



IOWA ADMINISTRATIVE BULLETIN

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CONTENTS IN THIS ISSUE

Pages 171 to 219 include **ARC 6036B** to **ARC 6062B**

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice, Procurement of goods and services of
general use, 105.2, 105.3(3), 105.4(2), 105.7
ARC 6050B 171

ALL AGENCIES

Agency identification numbers 169
Citation of administrative rules 163
Schedule for rule making 164
Subscription information 165

CAPITAL INVESTMENT BOARD, IOWA[123]

Notice, Update of references to statute; taxpayer
identification numbers, 2.1, 2.3, 2.5, 3.1
ARC 6057B 171

EXECUTIVE DEPARTMENT

Executive order number 3 220

HISTORICAL DIVISION[223]

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Filed Emergency, Historic preservation and
cultural and entertainment district tax
credits, ch 48 **ARC 6062B** 191

HUMAN SERVICES DEPARTMENT[441]

Notice, County CPCs—minimum disability
services data set submitted annually to
department, 25.41 **ARC 6043B** 173
Notice, Medicaid—nonemergency transportation
policy, 78.13 **ARC 6045B** 174
Notice, IowaCare, 92.1, 92.2, 92.5, 92.7, 92.12
ARC 6051B 175
Filed Emergency, County CPCs—minimum
disability services data set submitted annually
to department, 25.41 **ARC 6042B** 195

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice, Card game tournaments by veterans
organizations, ch 106 **ARC 6054B** 177
Filed Emergency, Definition of "minority";
annual gross income limit for targeted small
business, 25.1 **ARC 6061B** 201
Filed Emergency, Card game tournaments by
veterans organizations, ch 106 **ARC 6053B** 202

INTERIOR DESIGN EXAMINING BOARD[193G]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Notice, Continuing education, ch 3 **ARC 6044B** ... 177
Notice, Renewal and reinstatement, ch 8
ARC 6041B 179

IOWA FINANCE AUTHORITY[265]

Filed, State housing trust fund, 19.1, 19.2
ARC 6058B 217

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Filed, Water heaters, amend 91.6; adopt ch 95
ARC 6052B 217

NURSING BOARD[655]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Notice, Nursing education programs, ch 2
ARC 6040B 180
Filed, Issuance of duplicate wallet cards or
certificates and temporary licenses, 3.5(3),
3.7(6) **ARC 6039B** 219

PUBLIC HEARINGS

Summarized list 166

PUBLIC SAFETY DEPARTMENT[661]

Notice, National criminal history checks for
teacher applicants, 11.21(4) **ARC 6046B** 187
Notice, Policy—release of official photographs
of employees; confidentiality of information about
security procedures or emergency preparedness,
25.3, 25.13"9," 25.15 **ARC 6048B** 188
Filed Emergency, National criminal history
checks for teacher applicants, 11.21(4)
ARC 6047B 205
Filed Emergency, Policy—release of official
photographs of employees; confidentiality of
information about security procedures or
emergency preparedness, 25.3, 25.13"9," 25.15
ARC 6049B 206

Continued on page 163

PREFACE

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

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

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

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

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REVENUE DEPARTMENT[701]

Notice of natural gas delivery tax rate changes 188
 Notice, Tax rates for gasoline and for E-85 gasoline, 68.2(1) **ARC 6055B** 189
 Filed, Tax filing thresholds; special tax computations; phase-out of tax on social security; pension exclusion, 39.1, 39.5, 39.7(1), 39.9, 39.15, 40.23, 40.47 **ARC 6056B** 219

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Filed Emergency After Notice, Iowa financial incentive program for soil erosion control, amendments to ch 10 **ARC 6060B** 207
 Filed Emergency After Notice, Water protection practices—water protection fund, amendments to ch 12 **ARC 6059B** 213

TREASURER OF STATE

Notice—Public funds interest rates 189

WORKERS' COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Notice, Contested cases—use of voice or video technology, 4.49 **ARC 6038B** 190
 Filed Emergency, Contested cases—use of voice or video technology, 4.49 **ARC 6037B** 215
 Filed Emergency, Payroll tax tables, 8.8 **ARC 6036B** 216

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).

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
Dec. 27 '06	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	***May 16***	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	***June 27***	July 18	Aug. 22	Nov. 19
May 16	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
June 27	July 18	Aug. 7	Aug. 22	***Aug. 22***	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
Aug. 22	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	***Nov. 14***	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	***Dec. 12***	Jan. 2 '08	Feb. 6 '08	May 5 '08
Nov. 2	Nov. 21	Dec. 11	Dec. 26	***Dec. 26***	Jan. 16 '08	Feb. 20 '08	May 19 '08
Nov. 14	Dec. 5	Dec. 25	Jan. 9 '08	Jan. 11 '08	Jan. 30 '08	Mar. 5 '08	June 2 '08
Nov. 30	Dec. 19	Jan. 8 '08	Jan. 23 '08	Jan. 25 '08	Feb. 13 '08	Mar. 19 '08	June 16 '08
Dec. 12	Jan. 2 '08	Jan. 22 '08	Feb. 6 '08	Feb. 8 '08	Feb. 27 '08	Apr. 2 '08	June 30 '08
Dec. 26	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>
4	Friday, July 27, 2007	August 15, 2007
5	Friday, August 10, 2007	August 29, 2007
6	Wednesday, August 22, 2007	September 12, 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*****

SUBSCRIPTION INFORMATION

In 2008, mail subscriptions to the Iowa Administrative Bulletin and the Iowa Administrative Code will be discontinued, and Internet updating and printing options will be instituted through the Iowa General Assembly's Internet home page: www.legis.state.ia.us.

Iowa Administrative Bulletin

July 2007 through December 2007 \$169

Iowa Administrative Code Supplement

*July 2007 through December 2007 \$263

***Please note that if the Internet updating and printing options are not operational in January 2008, the above six-month subscriptions (July 2007 – December 2007) will be continued at no cost to the subscriber until the Internet updating and printing options become operational.**

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NOTE: In 2008, the format of the Iowa Administrative Code will change to 8 ½" x 11" pages.

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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]		
Reorganization, amend chs 1, 53, 57, 59, 60, 61, 68; rescind chs 2, 17, 103, 168; renumber chs 102, 104, 132 as chs 33, 34, 72 and chs 169 to 173 as chs 195 to 199; adopt chs 165, 171 to 175, 187 to 189 IAB 7/4/07 ARC 6027B (See also ARC 6026B) (ICN Network)	(Origination Site) Main Conference Room Second Floor 200 E. Grand Ave. Des Moines, Iowa	July 26, 2007 2 to 3:30 p.m.
	Kuemper High School 109 S. Clark Carroll, Iowa	July 26, 2007 2 to 3:30 p.m.
	Clarinda High School 100 N. Cardinal Dr. Clarinda, Iowa	July 26, 2007 2 to 3:30 p.m.
	Eastern Iowa Comm. College District 1 Kahl Educational Center, Rm. 300 326 W. Third St. Davenport, Iowa	July 26, 2007 2 to 3:30 p.m.
	Carnegie-Stout Public Library 360 W. 11th St. Dubuque, Iowa	July 26, 2007 2 to 3:30 p.m.
	Fort Dodge Public Library 424 Central Ave. Fort Dodge, Iowa	July 26, 2007 2 to 3:30 p.m.
	Iowa City High School 1900 Morningside Dr. Iowa City, Iowa	July 26, 2007 2 to 3:30 p.m.
	Keokuk Public Library 210 N. 5th Keokuk, Iowa	July 26, 2007 2 to 3:30 p.m.
	NIACC 500 College Dr. Mason City, Iowa	July 26, 2007 2 to 3:30 p.m.
	Oskaloosa Public Library 301 S. Market Oskaloosa, Iowa	July 26, 2007 2 to 3:30 p.m.
	East High School 5011 Mayhew Ave. Sioux City, Iowa	July 26, 2007 2 to 3:30 p.m.
	Spencer High School 800 E. 3rd St. Spencer, Iowa	July 26, 2007 2 to 3:30 p.m.
	Hawkeye Community College -1 1501 E. Orange Rd. Waterloo, Iowa	July 26, 2007 2 to 3:30 p.m.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261] (Cont'd)

Workforce training and economic
development funds, 9.1 to 9.10

IAB 7/4/07 **ARC 6032B**

(ICN Network)

[See listing for **ARC 6027B** above]

Housing fund, 25.2, 25.6(8), 25.9(3)

IAB 7/4/07 **ARC 6029B**

(ICN Network)

[See listing for **ARC 6027B** above]

Film, television, and video project
promotion program, ch 36

IAB 7/4/07 **ARC 6031B**

(See also **ARC 6030B**)

(ICN Network)

[See listing for **ARC 6027B** above]

COG assistance, 44.6

IAB 7/4/07 **ARC 6028B**

(ICN Network)

[See listing for **ARC 6027B** above]

Enterprise zones, 59.2, 59.3(6)

IAB 7/4/07 **ARC 6033B**

(ICN Network)

[See listing for **ARC 6027B** above]

INSURANCE DIVISION[191]

Producer training requirements,
39.15(4)

IAB 7/4/07 **ARC 5984B**

330 Maple Street
Des Moines, Iowa

July 24, 2007
10 a.m.

IOWA FINANCE AUTHORITY[265]

Low-income housing tax credits,
12.1, 12.2

IAB 7/4/07 **ARC 6014B**

2015 Grand Ave.
Des Moines, Iowa

July 24, 2007
9 to 11 a.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Update of reference; calculation of
retirement benefits, 11.5(2), 12.1(7)

IAB 7/4/07 **ARC 6035B**

7401 Register Dr.
Des Moines, Iowa

July 24, 2007
9 a.m.

LAW ENFORCEMENT ACADEMY[501]

Decertification; reserve peace
officers, amendments to chs 6, 10

IAB 7/4/07 **ARC 6025B**

Classrooms 3 and 4
Law Enforcement Academy
Camp Dodge
Johnston, Iowa

July 24, 2007
1 p.m.

NATURAL RESOURCE COMMISSION[571]

Guttenberg Municipal Bldg.
502 S. 1st St.
Guttenberg, Iowa

July 18, 2007
7 p.m.

NURSING BOARD[655]

Nursing education programs, ch 2 IAB 7/18/07 ARC 6040B	Des Moines West Room Holiday Inn Downtown 1050 Sixth Ave. Des Moines, Iowa	September 12, 2007 6 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Massage therapy, amendments to chs 130 to 135 IAB 7/4/07 ARC 5977B	Board Conference Room, 5th Floor Lucas State Office Bldg. Des Moines, Iowa	July 24, 2007 9 to 9:30 a.m.
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PUBLIC SAFETY DEPARTMENT[661]

National criminal history checks for teacher applicants, 11.21(4) IAB 7/18/07 ARC 6046B (See also ARC 6047B herein)	First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa	September 5, 2007 10 a.m.
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Public records and fair information practices, 25.3, 25.13, 25.15 IAB 7/18/07 ARC 6048B (See also ARC 6049B herein)	First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa	September 5, 2007 9:30 a.m.
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STATE PUBLIC DEFENDER[493]

Hourly rate paid for indigent defense cases, 12.4, 12.5, 12.6(3), 14.3 IAB 7/4/07 ARC 6016B (See also ARC 6015B)	Conference Room 422 Lucas State Office Bldg. Des Moines, Iowa	July 27, 2007 9 a.m.
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

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

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

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

The following list will be updated as changes occur:

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

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

ARC 6050B**ADMINISTRATIVE SERVICES
DEPARTMENT[11]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 8A.311, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 105, “Procurement of Goods and Services of General Use,” Iowa Administrative Code.

These amendments are proposed to reflect changes to Iowa Code chapter 8A brought about by 2007 Iowa Acts, House File 890.

Any interested person may make written comments on these proposed amendments on or before August 7, 2007. Such written materials should be directed to Marianne Mickelson, DAS Rules Administrator, Hoover State Office Building, Level B, Des Moines, Iowa 50319, or may be sent by E-mail to Marianne.Mickelson@iowa.gov.

These amendments are intended to implement Iowa Code chapter 8A as amended by 2007 Iowa Acts, House File 890.

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 **11—105.2(8A)**, definitions of “board” and “newspaper of general circulation,” as follows:

“Board” means the technology governance board established by 2005 Iowa Acts, chapter 90, section 3 *Iowa Code section 8A.204*.

“Newspaper of general circulation” means a newspaper meeting the definition set forth in Iowa Code section 618.3 as amended by 2003 Iowa Acts, House File 545, section 1.

ITEM 2. Amend subrule 105.3(3) as follows:

105.3(3) Construction procurement. Formal competition shall be used for selection of a vendor for construction, erection, demolition, alteration, or repair of a public improvement when the cost of the work exceeds ~~\$25,000~~ *\$100,000*.

ITEM 3. Amend paragraph **105.4(2)“a”** as follows:

a. Justification for TSB procurement. Agencies may purchase from a TSB without competition for a purchase up to ~~\$5,000~~ *\$10,000*.

ITEM 4. Amend paragraph **105.7(1)“a”** as follows:

a. Bid posting. The department and each state agency shall provide notice of solicitations. The department and each state agency shall post notice of every formal competitive bidding opportunity and proposal to the official Internet site, <http://bidopportunities.iowa.gov>, operated by the department of administrative services in accordance with Iowa Code sections 73.2, and 8A.311, and 362.3 as amended by 2005 Iowa Acts, House File 814. Instead of direct posting, the agency may add a link to <http://bidopportunities.iowa.gov> that connects to the Web site maintained by the agency

on which requests for bids and proposals for that agency are posted. For the purposes of this subrule, a formal solicitation is as defined by the appropriate procurement authority. Informal competitive bidding opportunities and proposals may also be posted on or linked to the official state Internet site operated by the department of administrative services.

ITEM 5. Amend subrule 105.7(3) as follows:

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

ITEM 6. Amend subrule 105.7(4) as follows:

105.7(4) Construction procurement exceeding ~~\$25,000~~ *\$100,000*. Construction solicitations shall be advertised twice in a newspaper of general circulation published in the county within which the work is to be done. Additional means of advertisement used shall be consistent with practices in the construction industry. The department may publish an advertisement in an electronic format as an additional method of soliciting bids.

ARC 6057B**CAPITAL INVESTMENT BOARD,
IOWA[123]****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 15E.63, the Iowa Capital Investment Board hereby gives Notice of Intended Action to amend Chapter 2, “Tax Credit for Investments in Qualifying Businesses and Community-Based Seed Capital Funds,” and Chapter 3, “Tax Credit for Investments in Venture Capital Funds,” Iowa Administrative Code.

These amendments are proposed as a result of 2007 Iowa Acts, House File 923 and Senate File 557.

Items 1, 2 and 6 amend rules 123—2.1(15E), 123—2.3(15E) and 123—3.1(15E), respectively, to correct references to the Iowa Code as amended by 2007 Iowa Acts, Senate File 557, pertaining to taxes imposed on credit unions.

Items 3 and 4 amend subrules 2.5(1) and 2.5(2) to provide that taxpayer identification numbers of investors do not have to be submitted with the initial application filed by a qualifying business or a community-based seed capital fund.

Item 5 amends the implementation clause for 123—Chapter 2.

These amendments are being proposed by the Department of Revenue on behalf of the Iowa Capital Investment Board pursuant to an Administrative Services Agreement between the Department and the Board.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

CAPITAL INVESTMENT BOARD, IOWA[123](cont'd)

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

The Board has determined that these proposed amendments may have an impact on small business. The Board has considered the factors listed in Iowa Code section 17A.4A. The Board will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than August 20, 2007, to the Iowa Capital Investment Board, in care of the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 7, 2007. Such written comments should be directed to the Iowa Capital Investment Board, in care of the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Iowa Capital Investment Board, in care of the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by August 8, 2007.

These amendments are intended to implement Iowa Code sections 15E.44 and 15E.45 as amended by 2007 Iowa Acts, House File 923 and Senate File 557.

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 123—2.1(123) as follows:

123—2.1(15E) Tax credit for investments in qualifying businesses and community-based seed capital funds. For tax years beginning on or after January 1, 2002, a taxpayer may claim a tax credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II, for a portion of the taxpayer's equity investment in a qualifying business. For tax years beginning on or after January 1, 2004, a taxpayer may claim a credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed ~~under Iowa Code section 533.24 pursuant to 2007 Iowa Acts, Senate File 557, section 60~~, for a portion of a taxpayer's equity investment in a qualifying business. For tax years beginning on or after January 1, 2002, a taxpayer may claim a credit against the taxpayer's tax liability for personal net income tax imposed under Iowa Code chapter 422, division II, business tax on corporations imposed under Iowa Code chapter 422, division III, taxation of financial institu-

tions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed ~~under Iowa Code section 533.24 pursuant to 2007 Iowa Acts, Senate File 557, section 60~~, for a portion of a taxpayer's equity investment in a community-based seed capital fund. For investments made prior to January 1, 2004, only natural persons shall be eligible for the investment tax credit provided for an investment in a qualifying business. For investments made prior to January 1, 2004, a natural person includes an individual taxed on income from a revocable trust. Natural persons and various types of legal entities including, but not limited to, corporations, limited liability companies, partnerships (both general and limited), trusts and estates shall be eligible for the investment tax credit provided for an investment in a community-based seed capital fund and for investments made prior to January 1, 2004, in a qualifying business. If the taxpayer that is entitled to an investment tax credit for an investment in a community-based seed capital fund or a qualifying business is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns. For investments made prior to January 1, 2004, an individual shall not separately claim a tax credit for an investment in a qualifying business for any tax credit allocated to such individual by a pass-through entity as described in the immediately preceding sentence.

ITEM 2. Amend rule 123—2.3(15E) as follows:

123—2.3(15E) Taxpayers eligible for the investment tax credit. A taxpayer who is a natural person and an investor in a qualifying business or community-based seed capital fund is eligible to apply to the board for an investment tax credit applicable against such taxpayer's personal net income tax liability imposed under Iowa Code chapter 422, division II. An individual receiving income from a revocable trust's investment in a qualifying business may claim the tax credit against the taxes imposed under Iowa Code chapter 422, division II, for a portion of the revocable trust's equity investment in a qualifying business. A taxpayer that is a legal entity, such as a corporation, limited liability company, partnership (general or limited), trust or estate, and is an investor in a community-based seed capital fund or an investor in a qualifying business for investments made on or after January 1, 2004, is eligible to apply to the board for an investment tax credit applicable against such taxpayer's tax liability under the business tax on corporations imposed under Iowa Code chapter 422, division III; the taxation of financial institutions imposed under Iowa Code chapter 422, division V; the insurance companies tax imposed under Iowa Code chapter 432, or the taxation of credit unions imposed ~~under Iowa Code section 533.24 pursuant to 2007 Iowa Acts, Senate File 557, section 60~~. The taxpayer's investment must be made in the form of cash to purchase equity in a qualifying business or community-based seed capital fund.

ITEM 3. Amend subrule 2.5(1), paragraph "d," as follows:

d. A signed statement, from an officer, director, manager, member or general partner of the qualifying business, that states the names, addresses, ~~taxpayer identification numbers~~, shares or equity interests issued, consideration paid for the shares or equity interests, and the amounts of any tax credits,

CAPITAL INVESTMENT BOARD, IOWA[123](cont'd)

of all shareholders or equity-holders who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The statement shall contain a commitment by the qualifying business to amend its statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity-holders or as any other information on the list may change; and

ITEM 4. Amend subrule **2.5(2)**, paragraph “c,” introductory paragraph, as follows:

c. A signed statement, from an officer, director, manager, member or general partner of the fund, that states the names, addresses, ~~taxpayer identification numbers~~, equity interests issued, consideration paid for the interests and the amounts of any tax credits, of all limited partners or members ~~that~~ *who* may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The statement shall also contain a commitment by the fund to amend its statement as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity-holders or as any other information on the list may change.

ITEM 5. Amend the implementation clause for **123—Chapter 2** as follows:

These rules are intended to implement Iowa Code chapter 15E as amended by 2005 Iowa Acts, House File 831 and 2007 Iowa Acts, House File 923.

ITEM 6. Amend rule 123—3.1(15E) as follows:

123—3.1(15E) Tax credit for investments in venture capital funds. For tax years beginning on or after January 1, 2002, a taxpayer may claim a tax credit against the taxpayer’s tax liability for personal net income tax imposed under Iowa Code chapter 422, division II; business tax on corporations imposed under Iowa Code chapter 422, division III; taxation of financial institutions imposed under Iowa Code chapter 422, division V; insurance companies tax imposed under Iowa Code chapter 432; or taxation of credit unions imposed under Iowa Code section 533.24 pursuant to 2007 Iowa Acts, Senate File 557, section 60, for a portion of a taxpayer’s equity investment in a venture capital fund. Natural persons and various types of legal entities, including but not limited to corporations, limited liability companies, partnerships (both general and limited), trusts and estates, shall be eligible for the investment tax credit provided for an investment in a venture capital fund. If the taxpayer that is entitled to an investment tax credit for an investment in a venture capital fund is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity shall allocate the allowable credit to each of the individual owners of the entity on the basis of each owner’s pro rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns. A taxpayer shall not claim an investment tax credit for an investment in a venture capital fund if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds described in Iowa Code section 15E.65, an investor that receives a tax credit for the same investment in a community-based seed capital fund as described in Iowa Code section 15E.45, or an investor that receives a tax credit for the same investment in a qualifying business as described in Iowa Code section 15E.44 for investments made on or after January 1, 2004. The taxpayer’s equity investment must be made in the form of cash to purchase equity in a venture capital fund.

ARC 6043B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 225C.6(1)“b” and 331.438(4)“b”(9), the Department of Human Services proposes to amend Chapter 25, “Disability Services Management,” Iowa Administrative Code.

Legislation in 2007 Iowa Acts, House File 909, sections 87 and 88, clarifies data reporting responsibilities of county central point of coordination (CPC) administrators related to county expenditures for qualified mental health, mental retardation, and developmental disabilities services. Reporting is required as a condition of state payment. These amendments update the minimum disability services data set that county CPCs must submit annually to the Department. Under the amendments, the Department will receive the same types of data from all Iowa counties on services funded with mental health and developmental disabilities funds.

The amendments list the expenditure data and provider data needed and establish the format for data submission that must be used by counties. The amendments reflect changes that have been made to the Department’s data warehouse. Unnecessary items have been eliminated, and data is grouped according to the requested report formats.

These amendments do not provide for waivers in specified situations, except that counties shall not be penalized for not reporting data that they did not collect before the effective date of these amendments. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6042B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before August 8, 2007. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 225C.6A as amended by 2007 Iowa Acts, House File 909, section 87, Iowa Code sections 331.438 and 331.439, and 2007 Iowa Acts, House File 909, section 90.

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

ARC 6045B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Iowa Administrative Code.

This amendment contains the following changes to Medicaid nonemergency transportation policy:

- Coverage is added for transportation to obtain prescribed drugs. Costs for transportation to obtain prescribed drugs shall be reimbursed when free prescription delivery is not offered and when a prescription drug is needed immediately, irrespective of whether free delivery is offered.

- The end date to the exception to reimburse transportation by car at 30 cents per mile is removed.

- The requirement that a Medicaid transportation claim be submitted within 90 days is changed to 365 days. Expanding the number of days to submit claims will not add costs and should reduce the number of exceptions to policy for members who had difficulty submitting claims timely.

- Procedures for payment of claims from public transportation agencies are changed. Most transportation payments are issued directly from the Department's automated benefit calculation (ABC) system. Previously, payment through the ABC system did not allow proper accounting for payments to vendors, which the Department is required to report to the Internal Revenue Service. Changes to the ABC system now allow for proper identification of these payments; thus, the requirement that claims for agency providers be submitted on Form GAX, General Accounting Expenditure, and be processed through the Department's Division of Fiscal Management is removed. Department local offices will be able to issue payments to agencies as well as payments to individual members.

- The term "recipient" is changed to "member."

This amendment does not provide for waivers in specified situations because the changes in this amendment benefit the persons affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendment on or before August 8, 2007. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

This amendment is intended to implement Iowa Code section 249A.4.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)

281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 441—78.13(249A) as follows:

441—78.13(249A) Transportation to receive medical care. Payment will be approved for transportation to receive services covered under the program ~~only to the nearest institution or practitioner having appropriate facilities for care of the recipient, including transportation to obtain prescribed drugs, when all of the following conditions are met.~~

78.13(1) Transportation costs are reimbursable only when:

a. The source of the care is located outside the city limits of the community in which the ~~recipient~~ member resides; or

~~78.13(2) The recipient~~ b. The member resides in a rural area and must travel to a city to receive necessary care; and

78.13(2) Transportation costs are reimbursable only when:

~~78.13(3) a.~~ The type of care is not available in the community in which the ~~recipient~~ member resides; or

b. ~~the recipient~~ The member has been referred by the attending physician to a specialist in another community; and

~~78.13(4) There~~ **78.13(3) Transportation costs are reimbursable only when there is no resource available to the recipient member through which necessary transportation might be secured free of charge. EXCEPTION: Costs of transportation to obtain prescribed drugs may be reimbursed irrespective of whether free delivery is offered when the prescription drug is needed immediately.**

78.13(4) Transportation is reimbursable only to the nearest institution or practitioner having appropriate facilities for the care of the member.

78.13(5) Transportation may be of any type and may be provided from any source.

a. ~~When Effective November 1, 2005, when~~ transportation is by car, the maximum payment ~~which that~~ may be made will be the actual charge made by the provider for transportation to and from the source of medical care, but not in excess of 20 30 cents per mile. ~~EXCEPTION: For transportation provided from November 1, 2005, through June 30, 2007, the maximum payment shall be 30 cents per mile.~~

b. No change.

c. In all cases where public transportation is reasonably available to or from the source of care and the ~~recipient's~~ member's condition does not preclude its use, ~~it~~ public transportation must be utilized. When the ~~recipient's~~ member's condition precludes the use of public transportation, a statement to the effect shall be included in the case record.

78.13(6) No change.

78.13(7) No change.

78.13(8) When the services of an escort are required subject to the conditions outlined above in subrule 78.13(6), payment may be made for the escort's meals and lodging, when required, on the same basis as for the recipient member.

78.13(9) Payment will not be made in advance to a recipient member or a provider of medical transportation.

78.13(10) Payment for transportation to receive medical care is made to the recipient member with the following exceptions:

a. Payment may be made to the agency ~~which that~~ provided transportation if the agency is certified by the department of transportation and requests direct payment ~~by submitting Form GAX, General Accounting Expenditure, within 90 days after the trip.~~ Reimbursement for transportation shall be based on a fee schedule by mile or by trip.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. In cases where the local office has established that the recipient *member* has persistently failed to reimburse a provider of medical transportation, payment may be made directly to the provider.

c. No change.

78.13(11) *Form 470-0386*, Medical Transportation Claim, MA-3022-1, shall be completed by the recipient *member* and the medical provider and submitted to the local office for each trip for which payment is requested. All trips to the same provider in a calendar month may, at the client's *member's* option, be submitted on the same form.

78.13(12) No claim shall be paid if presented after the lapse of ~~three months~~ 365 days from its accrual unless it is to correct payment on a claim originally submitted within the required time period. ~~This time limitation is not applicable to claims with the date of service within the three-month period of retroactive Medicaid eligibility on approved applications.~~

This rule is intended to implement Iowa Code section 249A.4.

ARC 6051B

HUMAN SERVICES
DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 92, "IowaCare," Iowa Administrative Code.

These amendments modify IowaCare policies as follows:

- Remove the requirement of a premium for IowaCare members whose income is at or below 100 percent of the federal poverty level. The legislature directed the Department to make this change in 2007 Iowa Acts, House File 909, section 104. The Department also plans to file emergency rules to implement this change.

- Provide that premiums will not be charged on initial applications for the month of decision or for any previous months, including the retroactive month. For this purpose, the "initial application" is defined as the first application that a member submits for IowaCare or an application that a member submits after a break in assistance of one month or more. Members should not pay a premium for a month when they are not able to access services. Many members do not access services until they receive an approval notice.

- Provide that the mandatory four months of premiums begin with the first month when a premium payment is required. The member will still be required to pay premiums for the four mandatory months, even if the member requests cancellation before the mandatory months begin.

- Clarify that persons who have catastrophic health insurance will not be considered to have access to health insurance, as the high deductible for this type of health insurance is deemed unaffordable. With this change, a person with catastrophic insurance could be eligible for IowaCare.

- Clarify that a member is terminated from IowaCare when the member begins receiving other Medicaid coverage.

- Remove the reference to requirements for the Health Insurance Premium Payment (HIPP) program. The HIPP program does not pay for health insurance for an IowaCare member.

- Update the mailing address for sending IowaCare premiums to the Iowa Medicaid Enterprise.

These amendments also clarify the following elements of current policy:

- A standard deduction equal to 40 percent of the gross income is allowed for expenses of providing child care, unless the applicant provides proof of higher expenses.

- The first \$50 of child support is exempted as unearned income.

- All unearned nonrecurring lump-sum income is disregarded.

- Earned lump-sum income is prorated over the period for which the income is received.

- Premiums are refunded when the person no longer meets the program requirements after the premiums for the four mandatory months have been paid. This situation occurs when members pay premiums in advance.

- Excess premiums that have been paid on inactive accounts are refunded.

- Excess premiums on active accounts are refunded when the member requests the refund.

These amendments do not provide for waivers in specified situations because they benefit the persons affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before August 8, 2007. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Analysis and Appeals, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code chapter 249J as amended by 2007 Iowa Acts, House File 909, section 104.

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

The following amendments are proposed.

ITEM 1. Amend rule **441—92.1(249A,249J)** by adopting the following **new** definition in alphabetical order:

"Initial application" means the first application for IowaCare or an application that is filed after a break in assistance of one month or more.

ITEM 2. Amend rule 441—92.2(249A,249J) as follows:

Amend the introductory paragraph as follows:

441—92.2(249A,249J) Eligibility. IowaCare eligibility shall be determined according to the requirements of rules 441—75.2(249A) to 441—75.4(249A), 441—75.7(249A), 441—75.10(249A), *and* 441—75.12(249A), ~~and 441—75.21(249A)~~ and the provisions of this rule.

Amend subrule **92.2(4)**, paragraph "**b**," as follows:

b. The applicant or member is enrolled in a group health plan but states that:

(1) Exclusions for preexisting conditions apply; or

(2) The needed services are not covered by the plan; or

HUMAN SERVICES DEPARTMENT[441](cont'd)

(3) The limits of benefits under the plan have been reached; *or*
 (4) *The plan includes only catastrophic health care coverage.*

ITEM 3. Amend rule 441—92.5(249A,249J) as follows:
 Amend subrule **92.5(3)** by adopting the following **new** paragraph “**c**”:

c. Gross income from providing child care in the applicant’s or member’s own home shall include the total payments received for the service and any payment received due to the Child Nutrition Amendments of 1978 for the cost of providing meals to children.

(1) In determining the net profit counted as earned income from providing child care services in the applicant’s or member’s own home, 40 percent of the total gross income received shall be deducted to cover the costs of producing the income, unless the applicant or member requests to have actual expenses in excess of the 40 percent considered.

(2) When the applicant or member verifies expenses in excess of 40 percent of the total gross income received, the net profit counted as earned income shall be determined in the same manner as specified at paragraph 92.5(3)“b.”

Amend subrule **92.5(4)**, paragraph “**a**,” as follows:

a. 441—subrule 75.57(6), paragraph “b,” “c,” “d,” “e,” “f,” “g,” “h,” “i,” “j,” “k,” “l,” “m,” “p,” “q,” “r,” “t,” “u,” “v,” “w,” “x,” “y,” “z,” or “aa”; or

Adopt the following **new** subrules 92.5(7) and 92.5(8):

92.5(7) Unearned nonrecurring lump-sum income. All unearned nonrecurring lump-sum income shall be disregarded.

92.5(8) Earned lump-sum income. Anticipated earned lump-sum income shall be prorated over the period for which the income is received.

ITEM 4. Amend rule 441—92.7(249A,249J) as follows:

Amend the introductory paragraph as follows:

441—92.7(249A,249J) Financial participation. In addition to the copayments required by 441—subrule 79.1(13), IowaCare members, with the exception of newborns eligible pursuant to 92.2(1)“c,” shall be assessed a sliding-scale monthly premium. *No premium shall be assessed at the time of initial application for months of eligibility before and including the month of decision, including the retroactive month.* A member shall be responsible for paying the premium for the *first* month of initial enrollment *after the month of decision* and for the following three months, regardless of continued enrollment during the four-month period *or during previous months*, and for each month of continued enrollment after the *first* required four months. If there is a break in enrollment of one month or more, a new four-month period of mandatory premiums shall be assessed, beginning with the month of *reenrollment following the month of decision.*

Amend subrule **92.7(1)**, paragraphs “**a**” and “**b**,” as follows:

a. The monthly premium amount is based on the household’s countable monthly income as a percentage of the federal poverty level for a household of that size. The premium amounts based on this percentage effective April July 1, 2007, are as follows:

When the household’s income is at or below:	Each member’s premium amount is:
10% of federal poverty level	\$ 0
20% of federal poverty level	\$ 1
30% of federal poverty level	\$ 3
40% of federal poverty level	\$ 5
50% of federal poverty level	\$ 6
60% of federal poverty level	\$ 8

When the household’s income is at or below:	Each member’s premium amount is:
70% of federal poverty level	\$10
80% of federal poverty level	\$11
90% of federal poverty level	\$13
100% of federal poverty level	\$15 \$0
110% of federal poverty level	\$42
120% of federal poverty level	\$46
130% of federal poverty level	\$51
140% of federal poverty level	\$55
150% of federal poverty level	\$59
160% of federal poverty level	\$63
170% of federal poverty level	\$68
180% of federal poverty level	\$72
190% of federal poverty level	\$76
200% of federal poverty level	\$80

b. The listed premium amount is calculated based on the lowest income level in each 10 percent increment for a one-person household. ~~Premiums for households with income at or below 100 percent of the poverty level are 2 percent of the applicable income level not subject to a premium.~~ Premiums for households with income over 100 percent of the poverty level are 5 percent of the applicable income level. The department will update these amounts annually on April 1 using the latest federal poverty level guidelines.

Amend subrule **92.7(2)**, paragraph “**a**,” as follows:

a. Method of payment. Members shall submit premium payments to the following address: Iowa Medicaid Enterprise, ~~Revenue Collection Unit IowaCare Premiums~~, P.O. Box 10391, Des Moines, Iowa 50306-0391 9013. Members may also submit premium payments to the Broadlawn Medical Center or other designated office that makes arrangements for armored delivery of the payments to the department’s agent for receiving payments.

Amend subrule **92.7(5)** as follows:

Amend paragraph “**a**” as follows:

a. The premium obligation is reduced to zero when a member’s IowaCare coverage is canceled because the member:

- (1) Is determined eligible for medical assistance under 441—subrules 75.1(1) through 75.1(40);
- (2) Has access to group health insurance coverage as defined in subrule 92.2(4);
- (3) Reaches age 65; or
- (4) Dies; or
- (5) *No longer meets program requirements after the four mandatory premium months.*

Adopt **new** paragraphs “**c**” and “**d**” as follows:

c. Any excess premium received for an individual not receiving IowaCare benefits shall be refunded after two calendar months unless an application or reapplication is pending or upon the individual’s request.

d. Any excess premium received for an IowaCare member shall be refunded after two calendar months of a zero premium or upon the member’s request.

ITEM 5. Amend rule **441—92.12(249A,249J)**, numbered paragraph “**2**,” as follows:

2. The member ~~becomes eligible for a~~ begins receiving medical assistance *in a* coverage group under 441—subrules 75.1(1) through 75.1(40).

ARC 6054B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 99B.13 and 2007 Iowa Acts, Senate File 414, the Department of Inspections and Appeals hereby gives Notice of Intended Action to adopt Chapter 106, “Card Game Tournaments by Veterans Organizations,” Iowa Administrative Code.

The chapter provides rules to implement 2007 Iowa Acts, Senate File 414, which provides for the licensure, operation and taxation of card game tournaments by veterans organizations. The chapter includes definitions, standards for licensure, rules for holding card game tournaments, and the procedure for revocation, suspension or denial of a license.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before August 7, 2007. Such written materials should be sent to Steven Mandernach, Administrative Rules Coordinator, Department of Inspections and Appeals, 321 E. 12th Street, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6863 or by E-mail to steven.mandernach@dia.iowa.gov.

These rules were also Adopted and Filed Emergency and are published herein as **ARC 6053B**. The content of that submission is incorporated by reference.

These proposed rules do not provide for waivers. Requests for waiver of any rule may be submitted under the Department’s general rules at 481—Chapter 6.

These rules are intended to implement 2007 Iowa Acts, Senate File 414.

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

ARC 6044B**INTERIOR DESIGN EXAMINING
BOARD[193G]****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 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to adopt new Chapter 3, “Continuing Education,” Iowa Administrative Code.

New Chapter 3 is proposed to provide rules for continuing education requirements for registered interior designers.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before August 7, 2007. Comments should be addressed to Sylvia King, Professional Licensing and Regulation Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa 50021 or faxed to (515) 281-7411. E-mail may be sent to sylvia.king@iowa.gov.

These rules are intended to implement Iowa Code chapters 544C and 272C.

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 **new** chapter is proposed.

CHAPTER 3**CONTINUING EDUCATION**

193G—3.1(17A,272C,544C) Definitions. As used in these rules, the following definitions shall apply:

“Contact hour” means one 60-minute clock hour of educational activity of which at least 50 minutes is devoted to instructional content. Where other units of credit are stated for an educational experience (e.g., “CEUs”), they shall be credited in terms of actual contact hours.

“Health, safety and welfare subjects” or “HSW subjects” means subjects that relate to the planning and designing of spaces and elements to minimize the risk of injury to persons or property. Such subjects include compliance with applicable building and safety codes, the planning and designing of spaces and elements that optimize over time the physically and mentally healthful use of those spaces and elements, and the planning and designing of spaces and elements that are durable, maintainable, cost-effective, environmentally conscientious and conservative of resources; that function properly in all relevant respects; that encourage access, functional independence and use by all relevant populations; that encourage user satisfaction, including aesthetic appeal; that promote a sense of user confidence and peace of mind; that integrate effectively with the surrounding environment; and that, in other similar ways, enhance the health, safety and well-being of the public.

“Self-directed activity” means a method of interior design-related learning occurring outside of a formal course setting.

“Structured activity” means a method of interior design-related learning led by a qualified individual and conducted or sponsored by a professional organization, technical organization, industry source or accredited college or university including monographs, courses of study taught in person or by correspondence, organized lectures, presentations or workshops, formal courses of instruction, and other means through which identifiable technical and professional subjects are presented in a planned manner.

193G—3.2(17A,272C,544C) Continuing education requirements.

3.2(1) Hours required. Each registrant shall complete during each two-year registration term a minimum of 12 contact hours of continuing education approved by the board. Compliance with the continuing education requirement is a prerequisite for registration renewal.

3.2(2) Within any biennial renewal period during which 12 contact hours must be acquired, at least 8 contact hours shall be in health, safety and welfare subjects in a structured activity. A maximum of 4 contact hours may be in self-

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

directed activities. Hours acquired in any 24-month renewal period may not be carried over to a subsequent 24-month renewal period. Continuing education hours need not be acquired in this state, but may be acquired in any location provided that the registrant can demonstrate that the program meets the definition of either structured activity or self-directed activity as defined in this chapter.

3.2(3) A registered interior designer who holds a registration in Iowa for less than 12 months from the date of initial registration shall not be required to report continuing education at the first registration renewal. A registered interior designer who holds a registration in Iowa for more than 12 months, but less than 24 months from the date of initial registration, shall be required to report 6 contact hours (with a minimum of 4 contact hours in HSW subjects in a structured activity) earned in the preceding 12 months at the first registration renewal.

3.2(4) Sources of continuing education. The following suggested list may be used by all registrants to determine the types of activities that may fulfill the continuing education requirements. Credit may not be claimed for any activity required as part of a registered interior designer's routine professional responsibilities.

a. Self-directed activities (actual hours spent, up to a maximum of 2 contact hours per activity and limited to 4 contact hours per reporting period):

(1) Tours of interior design-significant sites for a specified educational purpose.

(2) A service to the public which uses the registered interior designer's expertise as an interior designer. Examples include serving on a planning commission, building code advisory board or building code study committee.

(3) Informal industry or other similar instruction related to new interior design or new interior design-related technology and offered by an individual qualified by education or experience.

(4) Service as an officer or active committee participant in an educational, technical or professional society. One full year of service is required for the service to be considered.

b. Structured activities:

(1) Completion of a formal college or university course, seminar, tutorial or short course/monograph.

(2) Completion of a formal program, course, self-study course, monograph or equivalent educational experience sponsored by a professional or technical organization or industry source.

(3) Instruction of a course, seminar, lecture, presentation, workshop or similar formal educational program. Credit shall be allowed at a maximum of three preparation hours for each class hour spent for actual presentation, valid for the initial presentation only. College and university faculty may not claim contact or preparation credit for teaching regular curriculum courses.

(4) Research that is published or is formally presented to the profession or public. Credit shall be allowed at a maximum of 4 contact hours per reporting period and shall be valid for the initial presentation only.

(5) Completion of college or university credit courses dealing with interior design-related subjects. Each semester hour shall equal 15 contact hours. A quarter hour shall equal 10 contact hours. There is no limit to hours claimed for this activity.

3.2(5) Approved continuing education. The board does not preapprove continuing education activities or courses; however, in general, activities and courses in HSW subjects are considered to include, but are not limited to, the following

topics:

a. Life safety, ADA, and other codes, standards and administrative regulations governing the practice of interior design.

b. Safety and security issues (e.g., exit design, fall prevention design, crime prevention design, etc.).

c. Physical and mental health issues.

d. Topics that relate to human physiology, perception, anthropometrics, ergonomics, psychology, sociology, ecology and cultural factors.

e. Energy efficiency.

f. Environmental issues.

g. Accessibility and universal design.

h. Materials and methods.

i. Building systems.

j. Statutes and rules relating to interior design regulation.

k. Professional ethics.

l. Legal aspects of professional practice.

m. Construction documents and services.

n. Project administration.

193G—3.3(17A,272C,544C) Controls and reporting.

3.3(1) An applicant for registration renewal may be requested to provide, in such manner and at such time as prescribed by the board, a signed statement, under penalty of perjury, on forms provided by the board, setting forth the continuing education in which the registrant has participated.

a. When requested to provide a listing of the continuing education completed for structured activities, the information shall include:

(1) School, firm or organization conducting the course.

(2) Location of course.

(3) Title of course or description of content.

(4) Principal instructor.

(5) Dates attended.

(6) Hours claimed.

b. Proof of participation in a nonstructured activity shall include:

(1) Activity claimed.

(2) Names of other individuals (if any) who participated.

(3) Date attended.

(4) Duration of activity.

(5) Location of activity.

(6) Written summary of the experience and learning outcomes.

(7) Signed statement that the activity was not part of the individual's routine professional responsibilities.

3.3(2) The board may require sponsors of courses to furnish an attendance list or any other information the board deems essential for administration of these continuing education rules.

3.3(3) The board will verify, on a random basis, information submitted by registrants. If an application for renewal is not approved, the applicant will be so notified and may be granted a period of time by the board in which to correct the deficiencies noted.

3.3(4) Primary responsibility for documenting the requirements rests with the registrant, and evidence to support fulfillment of those requirements must be retained for a period of five years subsequent to submission of the report claiming the credit. Satisfaction of the requirements, including retention of attendance records and written outlines, may be accomplished as follows:

a. For courses taken for scholastic credit at accredited universities and colleges, evidence of satisfactory completion of the course is sufficient; for noncredit courses taken, a

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

statement of the hours of attendance, signed by the instructor, must be obtained by the registrant.

b. For correspondence courses and formal independent study courses, written evidence or a certificate of completion from the sponsor or course provider shall be obtained by the registrant.

c. In all other instances, the registrant must maintain a record of the information listed in subrule 3.3(1), paragraph "a," and a copy of the course outline prepared by the course sponsor.

193G—3.4(17A,544C) Hearings. In the event of denial, in whole or in part, of any application for approval of credit for continuing education activity, the registrant shall have the right, within 20 days after the date of notification of the denial by mail, to request a hearing by the board. The hearing shall be held within 60 days after receipt of the request for the hearing. The decision of the board shall be final.

193G—3.5(17A,544C) Physical disability, illness, hardships or extenuating circumstances. The board may, in individual cases involving physical disability, illness (certified by a doctor), hardship, or extenuating circumstances, grant waivers of the continuing education requirements for a period of time not to exceed one year. No waiver or extension of time shall be granted unless the registrant makes a written request to the board for such action.

193G—3.6(17A,544C) Methods of compliance and exemptions. A person registered as an interior designer shall be deemed to have complied with the continuing education requirements during the continuing education compliance period in which the licensee:

1. Serves honorably on active duty in the military service; or
2. Resides in another state or district having a continuing education requirement for registered interior designers and meets all the requirements of that state or district for practice therein (registrants of states not having a continuing education requirement must comply with Iowa's continuing education requirements); or
3. Is a government employee working as a registered interior designer outside the United States.

193G—3.7(17A,544C) Grounds for denial of registration renewal. Failure of a registrant to complete the continuing education requirements as set forth in this chapter, or failure to file a report of completed continuing education, or failure to submit a written request for waiver or exemption shall be grounds for the board to deny renewal of the registration.

These rules are intended to implement Iowa Code chapter 544C.

ARC 6041B**INTERIOR DESIGN EXAMINING BOARD[193G]****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 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to adopt new Chapter 8, "Renewal and Reinstatement," Iowa Administrative Code.

New Chapter 8 is proposed to provide rules for renewal and reinstatement procedures for registered interior designers.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before August 7, 2007. Comments should be addressed to Sylvia King, Professional Licensing and Regulation Bureau, 1920 SE Hulsizer Road, Ankeny, Iowa 50021 or faxed to (515) 281-7411. E-mail may be sent to sylvia.king@iowa.gov.

These rules are intended to implement Iowa Code chapters 544C and 272C.

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 **new** chapter is proposed.

CHAPTER 8

RENEWAL AND REINSTATEMENT

193G—8.1(17A,272C,544C) Renewal of certificates of registration. Certificates of registration expire biennially on June 30. Following the transition period described in 193G—subrule 2.1(4), certificates issued to registrants with last names beginning in A through K shall expire on June 30 of even-numbered years and certificates issued to registrants with last names beginning in L through Z shall expire on June 30 of odd-numbered years. In order to maintain authorization to practice in Iowa, a registrant is required to renew the certificate of registration prior to the expiration date. A registrant who fails to renew by the expiration date is not authorized to use the title of registered interior designer in Iowa until the certificate is reinstated as provided in rule 193G—3.2(17A, 272C,544C).*

8.1(1) It is the policy of the board to mail to each registrant at the registrant's last-known address a notice of the pending expiration date approximately one month prior to the date the certificate of registration is scheduled to expire. Failure to receive this notice does not relieve the registrant of the responsibility to timely renew the certificate and pay the renewal fee. A registrant should contact the board office if the registrant does not receive a renewal notice prior to the date of expiration.

*See **ARC 6044B** herein.

INTERIOR DESIGN EXAMINING BOARD[193G](cont'd)

8.1(2) If grounds exist to deny a timely and sufficient application to renew, the board shall send written notification to the applicant by restricted certified mail, return receipt requested. Grounds may exist to deny an application to renew if, for instance, the registrant failed to satisfy the continuing education provisions required as a condition for registration. If the basis for denial is a pending disciplinary action or disciplinary investigation that is reasonably expected to culminate in disciplinary action, the board shall proceed as provided in 193—Chapter 7. If the basis for denial is not related to a pending or imminent disciplinary action, the applicant may contest the board's decision as provided in 193—subrule 7.40(1).

8.1(3) When a registrant appears to be in violation of mandatory continuing education requirements, the board may, in lieu of proceeding to a contested case hearing on the denial of a renewal application as provided in rule 193—7.40(546, 272C), offer a registrant the opportunity to sign a consent order. While the terms of the consent order will be tailored to the specific circumstances at issue, the consent order will typically impose a penalty between \$50 and \$250, depending on the severity of the violation; establish deadlines for compliance; and require that the registrant complete hours equal to double the deficiency in addition to the required hours; and may impose additional educational requirements on the registrant. Any additional hours of continuing education completed in compliance with the consent order cannot again be claimed at the next renewal. The board will address subsequent offenses on a case-by-case basis. A registrant is free to accept or reject the offer. If the offer of settlement is accepted, the registrant will be issued a renewed certificate of registration and will be subject to disciplinary action if the terms of the consent order are not fulfilled. If the offer of settlement is rejected, the matter will be set for hearing, if timely requested by the registrant pursuant to 193—subrule 7.40(1).

8.1(4) The board may notify registrants whose certificates of registration have expired. The failure of the board to provide this courtesy notification or the failure of the registrant to receive the notification shall not extend the date of expiration.

8.1(5) A registrant who continues to use the title of registered interior designer in Iowa after the registration has expired shall be subject to disciplinary action. Such unauthorized activity may also be grounds to deny a registrant's application for reinstatement.

8.1(6) Registrants shall notify the board within 30 days of any change of address or business.

193G—8.2(544C,17A) Reinstatement of certificates of registration. An applicant for reinstatement must inform the board in writing of the intention to reinstate. The board shall use the following criteria when determining the requirements for reinstatement:

8.2(1) An individual may reinstate an expired certificate within two years by:

- a. Paying the reinstatement fee of \$100;
- b. Paying the current renewal fee;
- c. Providing a written statement outlining the professional activities of the applicant during the period of nonregistration;
- d. Submitting documented evidence of completion of 6 contact hours (4 contact hours in public protection subjects) of continuing education for each year or portion of a year of expired registration in compliance with requirements in

193G—Chapter 3.* The hours reported shall be in addition to the 12 contact hours (8 contact hours in public protection subjects) which should have been reported on the June 30 renewal date at which the registrant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal.

8.2(2) An individual may reinstate a certificate which has been expired for more than two years by:

- a. Paying the reinstatement fee of \$100;
- b. Paying the current renewal fee;
- c. Providing a written statement outlining the professional activities of the applicant during the period of nonregistration;
- d. Submitting documented evidence of completion of continuing education as determined by the board. The board shall require no more than 24 contact hours (16 contact hours in public protection subjects); however, the hours reported shall not have been earned more than four years prior to the date of the application to reinstate.
- e. The board shall review reinstatement applications on a case-by-case basis and may, at its discretion, require that the applicant take additional measures as directed by the board as a prerequisite to reinstatement.

ARC 6040B**NURSING BOARD[655]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to rescind Chapter 2, “Nursing Education Programs,” Iowa Administrative Code, and to adopt a new Chapter 2 with the same title.

A summary of the proposed rules is as follows:

1. Revision of existing definitions and the addition of new definitions to reflect current trends in nursing education.
2. Revision of the application procedure for interim approval of a nursing program to follow a step-by-step process for institutions seeking to establish an Iowa-approved nursing program.
3. Revision of the full approval procedure for clarity.
4. Identification of those circumstances under which a program may be given provisional approval and the conditions for provisional approval.
5. Revision of the curriculum of all programs to include the definition of content and learning experiences for the required areas of study: medical, surgical, gerontological, mental health, childbearing families and children, research, and community health.
6. Identification of the method to be used for student criminal history checks in accordance with Iowa Code section 152.5.
7. Clarification of the preceptorship experience to include qualifications of the preceptor and responsibilities of the program.

*See **ARC 6044B** herein.

NURSING BOARD[655](cont'd)

8. Expansion of the requirements for board notification and approval of program changes to include a proposed increase of student admissions by 20 percent or more.

Any interested person may make written comments or suggestions on the proposed rules on or before September 12, 2007. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515) 281-3256, or at the Board office, 400 S.W. 8th Street, by appointment.

There will be a public hearing on September 12, 2007, at 6 p.m. in the Des Moines West Room, Holiday Inn Downtown, 1050 6th Avenue, Des Moines, Iowa. Persons may present their views at the public hearing 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 rules.

These rules are intended to implement Iowa Code section 152.5 and chapter 152E.

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

The following amendment is proposed.

Rescind 655—Chapter 2 and adopt the following **new** chapter in lieu thereof:

CHAPTER 2
NURSING EDUCATION PROGRAMS

655—2.1(152) Definitions.

“Approval” means recognition status given to nursing education programs based on the programs’ compliance with the criteria specified in this chapter. Approval may be granted or continued within any time frame determined by the board for up to six years.

“Clinical facilities” means locations where students directly care for patients/clients under the supervision of a qualified faculty member so that program outcomes are met.

“Clinical instruction” means hands-on learning situations in which students directly care for patients/clients within a relevant setting, under the supervision of a qualified faculty member, so that program outcomes are met.

“Content” means the subject matter in a given area of study.

“Controlling institution” means the institution that has authority over and administrative accountability for the program(s).

“Curriculum” means content, lab/simulation, observation and clinical experiences developed, implemented and evaluated by faculty to facilitate achievement of program outcomes and to meet the learning needs of students.

“Faculty” means the teaching staff in a nursing education program. “Faculty” also means individuals who teach nursing in a nursing education program or who are hired to teach in a program on the basis of education, licensure or practice as a registered nurse. This definition includes anyone who provides didactic or clinical instruction in nursing when assigned by the program to provide this instruction for courses included in the curriculum. The definition applies regardless of the amount of time spent teaching, the level of payment, the type of contract, the temporary nature of the position, or the location of the learner.

“First professional degree” means the title conferred by a college or university that signifies completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a baccalaureate degree.

“Head of program” means the dean, chairperson, director, or coordinator of the nursing education program(s) who is responsible for the administration of the program(s).

“Interim approval” means approval granted to a new nursing program, at which time students may be admitted into the program.

“Lab/simulation” means activities that mimic the reality of a clinical environment and that are designed to demonstrate procedures, decision making and critical thinking through techniques such as role-playing and through the use of devices such as interactive videos or mannequins. “Lab/simulation” shall not take the place of clinical experiences with actual patients.

“Learning experiences” means experiences that shall include content and clinical instruction and that may include components of lab/simulation and observation.

“Located in Iowa” means a college or university accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, that has made a substantial investment in a permanent Iowa campus and staff, and that offers a full range of courses leading to the degrees offered by the institution as well as a full range of student services.

“Master’s degree” means the title conferred by a college or university upon completion of a program of graduate study that requires a level of academic accomplishment and subject mastery substantially beyond that required for a baccalaureate degree.

“NCLEX®” means the National Council Licensure Examination, the examination currently used for initial licensure as a registered nurse or licensed practical nurse.

“Observation” means learning experiences in a relevant setting, where the student does not directly care for patients/clients, that meet program outcomes but do not require on-site faculty supervision.

“Out-of-state program” means an approved nursing program within U.S. jurisdiction that provides clinical experiences in Iowa.

“Preceptor” means a licensed individual who meets Iowa board of nursing qualifications as specified in this chapter, is on staff at the facility where the experience occurs, is selected by the educational facility in collaboration with the clinical facility, and is responsible for the on-site direction of the student over a period of time.

“Preceptorship” means an optional experience between a preceptor and a nursing student over a period of time that is congruent with program outcomes.

“Program” means a course of study by any method of instruction or delivery that leads to a nursing diploma, degree or certificate. Multiple-site programs offered by one controlling institution shall be considered one program if the philosophy and curriculum of all the sites are the same. Programs eligible for board approval shall include all of the following:

1. At least a one-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination as described in 655—Chapter 3.

2. At least a two-academic-year course of study or its equivalent in theory and practice as described by the board that leads to a degree in nursing and to eligibility to apply for

NURSING BOARD[655](cont'd)

registered nurse licensure by examination as described in 655—Chapter 3.

3. A course of study designed for registered nurses that leads to a baccalaureate degree with a major in nursing.

4. A postbaccalaureate course of study that leads to a master's degree with a major in nursing.

5. A course of study designed for registered nurses that leads to a master's degree with a major in nursing.

6. A course of study designed for registered nurses who hold a master's degree in nursing that leads to a certificate in advanced practice nursing. When the certificate is in a clinical specialty area, the course of study shall lead to eligibility to apply for certification in the clinical specialty by a national professional nursing organization approved by the board and to eligibility for registration as an advanced registered nurse practitioner as described in 655—Chapter 7.

7. A post-master's course of study that leads to a doctoral degree with a major in nursing.

8. A course of study that leads to a doctorate in nursing practice.

“Qualified nursing faculty” means individuals who meet Iowa board of nursing faculty qualifications as specified in this chapter as well as the qualifications of the parent institution.

655—2.2(152) Application for interim approval of a nursing program.

2.2(1) Before establishing a nursing program, a controlling institution shall submit a program application to the board that includes the following information and documentation:

a. Name and address of the controlling institution and accreditation status of the controlling institution.

b. A written statement explaining how the college or university meets the definition of “located in Iowa.”

c. A written statement of intent to establish a nursing program, including the academic and licensure levels of the program and the primary method of instruction.

d. The establishment of an advisory committee composed of representatives of the community and nurses. Minutes of advisory committee meetings shall be kept on file.

e. Completion of a needs assessment which includes:

(1) Documentation of the present and future need for the program in the state, including availability of potential students and need for entry-level nurses.

(2) Potential effect on existing nursing programs.

(3) Availability of qualified head of the program and faculty.

(4) Source and description of clinical resources for the program.

(5) Evidence of potential students and anticipated enrollment.

(6) Documentation of adequate academic facilities and staff to support the nursing program.

(7) Evidence of financial resources adequate for the planning, implementation and continuation of the nursing program.

(8) Tentative time schedule for planning and implementing the nursing program and the intended date for entry of the first class into the program.

2.2(2) The board shall approve or deny the program application to establish a nursing program. If the board approves the program application, the controlling institution shall then submit to the board a program proposal within one year of the application that includes, but is not limited to, the following:

a. Evidence of employment of the head of the program, including the individual's qualifications, at least six months prior to the beginning of the first nursing course.

b. Program philosophy, objectives and outcomes that reflect the proposed level of education.

c. Organizational chart of the educational institution documenting the relationship of the nursing program within the institution.

d. Curriculum plan that meets the criteria in rule 2.8(152).

e. Letter of intent from clinical facilities securing clinical opportunities and documentation of the facility type, size, number of beds, and type of patients.

f. Evidence of provision of qualified faculty. Faculty shall be employed by the controlling institution prior to the beginning of teaching assignments. Faculty members who teach nursing shall meet the qualifications outlined in subrule 2.9(2).

g. Updated time schedule.

h. Proposed five-year budget for the nursing education program.

2.2(3) The board may conduct a site visit to the controlling institution and clinical facilities to validate information submitted in the program proposal prior to determining interim approval status.

2.2(4) Interim approval may be granted to the program based on the program proposal and a site visit.

a. The controlling institution shall publish the interim approval status of the program.

b. The head of the program shall submit nine copies of a program progress report three weeks prior to each regularly scheduled board meeting until full approval as described in rule 2.3(152) is granted by the board. The progress report shall include the following:

(1) Updated information in all areas identified in the initial proposal.

(2) Current number of admissions and enrollments.

(3) Current number of qualified faculty.

(4) Course descriptions.

(5) Detailed course syllabi submitted six months prior to the offering of courses.

(6) Changes requiring board notification and approval as outlined in subrule 2.15(3).

c. Interim approval shall continue until the board conducts a review of program materials, completes a site visit, and grants approval to the program following graduation of the first class and submission of results of the national examination for licensure or advanced practice certification, if applicable.

d. The board may at any time seek additional program information from the controlling institution and head of the program.

2.2(5) The board may deny interim approval based on the program proposal and a site visit.

a. In order to be reconsidered, the controlling institution shall resubmit a program proposal within six months from the time of program application.

b. One year from the initial application, the controlling institution shall resubmit a program application to the board in order to be reconsidered.

655—2.3(152) Approval and reapproval procedures. The full approval procedure for programs with interim approval and the reapproval procedure of programs for colleges or universities located in Iowa are as follows.

2.3(1) The board shall provide the program with the schedule and the criteria for approval or reapproval.

NURSING BOARD[655](cont'd)

2.3(2) The program shall provide to the board the nursing education program report and requested materials addressing all aspects of the program outlined in rules 2.6(152) to 2.15(152) and documenting how the criteria for approval are met. Documentation may include current information submitted by the program to other approving and accrediting entities.

2.3(3) A representative of the board shall make a site visit to the program:

- a. To grant full approval to programs with interim approval.
- b. With the purpose of determining if the program continues to meet the criteria for approval.
- c. If there is at any time evidence that the program does not meet the criteria for approval.

2.3(4) The board shall provide to the head of the program a report addressing any recommendations as a result of the site visit and nursing education program report. The head of the program shall be provided an opportunity to respond in writing to the recommendations.

2.3(5) The nursing education program report and the program response shall be submitted to the board for board review.

2.3(6) The board shall determine the approval status of the program.

- a. Full approval may be granted or continued, within any time frame determined by the board, up to six years.
- b. Provisional approval may be granted as determined by the board.

655—2.4(152) Provisional approval.

2.4(1) Provisional approval may be granted to a program if the board determines that the program does not meet the criteria for approval:

- a. At any time during the progression of the program.
- b. During the full approval procedure of the program.

2.4(2) At the time of provisional approval, the board:

- a. Shall meet with representatives of the program and controlling institution to determine the length of provisional approval, set conditions for approval, and identify outcomes. The program shall notify students of provisional approval.
- b. May require progress reports and a site visit.
- c. Shall meet with representatives of the program and controlling institution prior to the expiration of the program's provisional approval to determine if outcomes are met.
- d. Shall deny or withdraw approval if the board determines that the program failed to meet the conditions for full approval.

655—2.5(152) Closure of an approved program. Prior to program closure, the controlling institution shall submit a written plan for board approval. The plan shall include reasons for closure and the date of closure, which is defined as the date when the last student graduates. The plan shall also address a provision for the graduation of enrolled students, retention of adequate numbers of qualified faculty, retention of approved curriculum, maintenance of educational resources and student services, and a provision for student and graduate transcripts. When a program intends to close prior to the graduation of enrolled students who are actively taking nursing courses, the plan shall be submitted to the board at least 12 months prior to closure. The board may shorten the 12-month time period if the board determines that the controlling institution has made adequate provisions for enrolled students.

2.5(1) Voluntary closure. The program shall continue to meet the criteria for board approval until all enrolled students

have graduated or the board has approved a plan for closure prior to graduation of the students. The board may require progress reports during the closure process.

2.5(2) Closure as a result of denial or withdrawal of board approval. The controlling institution shall implement the time frame established by the board for transfer of enrolled students to an approved program and report to the board the date of transfer for each student by name. Program closure shall occur when the last student has transferred. The board may require progress reports during the closure process.

2.5(3) Record storage. Prior to closure, the controlling institution shall notify the board regarding the location and maintenance of student and graduate transcripts and records.

655—2.6(152) Organization and administration of the program.

2.6(1) The program shall meet the following criteria:

a. Authorization. Authorization for conducting a program is granted in accordance with Iowa Code chapter 261B. Such authorization is provided by the Iowa secretary of state.

b. Authority and administrative responsibility. The authority and administrative responsibility of the program shall be vested in the head of the program, who is responsible to the controlling institution.

c. Organizational chart. The organizational chart(s) shall clearly indicate the lines of authority and communication within the program and with the central administration, other units within the controlling institution, cooperating agencies, and advisory committees.

d. Finances.

(1) The controlling institution shall allocate adequate funds to carry out the purposes of the program.

(2) The head of the program shall prepare the budget with the assistance of the faculty.

e. Ethical practices. Ethical practices and standards, including those for recruitment and advertising, shall be consistent with those of the controlling institution and shall be made available to students and prospective students.

f. Contractual agreements. Written contractual agreements shall exist between the program and the clinical facilities. The agreements shall include:

- (1) Identification of responsibilities of both parties related to patient or client services.
- (2) Faculty control, selection and guidance of student learning experiences.
- (3) Provision for termination of the agreement.
- (4) Provision for annual review.
- (5) Documentation that the facility is in good standing with its regulatory agency.

g. Accrediting and approving agencies.

(1) The controlling institution or program shall be accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools.

(2) When the program is located at a community college, the controlling institution shall be approved by the Iowa department of education.

(3) When the program is offered under the auspices of the United States armed forces, it shall be accredited by the U.S. Department of the Army.

h. Philosophy/mission and program outcomes. The faculty shall develop a philosophy or mission statement and program outcomes that shall be:

- (1) Consistent with the philosophy or mission of the controlling institution.
- (2) Reflective of faculty beliefs about nursing, education and professional standards.

NURSING BOARD[655](cont'd)

(3) A guide in the development, implementation and evaluation of the program.

(4) Available to students and prospective students.

i. Program evaluation. A written plan shall outline the evaluation process for all aspects of the program and shall identify the methodology, tools, responsible parties and time frame. Evidence of implementation shall reflect achievement of program outcomes.

2.6(2) The head of a program shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa. An individual is currently licensed when licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Two years of experience in nursing education.

d. Academic qualifications:

(1) The head of a program who was employed on or before July 1, 1992, shall be considered adequately prepared as long as that person remains in that position.

(2) The head of a program hired after July 1, 1992, shall have a master's or doctoral degree with a major in nursing at either level at the time of hire. A first professional degree as defined in rule 2.1(152) does not meet this requirement. The date of hire is the first day of employment as head of the program with compensation at a particular nursing education program.

(3) If a program offers a baccalaureate or higher degree in nursing, the head of the program shall have a doctoral degree at the time of hire.

e. Submission of qualifications to the board office within one month of appointment.

2.6(3) A nursing education program shall have one head of the program.

655—2.7(152) Resources of the controlling institution.

The controlling institution is responsible for provision of resources adequate to meet program needs.

2.7(1) Human resources. Human resources shall include the following:

a. Head of program.

b. Faculty.

c. Secretarial and other support and staff services to ensure appropriate use of faculty time and expertise.

2.7(2) Physical resources. Physical resources may include the following:

a. Classrooms, conference rooms, laboratories, offices, and equipment.

b. Student facilities.

2.7(3) Learning resources. Learning resources shall include the following:

a. Library.

b. Print media.

c. Computer-mediated resources.

2.7(4) Financial resources. Financial resources shall be adequate to support and carry out the mission of the controlling institution.

655—2.8(152) Curriculum.

2.8(1) The curriculum of a program shall:

a. Reflect the philosophy/mission and program outcomes supported by the nursing faculty.

b. Identify program outcomes and define how learning experiences support outcomes.

c. Reflect current standards of nursing practice and education.

d. Be consistent with laws governing the practice of nursing.

e. Ensure sufficient preparation for the safe and effective practice of nursing.

f. Include learning experiences and strategies that meet program outcomes.

g. When offered within a college or university:

(1) Be comparable in quality and requirements to other degree programs within the college or university.

(2) Be planned in accordance with the college or university calendar.

(3) Assign credit hours for learning experiences that are consistent with the college or university pattern.

2.8(2) Prelicensure programs.

a. The curriculum of a program leading to eligibility for initial licensure as a licensed practical nurse or registered nurse shall include:

(1) Content that is consistent with the practice of nursing as defined in Iowa Code section 152.1.

(2) Content in medical, surgical, gerontological, mental health, and nursing of childbearing families and children that reflects current nursing practice and that encompasses health needs throughout the life span.

(3) Opportunities to participate in the nursing process and to develop competencies in direct patient care, problem-solving methodologies, clinical judgment, communication, and the use of current equipment and technology.

(4) Content in nursing history and trends, including professional, legal, and ethical aspects.

(5) Supporting content from the natural and social sciences.

b. In addition to the requirements identified in paragraph "a" of this subrule, the curriculum of a program leading to a diploma in practical nursing and to eligibility to apply for practical nurse licensure by examination shall:

(1) Be consistent with the legal implications within the scope of practice of a licensed practical nurse as outlined in rules 655—6.3(152) and 655—6.6(152).

(2) Focus on supportive or restorative care provided under the supervision of a registered nurse or physician pursuant to Iowa Code section 152.1(4).

(3) Provide learning experiences in medical, surgical and gerontological nursing.

(4) Provide content in nursing of childbearing families and children and mental health that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

c. In addition to the requirements identified in paragraph "a" of this subrule, the curriculum of a program leading to a degree in nursing and to eligibility to apply for registered nurse licensure by examination shall:

(1) Be consistent with the legal implications within the scope of practice of a registered nurse as outlined in rules 655—6.2(152) and 655—6.7(152).

(2) Focus on attaining, maintaining and regaining health and safety for individuals and groups by utilizing the principles of leadership, management, nursing informatics, and client education.

(3) Provide learning experiences in medical, surgical, mental health and gerontological nursing.

(4) Provide content in nursing of childbearing families and children that is supported by one or more of the following: clinical instruction, lab/simulation, or observation experiences adequate to meet program outcomes.

NURSING BOARD[655](cont'd)

(5) Provide content in nursing research when the program leads to a baccalaureate, master's or doctoral degree.

(6) Provide learning experiences in community health nursing when the program leads to a baccalaureate, master's or doctoral degree.

2.8(3) Postlicensure programs for registered nurses who do not hold a baccalaureate degree in nursing.

a. The curriculum of a program that leads to a baccalaureate degree in nursing shall include learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education, including content in nursing research and learning experiences in community health nursing.

b. The curriculum of a program that leads to a master's degree in nursing shall include content and learning experiences in nursing that will enable the student to achieve competencies comparable to outcomes of the prelicensure baccalaureate education and master's education, including content in nursing research and learning experiences in community health nursing.

2.8(4) Master's, post-master's, and doctoral programs for registered nurses who hold a baccalaureate degree in nursing.

a. The curriculum of a program leading to a master's or doctoral degree in nursing shall include in-depth study of:

(1) Nursing science, which includes content, practicum experiences and research.

(2) Advanced role areas in nursing.

b. The curriculum of a program leading to a master's degree or post-master's certificate in a nursing clinical specialty area, eligibility to apply for certification in the specialty area by a national professional nursing organization approved by the board, and registration as an advanced registered nurse practitioner shall:

(1) Be consistent with the legal implications within the scope of practice of the advanced registered nurse practitioner as described in 655—Chapter 7.

(2) Include advanced learning experiences in a specialty area of nursing.

2.8(5) Nursing courses with a clinical component. The nursing program shall notify students and prospective students in writing that nursing courses with a clinical component may not be taken by a person:

a. Who has been denied licensure by the board.

b. Whose license is currently suspended, surrendered or revoked in any United States jurisdiction.

c. Whose license/registration is currently suspended, surrendered or revoked in another country due to disciplinary action.

655—2.9(152) Faculty.

2.9(1) Program requirements. The program shall provide:

a. A sufficient number of faculty who satisfy the requirements in subrule 2.9(2).

b. Written personnel policies and position descriptions.

c. A faculty development program that furthers the competence of individual faculty members and the faculty as a whole.

d. A written teaching-load policy.

e. A nursing faculty organization that operates according to written bylaws and that meets on a regular basis. Minutes shall be available for reference.

f. In a prelicensure program, a ratio of one faculty member to a maximum of eight students in practice situations involving clinical instruction.

2.9(2) Faculty member requirements. A faculty member who teaches nursing shall meet the following requirements:

a. Current licensure as a registered nurse in Iowa prior to teaching. An individual is currently licensed when licensed in another state and recognized for licensure in Iowa pursuant to the nurse licensure compact contained in Iowa Code chapter 152E.

b. Two years of experience in clinical nursing.

c. Academic qualifications:

(1) A faculty member who was employed on or before July 1, 1992, shall be considered adequately prepared as long as that faculty member remains in that position. A faculty member who was hired to teach in a prelicensure registered nurse program after July 1, 1992, shall have at least a baccalaureate degree with a major in nursing or an applicable field at the time of hire. This person shall make annual progress toward the attainment of a master's or doctoral degree with a major in nursing or an applicable field. An individual who has earned a first professional degree as defined in rule 2.1(152) but who does not hold a master's degree as defined in rule 2.1(152) must meet the requirement for annual progress. One degree shall be in nursing.

1. Applicable fields include but are not limited to education, counseling, psychology, sociology, health education, health administration, and public health. A person who wishes to fulfill this requirement with education in an applicable field not listed may petition the board for a determination of applicability.

2. The date of hire is the first day of employment with compensation at a particular nursing education program.

3. "Annual progress" means a minimum of one course per year taken as part of an organized plan of study. A written plan of study shall be kept in the employee's file.

(2) A faculty member who was hired to teach after July 1, 1992, in a practical nursing program or at the first level of an associate degree nursing program with a ladder concept shall have a baccalaureate or higher degree in nursing or an applicable field at the time of hire.

(3) A registered nurse hired to teach in a master's program shall hold a master's or doctoral degree with a major in nursing at the time of hire. A first professional degree as defined in rule 2.1(152) does not meet this requirement. A registered nurse teaching in a clinical specialty area shall hold a master's degree with a major in nursing, advanced level certification by a national professional nursing organization approved by the board in the clinical specialty area in which the individual teaches, and current registration as an advanced registered nurse practitioner according to the laws of the state(s) in which the individual teaches. Faculty preparation at the doctoral or terminal degree level shall be consistent with the mission of the program.

(4) A faculty member hired only to teach in the clinical setting shall be exempt from subparagraphs (1) and (2) if the faculty member is closely supervised to ensure proper integration of didactic content into the clinical setting. If hired after July 1, 1992, a faculty member hired to teach only in the clinical setting shall have a baccalaureate degree in nursing or an applicable field or shall make annual progress toward the attainment of such a degree.

(5) Pursuant to 655—Chapter 15, the head of a program may petition the board for a waiver of the requirements in subrules 2.6(2) and 2.9(2). Following a review of the circumstances and efforts by the program to meet the requirements, the board may issue a waiver for a specified period of time and indicate conditions that must be met.

2.9(3) Functions of faculty. Faculty members shall:

a. Develop, implement, and evaluate the purpose, philosophy/mission, and outcomes of the program.

NURSING BOARD[655](cont'd)

- b. Design, implement, evaluate, and revise the curriculum.
- c. Provide students with written policies as specified in subrule 2.10(1).
- d. Participate in academic advisement and guidance of students.
- e. Provide for admission, progression, and graduation of students.
- f. Provide for student evaluation, self-evaluation, and peer evaluation of teaching effectiveness.
- g. Participate in activities to ensure competency in area(s) of responsibility.

655—2.10(152) Program responsibilities.

2.10(1) Policies affecting students. Programs shall provide for the development, implementation and communication of the following student policies:

- a. Admission/enrollment. Licensure if applicable according to 655—subrule 3.2(1).
- b. Transfer or readmission.
- c. Withdrawal.
- d. Progression.
- e. Grading system.
- f. Suspension or dismissal.
- g. Graduation.
- h. Health.
- i. Counseling.
- j. Grievance procedure.

2.10(2) Information about the program and controlling institution. The following information shall be published at least every two years:

- a. Philosophy/mission and outcomes of the program.
- b. General description of the program.
- c. Curriculum plan.
- d. Course descriptions.
- e. Resources.
- f. Faculty.
- g. Tuition, fees and refund policies.
- h. Ethical practices, including recruitment and advertising.
- i. Official dates.

2.10(3) Program records. The following records shall be dated and maintained according to the policies of the controlling institution:

- a. Course syllabi.
- b. Minutes.
- c. Faculty personnel records.
- d. Catalogs and program bulletins.

2.10(4) Student and graduate records.

- a. Policies shall specify methods for permanent maintenance and protection of records against loss, destruction and unauthorized use.
- b. The final record shall include the official transcript and summative performance statement.
 - (1) The final official transcript shall include:
 - 1. Legal name of student.
 - 2. Dates of admission, completion of the program and graduation.
 - 3. Courses that were accepted for transfer.
 - 4. Evidence of authenticity.
 - (2) The final official transcript shall be maintained permanently.
 - (3) The summative performance statement shall relate the performance of the student at the time of graduation to the program outcomes and shall be maintained for three years.

655—2.11(152) Student criminal history checks.

2.11(1) The program shall initiate criminal history and child and dependent adult abuse record checks of students and prospective students to ensure a student's ability to complete the clinical education component of the program in accordance with Iowa Code section 152.5.

2.11(2) The program shall:

- a. Notify all students and prospective students of the nursing program's written policy and procedure concerning criminal history and child and dependent adult abuse record checks.
- b. Conduct record checks on all students:
 - (1) Applying for the nursing program.
 - (2) Returning to the clinical education component of the nursing program. Time frames between record checks may be determined by the program.
 - (3) Anytime during the student's enrollment in the nursing program pursuant to the program's policy and procedure.
- c. Request that the department of public safety perform a criminal history check and that the department of human services perform child and dependent adult abuse record checks.
- d. Follow the guidelines and standards set forth by the department of human services in conducting record checks and in determining a student's ability to complete the clinical education component of a nursing program based on the record checks.

655—2.12(152) Clinical facilities.

2.12(1) The clinical facilities shall provide learning experiences that meet curriculum objectives and outcomes.

2.12(2) The program shall provide information to the board about clinical facilities used for learning experiences.

- a. The clinical facilities shall be accredited/approved by the appropriate agencies and shall have evidence of good standing by their regulatory body.
- b. There shall be evidence that student experiences are coordinated when more than one program uses the same facility.

655—2.13(152) Preceptorship.

2.13(1) A preceptor shall be selected by the nursing program in collaboration with a clinical facility to provide supportive learning experiences consistent with program outcomes.

2.13(2) The qualifications of a preceptor shall be appropriate to support the philosophy/mission and outcomes of the program.

- a. The preceptor shall be employed by or maintain a current written agreement with the clinical facility in which a preceptorship experience occurs.
- b. The preceptor shall be currently licensed as a registered nurse or licensed practical nurse according to the laws of the state in which the preceptor practices.
- c. The preceptor shall function according to written policies for selection, evaluation and reappointment developed by the program. Written qualifications shall address educational preparation, experience, and clinical competence.
- d. The program shall be responsible for informing the preceptor of the responsibilities of the preceptor, faculty and students. The program shall retain ultimate responsibility for student learning and evaluation.

2.13(3) The program shall inform the board of preceptorship learning experiences.

- a. Written preceptorship agreements shall be reviewed annually by the program.
- b. The board may conduct a site visit to settings in which preceptorship experiences occur.

NURSING BOARD[655](cont'd)

c. The rationale for the ratio of students to preceptors shall be documented by the program.

2.13(4) An individual who is not a registered nurse or a licensed practical nurse may serve as a preceptor when appropriate to the philosophy/mission and outcomes of the program.

655—2.14(152) Results of graduates who take the licensure examination for the first time. The program shall notify the board when the program or district national licensure examination passing percentage is lower than 95 percent of the national passing percentage for two consecutive calendar years. The NCLEX® passing percentage shall be based on all first-time applicants for registered nurse or licensed practical nurse licensure in any jurisdiction who take the examination within six months of graduation. Upon notification by the program, the board shall implement the following process.

2.14(1) The program shall submit to the board within six months an institutional plan for assessment and improvement of NCLEX® results, including outcomes and time lines. The plan shall address administration, faculty, students, curriculum, resources, policies, and the nursing advisory committee.

2.14(2) The program shall submit annual progress reports to the board as long as the NCLEX® passing percentage remains below 95 percent of the national passing percentage.

2.14(3) The program shall provide a brief description including outcomes of all institutional plans submitted to the board in the nursing education program report during the reapproval process, if applicable.

655—2.15(152) Reports to the board.

2.15(1) Annual reports. The board shall provide information to the program about the requirements of the annual report. The head of the program shall submit an annual report that includes:

- a. Progress toward achievement of goals identified by the program for the previous academic year.
- b. Qualifications and major responsibilities of the head of the program and each faculty member.
- c. Policies for admission, progression and graduation of students.
- d. Policies for student health and welfare.
- e. Current enrollment by class/cohort.
- f. Number of admissions and graduations per year for the past five years.
- g. Passing percentages of graduates on the national licensure examinations for the past five years.
- h. Employment data for graduates.
- i. Curriculum plan.
- j. Descriptions of resources, clinical facilities, preceptorship experiences and contractual arrangements.
- k. Copy of audited fiscal reports, including a statement of income and expenditures.
- l. Goals for the current academic year.
- m. Catalog of the controlling institution or program.

2.15(2) Special reports. The program shall notify the board of the following:

- a. Change of controlling institution. Information shall include official name of the program(s) and controlling institution, organizational chart of the controlling institution, and names of administrative officials.
- b. Changes in administrative personnel in the program or controlling institution.
- c. Opening of a new site or campus.

2.15(3) Changes requiring board notification and approval. The program shall submit nine copies of a proposed

change for board approval at least three weeks prior to the next scheduled board meeting when the outcome will:

- a. Lengthen or shorten the course of study.
- b. Add or delete academic credit in a course required for graduation.
- c. Add or delete a course required for graduation.
- d. Alter graduation requirements.
- e. Reduce the human, physical or learning resources provided by the controlling institution to meet program needs as described in rule 2.7(152).
- f. Substantively alter the philosophy/mission of the program.
- g. Revise the predominant method of instruction or delivery, including transition from on-site to self-study or distance learning.
- h. Entail delivery of a cooperative program of study with an institution that does not provide a degree in nursing.
- i. Increase the number of student admissions by 20 percent or more.

These rules are intended to implement Iowa Code section 152.5 and chapter 152E.

ARC 6046B

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 17A.3, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 11, “Identification Section of the Division of Criminal Investigation,” Iowa Administrative Code.

Iowa Code chapter 692 establishes the basic framework for access to criminal history records in Iowa. 661—Chapter 11 was adopted to facilitate implementation of these requirements by the Department of Public Safety. Federal law restricts to criminal and juvenile justice agencies access to national criminal history records from the Federal Bureau of Investigation and provides that other entities may have access only under the specific condition that a state statute requires access for a specific purpose. 2007 Iowa Acts, Senate File 601, section 102, requires examination of a national criminal history record for an applicant for a teaching position in Iowa. The proposed amendment implements that requirement.

A public hearing on this proposed amendment will be held on September 5, 2007, at 10 a.m. in Room 125 (First Floor Conference Room), Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail, by telephone at (515)725-6185, or by elec-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

tronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding the proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 5, 2007, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 6047B**. The content of that submission is incorporated by reference. The emergency amendment became effective on July 1, 2007.

This amendment is intended to implement Iowa Code chapter 692 and 2007 Iowa Acts, Senate File 601, section 102.

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

ARC 6048B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 17A.3, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 25, "Public Records and Fair Information Practices," Iowa Administrative Code.

Iowa Code chapter 22 establishes the basic framework for access to records of public agencies in Iowa. 661—Chapter 25 was adopted in 1988 to facilitate implementation of these requirements by the Department of Public Safety. Other chapters of the administrative rules of the Department also relate to the release of records, including Chapter 11 (criminal history records), Chapter 81 (criminal intelligence files), Chapter 83 (sex offender registry records) and Chapter 89 (missing persons records).

This rule making is proposed to add two substantive changes to the provisions of Chapter 25. The first significant change to the rules is the addition of language which specifies records containing information about security procedures or emergency preparedness which shall be maintained as confidential. This provision implements Iowa Code section 22.7, subsection 50, which was adopted by the General Assembly in 2006. The second change provides for the release of official photographs of employees of the Department either after the employee has consented in writing to the release or a formal request for release of the photograph has been received. In either event, a photograph will be released only if the release would not jeopardize an ongoing investigation or place the employee at risk. This provision implements statutory language adopted in 2007 Iowa Acts, Senate

File 457. These amendments also update the language of certain provisions without changing their substance, such as explicitly providing for the receipt of requests for open records by electronic mail, and provide new contact information for the Department.

A public hearing on these proposed amendments will be held on September 5, 2007, at 9:30 a.m. in Room 125 (First Floor Conference Room) in the Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail, by telephone at (515)725-6185, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on September 5, 2007, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6049B**. The content of that submission is incorporated by reference. The emergency amendments became effective on July 1, 2007.

These amendments are intended to implement Iowa Code chapter 22 and 2007 Iowa Acts, Senate File 457.

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.

REVENUE DEPARTMENT**Notice of Natural Gas Delivery Tax Rate Changes**

Pursuant to the authority of Iowa Code section 437A.5, the Director of Revenue hereby gives notice of the changes to the natural gas delivery tax rates. These rates will be used in conjunction with the number of therms of natural gas delivered to consumers in calendar year 2006 by each taxpayer, for replacement taxes payable in the 2007-2008 fiscal year.

**2006 NATURAL GAS DELIVERY TAX RATES
BY SERVICE AREA
RATE CHANGES ONLY**

CO. #	IOU's - GAS	DELIVERY TAX RATE
5270	IES Utilities	0.00852390
5272	Interstate Power	0.00331943

ARC 6055B

REVENUE DEPARTMENT[701]

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 chapter 17A and sections 452A.59 and 452A.76, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 68, “Motor Fuel and Undyed Special Fuel,” Iowa Administrative Code.

The proposed amendment updates subrule 68.2(1) to reflect changes in the tax rates for gasoline from 21 cents to 20.7 cents per gallon and for E-85 gasoline from 17 cents to 19 cents per gallon for the tax period beginning July 1, 2007, and ending June 30, 2008.

The proposed amendment will not necessitate additional expenditures by political subdivisions or agencies and entities that contract with political subdivisions.

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

The Department has determined that this proposed amendment may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than August 20, 2007, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business, or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 7, 2007. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building on or before August 7, 2007.

Requests for a public hearing must be received by August 8, 2007.

This amendment is intended to implement Iowa Code section 452A.3.

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

The following amendment is proposed.

Amend subrule 68.2(1) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
LPG	20¢ per gallon
Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through June 30, 2006 2008)
E-85 gasoline	17¢ per gallon beginning January 1, 2006, through June 30, 2007
	19¢ per gallon (for July 1, 2007, through June 30, 2008)
Aviation gasoline	8¢ per gallon
Special fuel (diesel)	22.5¢ per gallon
Special fuel (aircraft)	3¢ per gallon
CNG	16¢ per 100 cu. ft.

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

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

New official state interest rates, effective July 12, 2007, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

NOTICE—PUBLIC FUNDS INTEREST RATES(cont'd)

TIME DEPOSITS

7-31 days	Minimum 2.75%
32-89 days	Minimum 3.65%
90-179 days	Minimum 3.30%
180-364 days	Minimum 3.70%
One year to 397 days	Minimum 3.80%
More than 397 days	Minimum 3.95%

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 6038B

WORKERS' COMPENSATION DIVISION[876]

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 86.8, the Workers' Compensation Commissioner hereby gives Notice

of Intended Action to amend Chapter 4, "Contested Cases," Iowa Administrative Code.

This amendment specifies that the agency can hold a contested case proceeding by voice or video technology including Internet-based video.

The Division has determined that this amendment will have no impact on small business within the meaning of Iowa Code section 17A.4A.

The Division has determined that this amendment will not necessitate additional annual expenditures exceeding \$100,000, or \$500,000 within five years, by political subdivisions or agencies which contract with political subdivisions within the meaning of Iowa Code section 25B.6. Therefore, no fiscal impact statement accompanies this rule making.

Any interested person may make written suggestions or comments on this proposed amendment on or before August 7, 2007, to the Workers' Compensation Commissioner, Division of Workers' Compensation, 1000 East Grand Avenue, Des Moines, Iowa 50319.

This amendment does not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 6037B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code sections 17A.12, 85.27, 86.8, 86.17, and 86.18.

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

ARC 6062B

HISTORICAL DIVISION[223]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 303.1A, the Director of the Department of Cultural Affairs hereby rescinds Chapter 48, “State Income Tax Credit for Rehabilitation,” and adopts a new Chapter 48, “Historic Preservation and Cultural and Entertainment District Tax Credits,” Iowa Administrative Code.

The purpose of these rules is to set forth the procedures by which the public may access the historic preservation and cultural and entertainment district tax credits.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impractical due to the need to have administrative rules in place to implement Iowa Code changes adopted by the Legislature in 2007 Iowa Acts, Senate File 566.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these rules should be waived and these rules should be made effective on June 28, 2007, as they confer a benefit on the constituents interested in applying for historic preservation and cultural and entertainment district tax credits.

The Department adopted these rules on June 27, 2007.

These rules became effective on June 28, 2007.

These rules are intended to implement Iowa Code chapter 303 and chapter 404A as amended by 2007 Iowa Acts, Senate File 566.

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

The following amendment is adopted.

Rescind **223—Chapter 48** and adopt the following **new** chapter in lieu thereof:

CHAPTER 48

HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT TAX CREDITS

223—48.1(303,404A) Purpose. A historic preservation and cultural and entertainment district tax credit (hereafter referred to as historic tax credit) for rehabilitation of eligible commercial property, residential property and barns located in this state is granted to approved projects, subject to availability of the credit, to apply against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432. Historic tax credits are restricted to rehabilitation projects for eligible properties in Iowa. Rehabilitation projects for eligible properties must be conducted in accordance with the federal Standards for Rehabilitation (36 CFR Part 67.7) as described in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties (hereafter referred to as Standards).

223—48.2(303,404A) Definitions. The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(17A,303), 223—1.6(303), 223—13.2(303), 223—22.2(303), and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, the following definitions apply: “Assessed value” means the amount of the most current property tax assessment.

“Commercial property” means a building with retail, office, or other business space.

“Historic tax credit(s)” means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

“Mixed-use property” means a commercial property that includes three or more residential units in the same building.

“Qualified rehabilitation costs” means qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code.

“Reserved tax credit” means the amount of tax credits set aside from the available tax credit fund for an approved project.

“Residential property” means a building with two or fewer residential units.

“Standards” means the Standards for Rehabilitation as described in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties.

“Tax basis” means the same as defined in department of revenue 701—subrule 42.15(3).

“Tax credit year” means the tax year in which a tax credit certificate holder is eligible to redeem a tax credit certificate based on the availability of tax credit funds for an eligible project.

223—48.3(303,404A) Eligible properties. The following properties are eligible for the historic tax credit:

1. Property verified as listed on the National Register of Historic Places or eligible for such listing through the state historic preservation office (SHPO);
2. Property designated as a building contributing to the historic significance of a district listed on the National Register of Historic Places or eligible for such designation by being located in an area previously surveyed and evaluated as eligible for listing on the National Register of Historic Places as a historic district;
3. A property or district designated as a local landmark by a city or county ordinance; or
4. A barn constructed prior to 1937.

223—48.4(303,404A) Qualified and nonqualified rehabilitation costs.

48.4(1) Qualified rehabilitation costs are as defined in Section 47, rehabilitation credit, of the Internal Revenue Code. To view Section 47 online, visit www.nps.gov/history/local-law/FHPL_RehabCredit%20.pdf.

48.4(2) Costs deducted as expenses in the tax year in which they are paid or incurred are nonqualified rehabilitation costs for determination of historic tax credits.

48.4(3) Architectural and engineering fees, site survey fees, legal fees, insurance premiums, development fees and other construction-related expenses are qualified rehabilitation costs for determination of historic tax credits to the extent they increase the tax basis of the eligible property.

48.4(4) Sidewalk, parking lot and landscaping expenses are nonqualified rehabilitation costs for determination of historic tax credits.

48.4(5) Only qualified rehabilitation costs incurred beginning two years prior to the project completion date and ending on the project completion date may be used for determination of historic tax credits.

a. Qualified rehabilitation costs incurred prior to approval by the SHPO of part two of the application (see rule 48.6(303,404A)) may be considered in the determination of historic tax credits.

b. Owners who undertake rehabilitation projects without prior approval from the SHPO do so at their own risk.

HISTORICAL DIVISION[223](cont'd)

223—48.5(303,404A) Eligibility of projects, rehabilitation costs and amount of credit.

48.5(1) For commercial property, the amount of rehabilitation costs must equal at least 50 percent of the assessed value of the property, excluding the land, prior to rehabilitation.

48.5(2) For residential property or for barns built before 1937, the amount of rehabilitation costs must equal at least \$25,000 or 25 percent of the assessed value of the property, excluding the land, prior to rehabilitation, whichever is less.

48.5(3) For mixed-use property, the amount of rehabilitation costs shall not exceed \$100,000 per residential unit plus the qualified rehabilitation costs for the commercial space.

48.5(4) The historic tax credit for a project shall equal 25 percent of the qualified rehabilitation costs.

223—48.6(303,404A) Application and review process.

48.6(1) All applications for historic tax credits shall be on forms and in accordance with instructions provided by the SHPO. Application forms are available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. Applications may also be downloaded from the following Web site: www.state.ia.us/government/dca/shsi/preservation/financial_assistance/state_tax_credit/ia_state_tax_credit.html.

a. Part one of the application identifies the eligibility of the property for the historic tax credit. Part one of the application must include all requested information. SHPO staff shall notify the applicant in writing if part one of the application is incomplete. Incomplete applications will not be processed.

b. Part two of the application provides a detailed description of the rehabilitation project. Part two of the application must include all requested information. SHPO staff shall notify the applicant in writing if part two of the application is incomplete. Incomplete applications will not be processed.

c. Part three of the application provides the information and documentation required to request certification of project completion and must include all requested information. SHPO staff shall notify the applicant in writing if part three of the application is incomplete. Incomplete applications will not be processed. Incomplete applications may be subject to abandonment as outlined in rule 48.10(303,404A).

48.6(2) SHPO staff trained by the National Park Service for reviewing rehabilitation projects to ensure compliance with Standards will review part two and part three of each submitted application.

48.6(3) SHPO staff shall review and respond in writing to part two or part three of each completed application or to amendments to part two of an application (see rule 48.8(303,404A)) within 90 days of receipt.

a. If an applicant submits more than one part of an application simultaneously, SHPO staff shall review each part sequentially.

b. If an applicant submits more than one part of an application simultaneously, SHPO staff shall respond in writing to each completed application part sequentially, within 90 days of approval of the previous part of the application.

48.6(4) An application that mirrors a rehabilitation project which qualifies for the federal rehabilitation credit under Section 47 of the Internal Revenue Code shall automatically be approved for the state historic tax credit to the extent that all historic tax credits appropriated for the fiscal year have not already been awarded.

48.6(5) Response to application parts.

a. Review of part one of the application shall result in one of two responses:

- (1) The property is eligible for the historic tax credit; or
- (2) The property is not eligible for the historic tax credit.

b. Review of part two of the application shall result in one of three responses:

(1) The rehabilitation described in the application is consistent with the historic character of the property or the district in which it is located, and the project meets the Standards. The initial review of part two is a preliminary determination only. A formal certification of rehabilitation shall be issued only after rehabilitation work is completed;

(2) The rehabilitation or proposed rehabilitation described in part two of the application will meet the Standards if the stipulated conditions are met; or

(3) The rehabilitation described in part two of the application is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards.

(4) The SHPO shall provide a copy of the SHPO's response to the department of revenue.

c. Review of part three of the application shall result in one of two responses:

(1) The completed rehabilitation meets the Standards and is consistent with the historic character of the property or the district in which it is located. Effective on the date of approval of part two of the application, the project shall be designated a "certified rehabilitation"; or

(2) The rehabilitation is not consistent with the historic character of the property or the district in which it is located, and the project does not meet the Standards.

(3) The SHPO shall provide a copy of the SHPO's response to the department of revenue. Questions concerning specific tax consequences or interpretation of the state code should be addressed to the department of revenue.

d. An authorized representative of the SHPO, with due notice to the applicant, may inspect completed projects to determine if the work meets the Standards. The SHPO reserves the right to make inspections at any time up to five years after completion of the rehabilitation and to revoke certification if it is determined that the rehabilitation project was not undertaken as presented by the owner in the application and supporting documentation, or if the owner, upon obtaining certification, undertook unapproved further alterations as part of the rehabilitation project that are inconsistent with the Standards.

48.6(6) Approval of part one of the application. Upon approval of part one of the application, an applicant may proceed to submission of part two of the application. If the applicant submitted part two of the application simultaneously, the SHPO shall complete review of part one of the application before reviewing part two of the application.

48.6(7) Approval of part two of the application.

a. Upon approval of part two of the application with no conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the next available tax credit year, and the applicant may proceed to implement the project.

b. Upon approval of part two of the application with conditions, the SHPO shall reserve tax credits for the project in an amount equal to 25 percent of the estimated qualified rehabilitation costs for the next available tax credit year. The applicant may proceed to implement the project, and the applicant shall document compliance with the conditions.

48.6(8) Approval of part three of the application. Upon approval of part three of the application, the SHPO shall is-

HISTORICAL DIVISION[223](cont'd)

sue a tax credit certificate to the applicant in an amount equal to 25 percent of the qualified rehabilitation costs as estimated in part two of the application for the tax credit year originally reserved for the project upon approval of part two of the application, unless the qualified rehabilitation costs in part three of the application differ from the estimated qualified rehabilitation costs in part two of the application.

a. If the qualified rehabilitation costs documented in part three of the application are less than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall return any unused tax credits to the available tax credit pool for other projects.

b. If the qualified rehabilitation costs documented in part three of the application are greater than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue a tax credit certificate to the applicant in an amount equal to 25 percent of the documented qualified rehabilitation costs that exceed the qualified rehabilitation costs estimated in part two of the application for the next available tax credits.

223—48.7(303,404A) Funding queues.

48.7(1) The SHPO shall reserve 10 percent of available tax credits for any tax credit year in a small projects funding queue for single projects with estimated qualified rehabilitation costs totaling \$500,000 or less.

a. At the end of each state fiscal year, any funds in the small projects funding queue that have not been reserved for small projects shall be transferred to the statewide funding queue for other projects.

b. If the small projects funding queue is fully reserved before the end of a state fiscal year, any applications for small projects received after full reservation of the small projects funding queue may be eligible for the cultural and entertainment district (CED) funding queue or the statewide funding queue.

48.7(2) The SHPO shall reserve 40 percent of available tax credits for any tax credit year in a CED funding queue for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C.

a. At the end of each state fiscal year, any funds in the CED funding queue that have not been reserved for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C shall be transferred to the statewide funding queue for other projects.

b. If the CED funding queue is fully reserved before the end of a state fiscal year, any applications for projects located in cultural and entertainment districts certified in accordance with Iowa Code section 303.3B or for projects identified in Iowa great places agreements developed in accordance with Iowa Code section 303.3C received after full reservation of the CED funding queue shall be eligible for the statewide funding queue.

48.7(3) The SHPO shall reserve 50 percent of available tax credits in a statewide funding queue for any tax credit year, which is to be used for eligible projects throughout the state of Iowa.

223—48.8(303,404A) Sequencing of applications for review.

48.8(1) Order of review. The SHPO anticipates the receipt of a large number of applications for historic tax credits at the beginning of each state fiscal year. At the start of each

state fiscal year, the SHPO will utilize a project review sequencing system to establish the order in which applications will be reviewed.

48.8(2) Filing window. Applications for historic tax credits received during the first ten working days of the state fiscal year shall be included in a project review sequencing system to determine the order in which they will be reviewed.

48.8(3) Initial sequencing process. An initial sorting process based on the status of the project application at the start of the state fiscal year will be used to associate applications with the appropriate initial sequencing category.

a. Category A projects are comprised of a state historic tax credit application that includes the same scope of work previously submitted and approved, as documented by a signed part two of the federal tax credit application approved prior to the first business day of the state fiscal year. Applications eligible for this category must be received within the specified filing window and must include one of the following: a new part two of the application with part one of the application already on file; new parts one and two of the application; new parts one, two and three of the application; an amendment to part two of the state application; or part three of the application associated with a previously approved part two of the state application when actual qualified rehabilitation costs are in excess of the estimated qualified rehabilitation costs in part two of the application.

b. Category B projects are comprised of a state historic tax credit application without an approved part two of the federal tax credit application on file as of the first state business day of the filing window. Applications in this category must have part one of the application for historic tax credits on file prior to the first state business day of the filing window, and part two of the application must be received within the specified filing window.

c. Category C projects are comprised of an entirely new state historic tax credit application received within the specified filing window and consisting of parts one and two of the application or parts one, two and three of the application.

48.8(4) Secondary sequencing process. Using a random number generator, SHPO staff will assign unique, random numbers to all applications that are eligible for inclusion in the review sequencing system within each category of the initial sequencing system. Applications within each category shall then be placed in numeric order from lowest to highest. SHPO staff shall then create a master review sequence list, with category A applications reviewed first, category B applications reviewed next, and category C applications reviewed last.

48.8(5) Random number generator. SHPO staff shall use a random number generator utility found in Microsoft Excel 2003 or the current version of Microsoft Excel generally used by the department of cultural affairs.

48.8(6) Outside observer. The initial sequencing process, the secondary sequencing process, and the development of the master review sequence list will be observed and certified by an official state witness.

48.8(7) Subsequent applications. Applications for part two or amendments to part two of an application that are received by the SHPO between the tenth business day of the state fiscal year and the last business day of the state fiscal year shall be reviewed in order of receipt so long as tax credits are available for reservation.

223—48.9(303,404A) Reserved tax credits.

48.9(1) Upon written approval of part two of the project application, the SHPO shall reserve an estimated tax credit under the name of the applicant(s) in an amount equal

HISTORICAL DIVISION[223](cont'd)

to 25 percent of the estimated qualified rehabilitation costs for the next available tax credit year.

48.9(2) If the amount of estimated qualified rehabilitation costs changes during the course of project implementation, the applicant may file an amendment to part two of the application with the SHPO or may include those costs in part three of the application.

48.9(3) Upon written approval of an amendment to part two of an application, the SHPO shall reserve an estimated tax credit under the name of the applicant in an amount equal to 25 percent of the qualified rehabilitation costs estimated in the amendment to part two for the next available tax credit year.

48.9(4) The SHPO shall not reserve tax credits for more than two state fiscal years beyond the current state fiscal year.

223—48.10(303,404A) Abandonment of tax credit reservation.

48.10(1) If there has been no contact with the SHPO by the applicant prior to the estimated project completion date shown on the approved part two of the application, the SHPO shall, by registered U.S. mail sent to the last-known address of the applicant, request that a status report be filed with the SHPO within 30 days of the date of the letter. The SHPO shall notify an applicant that the project will be considered abandoned and the SHPO will recapture the tax credit reservation unless the applicant submits a status report that documents actual construction on the project within 30 days of the date of the letter.

48.10(2) If the SHPO has not received a status report that documents actual construction on a project by the deadline, then the SHPO shall notify an applicant by registered U.S. mail sent to the applicant's last-known address that the project has been abandoned and the tax credit reservation has been recaptured because the conditions of subrule 48.10(1) have not been met.

48.10(3) The SHPO shall return any recaptured tax credits to the pool of tax credits available for other rehabilitation projects.

48.10(4) This rule shall also apply to any project that received approval for part two of the application on or before June 30, 2007.

223—48.11(303,404A) Submission deadline.

48.11(1) No later than six months after the estimated project completion date on the approved part two of the applica-

tion, or upon project completion, the applicant shall submit a complete part three of the state historic tax credit application to the SHPO.

48.11(2) If the SHPO has not received a complete part three of the state historic tax credit application by the deadline, then the SHPO shall notify an applicant by registered U.S. mail sent to the applicant's last-known address that the project has been abandoned and the tax credit reservation has been recaptured because the conditions of subrule 48.11(1) have not been met.

48.11(3) The SHPO shall return any recaptured tax credits to the pool of tax credits available for other rehabilitation projects.

48.11(4) This rule shall also apply to any project that received approval for part two of its application on or before June 30, 2007.

223—48.12(303,404A) Transfer of tax credit certificate.

The applicant may transfer the tax credit certificate to one or more parties in accordance with department of revenue 701—subrule 42.15(6).

223—48.13(303,404A) Redemption of tax credit certificates.

The tax credit holder shall attach the tax credit certificate and a copy of the signed part three of the application to the taxpayer's state income tax return and submit these documents to the department of revenue in the tax year for which the tax credit certificate is valid.

223—48.14(303,404A) Tax credits in excess of tax liability.

48.14(1) An applicant whose tax credit exceeds the tax liability in the tax year for which the tax credit may be redeemed is entitled to a refund of the excess tax credit with interest under Iowa Code section 422.25. See also administrative rules of the department of revenue, particularly rules 701—42.15(422) and 701—52.18(422).

48.14(2) In lieu of a refund, the applicant may have the excess tax credit applied to the tax liability for the following year.

223—48.15(303,404A) Application processing fees.

A nonrefundable fee for application processing of parts two and three of an application will be charged for review of requests for certification of a rehabilitation project for historic tax credits. An initial review fee will be due with the filing of part two of an application. An additional fee for review of completed rehabilitation work will be due with the filing of part three of an application. Fees will be based on the amount of qualified rehabilitation costs. The fee schedule is as follows:

Part 2 Review Fee	For projects with qualified rehabilitation cost of:	
Residential (1-2 units) & barns built before 1937	Under \$50,000	No cost
Residential (1-2 units) & barns built before 1937	\$50,000 and over	\$250
Commercial or mixed-use properties (includes residential 3+ units)	Any amount	\$500
Part 3 Review Fee	For projects with qualified rehabilitation cost of:	
Residential (1-2 units) & barns built before 1937	Under \$50,000	No cost
Residential (1-2 units) & barns built before 1937	\$50,000 and over	\$250
Commercial or mixed-use properties (includes residential 3+ units)	Under \$50,000	\$250
Commercial or mixed-use properties (includes residential 3+ units)	\$50,000 to \$1,000,000	.5 percent (.005) of qualified rehabilitation costs
Commercial or mixed-use properties (includes residential 3+ units)	Over \$1,000,000	\$5,000

223—48.16(303,404A) Appeals.

48.16(1) Applicants may appeal a decision of the state historic preservation office on any of the following bases:

- a. Action was outside statutory authority;
- b. Decision was influenced by a conflict of interest;
- c. Action violated state law or administrative rules;
- d. Insufficient public notice was given; or

e. Alteration of the review and certification process was detrimental to the applicant.

48.16(2) Appeals in writing shall be delivered to the director of the department of cultural affairs within 30 days of the decision giving rise to the appeal. All appeals shall be directed to the Director, Department of Cultural Affairs, 600 E.

HISTORICAL DIVISION[223](cont'd)

Locust Street, Des Moines, Iowa 50319; telephone (515)281-7471.

48.16(3) All appeals shall contain:

- The facts of the case;
- Argument(s) in support of the appeal; and
- The remedy sought.

48.16(4) The director of the department of cultural affairs shall consider and rule on an appeal after receiving all documentation from the appellant and shall notify the appellant in writing of the decision within 30 days. The decision of the director of the department of cultural affairs shall be final except as provided in Iowa Code sections 17A.19 and 17A.20.

These rules are intended to implement Iowa Code chapters 303 and 404A.

[Filed Emergency 6/27/07, effective 6/28/07]

[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6042B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 225C.6(1)“b” and 331.438(4)“b”(9) and 2007 Iowa Acts, House File 909, section 91, the Department of Human Services amends Chapter 25, “Disability Services Management,” Iowa Administrative Code.

Legislation in 2007 Iowa Acts, House File 909, sections 87 and 88, clarifies data reporting responsibilities of county central point of coordination (CPC) administrators related to county expenditures for qualified mental health, mental retardation, and developmental disabilities services. Reporting is required as a condition of state payment. These amendments update the minimum disability services data set that county CPCs must submit annually to the Department. Under the amendments, the Department will receive the same types of data from all Iowa counties on services funded with mental health and developmental disabilities funds.

The amendments list the expenditure data and provider data needed and establish the format for data submission that must be used by counties. The amendments reflect changes that have been made to the Department's data warehouse. Unnecessary items have been eliminated, and data is grouped according to the requested report formats.

These amendments do not provide for waivers in specified situations, except that counties shall not be penalized for not reporting data that they did not collect before the effective date of these amendments. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on June 21, 2007.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments implement 2007 Iowa Acts, House File 909, section 91, which authorizes the De-

partment to adopt rules without notice and public participation. A copy of the proposed rules was sent to all county CPCs in May, and the Commission discussed these amendments at its May meeting.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of these amendments should be waived, as authorized by 2007 Iowa Acts, House File 909, section 91.

In compliance with 2007 Iowa Acts, House File 909, section 91, these amendments are also published herein under Notice of Intended Action as **ARC 6043B** to allow for public comment.

These amendments are intended to implement Iowa Code section 225C.6A as amended by 2007 Iowa Acts, House File 909, section 87, Iowa Code sections 331.438 and 331.439, and 2007 Iowa Acts, House File 909, section 90.

These amendments became effective July 1, 2007. Therefore, as prescribed in 2007 Iowa Acts, House File 909, section 92, counties that have not submitted all of their data for state fiscal year 2006 must submit their reports to the Department by July 25, 2007.

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 **25.41(2)**, paragraph “d,” as follows:

d. Service information including the decision on services, date of decision, date client terminated from CPC services and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, and unit rate for service, *expenditure data, and provider data.*

ITEM 2. Rescind subrule 25.41(3) and adopt the following **new** subrule in lieu thereof:

25.41(3) Method of data collection. A county may choose to collect this information using the county management information system (CoMIS) program that was designed by the department or may collect the information through some other means. If a county chooses to use another system, the county must be capable of supplying the information in the same format as CoMIS.

a. Each county shall submit the following files in Microsoft Excel format (version 97 to 2000) using data from the associated CoMIS table or from the county's chosen management information system:

Files to submit	Associated CoMIS Table
WarehouseClient.xls	Client Data
WarehouseIncome.xls	Income Review
WarehousePayment.xls	Payment
WarehouseProvider.xls	Provider
WarehouseProviderServices.xls	tblProviderServices
WarehouseService.xls	Service Authorizations

(1) Paragraphs “b” through “g” list the data required in each file and specify the structure or description for each data item to be reported.

(2) The field names used in the report files must be exactly the same as indicated in the corresponding paragraph, including spaces, and must be entered in the first row for each sheet.

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. File name: WarehouseClient.xls. Sheet name: Warehouse_Client_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
Last Update	Date		mm/dd/yyyy	Date of last update to client record
SID	Text	8	9999999a	State identification number of client, if applicable (format of a valid number is 7 digits plus 1 alphabetical character).
ADD1	Text	50		First address line
ADD2	Text	50		Second address line (if applicable)
CITY	Text	50		City address line
STATE	Text	2		State code
ZIP	Number	5	0 decimal places	5-digit ZIP code
ETHN	Number	1	0 decimal places	Ethnicity of client: 0 = Unknown 1 = White, not Hispanic 2 = African-American, not Hispanic 3 = American Indian or Alaskan native 4 = Asian or Pacific Islander 5 = Hispanic 6 = Other (biracial; Sudanese; etc.)
MARITAL	Number	1	0 decimal places	Marital status of client: 1 = Single, never married 2 = Married (includes common-law marriage) 3 = Divorced 4 = Separated 5 = Widowed
EDUC	Number	2	0 decimal places	Education level of the client
RARG	Number	2	0 decimal places	Residential arrangement of client: 1 = Private residence/household 2 = State MHI 3 = State resource center 4 = Community supervised living 5 = Foster care or family life home 6 = Residential care facility 7 = RCF/MR 8 = RCF/PMI 9 = Intermediate care facility 10 = ICF/MR 11 = ICF/PMI 12 = Correctional facility 13 = Homeless shelter or street 14 = Other
LARG	Number	1	0 decimal places	Living arrangement of client: 1 = Lives alone 2 = Lives with relatives 3 = Lives with persons unrelated to client

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
INS	Number	1	0 decimal places	Health insurance owned by client: 1 = Client pays 3 = Medicaid 4 = Medicare 5 = Private third party 6 = Not insured 7 = Medically Needy
INSCAR	Text	50		First insurance company name, if applicable
INSCAR1	Text	50		Second insurance company name, if applicable
INSCAR2	Text	50		Third insurance company name, if applicable
VET	Text	1		Veteran status of client: Y = Yes N = No
CONSERVATOR	Number	1	0 decimal places	Conservator status of client: 1 = Self 2 = Other
GUARDIAN	Number	1	0 decimal places	Guardian status of client: 1 = Self 2 = Other
LEGSTAT	Number	1	0 decimal places	Legal status of client: 1 = Voluntary 2 = Involuntary, civil commitment 3 = Involuntary, criminal commitment
REFSO	Number	1	0 decimal places	Referral source of client: 1 = Self 2 = Family or friend 3 = Targeted case management 4 = Other case management 5 = Community corrections 6 = Social service agency other than case management 7 = Other
DSMIV	Text	50		DSM IV diagnosis code of client
ICD9	Text	50		ICD-9 diagnosis code (optional for county use; not tied to CoMIS entry)
DG	Number	2	0 decimal places	Disability group of client: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
Application Date	Date	10	mm/dd/yyyy	Date of client's initial application
Outcome decision	Number	1	0 decimal places	Decision on client's application: 1 = Application accepted 2 = Application denied 3 = Decision pending
Decision date	Date	10	mm/dd/yyyy	Date decision was made on client's application
Denial reason	Text	2		Denial reason code: 00 = Not applicable 01 = Over income guidelines 1A = Over resource guidelines 02 = Does not meet county plan criteria 2A = Legal settlement in another county 2B = State case 3A = Brain injury 3B = Alzheimer's 3C = Substance abuse 3D = Other 04 = Does not meet service plan criteria 05 = Client desires to discontinue process 5A = Client fails to return requested information
Client exit date from CPC	Date	10	mm/dd/yyyy	Date client was terminated from CPC services

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
Exit reason	Number	1	0 decimal places	Reason client left the CPC system: 0 = Unknown 1 = Client voluntarily withdrew 2 = Client deceased 3 = Unable to locate consumer 4 = Ineligible due to reasons other than income 5 = Ineligible, over income guidelines 6 = Client moved out of state 7 = Client no longer needs service 8 = Client has legal settlement in another county
Review Date	Date	10	mm/dd/yyyy	Date of last application review
PhoneNumber	Text	50		Phone number of client
ValidSSN	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client has a valid social security number. If the client does not have a valid social security number, populate this field with NO.
IsPerson	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client is a person. If the client entry represents a nonperson such as administrative costs, populate this field with NO.

c. File name: WarehouseIncome.xls. Sheet name: Warehouse_Income_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
EMPL	Number	2	0 decimal places	Employment situation of client: 1 = Unemployed, available for work 2 = Unemployed, unavailable for work 3 = Employed full-time 4 = Employed part-time 5 = Retired 6 = Student 7 = Work activity employment 8 = Sheltered work employment 9 = Supported employment 10 = Vocational rehabilitation 11 = Seasonally employed 12 = In the armed forces 13 = Homemaker 14 = Other or not applicable 15 = Volunteer
House Hold Size	Number	2	0 decimal places	Number of people in client's household

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
INCSOUR	Number	2	0 decimal places	Primary income source of client: 1 = Family and friends 2 = Private relief agency 3 = Social security disability benefits 4 = Supplemental Security Income 5 = Social security benefits 6 = Pension 7 = Food assistance 8 = Veterans benefits 9 = Workers compensation 10 = General assistance 11 = Family investment program (FIP) 12 = Wages
Public Assistance Payments	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security Disability	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
SSI	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
VA Benefits	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
R/R Pension	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Child Support	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Employment Wages	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Dividend Interest	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Other Income	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Description 1	Text	50		Description of "Other Income"
Cash on hand	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Checking	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Savings	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Stocks/Bonds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Time Certificates	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Trust Funds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Other Resources	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 2	Text	50		Description of "Other Resources" (where applicable)
Other Resources 2	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 3	Text	50		Description of "Other Resources 2"
Date reviewed	Date	10	mm/dd/yyyy	Date income was last reviewed (where applicable)

d. File name: WarehousePayment.xls. Sheet name: Warehouse_Payment_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name

HUMAN SERVICES DEPARTMENT[441](cont'd)

Field Name	Data Type	Field Size	Format	Description
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
PYMTDATE	Date	10	mm/dd/yyyy	Date county approves or makes payment
VENNAME	Text	50		Vendor or provider paid
COCODE	Number	3	0 decimal places	County where service was provided
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for payment
BEGDATE	Date	10	mm/dd/yyyy	Beginning date of payment period
ENDDATE	Date	10	mm/dd/yyyy	Ending date of payment period
UNITS	Number	4	0 decimal places	Number of service units for payment
COPD	Currency	14	2 decimal places	Amount paid by the county
OTHPD	Currency	14	2 decimal places	Amount paid by other party (if applicable)
RECEIVED	Currency	14	2 decimal places	Amount received for reimbursement (if applicable)

e. File name: WarehouseProvider.xls. Sheet name: Warehouse_Provider_Transfer_Que. (If the provider has more than one office location, enter information for the headquarters office.)

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
Provider Address1	Text	50		Provider address line 1
Provider Address2	Text	50		Provider address line 2 (if applicable)
City	Text	50		Provider city
State	Text	2		Provider state code
Zip	Text	10		Provider ZIP code
COCODE	Number	3	0 decimal places	Provider county code
PhoneNumber	Text	50		Provider phone number
Date of Last Update	Date	10	mm/dd/yyyy	Provider last updated date

f. File name: WarehouseProviderServices.xls. Sheet name: Warehouse_Provider_Services_Tra.

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for service
RATE	Currency	14	2 decimal places	Payment rate

HUMAN SERVICES DEPARTMENT[441](cont'd)

g. File name: WarehouseService.xls. Sheet name: Warehouse_Service_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 200 = Iowa nonresident 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No"
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
FUND CODE	Text	10		Fund code for service
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other category
COACODE	Number	5	0 decimal places	Chart of accounts code for service
Begin Date	Date	10	mm/dd/yyyy	Beginning date of service period
End Date	Date	10	mm/dd/yyyy	Ending date of service period
Ending Reason	Number	1	0 decimal places	Reason for terminating approval of service: 0 = NA 1 = Voluntary withdrawal 2 = Client no longer needs service 3 = Ineligible, over income guidelines 4 = Ineligible due to other than income 5 = Client moved out of state 6 = Client deceased 7 = Reauthorization
Units	Number	4	0 decimal places	Average number of service units approved monthly
Rate	Currency	14	2 decimal places	Dollar amount per service unit
Review Date	Date	10	mm/dd/yyyy	Date for next service review

[Filed Emergency 6/22/07, effective 7/1/07]

[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6061B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 10A.104, the Department of Inspections and Appeals hereby amends Chapter 25, "Iowa Targeted Small Business Certification Program," Iowa Administrative Code.

The amendment implements legislative mandates by changing the term "Hispanic" to "Latino" and increasing the annual gross income limit from \$3 million to \$4 million in

order for a business to participate in the Targeted Small Business Certification Program.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because this amendment adopts legislative changes mandated by 2007 Iowa Acts, House File 890, which went into effect May 22, 2007, and which allows more businesses to qualify for the certification program.

The Department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and this amendment made effective upon filing with the Administrative Rules Coordinator on June 27, 2007, as it confers a benefit on the regulated community by increasing the maximum income limit for a tar-

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

geted small business to participate in the certification program.

The amendment is not subject to waiver as it adopts statutory requirements and confers a benefit upon the regulated community by increasing the maximum income limit to participate in the certification program. No fiscal impact is anticipated.

This amendment is intended to implement 2007 Iowa Acts, House File 890.

This amendment became effective June 27, 2007.

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

The following amendment is adopted.

Amend rule **481—25.1(73)**, definitions of “minority” and “targeted small business,” as follows:

“Minority” means an individual who is a Black, Hispanic, Latino, Asian, Pacific Islander, American Indian or Alaskan Native American.

“Targeted small business (TSB)” means a small business which is 51 percent or more owned, operated, and actively managed by one or more targeted group persons provided the business meets all of the following requirements:

1. Is located in this state;
2. Is operated for profit;
3. Has an annual gross income of less than \$3.4 million, computed as an average of the three preceding fiscal years.

[Filed Emergency 6/27/07, effective 6/27/07]

[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6053B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 99B.13 and 2007 Iowa Acts, Senate File 414, the Department of Inspections and Appeals hereby adopts Chapter 106, “Card Game Tournaments by Veterans Organizations,” Iowa Administrative Code.

The chapter provides rules to implement 2007 Iowa Acts, Senate File 414, which provides for the licensure, operation and taxation of card game tournaments by veterans organizations. The chapter includes definitions, standards for licensing, rules for holding card game tournaments, and the procedure for revocation, suspension or denial of a license.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because the effective date of 2007 Iowa Acts, Senate File 414, is July 1, 2007, and rules are needed in order to begin licensure of card game tournaments.

Furthermore, the Department finds that these rules confer a benefit by allowing veterans organizations to seek licenses for card game tournaments. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these rules is waived.

These rules are intended to implement 2007 Iowa Acts, Senate File 414.

These rules are also published herein under Notice of Intended Action as **ARC 6054B** to allow public comment. This emergency filing permits the Department to implement the new provisions of law by the effective date of July 1, 2007.

These rules became effective July 1, 2007.

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 **new** chapter is adopted.

CHAPTER 106

CARD GAME TOURNAMENTS BY VETERANS ORGANIZATIONS

481—106.1(10A,99B) Definitions. For the purposes of this chapter, the following definitions apply:

“Card game” means only poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, or cribbage.

“Card game tournament” or “tournament” means a series of card games held by a licensee during a consecutive period of time of not more than 24 hours and not held as part of an annual game night licensed pursuant to Iowa Code section 99B.8.

“Department” means the department of inspections and appeals.

“Educational, civic, public, charitable, patriotic, or religious use” is as defined in Iowa Code section 99B.7(3), paragraph “b.”

“Licensee” means a qualified organization representing veterans that is licensed to hold card game tournaments.

“Merchandise” means a tangible, usable product which has its own value. A merchandise gift certificate exchangeable only for merchandise is acceptable. Iowa lottery tickets or shares sold pursuant to Iowa Code chapter 99G are merchandise. The value of the ticket or share is the price of the ticket or share as established by the Iowa lottery authority pursuant to Iowa Code chapter 99G.

“Premises” means the space, building or room that is used by a licensee to conduct card game tournaments. All spaces, buildings or rooms that the licensee uses, owns, rents, or controls which are adjacent to the gambling space are included. Any area accessible through a common doorway is part of the gambling location, no matter who uses, owns, rents or controls the area.

“Pyramid” or “build up” means a game in which a prize must be returned in order to play another game or to be eligible for another bigger prize, or a game in which the prize must be forfeited if a later game is lost.

“Qualified organization representing veterans” means any licensed organization representing veterans, which is a post, branch, or chapter of a national association of veterans of the armed forces of the United States which is a federally chartered corporation, dedicates the net receipts of a game of skill, game of chance, or raffle as provided in Iowa Code section 99B.7, is exempt from federal income taxes under Section 501(c)(19) of the Internal Revenue Code as defined in Iowa Code section 422.3, has an active membership of not less than 12 persons, and does not have a self-perpetuating governing body and officers.

“Self-perpetuating governing body” means a governing body in which the members of the governing body are appointed by the governing body itself and are not elected by

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

the membership of the organization. For example, if an organization has a board of directors as the governing body and the board of directors appoints the new or successor members of the board, it is a self-perpetuating governing body.

481—106.2(99B) Licensing. Before any card game tournament may occur, a license application must be approved by the department. Licenses are issued for one year and are called veterans card game tournament licenses.

106.2(1) An applicant shall submit a license application including required documentation and the \$100 license fee. The applicant shall submit the license application at least 30 days in advance of the first event requiring the license.

106.2(2) A license application is available from the Department of Inspections and Appeals, Social and Charitable Gambling Unit, Lucas State Office Building, 321 E. 12th St., Des Moines, Iowa 50319-0083; by calling (515)281-6848; or on line at the department's Web site: www.dia.iowa.gov.

106.2(3) The license application shall include the following:

a. Documentation which demonstrates that the applicant has held regular meetings of the organization on the premises for the last eight months; and

b. A copy of the Internal Revenue Service determination letter showing the organization is exempt from federal income taxes under Internal Revenue Code Section 501(c)(19).

106.2(4) If the license application is incomplete, the license application and license fee shall be returned to the applicant with an explanation of the reason(s) the application was returned.

481—106.3(99B) Card game tournament. Licensees conducting tournaments shall comply with all of the following:

106.3(1) Each card game shall be conducted in a fair and honest manner and shall not be operated on a build-up or pyramid basis.

106.3(2) Every participant in a tournament must be given the same chance of winning the tournament. Second chance entries or multiple entries are prohibited.

106.3(3) The licensee shall conduct each tournament and shall not contract with or permit another person to conduct the tournament or any card game during the tournament.

106.3(4) No person shall receive or have any fixed or contingent right to receive, directly or indirectly, any profit, remuneration, or compensation from or related to a game in a card game tournament, except any amount which the person may win as a participant on the same basis as the other participants.

106.3(5) The licensee shall not hold more than two card game tournaments per month.

106.3(6) The licensee shall not hold a tournament within seven calendar days of another tournament conducted by the licensee.

106.3(7) The licensee shall be allowed to hold only one card game tournament during any period of 24 consecutive hours, starting from the time the tournament begins.

106.3(8) At the conclusion of each tournament, the person conducting the tournament shall announce the gross receipts received; the total amount of money withheld for expenses; the total amount to be dedicated for educational, civic, public, charitable, patriotic, or religious uses; and the amount withheld for state taxes.

106.3(9) A tournament held under an annual game night license shall not count toward the licensee's limit of one card game tournament per week.

106.3(10) The licensee shall limit the number of participants to the occupancy limit of the premises.

106.3(11) Participation in tournaments shall be limited to the qualified organization's members and guests as required in 2007 Iowa Acts, Senate File 414, section 1. Participants shall be at least 21 years of age.

481—106.4(99B) Required postings.

106.4(1) The veterans card game tournament license shall be prominently displayed in the playing area during tournaments.

106.4(2) Tournament rules shall be posted on a sign in the the tournament playing area before the tournament begins. The sign shall be at least 30 inches by 30 inches, and the rules shall be easily readable. The sign shall include the following:

a. In permanent letters 3 inches high, the words "Tournament Rules";

b. Card games and the rules of each card game;

c. Participation fees;

d. Prize(s) for each card game and tournament;

e. How winners will be determined; and

f. Any other tournament rules.

481—106.5(99B) Prizes and cost to participate. Cash or merchandise prizes may be awarded for each card game tournament. A licensee shall distribute the prizes awarded on the day the prizes are won. Merchandise prizes shall not be repurchased by the licensee. Only prizes that can be won shall be displayed in the tournament playing area. Pets as defined in Iowa Code section 717E.1 are prohibited as prizes for card game tournaments. The amount of the prize(s) and the participation fee are dependent upon the number of guests each member of the licensee is allowed.

106.5(1) Tournaments with members and one guest per member. Tournaments that allow members of the qualified organization and only one guest per member are restricted to the following:

a. The cost to participate shall be no more than \$100 for each participant, with each participant paying the same amount;

b. Total prizes of cash and merchandise shall be no more than \$1000; and

c. A single participant shall win no more than \$500 during the tournament.

106.5(2) Tournaments with members and unlimited number of guests. Tournaments that allow members of the qualified organization and an unlimited number of guests per member are restricted to the following:

a. The cost to participate shall be no more than \$25 for each participant, with each participant paying the same amount;

b. Total prizes of cash and merchandise shall be no more than \$300; and

c. A single participant shall win no more than \$200 during the tournament.

481—106.6(99B) Restrictions. The person conducting the card game tournament shall:

106.6(1) Hold only one license under this chapter and 2007 Iowa Acts, Senate File 414, section 1.

106.6(2) Have no ownership interest in another person who has been issued a card game tournament license.

106.6(3) Have, directly or indirectly, an interest in the ownership or profits of another person who has been issued a card game tournament license to conduct games under this chapter and 2007 Iowa Acts, Senate File 414, section 1.

481—106.7(99B) Qualified expenses limitation. The licensee may withhold no more than 5 percent of the gross receipts from each tournament for qualified expenses.

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

106.7(1) Qualified expenses include but are not limited to the purchase of supplies and materials used in conducting card games.

106.7(2) Any money collected for expenses and any interest earned and not used by the end of the calendar year shall be donated for educational, civic, public, charitable, patriotic, or religious uses.

106.7(3) The licensee shall attach to the fourth quarterly report of the calendar year a receipt for any donation made and an explanation of how the donation will be used.

481—106.8(99B) Records. The licensee shall keep a journal of the following for each tournament: date of the tournament, amount of gross receipts, amount given out as prizes, expenses, amount collected for taxes, and the amount collected as revenue.

106.8(1) Tournament records shall be maintained separately from all other records and shall be kept current.

106.8(2) A record of prizes awarded for each tournament shall contain the following information:

- a. Date of the tournament;
- b. Number of people who played, including a breakdown by members and guests;
- c. Name and description of each card game played;
- d. Name, address, and social security number of each winner;
- e. Type of each prize (i.e., merchandise or cash) and the value of each prize.

106.8(3) Records shall be maintained by the licensee for three years for review by the department.

106.8(4) The licensee shall certify that the receipts of all tournaments, less reasonable expenses, charges, fees, taxes, and deductions, will either be distributed as prizes to participants or will be dedicated and distributed to educational, civic, public, charitable, patriotic, or religious uses.

106.8(5) Records of expenses and dedicated and distributed money are required. A book may be maintained which contains both, provided that expense information is separate and distinct from information about dedicated and distributed money. Each subject shall be in a clearly labeled section.

a. The name, address, date, purpose and amount dedicated to another person or organization shall be available for review.

b. If dedicated funds are used by the licensee, the date, purpose and amount must be recorded.

c. Receipts used for expenses shall be recorded. The record must show:

- (1) The date;
- (2) The amount;
- (3) The purpose; and
- (4) To whom paid.

d. Invoices or bills for expenses must be maintained. Advertising copy and invoices must be retained for verification.

106.8(6) A compensation record for each member who is compensated for work at a tournament shall be maintained. Each record must show:

- a. The name, address, and social security number of the member;
- b. Dates of employment;
- c. Times and number of hours worked;
- d. Wages paid;
- e. Amounts withheld;
- f. Check number; and
- g. Description of work completed.

In addition, the record must specifically identify for which card game tournament a member was compensated. Compensation is anything of value given to a member in exchange for services rendered in connection with a tournament. Compensation to members for services rendered shall be reasonable for the amount of time worked and the work completed. To determine reasonableness, the department shall use the minimum wage and the Iowa wage data of the U.S. Department of Labor, Bureau of Labor Statistics. Compensation records shall be maintained by the licensee for three years for review by the department.

481—106.9(99B) State and local option sales tax. Gross receipts from tournaments are subject to state and local option sales tax.

106.9(1) Each licensee shall withhold sales tax from gross receipts. The sales tax shall be sent to the department of revenue, along with a copy of the quarterly report as required by the department. The tax and sales tax returns shall be sent to the department of revenue as required by the department of revenue.

106.9(2) Tax information may be obtained from the Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319; 1-800-367-3388; www.state.ia.us/tax.

481—106.10(99B) Inspections. A representative of the department or law enforcement shall be admitted immediately upon request to the licensee's premises, with or without notice. All records, bank records, deposits, receipts, quarterly reports, cash control documents, expense records, and other documents pertaining to card game tournaments shall be made available to the department or any law enforcement officer when requested. The licensee shall provide to any department representative or law enforcement officer any assistance requested in completing an inspection of records.

481—106.11(99B) Quarterly reports. Licensees must file quarterly reports with the department.

106.11(1) Quarterly reports are submitted on a calendar-quarter basis.

- a. The first quarter is January 1 to March 31;
- b. The second quarter is April 1 to June 30;
- c. The third quarter is July 1 to September 30;
- d. The fourth quarter is October 1 to December 31.

106.11(2) Quarterly reports must be completed on the forms determined by the department. Quarterly reports are due 30 calendar days after the end of the quarter. When the due date falls on a Saturday, Sunday or legal holiday, the report is due on the next business day.

106.11(3) The quarterly report form may be obtained by calling the department at (515)281-6848 or printed from: <http://www.dia.iowa.gov/page10.html>.

481—106.12(99B) Penalties. The department may deny, suspend, or revoke a license if the department finds that an applicant, licensee, or an agent of the licensee violated or permitted a violation of a provision of this chapter or a departmental rule adopted pursuant to Iowa Code chapter 17A.

106.12(1) Failure to file a timely quarterly report may result in suspension or revocation of a license for a period of no longer than 30 days per violation. Each untimely report is one violation. Each month the report is not filed constitutes a violation. The suspension or revocation shall continue until the report is filed, but not longer than one year.

106.12(2) A person under 21 years of age who participates in a card game tournament in violation of this chapter and 2007 Iowa Acts, Senate File 414, section 1(2)"c," is

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

deemed to violate the legal age for gambling wagering provisions under Iowa Code section 725.19, subsection 1.

106.12(3) The department shall revoke, for a period of one year, the license of a licensee if the licensee knowingly permits a person under the age of 21 years to participate in a card game tournament.

481—106.13(99B) Revocation, suspension, or denial of license.

106.13(1) The department may revoke, suspend, or deny a license issued pursuant to Iowa Code section 99B.8 as amended by 2007 Iowa Acts, Senate File 414, for cause following 30 days' written notice delivered via certified mail, return receipt requested, or personal service and an opportunity for hearing.

106.13(2) If the licensee or applicant has not requested a hearing within the prescribed time period, the department may affirm, modify or set aside the department's proposed action in the department's final written decision.

106.13(3) If the licensee or applicant requests a hearing, the hearing shall be held in accordance with procedures in 481—Chapter 10.

106.13(4) The department may suspend a license prior to a hearing if the director determines the public integrity of the licensed activity is compromised or there is a risk to public health, safety, or welfare.

106.13(5) The department may rescind the notice of revocation, suspension, or denial at any point prior to hearing when the department becomes satisfied that the reasons for revocation, suspension, or denial have been or will be removed.

106.13(6) The department shall send certified mail, return receipt requested, or serve personally upon the applicant or licensee a copy of the department's final decision.

106.13(7) If the department finds cause for denial of a license, the applicant shall not reapply for the veterans card game tournament license for two years.

106.13(8) If the department finds cause for revocation or suspension, the department shall suspend or revoke the license for a period not to exceed two years.

106.13(9) A license remains effective until a final decision is issued.

106.13(10) No license will be issued when a new application is denied.

These rules are intended to implement Iowa Code sections 99B.2, 99B.14, 99B.16, 422.16 and 717E.2 and 2007 Iowa Acts, Senate File 414.

[Filed Emergency 6/27/07, effective 7/1/07]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6047B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 17A.3, the Department of Public Safety hereby amends Chapter 11, "Identification Section of the Division of Criminal Investigation," Iowa Administrative Code.

Iowa Code chapter 692 establishes the basic framework for access to criminal history records in Iowa. 661—Chapter 11 was adopted to facilitate implementation of these requirements by the Department of Public Safety. Federal law restricts to criminal and juvenile justice agencies access to national criminal history records from the Federal Bureau of Investigation and provides that other entities may have access only under the specific condition that a state statute requires access for a specific purpose. 2007 Iowa Acts, Senate File 601, section 102, requires examination of a national criminal history record for an applicant for a teaching position in Iowa. The adopted amendment implements that requirement.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is essential that the requirement for examination of a national criminal history record be implemented concurrent with the July 1, 2007, effective date of 2007 Iowa Acts, Senate File 601, section 102. This compatibility between the revised statute and the rules will reduce ambiguity and confusion in relation to the availability of national criminal history checks to school districts considering applicants for employment in teaching positions.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2007, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by making available national criminal history information to school districts considering applicants for employment in teaching positions.

This amendment is also published herein under Notice of Intended Action as **ARC 6046B**. The Notice of Intended Action will provide for a period of public comment and participation, including a public hearing, which is scheduled at 10 a.m. on September 5, 2007, in Room 125 of the Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319. This process will culminate in the adoption of the amendment through the normal rule-making process with any public input received during the comment period having been taken into account.

This amendment became effective July 1, 2007.

This amendment is intended to implement Iowa Code chapter 692 and 2007 Iowa Acts, Senate File 601, section 102.

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

The following amendment is adopted.

Amend rule 661—11.21(692) by adopting the following **new** subrule:

11.21(4) A school district considering an applicant for a teaching position is a qualified entity pursuant to 2007 Iowa Acts, Senate File 601, section 102. A school district may submit a request for a national criminal history check of an applicant for employment as a teacher. The request shall be submitted on a form designated by the division of criminal investigation and shall be accompanied by completed fingerprint cards for the applicant and the applicable fee. The district may contact the division of criminal investigation by telephone at (515)725-6066 or by electronic mail at cchinfo@dps.state.ia.us, prior to submitting the request, to obtain in-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

structions on the submission or may consult the Web site of the division for this information.

[Filed Emergency 6/25/07, effective 7/1/07]
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ARC 6049B

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 17A.3, the Department of Public Safety hereby amends Chapter 25, "Public Records and Fair Information Practices," Iowa Administrative Code.

Iowa Code chapter 22 establishes the basic framework for access to records of public agencies in Iowa. 661—Chapter 25 was adopted in 1988 to facilitate implementation of these requirements by the Department of Public Safety. Other chapters of the administrative rules of the Department also relate to the release of records, including Chapter 11 (criminal history records), Chapter 81 (criminal intelligence files), Chapter 83 (sex offender registry records) and Chapter 89 (missing persons records).

This rule making is being undertaken primarily to add two substantive changes to the provisions of Chapter 25. The first significant change to the rules is the addition of language which specifies records containing information about security procedures or emergency preparedness which shall be maintained as confidential. This provision implements Iowa Code section 22.7, subsection 50, which was adopted by the General Assembly in 2006. The second change provides for the release of official photographs of employees of the Department either after the employee has consented in writing to the release or after a formal request for release of the photograph has been received. A photograph will be released only if the release would not jeopardize an ongoing investigation or place the employee at risk. This provision implements statutory language adopted in 2007 Iowa Acts, Senate File 457. These amendments also update the language of certain provisions without changing their substance, such as explicitly providing for the receipt of requests for open records by electronic mail, and provide new contact information for the Department.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable that the new requirements for the release of official photographs of employees be implemented concurrent with the July 1, 2007, effective date of 2007 Iowa Acts, Senate File 457. This compatibility between the revised statute and the rules will reduce ambiguity and confusion in the release of official photographs. In addition, it is important that restrictions on the release of security procedures and emergency preparedness information be clarified as soon as possible, to avoid the inadvertent and potentially damaging release of this information.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2007, after filing

with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by clarifying restrictions on the release of records containing information about security procedures and emergency preparedness and by synchronizing the procedures for release of official photographs of employees with the statutory requirements enacted in 2007 Iowa Acts, Senate File 457, as of the effective date of the bill.

These amendments are also published herein under Notice of Intended Action as **ARC 6048B**. The Notice of Intended Action will provide for a period of public comment and participation, including a public hearing, which is scheduled at 9:30 a.m. on September 5, 2007, in Room 125 of the Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319. This process will culminate in the adoption of these amendments through the normal rule-making process with any public input received during the comment period having been taken into account.

These amendments became effective July 1, 2007.

These amendments are intended to implement Iowa Code chapter 22 and 2007 Iowa Acts, Senate File 457.

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 661—25.3(17A,22) as follows:

Amend subrule 25.3(1) as follows:

25.3(1) Location of record. A request for access to a record should be directed to the office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to ~~Administrator, Administrative Services Division~~ *the Public Information Bureau*, Department of Public Safety, ~~Wallace State Office Building 215 East 7th Street~~, Des Moines, Iowa 50319. ~~The administrative services division will forward the request to the appropriate person.~~

Rescind subrule 25.3(3) and adopt in lieu thereof the following **new** subrule:

25.3(3) Request for access. A request for access to open records may be made in writing, by electronic mail, in person, or by telephone. The request shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

Rescind subrule 25.3(4) and adopt in lieu thereof the following **new** subrule:

25.3(4) Response to requests. Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian shall also provide to the requester an estimate of any fees which will be assessed to cover the costs of complying with the request.

Rescind subrule 25.3(6) and adopt in lieu thereof the following **new** subrule:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

25.3(6) Copying. A reasonable number of copies of an open record may be made in the departmental office. If photocopy equipment is not available in the departmental office where an open record is kept, the custodian shall permit its examination in that office or a nearby location and shall arrange to have copies promptly made elsewhere. An electronic copy may be provided if mutually agreeable to the custodian and the requester.

ITEM 2. Amend rule **661—25.13(22)** by adding the following **new** numbered paragraph **“9”**:

9. Any report, manual, or other record which contains information concerning security procedures or emergency preparedness information related to the protection of employees of the department, employees of other agencies of state government, employees of other units of government, visitors to state government facilities or offices, other persons on premises controlled by any state or local government agency, or property owned by or under the control of the department, any other state agency, or any other unit of government, or information concerning security procedures or emergency preparedness information related to persons or property owned by or under the control of a private entity if that information was obtained by the department in relation to planning for emergencies or developing security procedures, or with an assurance that the information would be maintained as confidential.

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

661—25.15(22,82GA,SF457) Release of official photographs of employees. An official photograph of any employee of the department shall be released only if either of the following is true:

1. The employee has signed a written release giving permission to release the photograph; or
2. A request has been received to release the photograph pursuant to Iowa Code chapter 22.

A photograph of an employee of the department shall not be released if its release could jeopardize an ongoing investigation or place the employee at risk.

ITEM 4. Amend **661—Chapter 25** by adopting the following **new** implementation clause:

These rules are intended to implement Iowa Code chapter 22.

[Filed Emergency 6/25/07, effective 7/1/07]
[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6060B

SOIL CONSERVATION DIVISION[27]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation adopts amendments to Chapter 10, "Iowa Financial Incentive Program for Soil Erosion Control," Iowa Administrative Code.

These amendments modify provisions for maintenance and performance agreements and the allocation process and eligibility requirements for the Iowa Financial Incentive Pro-

gram for Soil Erosion Control. The amendments also modify the program's reporting requirements, practice standards and specifications.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5907B**.

A public hearing was held on June 12, 2007. No comments were received at the hearing.

In response to written comments received, changes were made to allow more time for districts to obligate initial allocations, eligibility qualifications were reinstated for supplemental allocations, and the process for handling recalled funds was clarified.

The Division of Soil Conservation adopted these amendments on June 27, 2007.

These amendments do not contain a waiver, but are subject to the Division's general waiver.

The Division of Soil Conservation finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments shall be waived and these amendments shall be made effective upon filing, as they confer an immediate and maximized benefit to the public by improving delivery and effectiveness of the Iowa Financial Incentive Program for Erosion Control.

These amendments are intended to implement Iowa Code chapter 161A.

These amendments became effective June 27, 2007.

The following amendments are adopted.

ITEM 1. Amend rule **27—10.20(161A)** as follows:

Amend the following definitions:

~~"Applicant"~~ means a person or persons ~~applying for financial incentives requesting assistance~~ for implementing soil and water conservation practices.

~~"Certifying technician"~~ means the district conservationist of the ~~soil conservation service~~ *Natural Resources Conservation Service (NRCS)* or the district forester of the department of natural resources.

~~"District cooperator" is a landowner who~~ means an individual or business that has entered into a cooperator's agreement with a district for the purpose of planning, applying, and maintaining the necessary soil and water conservation practices on land under ~~landowner's~~ control of the individual or business.

~~"Maintenance agreement"~~ *"Maintenance/performance agreement"* means an agreement between the recipient, the landowner, and the district ~~that the~~. The recipient and landowner ~~agrees~~ agree to maintain the soil conservation practices for which financial incentives from the division through the district have been received. The agreement states that the recipient and landowner will maintain, repair, or reconstruct the permanent practices if they are not maintained ~~for 20 years according to the terms specified in the agreement. The terms of the agreement shall be specified by the division.~~

~~"Program year"~~ *"Fiscal year"* means the state fiscal year for which program funds were appropriated.

~~"Recipient"~~ means a landowner or ~~farm operator~~ district cooperator who has qualified for and received financial incentive payments for implementing soil and water conservation practices.

Rescind the definitions of "performance agreement," "'permanent' or 'permanent soil and water conservation practice,'" and "'temporary' or 'temporary soil and water conservation practice.'"

Add the following **new** definition in alphabetical order:

SOIL CONSERVATION DIVISION[27](cont'd)

“Certification of practice form” means a signature page used to attest that a practice was installed, performed or maintained in accordance with applicable standards.

ITEM 2. Amend rule 27—10.31(161A), catchwords, as follows:

27—10.31(161A) Compliance with performance or maintenance/performance agreements.

ITEM 3. Rescind and reserve subrule **10.31(1)**.

ITEM 4. Amend subrule 10.31(2) as follows:

10.31(2) Maintenance/performance agreement. As a condition for receipt of any financial incentives funds for implementing permanent soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for a minimum of 20 years after the date of the term specified in the maintenance/performance agreement. This is done by completing and signing Maintenance Agreement, Form IP-4, (see subrule 10.74(5), paragraph “b”). Specific conditions of the maintenance agreement are detailed on the form.

a. Determination of practice implementation and continued compliance with maintenance/performance agreements.

(1) The certifying technician or the technician of the district will determine if the completed practice is in compliance with applicable standards and specifications in Part 8 of these rules. The certifying technician shall attest to completion and compliance ~~to with~~ the standards by completing and signing the Certification of Practice, Form IP-2 a certification of practice form. The completed certification will be retained in the district case file for the appropriate landowner.

(2) The certifying technician or district technician shall inspect the practice at any time the district commissioners have reason to believe it is not being satisfactorily maintained. The division will evaluate the situation to determine that proper procedures were followed. “Satisfactorily maintained” means being maintained in such a state of repair so that the practice is successfully performing the function for which it was originally installed. Following the inspection, the certifying technician shall attest to compliance with the maintenance agreement by completing and signing a Certification of Practice, Form IP-2 complete a certification of practice form. The completed certification shall be filed in the district’s case file for the landowner.

(3) The district shall inspect a practice whenever requested to do so by the landowner. The person requesting the inspection shall be provided a copy of the Certification of Practice, Form IP-2, which is completed certification of practice form used to document the results of this inspection.

b. Determination of noncompliance with maintenance/performance agreement. If the certifying technician determines that the practice is not being satisfactorily maintained, it shall be so noted on the Certification of Practice, Form IP-2 certification of practice form. The district shall notify the division in writing of the noncompliance finding. The notification to the division shall contain a complete explanation of why the practice is considered not to be in compliance with the maintenance/performance agreement. The division will evaluate the situation to determine that proper procedures were followed. “Satisfactorily maintained” means the practice has been maintained in such a state of repair that it is successfully performing the function for which it was originally installed.

c. In the event that properly maintained practices that were installed with the assistance of Iowa financial incentive program funds are damaged due to natural disasters, completing the maintenance/performance agreement shall not

constitute an action or intent on the part of the division to prevent the owner of the land on which the practices were installed from receiving federal emergency conservation program assistance to repair or replace the practices.

ITEM 5. Amend rule 27—10.32(161A), introductory paragraph and first unnumbered paragraph, as follows: **27—10.32(161A) Noncompliance with performance or maintenance agreements.** When found to be in noncompliance with performance agreements, the recipient of the financial incentive payment will be required to pay back to the division the total amount of the incentive payment received.

When found to be in noncompliance with a maintenance agreement, the landowner will be required to maintain, repair or reconstruct the permanent practice, or repay an amount if appropriate as required by subrule 10.32(2) or 10.32(3).

ITEM 6. Rescind and reserve subrules **10.32(1)** through **10.32(3)**.

ITEM 7. Amend subrule 10.32(4), introductory paragraph, as follows:

10.32(4) Noncompliance with maintenance/performance agreements entered after July 1, 1982.** Upon determination by the district and the division that a landowner is not in compliance with a maintenance/performance agreement, the division shall assist the district in the issuance of an administrative order to the landowner requiring appropriate maintenance, repair or reconstruction of the practice, provided voluntary means have been exhausted. *The district, in its sole discretion, may allow the landowner or the landowner’s successors to refund to the division the entire amount of the financial incentive payment received by the landowner in lieu of maintaining, repairing or reconstructing a practice.*

**Projects started prior to July 1, 1982, will be subject to the provisions of subrule 10.32(3).

ITEM 8. Amend subrule 10.32(5) as follows:

10.32(5) Agricultural land converted to nonagricultural land. If land subject to a performance or maintenance/performance agreement is converted to a nonagricultural use that does not require a permanent soil and water conservation practice which has been established with financial incentives, the practice shall not be removed until the owner refunds an the appropriate amount of the payment received.

a. Amount of refund. The amount of refund will be the same as 10.32(3)“c.” amount of the financial incentive payment received less 5 percent for each year the practice was in place.

b. Funds will be deposited into an account established by the district. Districts will notify the division when such refunds are collected.

c. Refunds will be made to the division. The division will deposit refunds to the appropriate district account. Use of the funds refunds will be limited to providing financial incentives under this chapter.

d. Districts will notify the division when such funds are collected.

ITEM 9. Amend rule 27—10.33(161A) as follows:

27—10.33(161A) Appeals and reviews. A landowner or farm operator who has been ordered to refund a financial incentive payment for maintain, repair or reconstruct a temporary practice, or a permanent practice subject to a maintenance/performance agreement, entered between January 1, 1981, and July 1, 1982, may, as appropriate, review the order with the district commissioners or the division of soil conservation. Appeals to the state soil conservation commit-

SOIL CONSERVATION DIVISION[27](cont'd)

tee may be made by the district, a landowner or a farm operator following a review by the division director or the director's designee.

10.33(1) Review with soil and water conservation district commissioners. When a landowner or farm operator wishes to appeal an order to ~~repay a financial incentive payment for maintain, repair or reconstruct~~ a temporary practice, or a permanent practice subject to a maintenance/performance agreement, ~~entered between January 1, 1981, and July 1, 1982,~~ the landowner or farm operator may request a review of the order with the district commissioners. The commissioners shall schedule a meeting to review the ~~problem issue~~ with the landowner or farm operator. This proceeding shall be informal. A landowner or farm operator shall request a review with the district commissioners in writing and within 30 days following receipt of their order.

10.33(2) Review with the division of soil conservation. ~~In those cases where a landowner or farm operator feels they have unjustly been ordered to refund a financial incentive payment for a temporary practice, or a permanent practice subject to a maintenance agreement, entered between January 1, 1981, and July 1, 1982, and they have been unable to resolve the problem through a meeting with the district commissioners, the landowner or farm operator may file a written request with the division for a review. After having unsuccessfully met with the district commissioners, a landowner or farm operator who has been ordered to maintain, repair or reconstruct a temporary or permanent practice subject to a maintenance/performance agreement may file a written request for review with the division. The division review shall be conducted by the division director or the director's designee. This proceeding shall be informal. A landowner or farm operator shall request their the review with the division in writing within 30 days following their the review with the district.~~

10.33(3) Appeal to the state soil conservation committee. In those cases where the district, a landowner, or farm operator is not satisfied with the decision rendered as a conclusion of a division review concerning an order to ~~repay a financial incentive payment for maintain, repair or reconstruct~~ a temporary practice, or for a permanent practice covered by a performance agreement or a maintenance/performance agreement entered between January 1, 1981, and July 1, 1982, the district, the landowner, or farm operator may appeal the division's decision to the state soil conservation committee. This proceeding shall be a formal, contested case hearing. The district, landowner, or farm operator shall make ~~their the~~ appeal to the state committee in writing and within 30 days following completion of the division's review.

10.33(4) The committee will either affirm, modify, or vacate the administrative order following the completion of the contested case hearing.

ITEM 10. Amend subrule 10.41(3) as follows:

10.41(3) Mandatory program. Five percent of the appropriation is ~~to shall~~ be set aside for cost sharing with landowners or farm operators who are required to install soil erosion control practices as a result of an administrative order from the district to abate complaints filed under Iowa Code section 161A.47.

ITEM 11. Amend subrule **10.41(8)**, paragraphs "a" and "b," as follows:

a. Proposals to allow an overall cost-share rate of greater than 50 percent to the ~~landowner~~ district cooperators must be submitted by districts and approved on a project-by-project basis by the state soil conservation committee.

b. The maximum cost-share rate realized by the ~~landowner~~ district cooperators shall not exceed 75 percent when state cost-share funds appropriated to the division and districts are utilized in combination with such department of natural resources funds.

ITEM 12. Amend subrule **10.41(9)**, paragraph "a," as follows:

a. The maximum cost-share rate realized by the ~~landowner~~ district cooperators shall not exceed 75 percent of the total eligible costs when state cost-share funds appropriated to the division and districts are utilized in combination with other public funds.

ITEM 13. Amend rule 27—10.51(161A), introductory paragraph, as follows:

27—10.51(161A) Voluntary program. The division will allocate program funds to the districts in steps identified as original allocation, supplemental allocation, and reallocation original allocations and supplemental allocations.

ITEM 14. Amend subrule **10.51(1)**, paragraph "f," as follows:

f. ~~For currently funded fiscal years, district commissioners may allocate not~~ *Not* more than 30 percent of ~~their the~~ district's original allocation and supplemental allocation ~~to may~~ be used for the establishment of management practices to control soil erosion on land that is now row-cropped. Incentive payments will be made on a per-acre basis, but not exceeding \$10 per acre for no-till, ridge-till, or strip-till planting; \$6 per acre for contouring; and \$15 per acre for contour strip cropping.

ITEM 15. Amend subrules 10.51(2), 10.51(3) and 10.51(4) as follows:

10.51(2) Supplemental allocation. The remaining balance of the fiscal year program funds plus the previous fiscal year ~~recalled~~ funds from the mandatory program as distributed in subrule ~~10.41(4)~~ 10.41(3), and from the public lakes fund as distributed in subrule 10.41(2) that were not obligated, ~~less a \$50,000 from the~~ reserve fund established in subrule 10.57(1), and from districts as specified in subrule 10.51(3) will be provided to the districts in a supplemental allocation. The districts shall ~~submit their request identifying~~ identify valid applications and cost estimates, if any, for supplemental allocations to the division by ~~August~~ September 15. The allocation to any district will be the lesser amount of:

a. ~~The amount of remaining available funds divided by the number of districts applying for a supplemental allocation. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; or~~

b. Three times the original allocation to the district.

c. ~~Two percent of the total amount distributed to the program.~~

d. ~~The amount requested.~~

10.51(3) Recall of funds. Any funds allocated the previous in the current fiscal year that the districts have not spent or obligated by ~~December 31~~ June 30 of the following fiscal year and any funds that were obligated during the previous fiscal year for projects for which construction has not been started by ~~December 31~~ will ~~may~~ be recalled by the division.

10.51(4) Reallocation of recalled funds. The districts shall submit their requests identifying valid applications and cost estimates, if any, to the division by ~~February 1~~ of each

SOIL CONSERVATION DIVISION[27](cont'd)

year. The allocation to any district will be the lesser amount of:

- a. ~~The amount of remaining available funds divided by the number of districts applying for a supplemental allocation.~~
- b. ~~Three times the original allocation to the district.~~
- c. ~~Two percent of the total amount distributed to the program.~~
- d. ~~The amount requested.~~

ITEM 16. Rescind subrule 10.51(5) and insert in lieu thereof the following **new** subrule:

10.51(5) Eligibility for supplemental allocations. A district must have obligated 75 percent of current fiscal year funds to qualify for a supplemental allocation.

ITEM 17. Amend subrule 10.51(6) as follows:

10.51(6) Recall and reallocation of funds by division director. When the unspent balance of funds allocated for a fiscal year ~~three years before is less than \$50,000 to a district exceeds that district's annual allocation by more than 150 percent for a period of 12 months or more,~~ the division director ~~can~~ may recall these unspent funds and reallocate them to a district or districts that can demonstrate a need.

ITEM 18. Amend subrules 10.52(1) and 10.52(2) as follows:

10.52(1) Original allocation. Funding needs will be identified and funds will be set aside for watershed projects which have cost-share funds in addition to state and ~~landowner district~~ *cooperator* funds (e.g., federal, county, or other). The remaining funds will be allocated equally between the other watersheds identified on the publicly owned lakes priority list.

10.52(2) Recall of unobligated funds. Funds that are allocated to districts under this program and are not obligated within three months shall be recalled by the division and reallocated. ~~This recall of unobligated funds does not apply to those watershed projects that have an organized program that includes cost sharing in addition to state and landowner funds.~~

ITEM 19. Rescind and reserve subrule **10.52(3)**.

ITEM 20. Amend subrule 10.52(6) as follows:

10.52(6) Applications and agreements. Applications and agreements for 75 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except as follows: *that the division will allocate funds to districts on an as-needed and first-come, first-served basis.*

a. ~~The division maintains a separate control ledger for encumbrance and disbursement of cost share funds for these projects.~~

b. ~~When the district commissioners have decided that an application for cost share assistance is approved for a landowner in an eligible lake or reservoir watershed, a copy of the approved application, Form IP-1, will be sent to the division with a request for obligation of funds. The division will review the request and return the application to the district denying or obligating funds. Appropriate notification of the status of the application will be provided the applicant by the commissioners.~~

c. ~~Should the commissioners desire to amend the application (Form IP-1) to change the amount of work or the cost, prior approval of the amendment (Form IP-1A) must be obtained from the division.~~

ITEM 21. Amend subrules 10.54(1) and 10.54(2) as follows:

10.54(1) Applications and agreements. Applications and maintenance/*performance* agreements for 50 percent cost sharing under this program will be handled by the districts as described in Part 7 of these rules except as follows:

a. ~~The landowner does not have to be a district cooperator and does not have to sign a cooperator's agreement.~~

b. ~~a.~~ When the district commissioners have decided that cost-share assistance is to be approved for a landowner, a copy of the application, ~~Form IP-1,~~ and a copy of the cost estimate proposed by the technician will be sent to the division with a request for funding obligation. The division will review the application, ~~sign the fund obligation section of Form IP-1, if funds are available, and return the application to allocate funds for the specific application to the district and notify the district of the approval.~~ If funds are not available, the division will ~~return the unsigned application with a not allocate funds to the specific application, but will write a letter of explanation to the district.~~ The district will notify the landowner of the status by issuing a supplementary administrative order.

~~e. b.~~ ~~Should the commissioners desire to amend the application (Form IP-1) to change the amount of work or the cost, prior~~ *Prior* approval of the amendment (~~Form IP-1A~~) must be obtained from the division *should the commissioners desire to amend the application to change the amount of work or the cost.*

10.54(2) Redistribution of program funds. Any unobligated program funds remaining at the end of the fiscal year will be redistributed to the voluntary cost-share program. These funds ~~will~~ *may* be included with the supplemental allocation to districts *or may be disbursed with the original allocation.*

ITEM 22. Amend rule 27—10.57(161A) as follows:

27—10.57(161A) Reserve funds fund. The division shall administer a reserve fund for each program year that shall not exceed \$50,000.

10.57(1) Purpose and use of the reserve fund. The reserve fund will be set aside and used only to meet contingencies that occur in the districts or within the division. *The reserve fund shall not exceed \$150,000.*

10.57(2) Replenishing the reserve fund. ~~Each time a supplemental allocation or a reallocation is made to the districts an allocation will be made to the reserve fund if needed to return the balance to \$50,000. On June 30 of each year, the division may recall any unspent allocations and replenish the fund in accordance with subrule 10.57(1). If needed, the reserve fund may also be replenished at any time with recalled funds to return the balance to \$150,000.~~

~~**10.57(3)** The division may phase out the reserve fund after two years by reverting funds to the voluntary program, provided the balance for the program year is less than \$100,000.~~

ITEM 23. Amend rule 27—10.71(161A) as follows:

27—10.71(161A) Applications submitted to soil and water conservation district. ~~Landowners or farm operators District cooperators~~ desiring to be considered for financial incentives for implementing soil and water conservation practices shall complete necessary applications as specified in this part *by the division.* Application and agreement forms referenced in this part are described in Part 9, "Forms," of these rules. All application forms and agreements for financial incentives are available from and shall be submitted to the

SOIL CONSERVATION DIVISION[27](cont'd)

local district office located in the county where such practices are proposed. If an applicant's land is in more than one district, the respective district commissioners will review the application and agree to obligate all funds from one district or prorate the funding between districts.

ITEM 24. Amend subrules 10.72(1) and 10.72(3) as follows:

10.72(1) Signatures by ~~landowner(s) landowner and qualified farm operator(s) applicant~~. All applications and agreements shall be signed by the landowner except as noted in subrule 10.72(3) below. For a ~~farm operator an applicant~~ to qualify for payment, both landowner and ~~operator applicant~~ must sign the application.

10.72(3) Power of attorney. Applications and agreements may be signed by any person designated to represent the landowner or ~~farm operator applicant~~, provided the appropriate power of attorney has been filed with the district office. The power of attorney requirement can be met by submitting a completed Power of Attorney, Form SCD-2, or other properly notarized full power of attorney statement to the district office. In the case of estates and trusts, court documents designating the responsible person or administrator may be submitted to the district in lieu of the power of attorney.

ITEM 25. Rescind and reserve subrules **10.73(1)** and **10.73(2)**.

ITEM 26. Amend subrule 10.73(5) as follows:

10.73(5) Need for soil and water conservation practices.
a. ~~Need determined by district~~. Financial incentives shall be available only for those soil and water conservation practices determined to be needed by the district to reduce excessive erosion or sedimentation and included in the designated practices identified in Part 8 of these rules. Such determination of need shall be made by a qualified technician.

b. ~~Certification of need by district~~. The district technician shall evaluate the need before signing the technician certification section of Application for Financial Incentives, Form IP-1.

ITEM 27. Amend subrule 10.73(6) as follows:

10.73(6) District priorities. Each application for financial incentives shall be evaluated under the priority system adopted by the district for disbursement of allocated funds. The district priority system shall give consideration to family-operated farms and public benefit derived. The priority system adopted by the district shall be made available for review at the district office. In establishing its priorities for funds made available beginning July 1, 1983, the district shall also give consideration to the ~~landowner's district co-operator's~~ effort to implement Iowa Soil 2000 program requirements.

ITEM 28. Amend rule 27—10.74(161A) as follows:

27—10.74(161A) Financial incentive application and processing procedures.

10.74(1) Application for financial incentives.

a. Application submitted by landowner and ~~farm operator applicant~~. Applicants for financial incentives for soil and water conservation practices shall complete and submit a *request for assistance to the district office where the practice will be implemented*. ~~Application for Financial Incentives, Form IP-1, to the district office. Assistance in completing the form is available from soil and water conservation district personnel.~~

b. Denial of application by district. Applications for ~~Financial Incentives, Form IP-1~~, which are denied by the district shall be retained in the district ~~to until~~ the end of the fiscal year. ~~Written notification of the denial shall be provided to the applicant along with the reason(s) that the application was denied.~~ Application denial as used in this part refers to those applications which cannot be approved for reasons other than lack of available financial incentive funds.

c. Obligation of funds. Following approval of an application ~~for financial incentives~~, the district may obligate funds for the project or, as appropriate, secure obligation of funds from the division for the amount of the project cost estimate identified on the application. In those cases where funds are not available, the application will be held by the district until funding becomes available or until the end of the fiscal year. Upon obligation of funds, the district shall notify the applicant.

d. No change.

10.74(2) Project design by district.

a. No change.

b. Cost estimate adjustments.

(1) Application amendment. In the event that adjustment to the project cost estimate is necessitated by the final design, the applicant shall either agree to assume the additional cost or complete and submit ~~Amendment to Application for Financial Incentives, Form IP-1A, an amendment request~~ to the district for approval ~~or denial~~ by the commissioners.

(2) Adjustment to obligated funds. The district ~~shall may~~ adjust the amount of incentive funds obligated for the project or ~~may~~ secure *an* adjusted obligation from the division for funds obligated by the division. In the event that additional funds are not available, the project may be redesigned, if possible, to a level commensurate with available funds, or the applicant can agree to assume full financial responsibility for the portion of the project cost in excess of the amount obligated.

10.74(3) Practice construction and certification.

a. ~~Constructions~~ *Construction* contracts. The landowner and ~~farm operator applicant~~ shall be responsible for securing any ~~contractor(s) contractors~~ needed and for all contractual or other agreements necessary to construct or perform the approved ~~practice(s) practices~~.

b. Certification of practice. The certifying technician or the technician of the district will determine that the completed practice is in compliance with applicable standards and specifications and that costs incurred are reasonable and proper. The certifying technician shall make such determination by completing and signing the ~~Certification of Practice, Form IP-2~~ *certification of practice form*. A copy of the certification will be retained in the district's case file.

10.74(4) Payment of financial incentives.

a. Submittal of bills and claim ~~voucher or certification of practice form~~ to district. The applicant shall submit to the district a signed claim ~~voucher or certification of practice form~~ and all bills relative to the project. Any materials and labor provided by the applicant must be itemized, *and the itemization of any materials and labor provided by the applicant shall accompany the claim*. ~~on a signed Proof of Expense, Form IP-5, which will be attached to the claim voucher.~~

b. Approval for payment. The commissioners shall ~~review verify~~ the technician's ~~Certificates of Practice, Form IP-2, certification~~ prior to approving the ~~voucher certification of practice form~~ for submittal to the division for payment.

c. Claim submitted to the division by district. The signed claim voucher, bills and attached Proof of Expense,

SOIL CONSERVATION DIVISION[27](cont'd)

Form IP-5, if applicable, shall be submitted in duplicate by the district to the division. ~~or certification of practice form shall be submitted to the division. All original signed documents including itemized bills, claim agreements, maintenance/performance agreements and amendments shall be retained at the district office in the cooperator's case file.~~

d. ~~Payment forwarded to the district. Payment for the reimbursable cost of the project will be returned by the division to the district or directly to the landowner or applicant. The district will secure the signature of the landowner and farm operator, if appropriate, on either Maintenance Agreement, Form IP-4, or Performance Agreement, Form IP-6, as appropriate. Upon transfer of payment to the recipient, the district shall obtain from the recipient a completed Receipt of Payment, Form SCD-5.~~

10.74(5) Maintenance and Maintenance/performance agreements.

a. Maintenance/performance agreement required. As a condition for receipt of any financial incentives *incentive funds* for permanent soil and water conservation practices, the owner of the land on which the practices have been installed shall agree to maintain those practices for a minimum of 20 years after the date of the agreement, except for practices Planned Grazing System (556) and Pasture and Hayland Planting (512) which shall be maintained for a period of ten years. *term as required by the division.*

b. Maintenance/performance agreement form. Agreement *An agreement* to maintain practices for which financial incentives are being paid shall be *made* by completing and signing Maintenance Agreement, Form IP-4. *a maintenance/performance agreement form.* Specific conditions of the maintenance/performance agreement are as detailed on the form. Completion of the form and signature of the landowner is *are* required prior to transfer of the incentives *incentive* payment from the district to the recipient(s).

c. ~~Performance agreement required. As a condition for receipt of any financial incentives funds for temporary soil and water conservation practices, the landowner or farm operator shall agree to continue those practices for a minimum of five years after the date of the agreement. In the event that the practices are not suitably performed for a minimum of five years, the entire incentive payment shall be paid back to the division.~~

d. ~~Performance agreement form. Agreement to perform temporary soil and water conservation practices for which financial incentives are being paid shall be by completing and signing Performance Agreement, Form IP-6. Specific conditions of the performance agreement are as detailed on the form. Completion of the form and signature of the landowner is required prior to transfer of the incentives payment from the district to the recipient(s).~~

e c. Filing of agreements.

(1) ~~Establish Establishment of a file for maintenance/performance agreements. The district shall establish and maintain a separate permanent file containing any Maintenance Agreement, Form IP-4, and Amendment to Maintenance Agreement, Form IP-4A documentation related to the maintenance/performance agreement form. The maintenance/performance agreements file shall be accessible for review by the public.~~

(2) ~~Establish a file for performance agreements. The district shall establish and maintain a separate permanent file containing any Performance Agreement, Form IP-6, and Amendment to Performance Agreement, Form IP-6A. The file shall be accessible for review by the public.~~

(3) (2) Statement of compliance or noncompliance. A seller of agricultural land with respect to which a maintenance/performance agreement is in effect may request the district to inspect the practices. If the practices have not been removed, altered, or modified, the district shall issue a written statement that the seller has satisfactorily maintained the permanent practice as of the date of the statement.

The buyer of lands covered by a maintenance/performance agreement, where buyer means someone who has completed a contract for sale or deed, may also request that the district inspect the lands to determine whether any practice has been removed, altered, or modified as of the date of the inspection. If *so a practice has been removed, altered, or modified*, the district will provide the buyer with a statement specifying the extent of noncompliance as of the date of the statement.

The seller and the buyer, if known, shall be given notice of the time of inspection so that they may be present during the inspection to express their views as to compliance.

10.74(6) Case files. A case file shall be assembled and maintained for each application approved. The file will contain *all documents and correspondence that require signatures from either the district, district cooperator or technician. The case file shall also include all bills and invoices related to an approved application.* the approved Application for Financial Incentives, Form IP-1; any Amendment to Application for Financial Incentives, Form IP-1A; a copy of the estimated cost sheet; Certification of Practice, Form IP-2; voucher and bills or receipts; Receipt of Payment, Form SCD-5; Maintenance Agreement, Form IP-4, or Performance Agreement, Form IP-6; and a map and legal description locating the practice. Case files shall be filed by program year.

ITEM 29. Amend rule 27—10.80(161A,312), parenthetical implementation, as follows:

27—10.80(161A,312) General conditions, eligible practices and specifications.

ITEM 30. Amend rule 27—10.81(161A,312), parenthetical implementation, as follows:

27—10.81(161A,312) General conditions.

ITEM 31. Amend subrule **10.81(3)**, paragraph “a,” as follows:

a. Where a landowner *district cooperator* desires that water be stored for purposes other than grade stabilization to control erosion,

ITEM 32. Amend rule 27—10.82(161A,312), parenthetical implementation, as follows:

27—10.82(161A,312) State designation of eligible practices.

ITEM 33. Amend rule 27—10.83(161A,312) as follows:

27—10.83(161A,312) Designation of eligible practices. District commissioners may designate which soil and water conservation practices will be eligible for Iowa financial incentive payments in their district. The selected practices must be from the state-approved practices contained in rule 27—10.82(161A,312). The general conditions contained in rule 27—10.81(161A,312) and the specifications contained in rule 27—10.84(161A,312) shall apply to the district-designated practices.

ITEM 34. Rescind rule 27—10.84(161A,312) and adopt the following **new** rule in lieu thereof:

SOIL CONSERVATION DIVISION[27](cont'd)

27—10.84(161A) Practice standards and specifications.

Practices shall meet Natural Resources Conservation Service conservation standards and specifications. These standards may be accessed through the electronic field office technical guide at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=1A. The tree planting standard may be accessed through the department of natural resources' forestry technical guide found at <http://www.iowadnr.com/forestry/pdf/techguide.pdf>. Standards and specifications are available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

ITEM 35. Rescind rule 27—10.91(161A,312) and adopt the following **new** rule in lieu thereof:

27—10.91(161A) Annual report. The district will submit an annual report to the division. The report will reflect accomplishments for the fiscal year ending June 30. The report shall be submitted to the division on or before July 7 each year.

ITEM 36. Amend rule 27—10.92(161A,312), parenthetical implementation, as follows:

27—10.92(161A,312) Control of lands.

ITEM 37. Rescind rule 27—10.95(161A,312) and adopt the following **new** rule in lieu thereof:

27—10.95(161A) Forms. Standard forms, applications, and agreements used by the applicant and recipient of financial incentives for soil erosion control as outlined in these rules are provided by the division. Copies of all forms, applications, and agreements are available from the soil conservation district office located in each county. Copies are also available from the division at the following address: Division of Soil Conservation, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, Des Moines, Iowa 50319.

[Filed Emergency After Notice 6/27/07, effective 6/27/07]
[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6059B**SOIL CONSERVATION
DIVISION[27]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation adopts amendments to Chapter 12, "Water Protection Practices—Water Protection Fund," Iowa Administrative Code.

These amendments modify the allocation process and eligibility requirements for the Water Protection Fund. The amendments also modify practice standards and specifications.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5908B**.

A public hearing was held on June 12, 2007. No comments were received at the hearing.

In response to written comments received, applicable specifications, practices and standards were clarified.

The Division of Soil Conservation adopted these amendments on June 27, 2007.

These amendments do not contain a waiver, but are subject to the Division's general waiver.

The Division of Soil Conservation finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments shall be waived and these amendments shall be made effective upon filing, as they confer an immediate and maximized benefit to the public by improving the delivery and effectiveness of water protection practices.

These amendments are intended to implement Iowa Code chapter 161A.

These amendments became effective June 27, 2007.

The following amendments are adopted.

ITEM 1. Amend subrules 12.51(2) and 12.51(3) as follows:

12.51(2) Recall of funds. Any funds allocated to the districts that have not been obligated ~~in 12 months by June 30~~ and any funds that were obligated for projects for which construction has not been started during that time period ~~will~~ *may* be recalled by the division.

12.51(3) Supplemental allocations. ~~Unobligated funds recalled by the division will be provided to the districts in a supplemental allocation. The districts shall submit their requests identifying valid applications and cost estimates for supplemental allocations to the division by October 15. The allocation to any district will be the lesser amount of: The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by October 15. The allocation to any district will be the lesser amount of:~~

a. ~~The amount of remaining available funds divided by the number of districts applying for a supplemental allocation. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; or~~

b. ~~The amount requested. Three times the original allocation to the district.~~

ITEM 2. Rescind and reserve subrule **12.51(4)**.

ITEM 3. Amend subrule 12.51(5) as follows:

12.51(5) Woodland, native grass and forbs fund. Twenty-five percent of the funds and any additional appropriations for reforestation will be allocated to districts.

a. Original allocation. Seventy-five percent of the funds distributed to this program will be allocated equally to districts at the beginning of each fiscal year.

b. Supplemental allocation. ~~The remaining balance of the funds and any unobligated recalled funds will be provided to the districts in a supplemental allocation. The districts shall submit their requests identifying valid applications and cost estimates for supplemental allocations to the division by October 15. The allocation to any district will be the lesser amount of: The districts shall identify valid applications and cost estimates, if any, for supplemental allocations to the division by October 15. The allocation to any district will be the lesser amount of:~~

(1) ~~The amount of remaining available funds divided by the number of districts applying for a supplemental allocation. The sum of cost estimates (for pending applications) in each district, divided by the total cost estimates (for pending applications) for all 100 districts, multiplied by the remaining available program funds; or~~

SOIL CONSERVATION DIVISION[27](cont'd)

(2) ~~The amount requested. Three times the original allocation to the district.~~

~~c. Recall of funds. Any funds allocated to the districts that have not been obligated in 12 months and any funds that were obligated for projects for which construction has not been started during that time period will be recalled by the division.~~

~~d. Reallocation of recalled funds. Funds that were obligated for projects for which construction has been started but not reimbursed by the state during the 12 months following allocation will be recalled and reallocated back to the district.~~

~~e c. Eligibility of soil and water conservation districts for supplemental allocation. For a district to qualify for a supplemental allocation, it the district must meet the following requirement: ninety percent of the woodland, native grass and forbs funds shall be obligated to landowners.~~

ITEM 4. Amend subrule 12.51(6), introductory paragraph, as follows:

12.51(6) Reserve funds. The division shall *may* administer a reserve fund for the program consisting of *not more than* 1.5 percent of each year's appropriated funds.

ITEM 5. Amend rule 27—12.61(161C) as follows:

27—12.61(161C) Applications submitted to soil and water conservation district. Landowners or farm operators desiring to be considered for water protection practices funds shall complete necessary applications as specified ~~in this part by the district. Application and agreement forms referenced in this chapter are those described in rule 27—10.95(161A, 342).~~ All application forms and agreements for water protection practices funds are available from and shall be submitted to the district office located in the county where such practices are proposed. If an applicant's land is in more than one district, the respective district commissioners will review the application and agree to obligate all funds from one district or prorate the funding between districts.

ITEM 6. Amend subrules 12.62(1) and 12.62(3) as follows:

12.62(1) Signatures by ~~landowner(s) landowner~~ and qualified ~~farm operator(s) applicant~~. All applications and agreements shall be signed by the landowner *and applicant*. For a ~~farm operator an applicant~~ to qualify for payment, both landowner and ~~operator applicant~~ must sign the application.

12.62(3) Power of attorney. Applications and agreements may be signed by any person designated to represent the landowner or farm operator, provided the appropriate power of attorney has been filed with the district office. The power of attorney requirement can be met by submitting a ~~completed Power of Attorney, Form SCD-2, or other properly notarized full power of attorney statement to the district office.~~ In the case of estates and trusts, court documents designating the responsible person or administrator may be submitted to the district in lieu of the power of attorney.

ITEM 7. Rescind and reserve subrule **12.63(1)**.

ITEM 8. Amend subrule **12.63(3)**, paragraph "b," as follows:

b. Privately owned land not used for agricultural production shall not qualify for water protection practices funds. *Windbreaks and stormwater quality best management practices established on privately owned land are eligible whether or not the land is in agricultural production.*

ITEM 9. Adopt **new** subrule 12.73(7) as follows:

12.73(7) Stormwater quality best management practices (BMPs). A technique, measure, or structural control that is used for a given set of conditions to manage the quantity and improve the quality of stormwater runoff in the most cost-effective manner. BMPs can be either:

a. Nonstructural BMPs, which include a range of pollution prevention, education, or institutional management and development practices designed to limit the conversion of rainfall to runoff and to prevent pollutants from entering runoff at the source of runoff generation; or

b. Structural BMPs, which are engineered and constructed systems that are used to treat the stormwater at either the point of generation or the point of discharge to either the storm sewer system or to receiving waters (e.g., detention ponds or constructed wetlands).

ITEM 10. Amend rule 27—12.76(161C) as follows:

27—12.76(161C) Specifications Practice standards and specifications. In addition to specifications defined herein, rule 27—10.84(161A) specifications shall apply.

~~12.76(1) Filter strips. USDA-NRCS-Iowa, Field Office Technical Guide, Section IV, Code No. 393, September 2000.~~

~~12.76(2) Field borders. USDA-NRCS-Iowa, Field Office Technical Guide, Section IV, Code No. 386, May 2001.~~

~~12.76(3) Waste management systems. USDA-NRCS-Iowa, Field Office Technical Guide, Section IV, Code No. 312, January 1997.~~

~~12.76(4) 12.76(1) Agricultural drainage well closure. Iowa Department of Natural Resources, Technical Information Series 15, 1988, Guidelines for Plugging Abandoned Water Wells. 567 IAC Chapter 39, Requirements for Properly Plugging Abandoned Wells.~~

~~12.76(5) 12.76(2) Agricultural drainage well plugging and cistern removal. Iowa Department of Natural Resources, Technical Information Series 15, 1988, Guidelines for Plugging Abandoned Water Wells. 567 IAC Chapter 39, Requirements for Properly Plugging Abandoned Wells.~~

~~12.76(3) Stormwater quality best management practices. Iowa Stormwater Management Manual, Chapter 2, Sections D-L.~~

~~12.76(6) Tile outlet from plugged agricultural drainage wells. Underground Outlet, USDA-NRCS-Iowa, Field Office Technical Guide, Section IV, Code No. 620, December 1990.~~

~~12.76(7) Subsurface drain. USDA-NRCS-Iowa, Field Office Technical Guide, Section IV, Code No. 606, February 1986.~~

~~12.76(8) Restored or constructed wetlands in buffer systems. Wetland Restoration, Enhancement, or Creation (Acres), USDA-NRCS-Iowa, Field Office Technical Guide, Section IV, Code No. Interim Standard 657-1, December 2000.~~

~~12.76(9) Bioengineering for stabilization of banks along waterways. USDA-NRCS-Iowa, Field Office Technical Guide, Section IV, Code No. 580-1, September 1983 or Section IV, Code No. 391-1, August 1999.~~

ITEM 11. Amend rule 27—12.77(161C) as follows:

27—12.77(161C) Cost-share rates. The following cost-share rates shall apply for eligible practices designated in rules 12.72(161C) to 12.74(161C).

12.77(1) Cost-share rates. Cost-share rates for practices designated in rule 12.72(161C) shall be 50 percent of the actual *eligible* or estimated cost of installation, whichever is less, except for strip-cropping contour and field borders. Cost-share rates for 12.72(3), field borders, and 12.72(5),

SOIL CONSERVATION DIVISION[27](cont'd)

strip-cropping contour, shall be a one-time payment of 50 percent of the cost up to \$25 per acre.

12.77(2) Cost-share rates for water protection practices. Cost-share rates for practices designated in rule 12.73(161C) shall be 50 percent of the actual *eligible* or estimated cost, whichever is less.

12.77(3) Cost-share rates for agricultural drainage well closure. Cost-share rates for practices designated in rule 12.74(161C) shall be the following:

a. 50 percent of the actual *eligible* or estimated cost, whichever is less, of agricultural drainage well plugging and cistern removal, not to exceed \$500.

b. 50 percent of the actual *eligible* or estimated cost, whichever is less, of establishing a tile outlet from the plugged agricultural drainage well to a suitable, legal outlet, not to exceed \$2000.

ITEM 12. Amend subrule 12.82(1) as follows:

12.82(1) ~~Farmstead windbreaks.~~ *Windbreaks.* A belt of trees or shrubs established or restored next to a ~~farmstead.~~ *an occupied structure.*

ITEM 13. Rescind rule 27—12.83(161C) and adopt the following **new** rule in lieu thereof:

27—12.83(161C) Practice standards and specifications. Soil and water conservation practices shall meet Natural Resources Conservation Service conservation standards and specifications where applicable. These standards may be accessed through the electronic field office technical guide at http://efotg.nrcs.usda.gov/efotg_locator.aspx?map=IA.

Tree planting, timber stand improvement, site preparation for natural regeneration and rescue treatment standards may be accessed through the department of natural resource's forestry technical guide found at <http://www.iowadnr.com/forestry/pdf/techguide.pdf>.

Standards and specifications are also available in hard copy in the district office where the practice will be implemented. These specifications and the general conditions, rule 27—10.81(161A), shall be met in all cases. To the extent of any inconsistency between the general conditions and the specifications, the general conditions shall control.

ITEM 14. Amend subrule 12.84(1) as follows:

12.84(1) ~~Farmstead windbreaks~~ *Windbreaks.*

a. 75 percent of actual cost, not to exceed \$15 per tree and \$2.25 per shrub, to establish or restore ~~farmstead~~ windbreaks.

b. Actual cost, not to exceed \$8 per rod, for permanent fences, to protect planted area from grazing, excluding boundary and road fencing.

c. Total cost-share for establishment, restoration, and fencing for ~~farmstead~~ windbreaks shall not exceed \$1200 per windbreak.

[Filed Emergency After Notice 6/27/07, effective 6/27/07]

[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6037B

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 4, "Contested Cases," Iowa Administrative Code.

This amendment specifies that the agency can hold a contested case proceeding by voice or video technology including Internet-based video.

In compliance with Iowa Code section 17A.4(2), the Division of Workers' Compensation finds that notice and public participation prior to adoption of this rule are unnecessary and contrary to the public interest as the rule is merely definitional in purpose and does not impact the public's right to an in-person hearing. The Division further finds that the public interest is best served by offering use of Internet-based hearings as opposed to voice-only audio hearings conducted by LAN telephone technology.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this rule should be waived and the rule should be made effective on July 1, 2007, as the rule confers a benefit to parties to a contested issue by allowing for utilization of technology which will enhance the presentation of cases before the Division and will allow for the recording and storage of the testimony provided in a more secure and informative format.

The Division has determined that this amendment will have no impact on small business within the meaning of Iowa Code section 17A.4A.

The Division has determined that this amendment will not necessitate additional annual expenditures exceeding \$100,000, or \$500,000 within five years, by political subdivisions or agencies which contract with political subdivisions within the meaning of Iowa Code section 25B.6. Therefore, no fiscal impact statement accompanies this rule making.

This amendment does not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

This amendment is also published herein under Notice of Intended Action as **ARC 6038B** to allow for public comment.

This amendment is intended to implement Iowa Code sections 17A.12, 85.27, 86.8, 86.17, and 86.18.

This amendment became effective July 1, 2007.

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

The following amendment is adopted.

Amend 876—Chapter 4 by adopting the following **new** rule:

876—4.49(17A,85,86) Method of holding hearing. Any hearing held under this chapter may be by voice or video technology including but not limited to Internet-based video.

WORKERS' COMPENSATION DIVISION[876](cont'd)

This rule is intended to implement Iowa Code sections 17A.12, 85.27, 86.8, 86.17 and 86.18.

[Filed Emergency 6/15/07, effective 7/1/07]
[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6036B

WORKERS' COMPENSATION DIVISION[876]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 8, "Substantive and Interpretive Rules," Iowa Administrative Code.

This amendment updates references to the tables which determine payroll taxes.

In compliance with Iowa Code section 17A.4(2), the Workers' Compensation Commissioner finds that notice and public participation are unnecessary. Rule 876—8.8(85, 17A) is noncontroversial and, further, Iowa Code section 85.61(6) requires adoption of current tables to determine payroll taxes by July 1 of each year. The Division must wait until the Internal Revenue Service and Iowa Department of Revenue determine whether there will be changes in their publications on July 1 of the current year.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2007, as it confers a benefit upon the public to ensure speedy and uniform compliance with the Division's legislative mandate.

The Division has determined that this amendment will not necessitate additional annual expenditures exceeding \$100,000 or combined expenditures exceeding \$500,000 within five years by all affected persons, including the

agency. Therefore, no fiscal impact statement accompanies this rule making.

The Division has determined that this amendment will have no impact on small business within the meaning of Iowa Code section 17A.4A.

The amendment does not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

This amendment is intended to implement Iowa Code section 85.61(6).

This amendment became effective on July 1, 2007.

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

The following amendment is adopted.

Amend rule 876—8.8(85,17A) as follows:

876—8.8(85,17A) Payroll tax tables. Tables for determining payroll taxes to be used for the period July 1, 2006 2007, through June 30, 2007 2008, are the tables in effect on July 1, 2006 2007, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (Internal Revenue Service, Circular E, Employer's Tax Guide, Publication 15 [Rev. January 2006 2007].)

2. Iowa Withholding Tax Guide. (Iowa Department of Revenue Iowa Withholding Tax Rate Tables, [Effective April 1, 2006].)

3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, Circular E, Employer's Tax Guide, Publication 15 [Rev. January 2006 2007].)

This rule is intended to implement Iowa Code section 85.61(6).

[Filed Emergency 6/15/07, effective 7/1/07]
[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6058B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(17) and 16.181, the Iowa Finance Authority adopts amendments to Chapter 19, “State Housing Trust Fund,” Iowa Administrative Code.

The purpose of these amendments is to adopt the Iowa Finance Authority State Housing Trust Fund 2008 Allocation Plan for the Local Housing Trust Fund Program in place of the Iowa Finance Authority State Housing Trust Fund 2007 Allocation Plan, effective August 22, 2007. These amendments update the year of the effective allocation plan from 2007 to 2008 and limit the scope of the adopted Allocation Plan to the Local Housing Trust Fund Program. The Authority intends to adopt a separate 2008 Allocation Plan for the Project-Based Housing Program. The amendments also update the address of the Authority’s Web site.

Chapter 19 does not provide for waivers. Persons seeking waivers from the rules contained in Chapter 19 may petition the Authority for a waiver in the manner set forth in 265—Chapter 18.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5891B**. The Authority received no comments on the amendments. These amendments are identical to those published under Notice.

The Authority adopted these amendments on June 27, 2007.

These amendments will become effective on August 22, 2007.

These amendments are intended to implement Iowa Code sections 16.5(17) and 16.181.

The following amendments are adopted.

ITEM 1. Amend rule 265—19.1(16) as follows:

265—19.1(16) Trust fund allocation plan. The trust fund allocation plan entitled Iowa Finance Authority State Housing Trust Fund 2007 2008 Allocation Plan, effective August 9, 2006, for the local housing trust fund program shall be the allocation plan for the distribution, pursuant to the local housing trust fund program, of funds held within the state housing trust fund established in Iowa Code section 16.181. The trust fund allocation plan for the local housing trust fund program includes the plan, application and application instructions. The trust fund allocation plan for the local housing trust fund program is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2).

ITEM 2. Amend rule 265—19.2(16) as follows:

265—19.2(16) Location of copies of the plan. The trust fund allocation plan ~~can~~ for the local housing trust fund program may be reviewed and copied in its entirety on the authority’s Web site at www.ifahome.com www.iowafinanceauthority.gov. Copies of the trust fund allocation plan for the local housing trust fund program, the application, and all related attachments and exhibits, if any, shall be deposited with

the administrative rules coordinator and at the state law library. The plan incorporates by reference Iowa Code section 16.181.

[Filed 6/27/07, effective 8/22/07]

[Published 7/18/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6052B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby amends Chapter 91, “General Requirements for All Objects,” and rescinds Chapter 95, “Water Heater Supply Boilers,” and adopts new Chapter 95, “Water Heaters,” Iowa Administrative Code.

The amendments clarify restrictions relating to galvanic action. The amendments also revise the safety and health regulations applicable to water heaters by removing unnecessary restrictions; adopting a regulation that all water heaters shall be in accordance with a recognized standard; revising the rules to make them easier to read; requiring installation in accordance with the manufacturer’s recommendations; and adopting new rules for bulging or leaking tanks, exhaust flues, leaks from pipes, valves, and fittings, and carbonization. The amendments eliminate the requirement that water heaters be provided expansion tanks built in accordance with the American Society of Mechanical Engineers’ Code in certain cases.

The purposes of these amendments are to make the rules more current and easier to read, make changes identified as necessary during the rules review required by Iowa Code subsection 89.14(7), protect the safety of the public, and implement legislative intent.

No waiver or variance provision is included in this rule making because 875—Chapter 81 sets forth procedures for waivers or variances.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 9, 2007, as **ARC 5852B**.

These rules have been changed since the Notice of Intended Action. After considering all the comments received pertaining to the amendments, the Board has revised rule 95.2(89) to correct a reference to the American National Standards Institute codes in response to comments from a representative of the insurance industry. In addition, nonsubstantive changes have been made to the language and formatting of rule 91.6(89), and the language in subrule 95.4(2) that pertains to the size of temperature and pressure relief valves on water heaters has been revised to improve clarity.

These amendments are intended to implement Iowa Code chapter 89.

These amendments will become effective August 22, 2007.

The following amendments are adopted.

LABOR SERVICES DIVISION[875](cont'd)

ITEM 1. Amend rule 875—91.6(89) as follows:

875—91.6(89) Piping Pipe, valves valve, and fitting requirements.

91.6(1) *Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules except where permitted in 875—Chapter 95. Dielectric fittings shall be used where dissimilar metals are joined.*

91.6(2) The minimum piping, valve, and fitting supplied on any object shall be Schedule 40.

91.6(3) The piping design must take into account the removal of material for mechanical joints such as threading or bolting, corrosion and erosion requirements, and the effects of hydrostatic head pressure. ~~Dielectric fittings shall be used where dissimilar metals are joined.~~

ITEM 2. Rescind 875—Chapter 95 and adopt the following new chapter in lieu thereof:

CHAPTER 95
WATER HEATERS

875—95.1(89) Scope. This chapter applies to water heaters supplying potable hot water when the heat input is greater than 50,000 Btu's per hour or the water-containing capacity is greater than 50 gallons. However, if the heat input is equal to or greater than 200,000 Btu's per hour or the water-containing capacity is equal to or greater than 120 gallons, 875—Chapter 94 shall apply instead of this chapter.

875—95.2(89) Recognized standard. All water heaters shall be in accordance with a recognized standard such as those promulgated by the Canadian Standards Association, American National Standards Institute Z21.10.1 and Z21.10.3, Underwriters Laboratories, American Gas Association, Gas Appliance Manufacturers Association, or the applicable ASME Code adopted by reference at rule 875—94.2(89).

875—95.3(89) Installation. Water heaters shall be installed in accordance with the manufacturer's recommendations. Water heaters designed solely for heating potable water shall not be used for space heating. Water heaters designed for both space heating and potable water must comply with 875—Chapter 94. Water heaters shall not be installed for use at temperatures exceeding 210 degrees Fahrenheit or for pressures exceeding 160 psig. When the water supply to a water heater exceeds 75 percent of the design pressure of the water heater, a pressure-reducing valve is required.

875—95.4(89) Temperature and pressure relief valves. Each water heater with storage capacity shall have at least one automatically resetting temperature and pressure relief valve bearing the ASME Code symbol "HV." Water heaters with no storage capacity shall have at least one automatically resetting pressure relief device bearing the AMSE Code symbol "HV," and a temperature control device recommended by the manufacturer.

95.4(1) Materials. All materials used in temperature and pressure relief valves shall be rated for temperatures and pressures at or greater than the maximum allowable working pressure of the water heater.

95.4(2) Size. The outer diameter of temperature and pressure relief valves shall not be smaller than ¾ inch. The inner diameter shall not be less than ½ inch. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter.

95.4(3) Capacity. The Btu-relieving capacity of the pressure-relieving device or devices on a water heater shall

be equal to or greater than the maximum Btu input rate. The relieving capacity for electric water heaters shall be at least 3,500 Btu's per hour per kilowatt input. The pressure setting shall be less than or equal to the maximum allowable working pressure of the water heater.

95.4(4) Mounting. Temperature and pressure relief valves shall be connected to the top of water heaters or directly to a tapped or flanged opening in the water heater. Temperature and pressure relief valves shall be installed with their spindles vertical or horizontal.

875—95.5(89) Shutoff valves prohibited. Shutoff valves shall not be placed between the temperature and pressure relief valve and the water heater or on discharge pipes between such valves and the atmosphere.

875—95.6(89) Thermal expansion. If a system is equipped with a check valve or pressure-reducing valve in the cold-water inlet line, consideration should be given to installation of an airtight expansion tank or other suitable air cushion. If an expansion tank is provided, it shall be in accordance with a nationally recognized standard and rated for a maximum allowable working pressure equal to or greater than that of the temperature and pressure relief valve. Except for prepressurized tanks, provisions shall be made for draining the tank without emptying the system.

875—95.7(89) Stop valves. Stop valves shall be used in each supply and return pipe connection of multiple water heater installations to permit draining the heater without emptying the system.

875—95.8(89) Carbonization. Carbonization and other indications of improper flame shall be corrected through adjusting and cleaning the burners in accordance with the manufacturer's recommendations.

875—95.9(89) Leaks. Water or fuel leaks from pipes, valves, and fittings are prohibited.

875—95.10(89) Flues. Exhaust flues that effectively release exhaust to the outside shall be installed. Gaps, holes and deterioration in flues are prohibited.

875—95.11(89) Tanks. Tanks integral to a water heater that exhibit bulges or leaks shall be handled as follows:

95.11(1) If the tank does not bear an ASME stamp, it shall be removed.

95.11(2) If the tank bears an ASME stamp, it shall be removed or repaired pursuant to rule 875—91.8(89).

875—95.12(89) Galvanized pipes, valves, and fittings. On water heaters without an ASME stamp, galvanized pipes, valves, and fittings may be used on water applications, provided that a dielectric union is also installed in direct contact with dissimilar metals.

These rules are intended to implement Iowa Code chapter 89.

[Filed 6/27/07, effective 8/22/07]

[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6039B**NURSING BOARD[655]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby amends Chapter 3, "Licensure to Practice—Registered Nurse/Licensed Practical Nurse," Iowa Administrative Code.

These amendments clarify the rules regarding issuance of duplicate wallet cards or certificates and temporary licenses.

These amendments were published in the Iowa Administrative Bulletin on March 28, 2007, as **ARC 5786B**. These amendments are identical to those published under Notice.

These amendments will become effective August 22, 2007.

These amendments are intended to implement Iowa Code chapters 147 and 152.

The following amendments are adopted.

ITEM 1. Amend subrule **3.5(3)**, paragraph "c," to read as follows:

c. A temporary license shall not be issued to an applicant ~~whose license is currently encumbered by who has incurred disciplinary action in another state when the license is not currently encumbered.~~

ITEM 2. Amend subrule **3.5(3)** by adding the following new paragraph "d":

d. A temporary license shall not be issued to an applicant with a past felony conviction.

ITEM 3. Amend subrule 3.7(6) to read as follows:

3.7(6) Duplicate wallet card or certificate. A duplicate wallet card ~~is or certificate shall be~~ required if the current ~~one card or certificate~~ is lost, stolen, ~~or destroyed or not received by the licensee within 60 days from the date the license is issued.~~ The licensee shall be issued a duplicate wallet card or certificate upon receipt of a ~~written request from the licensee an application for a duplicate wallet card or certificate~~ and receipt of the fee as specified in rule 3.1(17A,147,152,272C). If the licensee notifies the board that the ~~documents have~~ *wallet card or certificate has* not been received within 60 days after being ~~mailed issued~~, no fee shall be required. *A fee is applicable when the licensee fails to notify the board of a name or address change.*

[Filed 6/19/07, effective 8/22/07]

[Published 7/18/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/18/07.

ARC 6056B**REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 39, "Filing Return and Payment of Tax," and Chapter 40, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXIX; No. 24, p. 1508, on May 23, 2007, as **ARC 5909B**.

Items 1 through 6 amend various subrules of Chapter 39 to reflect the new filing thresholds starting with the 2007 tax year for residents, nonresidents and part-year residents of Iowa who are 65 years of age or older.

Items 7 and 8 amend rule 701—39.9(422) and adopt new rule 701—39.15(422) regarding the special tax computation available for taxpayers other than single taxpayers who are 65 years of age or older beginning with the 2007 tax year.

Items 9 through 11 amend rule 701—40.23(422) to provide for the phase-out of tax on social security benefits starting with the 2007 tax year.

Item 12 amends rule 701—40.47(422) regarding the Iowa pension exclusion to reference the new filing thresholds starting with the 2007 tax year for taxpayers who are 65 years of age or older.

These amendments are identical to those published under Notice of Intended Action.

These amendments will become effective August 22, 2007, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 422.5 and 422.7 as amended by 2006 Iowa Acts, Senate File 2408.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [39.1(1) to 39.1(3), 39.5(12), 39.5(13), 39.7(1), 39.9, 39.15, 40.23, 40.23(2) to 40.23(4), 40.47] is being omitted. These amendments are identical to those published under Notice as **ARC 5909B**, IAB 5/23/07.

[Filed 6/27/07, effective 8/22/07]

[Published 7/18/07]

[For replacement pages for IAC, see IAC Supplement 7/18/07.]



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

*** EXECUTIVE ORDER NUMBER THREE**

WHEREAS, it is a stated goal of this Administration to make Iowa the renewable energy capital of the world; and

WHEREAS, the government of the State of Iowa has historically provided national leadership in the use of renewable fuels; and

WHEREAS, Iowa is a national leader in the production of ethanol, with the capacity to produce more than one billion gallons of ethanol per year; and

WHEREAS, the use of ethanol-based fuel, particularly the E-85 blend of eighty-five (85) percent ethanol and fifteen (15) percent gasoline, is beneficial to Iowa's economy; and

WHEREAS, the use of ethanol-based fuel reduces Iowa's dependence on foreign oil; and

WHEREAS, the use of ethanol-blended fuel in lieu of unleaded gasoline has been shown to reduce greenhouse gas emissions; and

WHEREAS, there are currently seventy (70) retail and state fueling locations in Iowa offering E-85; and

WHEREAS, currently only seven (7) percent of the fuel used in the state's flexible-fuel vehicles is being reported to be E-85; and

WHEREAS, the director of the Department of Administrative Services, pursuant to Iowa Code section 8A.362, is charged with managing the state's fleet of vehicles; and

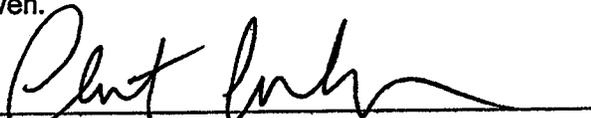
WHEREAS, 2007 Iowa Acts House File 918 establishes the Office of Energy Independence to coordinate state activities concerning energy independence;

NOW, THEREFORE, I, Chester J. Culver, Governor of the State of Iowa, by the power vested in me under the laws of the United States of America and under the laws and the Constitution of the State of Iowa, do hereby Order that:

- I. The use of E-85 fuel in the state's flexible-fuel vehicles shall be increased to at least sixty (60) percent of fuel purchases, measured in total gallons of fuel purchased for flexible-fuel vehicles, by June 30, 2009.
- II. The Director of the Office of Energy Independence, in consultation with the Director of the Department of Administrative Services, shall submit a "State Government E-85 Use Plan" (Plan) to the Governor by December 31, 2007, which shall detail how the E-85 fuel use goal can be met. The Plan shall include recommendations to the Governor as to how the State and retailers can work together to ensure that all E-85 purchases are electronically coded and reported accurately.
- III. Using the recommendations outlined in the Plan, directors of all executive agencies shall develop and implement policies, rules, and/or procedures requiring that employees under their jurisdiction purchase E-85 fuel while using the flexible-fuel vehicles in the state fleet.
- IV. The Department of Administrative Services, in order to assist state employees in locating E-85 fuel, shall provide a regularly-updated list of E-85 fueling locations to the employee at the time a state vehicle is assigned. The employee shall be informed of the requirements for the use of E-85 fuel outlined in Administrative Code rule 11—103.16(3).
- V. Agencies shall assist in promoting the use of E-85 fuel by their employees and, to the extent doing so falls within the responsibilities of the agency, to the citizens of Iowa.
- VI. Nothing in this Executive Order shall be construed to contravene any applicable state or federal law.



IN TESTIMONY WHEREOF, I have hereunto subscribed my name and caused the Great Seal of Iowa to be affixed. Done at Des Moines this 21st day of June, in the year of our Lord two thousand seven.



CHESTER J. CULVER
GOVERNOR

ATTEST:



MICHAEL A. MAURO
SECRETARY OF STATE

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