..... 4/25/07

#### **INSPECTIONS AND APPEALS DEPARTMENT[481]**

- Electrical requirements for residential care and nursing facilities, 60.12(6)"f,"  
 61.12(10)"e," Filed **ARC 5828B** ..... 4/11/07

#### **INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

- Regulation of securities offerings and those who engage in the securities business,  
 ch 50, Notice **ARC 5835B** ..... 4/11/07

**LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

- Employee discrimination complaints; OSHA standards—adoption by reference,  
9.16, 10.20, Notice **ARC 5839B** ..... 4/11/07
- Elevators—terminology updated, amendments to chs 66, 71 to 73, 75, 76,  
Notice **ARC 5844B** ..... 4/25/07
- Water heaters, 90.2, 90.4, 91.6, ch 95, Notice **ARC 5619B**, Terminated **ARC 5842B** ..... 4/25/07
- Professional boxing and shoot fighting—blood-borne disease testing, 173.54, 177.5(11),  
Notice **ARC 5829B** ..... 4/11/07

**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

- Continuing education for massage therapists, ch 133, Filed **ARC 5811B** ..... 4/11/07

**PUBLIC HEALTH DEPARTMENT[641]**

- Radiation, amendments to chs 38 to 42, 44, 46, Filed **ARC 5820B** ..... 4/11/07
- Local public health services; Iowa senior health program, rescind chs 79, 80, 83;  
adopt ch 80, Filed **ARC 5825B** ..... 4/11/07
- Substance abuse treatment and assessment programs—drinking drivers course,  
157.1 to 157.8, Notice **ARC 5823B** ..... 4/11/07
- Licensure standards for problem gambling treatment programs,  
ch 162, Filed **ARC 5821B** ..... 4/11/07
- Subpoenas, 173.14, Notice **ARC 5824B** ..... 4/11/07
- Consent for the sale of goods and services, rescind ch 190,  
Filed Without Notice **ARC 5822B** ..... 4/11/07

**PUBLIC SAFETY DEPARTMENT[661]**

- Devices and methods to test body fluids for alcohol or drugs, ch 7 title,  
7.1 to 7.5, 7.7, 7.8(1)"c," 7.8(2), 7.8(13), 7.9, ch 155, Filed **ARC 5847B** ..... 4/25/07
- Certification of automatic fire extinguishing system contractors, 275.3(4)"c," 275.3(7),  
Notice **ARC 5836B**, also Filed Emergency **ARC 5837B** ..... 4/11/07

**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Salesperson prelicense education; continuing education audit, 4.1, 16.2(3) to 16.2(6),  
16.5(3), Notice **ARC 5846B** ..... 4/25/07

**TRANSPORTATION DEPARTMENT[761]**

- For-hire interstate motor carrier authority—reference to federal regulations,  
529.1, Filed **ARC 5830B** ..... 4/11/07
- Iowa airport registration, 720.2, 720.4 to 720.6, 720.10, 720.15(2),  
720.15(3), Notice **ARC 5841B** ..... 4/25/07
- Rail assistance program; railroad revolving loan fund,  
rescind chs 830, 831, Filed **ARC 5810B** ..... 4/11/07

**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

- Gas and electric line extension rules, 19.3(10), 19.3(11), 20.3(13), Filed **ARC 5850B** ..... 4/25/07
- Equipment distribution program income limit, 37.3(8), Notice **ARC 5827B** ..... 4/11/07

**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

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

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Renewable fuel infrastructure program, 314.5 IAB 4/11/07 <b>ARC 5834B</b>	Main Conference Room 200 E. Grand Ave. Des Moines, Iowa	May 1, 2007 2 p.m.
<b>INSURANCE DIVISION[191]</b>		
Securities regulation, ch 50 IAB 4/11/07 <b>ARC 5835B</b>	Lobby Conference Room 330 Maple St. Des Moines, Iowa	May 15, 2007 9:30 a.m.
<b>LABOR SERVICES DIVISION[875]</b>		
Discrimination against employees; occupational safety and health standards, 9.16, 10.20 IAB 4/11/07 <b>ARC 5839B</b>	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	May 4, 2007 1:30 p.m.
Elevators—terminology updated, chs 66, 71 to 73, 75, 76 IAB 4/25/07 <b>ARC 5844B</b>	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	May 17, 2007 1:30 p.m. (If requested)
Blood-borne disease testing, 173.54, 177.5(11) IAB 4/11/07 <b>ARC 5829B</b>	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	May 4, 2007 9 a.m. (If requested)
<b>PUBLIC HEALTH DEPARTMENT[641]</b>		
Substance abuse programs—drinking drivers course, 157.1 to 157.8 IAB 4/11/07 <b>ARC 5823B</b>	Room 517 Lucas State Office Bldg. Des Moines, Iowa	May 1, 2007 1 to 2 p.m.
<b>PUBLIC SAFETY DEPARTMENT[661]</b>		
Payment of small claims to employees, rescind ch 14; adopt ch 41 IAB 3/28/07 <b>ARC 5809B</b>	Third Floor Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	May 2, 2007 10 a.m.
Liquefied petroleum gas, 51.100 to 51.102, ch 226 IAB 3/28/07 <b>ARC 5805B</b>	Third Floor Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	May 2, 2007 10:30 a.m.
Certification of automatic fire extinguishing system contractors, 275.3 IAB 4/11/07 <b>ARC 5836B</b> (See also <b>ARC 5837B</b> )	Third Floor Conference Rm. Wallace State Office Bldg. Des Moines, Iowa	May 2, 2007 11 a.m.
<b>REAL ESTATE COMMISSION[193E]</b>		
Prelicense and continuing education for salesperson license, 4.1, 16.2, 16.5(3) IAB 4/25/07 <b>ARC 5846B</b>	Second Floor Conference Room 1920 SE Hulsizer Rd. Ankeny, Iowa	May 23, 2007 9 a.m.



**TRANSPORTATION DEPARTMENT[761]**

Iowa airport registration, 720.2 to 720.6, 720.10, 720.15 IAB 4/25/07 <b>ARC 5841B</b>	DOT Modal Conference Room 800 Lincoln Way Ames, Iowa	May 17, 2007 10 a.m. (If requested)
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**CITATION of Administrative Rules**

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

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

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

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

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

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

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

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

The following list will be updated as changes occur:

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TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
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    Railway Finance Authority[765]  
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TURKEY MARKETING COUNCIL, IOWA[787]  
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    Workforce Development Center Administration Division[877]

**ARC 5845B****ARCHITECTURAL EXAMINING BOARD[193B]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Registration,” Iowa Administrative Code.

The amendments to Chapter 2 allow a nonresident registrant to reinstate a lapsed registration by providing evidence of compliance with the continuing education requirements of the registrant’s resident state during the period of non-registration in lieu of providing documented evidence of hours required to satisfy Iowa’s continuing education requirements.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before May 15, 2007. Comments should be addressed to Glenda Loving, Architectural Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515) 281-7411. E-mail may be sent to [glenda.loving@iowa.gov](mailto:glenda.loving@iowa.gov).

These amendments are intended to implement Iowa Code chapters 17A, 272C and 544A.

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 subparagraph **2.6(1)“a”(4)** as follows:

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year or portion of a year of expired registration in compliance with requirements in 193B—Chapter 3 in addition to the 24 hours (16 hours in public protection subjects) which should have been reported on the June 30 renewal date on which the applicant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal. *Out-of-state residents may submit a statement from their resident state’s licensing board as documented evidence of compliance with their resident state’s mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.*

ITEM 2. Amend subparagraph **2.6(2)“a”(4)** as follows:

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year or portion of a

year of expired registration in compliance with requirements in 193B—Chapter 3 up to a maximum of 48 contact hours (32 hours in public protection subjects). The continuing education hours used for reinstatement may not be used again at the next renewal. *Out-of-state residents may submit a statement from their resident state’s licensing board as documented evidence of compliance with their resident state’s mandatory continuing education requirements during the period of nonregistration. The statement shall bear the seal of the licensing board. Out-of-state residents whose resident state has no mandatory continuing education shall comply with the documented evidence requirements outlined in this subrule.*

**ARC 5844B****LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 66, “Waivers or Variances from Administrative Rules by the Elevator Safety Board,” Chapter 71, “Administration,” Chapter 72, “New Installations,” Chapter 73, “Existing Facilities,” Chapter 75, “Fees,” and Chapter 76, “Permits,” Iowa Administrative Code.

The proposed amendments implement statutory changes enacted in 2007 Iowa Acts, House File 369, by updating the terminology.

The purposes of these amendments are to protect the safety of the public and implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on May 16, 2007, a public hearing will be held on May 17, 2007, at 1:30 p.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than May 17, 2007, to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

These amendments are intended to implement 2007 Iowa Acts, House File 369.

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.

## LABOR SERVICES DIVISION[875](cont'd)

ITEM 1. Amend rules **875—66.3(17A,89A)**, **875—66.5(17A,89A)**, **875—71.1(89A)** to **875—71.5(89A)**, and **875—72.1(89A)**; **875—Chapter 73**, title; and rules **875—73.1(89A)**, **875—73.4(89A)**, **875—73.7(89A)**, **875—73.18(89A)**, **875—73.25(89A)**, **875—75.1(89A)**, **875—75.4(89A)** to **875—75.6(89A)**, **875—75.8(89A)**, and **875—76.4(89A)** by striking the word “facility” and inserting the word “conveyance” and by striking the word “facilities” and inserting the word “conveyances” in lieu thereof.

ITEM 2. Amend rules **875—75.3(89A)** and **875—76.7(89A)** by striking the word “facility” and inserting the word “elevator” and by striking the word “facilities” and inserting the word “elevators” in lieu thereof.

**ARC 5842B****LABOR SERVICES DIVISION[875]****Notice of Termination**

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 20, 2006, as **ARC 5619B**. The Notice of Intended Action proposed changes to Chapter 90, “Administration of the Boiler and Pressure Vessel Program,” and Chapter 91, “General Requirements for All Objects,” and proposed to rescind Chapter 95, “Water Heater Supply Boilers,” and adopt new Chapter 95, “Water Heaters,” Iowa Administrative Code.

**ARC 5846B****REAL ESTATE COMMISSION[193E]****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 543B.9, the Real Estate Commission gives Notice of Intended Action to amend Chapter 4, “Salesperson License,” and Chapter 16, “Prelicense Education and Continuing Education,” Iowa Administrative Code.

The proposed amendments to Chapter 4 and Chapter 16 add new language to require that individuals complete the following coursework prior to initial licensure: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. The current rules allow a newly licensed salesperson to complete the courses by the end of the first renewal term. This new requirement will apply to individuals applying for a salesperson license on and after January 1, 2009.

The proposed amendment to subrule 16.5(3) reduces the amount of time a licensee has to respond to a continuing education audit from 60 days to 30 days.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Any interested person may make written or oral suggestions or comments on these proposed amendments on or be-

fore May 24, 2007. Comments should be directed to Susan Griffel, Education Director, Iowa Real Estate Commission, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; fax (515)281-7411; E-mail [susan.griffel@iowa.gov](mailto:susan.griffel@iowa.gov).

A public hearing will be held on May 23, 2007, at 9 a.m. in the second floor conference room at 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 272C and 543B.

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

The following amendments are proposed.

ITEM 1. Amend rule 193E—4.1(543B) as follows:

**193E—4.1(543B) General requirements for salesperson license.** A person who is licensed under and employed by or otherwise associated with a real estate broker or firm is a “salesperson” as defined in Iowa Code section 543B.5(19) (20) and rule 193E—2.1(543B).

**4.1(1)** An original application for a salesperson license cannot be issued to inactive status. An applicant for a salesperson license must be recommended by an affiliating broker to be granted a license as provided in Iowa Code section 543B.16.

**4.1(2)** The salesperson license is issued to the custody and control of the broker as provided in Iowa Code section 543B.24. If the salesperson is terminated, or terminates the employment or association, the license must be returned to the commission. Once the license is returned or mailed to the commission, it is unlawful for that salesperson to perform any acts requiring a real estate license as provided in Iowa Code section 543B.33. However, if the license is transferred, as provided in rule 193E—6.2(543B), the salesperson may work immediately for the new broker.

**4.1(3)** A salesperson must be assigned to a licensed broker or firm and cannot conduct business independently.

**4.1(4)** Except as provided in Iowa Code section 543B.21, an applicant for a salesperson license must meet all requirements of Iowa Code section 543B.15.

**4.1(5)** An applicant for a real estate salesperson license must be a person whose application for licensure has not been rejected in this or any other state or jurisdiction within 12 months prior to the date of application, and whose real estate license has not been revoked in this or any other state within two years prior to the date of application.

**4.1(6)** An applicant for a real estate salesperson license shall be 18 years of age or older. An applicant is not ineligible because of citizenship, sex, race, religion, marital status, or national origin, although the application form may require citizenship information.

**4.1(7)** An applicant for a real estate salesperson license who has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or another similar offense, or of any crime involving moral turpitude, in a court of competent jurisdiction in this state or in any other state, jurisdiction, territory, or district of the United States, or in any foreign jurisdiction, may be denied a license by the commission on the grounds of the con-

## REAL ESTATE COMMISSION[193E](cont'd)

viction. "Conviction" is defined in Iowa Code section 543B.15(3) and rule 193E—2.1(543B).

**4.1(8)** An applicant for a real estate salesperson license who has had a professional license of any kind revoked in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation.

**4.1(9)** Salesperson prelicense education requirements. As required by Iowa Code section 543B.15(8) and 193E—Chapter 16, the required course of study for the salesperson licensing examination shall consist of 60 classroom or computer-based hours of real estate principles and practices. To be eligible to take the examination, the applicant must complete the salesperson prelicense education must be completed during the 12 months prior to taking the examination.

**4.1(10)** Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to taking the examination.

**4.1(11)** All salespersons licensed on January 1, 2009, or thereafter, as a requirement of license renewal and to maintain active status, must complete a minimum of 36 hours of approved courses. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term. Approved courses in the following subjects shall be completed to renew to active status: 8 hours of Law Update, 4 hours of Ethics and 24 hours of electives.

ITEM 2. Renumber subrules **16.2(3)** and **16.2(4)** as **16.2(5)** and **16.2(6)** and adopt **new** subrules 16.2(3) and 16.2(4) as follows:

**16.2(3)** Beginning January 1, 2009, and thereafter, an applicant applying for an original salesperson license must provide evidence of successful completion of the following courses: 12 hours of Developing Professionalism and Ethical Practices, 12 hours of Buying Practices and 12 hours of Listing Practices. This education is in addition to the 60-hour salesperson prelicense course. The applicant must complete all the required education during the 12 months prior to taking the examination.

**16.2(4)** All salespersons licensed on January 1, 2009, or thereafter, as a requirement of license renewal and to maintain active status, must complete a minimum of 36 hours of approved courses. The continuing education must be completed during the three calendar years of the license term and cannot be carried over to another license term. Approved courses in the following subjects shall be completed to renew to active status: 8 hours of Law Update, 4 hours of Ethics and 24 hours of electives.

ITEM 3. Amend renumbered subrule 16.2(6) as follows:

**16.2(6)** Substitution of courses. Written requests for substitution of the salesperson prelicense and postlicense education courses specified in 16.2(1), 16.2(2) and 16.2(3) may be granted if the applicant submits evidence of successful completion of a course or courses which are substantially similar to the courses specified in 16.2(1), 16.2(2) and 16.2(3). Any course completed more than 12 months prior to commission consideration for approval shall not qualify for substitution.

ITEM 4. Amend subrule 16.5(3) as follows:

**16.5(3)** Failure to provide required evidence of completion of claimed education within 60 30 days of the written notice from the commission shall result in the licensee's being placed on inactive status. Prior to activating a license that has been placed on inactive status pursuant to this provision, the licensee must submit to the commission satisfactory evidence that all required continuing education has been completed.

**ARC 5841B****TRANSPORTATION  
DEPARTMENT[761]****Notice of Intended Action**

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

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 328.19, the Department of Transportation hereby gives Notice of Intended Action to amend Chapter 720, "Iowa Airport Registration," Iowa Administrative Code.

These amendments improve readability and clarity of the rules, remove outdated language, update and clarify guidelines for airport registration and airport safety standards, and enhance minimum safety standards for increased safety and practical application.

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

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

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to the Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: [tracy.george@dot.iowa.gov](mailto:tracy.george@dot.iowa.gov).
5. Be received by the Office of Policy and Legislative Services no later than May 15, 2007.

A meeting to hear requested oral presentations is scheduled for Thursday, May 17, 2007, at 10 a.m. in the Modal Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

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

These amendments are intended to implement Iowa Code chapter 328.

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.

Proposed rule-making actions:

## TRANSPORTATION DEPARTMENT[761](cont'd)

ITEM 1. Amend rule 761—720.2(328) as follows:

**761—720.2(328) Definitions.** The definitions in Iowa Code section 328.1 and rule 761—700.1(328) shall apply to this chapter of rules. In addition:

~~“Maintained for private use”~~ *“Private use”* means available for use by the owner ~~only~~ or by the owner and other persons authorized by the owner.

*“Obstruction”* means any structure, object of natural growth, or use of land that impedes the airspace required for the takeoff or landing of aircraft at an airport.

~~“Open for use by the public”~~ means available for use by the general public without a requirement for prior approval from the owner or operator.

~~“Public use”~~ means open for use by the public available for use by the general public without prior approval from the owner or operator.

~~This rule is intended to implement Iowa Code sections 328.1, 328.19 and 328.35.~~

ITEM 2. Amend rule **761—720.3(328)** by striking the implementation clause.

ITEM 3. Amend rule 761—720.4(328) as follows:

**761—720.4(328) Public-use airport.** The site approval requirements of this rule apply to proposed public-use airports. The remaining requirements apply to existing public-use airports.

**720.4(1)** Application for site approval. The sponsor shall complete Iowa Department of Transportation Form 300025, “Airport Site Approval and New Registration Application,” and submit it to the office of aviation. This Iowa form is available from the Office of Aviation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1691; or through the Internet at <http://www.iawings.com>.

a.—The sponsor shall include a written description of the minimum airport standards, stated in rule 720.10(328), that are attainable at the site.

b.—The sponsor shall submit a signed statement issued by the appropriate local official or agency that the site complies with all applicable local zoning provisions or that local zoning does not exist.

**720.4(2)** No change.

**720.4(3)** Certificate of site approval.

a. to c. No change.

d. The department may revoke the certificate of site approval as specified in Iowa Code subsection 328.19(3) or if aircraft operation is permitted, except in an emergency, before the airport registration certificate is issued. *Aircraft operations shall not be permitted at the proposed site prior to airport registration.*

**720.4(4)** Registration. When construction is complete, the sponsor shall notify the department. ~~If Form 300025 has not been submitted, the sponsor shall complete it and submit it to the department.~~ The department shall inspect the airport and, if it complies *the airport is in compliance* with Iowa Code subsection 328.19(1), *the minimum safety standards designated by the department*, shall issue the airport registration certificate.

**720.4(5)** Registration renewal. Each airport shall apply annually for a registration renewal on a form provided by the department. The department shall issue a registration certificate to a public-use airport if the airport is in compliance with the registration requirements *minimum safety standards designated by the department*.

**720.4(6)** Airport inspection. Each registered public-use airport is subject to inspection by the department at any reasonable time. ~~If the departmental inspection by the department reveals an unsafe condition or a failure to meet the minimum safety standards, the department shall record that fact and shall notify the airport sponsor in writing with necessary corrective actions. Failure to implement corrective actions may result in airport registration revocation or denial.~~ An FAA inspection of an airport certified under 14 CFR Part 139 may be accepted in lieu of an inspection by the department.

**720.4(7)** No change.

~~**720.4(8)** Revocation.~~ The department may revoke the registration of an airport pursuant to Iowa Code subsection 328.19(1).

~~This rule is intended to implement Iowa Code sections 328.12, 328.19 and 328.35.~~

ITEM 4. Amend rule 761—720.5(328) as follows:

**761—720.5(328) Private-use airport.** The following *This rule* applies to a proposed, new airport to be maintained for private use.

~~**720.5(1)**~~ The sponsor shall complete an application for a certificate of site approval on Form 300025 and submit it to the office of aviation. In the application, the sponsor shall certify that the airport, when completed, will be safe and adequate for the sponsor’s intended use.

~~**720.5(2)**~~ The application shall be accompanied by:

a.—A signed statement issued by the appropriate local official or agency that the site complies with all applicable zoning provisions or that local zoning does not exist.

b.—A current airspace determination issued by the FAA which concludes that the site will not adversely affect the safe and efficient use of airspace.

~~This rule is intended to implement Iowa Code sections 328.19 and 328.35.~~

ITEM 5. Amend 761—Chapter 720 by adding the following new rule:

**761—720.6(328) Revocation or denial.** The department may revoke or deny a certificate of registration or certificate of site approval pursuant to Iowa Code section 328.19.

ITEM 6. Amend rule 761—720.10(328) as follows:

**761—720.10(328) Minimum safety standards.** The minimum safety standards for a public-use airport are as follows:

**720.10(1)** Obstruction hazards *free area*.

a. The following areas of the airport shall be free of obstruction hazards *any obstructions with the exception of operational and frangible equipment that is essential for operation of the airport*:

(1) Within 60 feet (18 meters) of the centerline *30 feet of runway edge markers along the entire length* of a nonpaved runway.

(2) Within 125 feet (38 meters) of the centerline of a paved runway *having either a visual or nonprecision instrument approach procedure*.

(3) Within 150 feet (45 meters) of the centerline of a paved runway *having a precision instrument approach procedure*.

(4) (3) Within 200 feet (60 meters) of the end of any *hard-surfaced paved runway*.

(4) *In no case shall a building be closer than 50 feet from a prepared runway surface. If buildings are on both sides of a runway, they shall be no closer than 125 feet from the runway centerline.*

## TRANSPORTATION DEPARTMENT[761](cont'd)

b. No change.

c. ~~Frangible equipment that provides an essential aviation service is not considered an obstruction hazard. The following areas of the airport shall be free of all agricultural activities (i.e., crops or farm equipment) in excess of 8 inches in height:~~

(1) ~~Within 50 feet of paved runway surfaces and 200 feet from paved runway ends.~~

(2) ~~Within 60 feet of a nonpaved runway centerline.~~

(3) ~~Within a 100-foot radius of automated weather observing system equipment.~~

**720.10(2) Runway.**

a. Width. The minimum usable prepared runway width shall be 50 feet (15 meters).

b. Marking. ~~A hard surfaced runway or taxiway shall be marked according to FAA Advisory Circular 150/5340-1H as amended through December 1, 2000. A turf landing strip or area shall have markers at all corners of the runway to delineate the runway limits. All markers shall be readily discernible from both the air and the ground.~~

(1) ~~Paved runways. Paved runways shall be marked in accordance with FAA Circular 150/5340-1J as amended through April 29, 2005.~~

(2) ~~Nonpaved runways. Airport markers shall be approved by the office of aviation. Markers shall be placed 200 feet apart outlining the length of the landing surface. Thresholds shall be marked using six markers placed perpendicular to the runway heading.~~

c. Line of sight. The runway sight distance shall provide an unobstructed line of sight from any point 5 feet (1.5 meters) above the runway surface to any other point 5 feet (1.5 meters) above the runway surface for the entire length of the runway; or the sponsor shall post in a conspicuous location a warning about the obstruction in the line of sight.

d. No change.

e. ~~Building location. No building on or around the airport shall be closer than 250 feet (75 meters) to the centerline of a runway having an established instrument approach procedure or closer than 125 feet (38 meters) to the centerline of a runway having only a visual approach procedure.~~

**720.10(3) Approach zones.**

a. Approaches shall be clear of obstructions above a glide path of 20:1 from the ends of each usable runway. If an obstruction exists in an approach zone, the runway threshold on a paved runway shall be displaced in accordance with FAA Advisory Circular 150/5300-13, Appendix 2, as amended through October 1, 2002, and marked in accordance with FAA Advisory Circular 150/5340-1H 150/5340-1J as amended through December 1, 2000 April 29, 2005. On a ~~turf~~ nonpaved runway, the runway end markers shall be relocated to provide the prescribed obstruction clearance. The runway length remaining between the displaced threshold and the departure end of the runway is the landing distance available.

b. When the approach zone to any runway crosses a road or railroad, the glide path on a 20:1 ratio shall pass at least 17 feet (5 meters) above an interstate highway, 15 feet (4.5 meters) above any other public roadway, 10 feet (3 meters) above a private road, and 23 feet (7 meters) above a railroad.

**720.10(4) Facilities.** The airport shall provide all of the following facilities:

a. Wind indicator. The airport shall be equipped with a wind ~~cone~~ sock, blaze orange in color, which shall be clearly visible from the traffic pattern altitude within one mile of the airport during daylight hours. If the airport is lighted for night operation, the wind ~~cone~~ or wind ~~tee~~ sock shall also be lighted.

b. Lighting. If an airport is lighted for night operation, the system shall be lighted from dusk to dawn. An *operable* air-to-ground controller for the lighting system ~~shall be considered to will~~ meet this requirement.

c. Telephone. ~~A telephone, capable of direct contact with the nearest FAA flight service station, shall be available for public use 24 hours each day. A list shall be posted in a conspicuous place near the telephone with telephone numbers for emergencies (fire department, police, ambulance) and service (manager or person in charge of the airport). A telephone shall be available for public use.~~

d. Fire extinguisher. At least one *operational class B and class C* fire extinguisher capable of extinguishing all classes of fires shall be readily accessible to aircraft *operational fueling or ramp* areas. ~~Fire extinguishers shall be inspected and serviced as necessary, but at least once a year.~~

This rule is intended to implement Iowa Code sections 328.12, 328.19 and 328.35.

ITEM 7. Amend subrule 720.15(2) as follows:

**720.15(2) Marking.** All marking indicating a usable runway shall be obliterated. The sponsor shall place at a central location a yellow X with bars a minimum of 8 feet (2.5 meters) wide by 40 feet (12 meters) long in accordance with FAA Advisory Circular 150/5340-1J as amended through April 29, 2005.

ITEM 8. Amend subrule 720.15(3) as follows:

**720.15(3) Temporary closing.** When conditions require the temporary closing of a runway, it shall be marked on both ends with a yellow X with bars a minimum of 8 feet (2.5 meters) wide by 40 feet (12 meters) long in accordance with FAA Advisory Circular 150/5340-1J as amended through April 29, 2005.

ITEM 9. Amend rule **761—720.15(328)** by striking the implementation clause.

ITEM 10. Amend **761—Chapter 720** by adopting the following **new** implementation clause:

These rules are intended to implement Iowa Code sections 328.1, 328.12, 328.19 and 328.35.

## NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for April is 6.75%.

### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

**RECOMMENDED** Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code sec-



NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

tion 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

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

New official state interest rates, effective April 10, 2007, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days . . . . .	Minimum 1.85%
32-89 days . . . . .	Minimum 2.85%
90-179 days . . . . .	Minimum 3.25%
180-364 days . . . . .	Minimum 3.65%
One year to 397 days . . . . .	Minimum 3.80%
More than 397 days . . . . .	Minimum 4.60%

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

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

**ARC 5849B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority hereby amends Chapter 7, “Contested Cases,” and Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

The purpose of these amendments is to update references to the Iowa Rules of Civil Procedure to reflect changes made to the numbering of the Rules of Civil Procedure.

The Authority does not intend to grant waivers other than as may be allowed under the Authority’s general rules concerning waivers.

Pursuant to Iowa Code section 17A.4(2), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that the amendments are technical in nature. These amendments merely update existing rules to reflect the new numbering system of the Iowa Rules of Civil Procedure.

The Authority finds that these amendments confer a benefit on the persons affected, in that the amendments correct the administrative rules by referencing the updated numbering system of the Iowa Rules of Civil Procedure, thereby avoiding confusion and easing the administration of the Authority’s programs. The Authority finds that these amendments should be implemented as soon as feasible in order to eliminate incorrect references in the administrative rules. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on December 6, 2006.

These amendments became effective on April 3, 2007.

These amendments are intended to implement Iowa Code section 16.5(17).

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 7.15(5), introductory paragraph, as follows:

**7.15(5)** Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure ~~237~~ *1.981* and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

ITEM 2. Amend subrule 7.22(6) as follows:

**7.22(6)** “Good cause” for purposes of this rule shall have the same meaning as “good cause” for setting aside a default judgment under Iowa Rule of Civil Procedure ~~236~~ *1.977*.

ITEM 3. Amend subrule **9.20(8)**, paragraph “**d**,” as follows:

d. In the event the notice sent by certified mail to the last-known mortgage servicer of record is returned to the division for the reason that the mortgage servicer is no longer at the

address or the certificate of receipt is not returned within 30 days of mailing, the division shall attempt to serve the mortgage servicer pursuant to Iowa Rule of Civil Procedure ~~56.1~~ *1.305*.

[Filed Emergency 4/3/07, effective 4/3/07]

[Published 4/25/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/25/07.

**ARC 5848B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), 2005 Iowa Acts, chapter 161, section 5, 2005 Iowa Acts, chapter 115, section 37, 2006 Iowa Acts, chapter 1167, and 2007 Iowa Acts, Senate File 95, the Iowa Finance Authority hereby amends Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to continue a program to help eligible members of the armed forces of the United States to purchase qualified homes in Iowa through matching grants and to reflect a change adopted by the enactment of 2007 Iowa Acts, Senate File 95. In 2005, the Legislature enacted 2005 Iowa Acts, chapter 161, section 5, and 2005 Iowa Acts, chapter 115, section 37, appropriating funds to the Iowa Finance Authority for a military service member home ownership assistance program. In 2006, the Legislature enacted 2006 Iowa Acts, chapter 1167, appropriating additional funds and continuing the program. In February 2007, the Legislature enacted 2007 Iowa Acts, Senate File 95, again appropriating additional funds and continuing the program. 2007 Iowa Acts, Senate File 95, also modifies the statutory definition of “eligible member of the armed forces of the United States.” These amendments adopt that modification and further seek to ensure that grant funds are expended only for conveyances of marketable title by requiring the issuance of a title guaranty certificate for any financed transaction which is the subject of a grant under the program.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

Pursuant to Iowa Code section 17A.4(2), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that 2007 Iowa Acts, Senate File 95, which, being deemed of immediate importance, took effect immediately upon enactment, directs the Authority to continue its existing home ownership assistance program which was commenced and operated pursuant to 2005 Iowa Acts, chapter 161, section 5, 2005 Iowa Acts, chapter 115, section 37, and 2006 Iowa Acts, chapter 1167. These amendments merely reflect the expansion of the statutory definition of “eligible member of the armed forces of the United States” and codify the existing assistance program.

The Authority finds that these amendments confer a benefit on the persons affected, eligible members of the armed forces, in that these amendments ease and speed the administration of an important and popular state grant program benefiting those members of the armed forces and should be

IOWA FINANCE AUTHORITY[265](cont'd)

implemented as soon as feasible in order to facilitate the awarding of grants under the program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on March 14, 2007.

These amendments became effective April 3, 2007.

These amendments are intended to implement Iowa Code section 16.5(17), 2005 Iowa Acts, chapter 161, section 5, 2005 Iowa Acts, chapter 115, section 37, 2006 Iowa Acts, chapter 1167, and 2007 Iowa Acts, Senate File 95.

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 rule **265—27.2(16)**, definition of “eligible service member” as follows:

“Eligible service member” means a resident of this state who, at the time of applying for a grant under the program,

has served on active duty in a Title 10, United States Code, active federal military service status for at least 90 days cumulative, other than training, during the period beginning September 11, 2001, and ending June 30, ~~2007~~ 2008, as a member of the national guard, reserve, or regular component of the armed forces of the United States.

ITEM 2. Amend subrule 27.4(1), introductory paragraph, as follows:

**27.4(1)** Financed home purchases. In the case of a financed purchase of a qualified home, upon confirmation of the applicant's duty status by the Iowa National Guard, and provided that the information submitted on the grant application form complies with the requirements of this chapter, *and upon submission to the authority of evidence that a title guaranty certificate has been or will be issued for the purchase*, the authority shall notify the participating lender that the grant application has been approved.

[Filed Emergency 4/3/07, effective 4/3/07]

[Published 4/25/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/25/07.

**ARC 5843B****ARCHITECTURAL EXAMINING BOARD[193B]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby amends Chapter 4, "Rules of Conduct," Iowa Administrative Code.

The amendment to Chapter 4 provides a registrant the opportunity to certify architectural documents with a "secure electronic" signature that meets the requirements of Iowa Code section 554D.103(14).

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

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 14, 2007, as **ARC 5703B**. No written or oral comments were received. There are no changes to the amendment published under Notice of Intended Action.

The Board adopted this amendment on March 27, 2007.

This amendment is intended to implement Iowa Code chapters 17A and 544A and section 554D.103(14).

This amendment shall become effective May 30, 2007.

The following amendment is adopted.

Amend subrule **4.1(7)**, paragraph "e," as follows:

e. The information requested in each information block must be typed or legibly printed in permanent ink or ~~digital a secure electronic signature~~. *An electronic signature as defined in or governed by Iowa Code chapter 554D on each official copy meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee's responsibility to ensure, prior to affixing an electronic signature to a technical submission, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed.* The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.

[Filed 3/29/07, effective 5/30/07]

[Published 4/25/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/25/07.

**ARC 5851B****ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 61, "Water Quality Standards," Iowa Administrative Code.

The amendment will provide water quality certification pursuant to Section 401 of the federal Clean Water Act (33 U.S.C. Section 1341) for 49 U.S. Army Corps of Engineers' Nationwide Permits (NWP) and three Regional Permits (RPs).

Section 404 of the Clean Water Act requires a permit from the Corps of Engineers for the discharge of dredged or fill materials into the nation's waters. Section 401 of the Act requires that before the Corps can issue a Section 404 permit, the state water quality agency must certify that the proposed activity will not violate state water quality standards.

Section 404 authorizes the Corps to issue general permits on a state, regional or nationwide basis for categories of activities when such activities will have minimal adverse effects. The Corps has used its general permit authority to issue a number of general permits on a nationwide basis (i.e., NWP). General permits, including nationwide permits, may be issued for a period not exceeding five years, and a state water quality agency must provide Section 401 certification for a Section 404 general permit before the general permit is valid for that particular state. The Commission previously provided Section 401 certification for 43 NWP and 4 regional permits. These permits are referenced in 61.2(2)"h."

Notice of Intended Action was published in the December 6, 2006, Iowa Administrative Bulletin as **ARC 5598B**. A public hearing was held, and comments were received. A responsiveness summary was prepared addressing all comments received. The responsiveness summary is available from the Department of Natural Resources and has been filed with the Administrative Rules Coordinator.

The comments received were from individuals representing the Iowa chapter of the Sierra Club and the Iowa Environmental Council. Commenters requested that the DNR work closely with the Corps to provide the highest possible level of protection for Iowa's water bodies. In response to comments received, changes to the proposed amendment have been made. The adopted amendment differs from the amendment published under Notice of Intended Action as follows:

In the March 12, 2007, Federal Register, the Corps changed the designation of nationwide permits "A through F" (as referenced in the September 26, 2006, Federal Register) to "45 through 50." Language in paragraph 61.2(2)"h" has been revised to reflect this change.

The DNR is certifying the nationwide permits and regional permits and their respective conditions. Based on comments received, the DNR has added two state water quality conditions to paragraph 61.2(2)"h." The first condition requires an individual Section 401 Water Quality Certificate for any projects that impact fens, bogs, seeps, or sedge meadows. These wetlands are rare, often contain threatened or endangered species, and deserve extra protection and heightened review. The second condition requires an individual Section 401 Water Quality Certificate for nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit. Even though the Corps does not waive many limits (the 2002 nationwide permits also had waiver provisions), the DNR would like to review these projects to make sure that they have only minimal impacts on Iowa's water bodies and that they do not violate Iowa's water quality standards.

Additionally, one sentence in paragraph 61.2(2)"h" was changed to more accurately reflect the nationwide and regional permit processes.

This amendment will become effective on May 30, 2007.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendment is adopted.

Amend subrule **61.2(2)**, paragraph "h," as follows:

h. This policy shall be applied in conjunction with water quality certification review pursuant to Section 401 of the

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Act. In the event that activities are specifically exempted from flood plain development permits or any other permits issued by this department in 567—Chapters 70, 71, and 72, the activity will be considered consistent with this policy. Other activities not otherwise exempted will be subject to 567—Chapters 70, 71, and 72 and this policy. The repair and maintenance of a drainage district ditch as defined in 567—70.2(455B,481A) will not be considered a violation of the antidegradation policy for the purpose of implementing Title IV of these rules. United States Army Corps of Engineers (Corps) nationwide permits 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 43, and 44, 45, 46, 47, 48, 49, and 50 as well as Corps regional permits 7, 33, and 34 as promulgated March 18, 2002 19, 2007, are certified pursuant to Section 401 of the Clean Water Act subject to the following Corps regional conditions and the state water quality conditions:

(1) Side slopes of a newly constructed channel will be no steeper than 2:1 horizontal to 1 vertical and planted to permanent, perennial, native vegetation if it is not armored.

(2) Nationwide permits with mitigation may require recording of the nationwide permit and pertinent drawings with the registrar of deeds or other appropriate official charged with the responsibility for maintaining records of title to, or interest in, real property and may also require the permittee to provide proof of that recording to the Corps.

(3) Mitigation shall be scheduled for construction prior to, or concurrent with, the construction of the main project discharge of dredged or fill material into waters of the United States.

(4) For discharges of dredged or fill material resulting in the permanent loss of more than 1/10 acre of waters of the United States (including jurisdictional wetlands), a compensatory mitigation plan to offset those losses will be required. In addition, a preconstruction notice to the Corps of Engineers in accordance with general condition 27 will be required.

(5) For newly constructed channels through areas that are unvegetated, native grass filter strips or a riparian buffer with native trees or shrubs a minimum of 35 feet wide from the top of the bank must be planted along both sides of the new channel. A survival rate of 80 percent of desirable species shall be achieved within three years of establishment of the buffer strip.

(6) For single-family residences authorized under nationwide permit 29, the permanent loss of waters of the United States (including jurisdictional wetlands) must not exceed 1/4 acre.

(7) For nationwide permit 46, the discharge of dredged or fill material into ditches that would sever the jurisdiction of an upstream water of the United States from a downstream water of the United States is not allowed.

(8) For projects that impact fens, bogs, seeps, or sedge meadows, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

(9) For nationwide permits when the Corps' district engineer has issued a waiver to allow the permittee to exceed the limits of the nationwide permit, an individual Section 401 Water Quality Certification will be required (Iowa Section 401 Water Quality Certification condition).

Regional permit numbers 2, 7, 12, and 20 of the Rock Island District of the Corps are also certified. No specific Written verification by the Corps permit or 401 certification by the state is required for activities covered by these permits unless as required by the nationwide permit or the Corps, and the activities are allowed subject to the terms and conditions

of the nationwide and regional permits. The department will maintain and periodically update a guidance document listing special waters of concern. This document will be provided to the Corps for use in determining whether preconstruction notices should be provided to the department and other interested parties prior to taking action on applications for projects that would normally be covered by a nationwide or regional permit and not require preconstruction notice under national nationwide permit conditions.

[Filed 4/6/07, effective 5/30/07]

[Published 4/25/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/25/07.

**ARC 5847B****PUBLIC SAFETY  
DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 17A.3, the Department of Public Safety hereby amends Chapter 7, "Devices and Methods to Test Body Fluids for Alcohol or Drug Content," and adopts a new Chapter 157, "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 amendments rescind the provisions of current Chapter 7, except for those for ignition interlock devices, and replace the rescinded provisions with similar provisions that have been updated and clarified, as needed, in new 661—Chapter 157. 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 the future.

Notice of Intended Action proposing the amendments adopted herein was published in the Iowa Administrative Bulletin on September 13, 2006, as **ARC 5373B**. A public hearing on the proposed amendments was held on October 5, 2006. No comments were received at the hearing or otherwise on the substance of the amendments. The following changes have been made since the Notice of Intended Action.

The new chapter is numbered 157 rather than 155 to improve compatibility with the renumbering of other chapters of the Department's rules. In Item 1, subrule 7.8(13) has been rescinded and a new subrule adopted in lieu thereof which clarifies the authority of the Department to inspect ignition interlock device manufacturers and service providers and to require that data downloaded from devices be made available to the Department of Transportation. In

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Item 2, the language of subrule 157.5(2) has been changed to clarify that alcohol testing devices are required to be checked monthly and calibrated only if needed.

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

These amendments will become effective on June 1, 2007. The following amendments are adopted.

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—7.5(321J)**, **661—7.7(321J)**, and **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(1).

Rescind subrule 7.8(13) and adopt the following **new** subrule in lieu thereof:

**7.8(13)** The department of public safety may, at the department’s discretion, inspect any ignition interlock device manufacturer or service provider at any time. All records of devices installed, results of calibrations, results of known alcohol standards, and data downloaded from ignition interlock devices shall be made available for inspection upon request to representatives of the department of public safety or the department of transportation or to any peace officer. The results of the inspection shall be made available to the manufacturer or service provider and to the department of transportation.

Amend rule **661—7.8(321J)** by adopting the following **new** implementation sentence:

This rule is intended to implement Iowa Code chapter 321J.

Rescind the implementation sentence at the end of 661—Chapter 7.

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

CHAPTER 157  
DEVICES AND METHODS TO TEST BODY FLUIDS  
FOR ALCOHOL OR DRUGS

**661—157.1(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—157.2(321J) Breath testing.**

**157.2(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 immediately 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 Recertification 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.

**157.2(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.

**157.2(3)** Although any breath testing device that meets the minimum performance requirements established by the National Highway Traffic Safety Administration, and cited in subrule 157.2(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—157.3(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:

**157.3(1)** The collection shall be made in the presence of a peace officer or other reliable person under the supervision of

PUBLIC SAFETY DEPARTMENT[661](cont'd)

a peace officer. The peace officer or other person in the presence of the subject shall be of the same gender as the subject.

157.3(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.

157.3(3) It is not necessary that the bladder be completely emptied. Later samples may be taken if desired, but are not necessary.

157.3(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—157.4(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—157.5(321J) Preliminary breath screening test.

157.5(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.

157.5(2) Any peace officer using an approved device shall follow the instructions furnished by the manufacturer for use of such a device. The calibration of each unit shall be checked at least once per month, and the device shall be calibrated, if necessary, using a dry gas standard. The officer or officer's department shall maintain a record of each calibration. This record shall include:

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

661—157.6(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—157.7(321J) Detection of drugs other than alcohol.

157.7(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."

157.7(2) Reserved.

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

[Filed 4/2/07, effective 6/1/07]

[Published 4/25/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 4/25/07.

ARC 5850B

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.8, the Utilities Board (Board) gives notice that on April 4, 2007, 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 Adopting Amendments," in which the Board adopted amendments to the rules on extension of natural gas and electric lines. The amendments to subrules 19.3(10) and 20.3(13) are adopted with certain revisions to the proposed amendments based upon comments received from interested persons and a final review by the Board. The proposed amendments were published in the Iowa Administrative Bulletin at IAB Vol. XXVIII, No. 26 (9/13/06) p. 359, as ARC 5382B.

Comments were filed by MidAmerican Energy Company, Interstate Power and Light Company, Aquila, Inc., d/b/a Aquila Networks, the Consumer Advocate Division of the Department of Justice, the Iowa Association of Electric Cooperatives, 13 homebuilders and homebuilder associations, and Fox Engineering. The Board has made certain revisions to the proposed amendments based upon consideration of the comments. The order containing the background and sup-

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

port for the amendments, as revised, 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, 476.1, 476.2, and 476.8.

These amendments will become effective May 30, 2007.

The following amendments are adopted.

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~~ *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.

"Agreed-upon attachment period." No change.

"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. The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether~~

~~the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.~~

"~~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 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:~~

~~1. (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 three times estimated base revenue, to determine what, if any, advance for construction or nonrefundable contribution in aid of construction is required of the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. Whether or not the construction of the distribution main extension would otherwise require a payment from a customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.~~

~~2. (2) If the estimated construction cost to provide a distribution main extension is greater than three times the esti-~~



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mated 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 utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.~~

(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 or a nonrefundable contribution in aid of construction. The utility may use a feasibility model to determine the amount of the advance for construction or nonrefundable contribution in aid of construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.~~

~~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 ten years. The~~

~~customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.~~

(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 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 distribution main extension and each customer who has service line attached 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.

2. If the combined total of three times estimated base revenue, or the amount allowed by the feasibility model, for the depositor distribution main extension and each customer who has attached service line attached 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, when a service line is attached to the distribution main extension.

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-year period, the customer 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 record of each work order under which the distribution main extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.~~

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:

(Estimated Construction Costs) ×  
 (Total Length in Excess of 50 Feet) or (Total Length in Excess of 100 Feet)  
 (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 construc-~~

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tion 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 customer, the utility shall charge the customer for actual permit fees.

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. ~~Plant additions, electrical line extensions and service lines.~~

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 an 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.

“Agreed-upon attachment period.” No change.

“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. *The customer shall be charged actual permit fees in addition to estimated construction costs. Permit fees are to be paid regardless of whether the customer is required to pay an advance for construction or a nonrefundable contribution in aid of construction, and the cost of any permit fee is not refundable.*

~~“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

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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 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 estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue, to determine what, if any, advance for construction or nonrefundable contribution in aid of construction is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

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 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 utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Advances for construction costs for extensions for customers who will not attach within the agreed-upon attach-

ment 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 make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost or a nonrefundable contribution in aid of construction. The utility may use a feasibility model to determine the amount of the advance for construction or nonrefundable contribution in aid of construction. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

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 ten years. The customer has the option of providing an advance for construction by cash or equivalent surety unless the utility determines that the customer has failed to comply with the conditions of a surety in the past.

(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 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 electrical line extension and each service line attached 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 shall be refunded.

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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 electrical line extension and each service line attached to the electrical line extension is less than the total estimated construction cost to provide the electrical line extension, the amount to be refunded shall equal three times estimated base revenue, or the amount allowed by the feasibility model, when a service line is attached to the electrical line extension.~~

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-year period, the customer 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 record of each work order under which the electrical line extension was installed, to include the estimated revenues, the estimated construction costs, the amount of any payment received, and any refunds paid.*

*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* con-

tribution 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 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 shall charge the customer for actual permit fees.*

*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 to the customer, so long as no discrimination is practiced among customers.

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