



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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|----------------------------------|------------------------|--------------------------------------|--|-------------------------------|-------------------------|--|---|
| *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> |
|---------------------|----------------------------|--------------------|
| 5 | Friday, August 10, 2007 | August 29, 2007 |
| 6 | Wednesday, August 22, 2007 | September 12, 2007 |
| 7 | Friday, September 7, 2007 | September 26, 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.

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, August 14, 2007, and Wednesday, August 15, 2007, at 9 a.m. in Room 22, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

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EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]“umbrella”

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Practitioner licenses—applicants from foreign institutions, 14.104, Filed ARC 6069B 8/1/07
Middle school endorsement, 14.140(15), Notice ARC 6103B 8/1/07
Language arts endorsement, 14.141(20), Notice ARC 6102B 8/1/07
Substitute authorization for paraeducators, 14.143, Filed ARC 6067B 8/1/07
Removal or reinstatement of endorsement, 14.144, Notice ARC 6104B 8/1/07

EMPLOYMENT APPEAL BOARD[486]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Elevator appeals, rescind ch 10, Notice ARC 6096B 8/1/07
Boilers and unfired steam pressure vessels appeals, rescind ch 11, Notice ARC 6105B 8/1/07

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Air quality regulation of ethanol production facilities, 22.100, 33.3(1),
33.3(9), Notice ARC 6091B 8/1/07
Clean air interstate rule (CAIR); clean air mercury rule (CAMR), 34.201, 34.210, 34.221,
34.301, Notice ARC 6092B 8/1/07
Minor water main construction permits, 40.3(1), 40.4(1), 40.4(4), 43.3(3)“c”(2),
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Permanent organizations that temporarily engage in campaign activities—cross-reference correction,
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Sale of goods or services to state agencies by state officials and employees,
6.10, Filed Without Notice ARC 6082B 8/1/07

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| Medicaid payment for routine physical examinations, 78.1(1)"b," 92.8(1), 92.8(4), <u>Filed Emergency After Notice ARC 6095B</u> | 8/1/07 |
| Medicaid reimbursement for nonemergency transportation, 78.13, <u>Notice ARC 6045B</u> | 7/18/07 |
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WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

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| Professional shoot-fighting events—promoter responsibilities, 177.2(2), <u>Filed ARC 6121B</u> | 8/1/07 |
| Professional shoot-fighting events—attendance of labor commissioner, 177.9, <u>Filed ARC 6120B</u> | 8/1/07 |
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- Definitions, rescind ch 10, Filed Without Notice **ARC 6116B** 8/1/07
- Radiation, amendments to chs 38, 39, 41, 42, 45, 46, Filed **ARC 6106B** 8/1/07
- Brain injury services program, ch 56, Filed **ARC 6108B** 8/1/07
- Statewide indigent obstetrical and orthopedic patient care program, rescind ch 82,
Filed Without Notice **ARC 6117B** 8/1/07
- Abuse education review panel, 93.2(1), 93.3, Filed **ARC 6109B** 8/1/07
- Emergency medical services advisory council, ch 130, Notice **ARC 6111B** 8/1/07
- Emergency medical services providers—education, training and certification, 131.1,
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131.7(2)"t" and "aa," Filed **ARC 6110B** 8/1/07
- Trauma registry—data dictionary for reportable patient data, 136.2(1)"a" and "c," Notice **ARC 6114B** 8/1/07
- Substance abuse treatment and assessment programs—drinking drivers course,
157.1 to 157.8, Filed **ARC 6112B** 8/1/07
- Subpoenas, 173.14, Filed **ARC 6115B** 8/1/07

PUBLIC SAFETY DEPARTMENT[661]

- Access to national criminal history record checks of teacher applicants,
11.21(4), Notice **ARC 6046B**, also Filed Emergency **ARC 6047B** 7/18/07
- Confidentiality of records containing security procedures or emergency preparedness information;
release of official photographs of department employees, 25.3(1), 25.3(3), 25.3(4),
25.3(6), 25.13"9," 25.15, Notice **ARC 6048B**, also Filed Emergency **ARC 6049B** 7/18/07
- Fire training facilities, 259.302, 259.303, 259.304(1)"h," 259.305, Notice **ARC 6064B**,
also Filed Emergency **ARC 6065B** 8/1/07

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

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COMMERCE DEPARTMENT[181]"umbrella"

- Examination; work product review, 3.2(5), 3.5(1), 3.5(2), 3.5(4), 3.5(5), Notice **ARC 6113B** 8/1/07
- Fees; enforcement proceedings against nonlicensees, 12.1, ch 16, Filed **ARC 6107B** 8/1/07

REVENUE DEPARTMENT[701]

- Individual income tax—filing thresholds, special tax computation, social security benefits,
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, Filed **ARC 6056B** 7/18/07
- Tax rates for gasoline and E-85 gasoline, 68.2(1), Notice **ARC 6055B** 7/18/07

SECRETARY OF STATE[721]

- Use of voting equipment; paper record, 21.1(10), 21.25, 22.1, 22.5(8), 22.5(10) 22.9(1),
22.10(2)"o" and "p," 22.11(1)"a" to "d," 22.12, 22.18(1)"d," 22.40, 22.41, 22.43,
22.100 to 22.102, 22.340 to 22.342, 22.431, 22.461, 22.463(4), 22.464(4), 26.2(2),
26.2(4), 26.4(1), 26.4(3), 26.12, 26.62, 26.104(1)"d," 26.105(2), 26.105(3),
Notice **ARC 6127B**, also Filed Emergency **ARC 6129B** 8/1/07
- Absentee voting, 21.300, 212.303, 21.350 to 21.355, 21.359(4), 21.370 to 21.376, Filed Emergency **ARC 6063B** 8/1/07
- Absentee voting; electioneering at satellite absentee voting station, 21.300, 21.300(8)"c," 21.303,
21.350 to 21.355, 21.359(4), 21.370 to 21.376, Notice **ARC 6128B** 8/1/07
- Testing of voting equipment, 22.39, 22.41 to 22.43, Notice **ARC 6130B** 8/1/07

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

- Financial incentive program for soil erosion control, amendments to ch 10,
Filed Emergency After Notice **ARC 6060B** 7/18/07
- Water protection fund, 12.51(2) to 12.51(6), 12.61, 12.62(1), 12.62(3), 12.63(1), 12.63(3)"b,"
12.73(7), 12.76, 12.77, 12.82(1), 12.83, 12.84(1), Filed Emergency After Notice **ARC 6059B** 7/18/07

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]"umbrella"

Certificates of franchise authority for cable and video service, ch 44, Notice **ARC 6124B** 8/1/07

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Injured veterans grant program—expansion of coverage, 11.1, 11.3(1), 11.3(2), 11.4(1)"b"(4),
 11.4(2)"b," Filed Emergency **ARC 6094B** 8/1/07
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 Veterans trust fund, ch 14, Notice **ARC 6126B** 8/1/07

WORKERS' COMPENSATION DIVISION[876]

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Use of voice or video technology in contested case hearings, 4.49, Notice **ARC 6038B**,
 also Filed Emergency **ARC 6037B** 7/18/07
 Payroll tax tables, 8.8, Filed Emergency **ARC 6036B** 7/18/07

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Jeff Angelo
 P.O. Box 604
 Creston, Iowa 50801

Senator Michael Connolly
 2600 Renaissance Drive, #3
 Dubuque, Iowa 52001

Senator Thomas Courtney
 2200 Summer Street
 Burlington, Iowa 52601

Senator John P. Kibbie
 P.O. Box 190
 Emmetsburg, Iowa 50536

Senator James Seymour
 901 White Street
 Woodbine, Iowa 51579

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 P.O. Box 324
 Emmetsburg, Iowa 50536

Representative David Heaton
 510 East Washington
 Mt. Pleasant, Iowa 52641

Representative David Jacoby
 2308 North Ridge Drive
 Coralville, Iowa 52241

Representative Linda Upmeyer
 2175 Pine Avenue
 Garner, Iowa 50438

Representative Philip Wise
 503 Grand Avenue
 Keokuk, Iowa 52632

James Larew
Administrative Rules Coordinator
 Governor's Ex Officio Representative
 Capitol, Room 11
 Des Moines, Iowa 50319
 Telephone (515)281-0208

| AGENCY | HEARING LOCATION | DATE AND TIME OF HEARING |
|--|--|------------------------------|
| EDUCATIONAL EXAMINERS BOARD[282] | | |
| Board membership, 1.2 IAB 8/1/07 ARC 6071B | Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa | August 22, 2007 1 p.m. |
| Middle school endorsement, 14.140(15) IAB 8/1/07 ARC 6103B | Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa | August 22, 2007 1 p.m. |
| Language arts endorsement, 14.141(20) IAB 8/1/07 ARC 6102B | Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa | August 22, 2007 1 p.m. |
| Removal of endorsement; reinstatement of removed endorsement, 14.144 IAB 8/1/07 ARC 6104B | Rm. 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa | August 22, 2007 1 p.m. |
| ENVIRONMENTAL PROTECTION COMMISSION[567] | | |
| Air quality regulations for ethanol production facilities, 22.100, 33.3 IAB 8/1/07 ARC 6091B | Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa | September 5, 2007 10 a.m. |
| CAIR and CAMR trading programs, 34.201, 34.210, 34.221, 34.301 IAB 8/1/07 ARC 6092B | Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa | September 4, 2007 9 a.m. |
| Underground storage tank installations, 135.1(3), 135.2, 135.3, 135.5 IAB 8/1/07 ARC 6072B | Iowa City Public Library 123 S. Linn St. Iowa City, Iowa | August 21, 2007 1 p.m. |
| | Community Meeting Room Denison City Hall Clerk's Office 111 N. Main St. Denison, Iowa | August 22, 2007 1 p.m. |
| | 5th Floor E. Conference Room Wallace State Office Bldg. Des Moines, Iowa | August 23, 2007 1 p.m. |
| HUMAN SERVICES DEPARTMENT[441] | | |
| Disability services management, 25.11, 25.13(1)"m," 25.20 IAB 8/1/07 ARC 6101B | Conference Room 102 City View Plaza 1200 University Ave. Des Moines, Iowa | August 22, 2007 8:30 a.m. |
| | 3rd Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa | August 22, 2007 9 a.m. |
| | ICN Room Pottawattamie Cty. DHS Office 417 E. Kaneshville Blvd. Council Bluffs, Iowa | August 22, 2007 10 a.m. |

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

| | |
|--|---------------------------------------|
| 1st Floor Board Rm., Scott Cty. Administrative Center 428 Western Ave. Davenport, Iowa | August 22, 2007 10 a.m. |
| Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa | August 22, 2007 10 a.m. to 12 noon |
| 1st Floor Conference Room A/B Woodbury Cty. DHS 822 Douglas St. Sioux City, Iowa | August 23, 2007 10 a.m. |
| Rm. 3, Wapello Cty. DHS 120 E. Main St. Ottumwa, Iowa | August 23, 2007 10:30 a.m. |
| 5th Floor Conference Room Iowa Building 411 Third St. SE Cedar Rapids, Iowa | August 23, 2007 2:30 p.m. |
| 2nd Floor Conference Room Story Cty. Human Services Bldg. 126 S. Kellogg St. Ames, Iowa | August 24, 2007 11 a.m. to 12 noon |

LABOR SERVICES DIVISION[875]

| | | |
|--|--|--|
| Elevator alteration—exception to requirement to lower and excavate pit floors, 73.8 IAB 8/1/07 ARC 6070B | Stanley Room 1000 E. Grand Ave. Des Moines, Iowa | August 22, 2007 1:30 p.m. (If requested) |
|--|--|--|

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. |
|---|---|------------------------------|

PUBLIC SAFETY DEPARTMENT[661]

| | | |
|--|--|---------------------------------|
| National criminal history checks for teacher applicants, 11.21(4) IAB 7/18/07 ARC 6046B (See also ARC 6047B) | First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa | September 5, 2007 10 a.m. |
| Public records and fair information practices, 25.3, 25.13, 25.15 IAB 7/18/07 ARC 6048B (See also ARC 6049B) | First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa | September 5, 2007 9:30 a.m. |
| Fire service training, 259.302, 259.303, 259.304(1), 259.305 IAB 8/1/07 ARC 6064 (See also ARC 6065B herein) | First Floor Conf. Room, Room 125 215 East 7th St. Des Moines, Iowa | September 5, 2007 10:30 a.m. |

UTILITIES DIVISION[199]

| | | |
|--|-----------------------------------|-------------------------------|
| Certificates of franchise authority for cable and video service, ch 44 IAB 8/1/07 ARC 6124B | 350 Maple St. Des Moines, Iowa | September 20, 2007 10 a.m. |
|--|-----------------------------------|-------------------------------|

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

| | | |
|--|--|--------------------------------|
| Veterans trust fund, ch 14 IAB 8/1/07 ARC 6126B | Enhanced Classroom, Joint Forces Hdqtrs., Iowa National Guard 6100 NW 78th St. Johnston, Iowa | August 21, 2007 2 to 4 p.m. |
|--|--|--------------------------------|

CITATION of Administrative Rules

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

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

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

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

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

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

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

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

The following list will be updated as changes occur:

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ARC 6071B

EDUCATIONAL EXAMINERS
BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 1, “General,” Iowa Administrative Code.

The proposed amendment revises rule 282—1.2(272, 17A) to be in compliance with 2007 Iowa Acts, House File 615, section 1.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 22, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 24, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Amend rule 282—1.2(272,17A) as follows:

282—1.2(272,17A) Organization and method of operation.

1.2(1) No change.

1.2(2) Composition. ~~The board consists of 11 members appointed by the governor, each for a four-year term. The statutory membership includes five classroom teachers, four school administrators, and two public members, one of whom is the director of the department of education, who also serves as the chair of the board. The composition of the board is defined in Iowa Code section 272.3.~~

1.2(3) and **1.2(4)** No change.

1.2(5) Conduct of business. The ordinary business of the board is conducted at its regular meetings generally held at the Grimes State Office Building, Des Moines, Iowa.

~~a. The composition of the board is defined in Iowa Code section 272.3.~~

~~b a. The director of the department of education is the designated chair of the board; however, if the director does not serve on the board, the director shall appoint a designee. If the director does not sit on the board, the board shall biennially, at its last regularly scheduled meeting prior to May 1 in June, elect a chair from its membership to begin serving on May 1 upon election.~~

~~e b. The board shall approve annual meeting dates at its first meeting after least by June 30.~~

~~d c. The board may schedule special meetings called by the chair or upon request to the chair by six members of the board or upon request of the executive director. Special meetings may be held by electronic means in accordance with Iowa Code section 21.8.~~

~~e d. The board will post the date, time, and location of board meetings.~~

~~f e. Persons who wish to submit materials for the agenda and appear before the board, or whose presence has been requested by the board, will be provided the opportunity to address the board.~~

~~g f. In order to be placed on the agenda, materials must be received at least two weeks prior to a scheduled board meeting. Materials from emergency or unusual circumstances may be added to the agenda with the chair’s approval.~~

~~h g. The board will govern its meetings in accordance with Iowa Code chapter 21 and its proceedings by “Robert’s Rules of Order, Revised.”~~

~~i h. All board meetings shall be open, and the public shall be permitted to attend the meetings, unless the board votes to hold a closed session in accordance with Iowa Code section 21.5.~~

~~j i. Persons in attendance at board meetings may be granted an opportunity to speak on an issue before the board at the discretion of the chair. The length and frequency of public comment will be at the discretion of the chair.~~

~~k j. Information, submissions or requests. General inquiries regarding the board, requests for forms and other documents and all other requests and submissions may be addressed to the Executive Director, Board of Educational Examiners, Grimes State Office Building, Des Moines, Iowa 50319-0147.~~

ARC 6103B

EDUCATIONAL EXAMINERS
BOARD[282]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 14, “Issuance of Practition-

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

er's Licenses and Endorsements," Iowa Administrative Code.

The proposed amendment changes the requirements for the middle school endorsement after much review and research by a middle school task force.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 22, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 24, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Amend subrule 14.140(15) as follows:

14.140(15) Middle school endorsement.

a. Authorization. The holder of this endorsement is authorized to teach ~~all subjects in the two concentration areas in which the specific requirements have been completed as well as in other subject areas in grades five through eight with the exception of which are not the core content areas.~~ *Coursework in the growth and development of the middle school age child, specifically addressing the social, emotional, physical and mental cognitive characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core in 14.123(4).* The holder is not authorized to teach art, industrial arts, music, reading, physical education and special education.

b. Program requirements.

(1) No change.

(2) ~~Required~~ *A minimum of nine semester hours of required coursework in the following:*

1. ~~Three semester hours of coursework~~ *Coursework in the growth and development of the middle school age child, specifically addressing the social, emotional, physical and mental cognitive characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core in 14.123(4).*

2. ~~Three semester hours of coursework~~ *Coursework in middle school design, curriculum, instruction, and curriculum assessment including, but not limited, to interdisciplinary instruction, in interdisciplinary teaming, pedagogy, and methods differentiated instruction in addition to related studies completed as part of the professional education core in 14.123(4).*

3. ~~Six semester hours of coursework in the social studies to include coursework in American history, world history, and geography.~~

4. ~~Six semester hours in mathematics to include coursework in algebra.~~

5. ~~Six semester hours in science to include coursework in life science and physical science.~~

6. ~~Six semester hours in language arts to include coursework in grammar, composition, and speech.~~

3. *Coursework to prepare middle school teachers in literacy (reading, writing, listening and speaking) strategies for students in grades 5 through 8 and in methods to include these strategies throughout the curriculum.*

4. *Thirty hours of middle school field experiences included in the coursework listed in 14.140(15) "b" (2) "1" to "3."*

c. *Concentration areas. To obtain this endorsement, the applicant must complete the coursework requirements in two of the following content areas:*

(1) *Social studies concentration. The social studies concentration requires 12 semester hours of coursework in social studies to include coursework in United States history, world history, government and geography.*

(2) *Mathematics concentration. The mathematics concentration requires 12 semester hours in mathematics to include coursework in algebra.*

(3) *Science concentration. The science concentration requires 12 semester hours in science to include coursework in life science, earth science, and physical science.*

(4) *Language arts concentration. The language arts concentration requires 12 semester hours in language arts to include coursework in composition, language usage, speech, young adult literature, and literature across cultures.*

ARC 6102B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

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

The proposed amendment allows for the bundling of several endorsements into a single endorsement.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 22, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 24, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Amend rule 282—14.141(272) by adopting the following **new** subrule:

14.141(20) Language arts 5-12. Completion of 40 semester hours in language arts to include coursework in the following areas:

a. Written communication.

(1) Develops a wide range of strategies and appropriately uses writing process elements (e.g., brainstorming, free-writing, first draft, group response, continued drafting, editing, and self-reflection) to communicate with different audiences for a variety of purposes.

(2) Develops knowledge of language structure (e.g., grammar), language conventions (e.g., spelling and punctuation), media techniques, figurative language and genre to create, critique, and discuss print and nonprint texts.

b. Oral communication.

(1) Understands oral language, listening, and nonverbal communication skills; knows how to analyze communication interactions; and understands how to apply related knowledge and skills to become competent communicators in varied contexts.

(2) Understands the communication process and related theories, knows the purpose and function of communication and understands how to apply this knowledge to make appropriate and effective choices as senders and receivers of messages in varied contexts.

c. Language development.

(1) Understands inclusive and appropriate language, patterns and dialects across cultures, ethnic groups, geographic regions and social roles.

(2) Develops strategies to improve competency in the English language arts and understanding of content across the curriculum for students whose first language is not English.

d. Young adult literature, American literature, and world literature.

(1) Reads, comprehends, and analyzes a wide range of texts to build an understanding of self as well as the cultures of the United States and the world in order to acquire new information, to respond to the needs and demands of society and the workplace, and for personal fulfillment. Among these texts are fiction and nonfiction, graphic novels, classic and contemporary works, young adult literature, and non-print texts.

(2) Reads a wide range of literature from many periods in many genres to build an understanding of the many dimensions (e.g., philosophical, ethical, aesthetic) of human experience.

(3) Applies a wide range of strategies to comprehend, interpret, evaluate, and appreciate texts. Draws on prior experience, interactions with other readers and writers, knowledge of word meaning and of other texts, word identification strategies, and an understanding of textual features (e.g., sound-letter correspondence, sentence structure, context, graphics).

(4) Participates as a knowledgeable, reflective, creative, and critical member of a variety of literacy communities.

e. Creative voice.

(1) Understands the art of oral interpretation and how to provide opportunities for students to develop and apply oral interpretation skills in individual and group performances for a variety of audiences, purposes and occasions.

(2) Understands the basic skills of theatre production including acting, stage movement, and basic stage design.

f. Argumentation/debate.

(1) Understands concepts and principles of classical and contemporary rhetoric and is able to plan, prepare, organize, deliver and evaluate speeches and presentations.

(2) Understands argumentation and debate and how to provide students with opportunities to apply skills and strategies for argumentation and debate in a variety of formats and contexts.

g. Journalism.

(1) Understands ethical standards and major legal issues including First Amendment rights and responsibilities relevant to varied communication content. Utilizes strategies to teach students about the importance of freedom of speech in a democratic society and the rights and responsibilities of communicators.

(2) Understands the writing process as it relates to journalism (e.g., brainstorming, questioning, reporting, gathering and synthesizing information, writing, editing, and evaluating the final media product).

(3) Understands a variety of forms of journalistic writing (e.g., news, sports, features, opinion, Web-based) and the appropriate styles (e.g., Associated Press, multiple sources with attribution, punctuation) and additional forms unique to journalism (e.g., headlines, cut lines, and/or visual presentations).

h. Mass media production.

(1) Understands the role of the media in a democracy and the importance of preserving it.

(2) Understands how to interpret and analyze various types of mass media messages as critical consumers.

(3) Develops the technological skills needed to package media products effectively using various forms of journalistic design with a range of visual and auditory methods.

i. Reading strategies (if not completed as part of the professional education core requirements).

(1) Uses a variety of skills and strategies to comprehend and interpret complex nonfiction and informational text.

(2) Reads for a variety of purposes and across content areas.

ARC 6104B

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

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

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

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

The proposed amendment provides a mechanism for practitioners to remove an endorsement from their licenses.

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

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, August 22, 2007, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, August 24, 2007. Written comments and suggestions should be addressed to Marcia J. Henderson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to marcia.henderson@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

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

The following amendment is proposed.

Adopt **new** rule 282—14.144(272) as follows:

282—14.144(272) Removal of endorsement; reinstatement of removed endorsement.

14.144(1) A practitioner may remove an endorsement from the practitioner’s license as follows:

a. To remove an endorsement, the practitioner shall meet the following conditions:

(1) A practitioner who holds a standard or master educator license is eligible to request removal of an endorsement from the license if the practitioner has not taught in the sub-

ject or assignment area of the endorsement in the five years prior to the request for removal of the endorsement;

(2) The practitioner must submit a notarized written application form furnished by the board of educational examiners to remove an endorsement at the time of licensure renewal (licensure renewal is limited to one calendar year prior to the expiration date of the current license); and

(3) The application must be signed by the superintendent or designee in the district in which the practitioner is under contract. The superintendent’s signature shall serve as notification and acknowledgement of the practitioner’s intent to remove an endorsement from the practitioner’s license. The absence of the superintendent’s or designee’s signature does not impede the removal process.

b. The endorsement shall be removed from the license at the time of application.

c. If a practitioner is not employed and submits an application, the provisions of subparagraph 14.144(1)“a”(3) shall not be required.

d. If a practitioner submits an application that does not meet the criteria listed in subparagraphs 14.144(1)“a”(1) to (3), the application will be rendered void and the practitioner will forfeit the processing fee.

e. The executive director has the authority to approve or deny the request for removal. Any denial is subject to the appeal process set forth in rule 282—11.35(272).

14.144(2) Reinstatement of removed endorsement.

a. If the practitioner wants to add the removed endorsement at a future date, all coursework for the endorsement must be completed within the five years preceding the application to add the endorsement.

b. The practitioner must meet the current endorsement requirements when making application.

ARC 6096B

EMPLOYMENT APPEAL BOARD[486]

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 10A.601, the Employment Appeal Board hereby gives Notice of Intended Action to rescind Chapter 10, “Elevator Appeals,” Iowa Administrative Code.

This amendment is being proposed because the Board’s authority to hear appeals related to elevators has been rescinded.

Interested persons may submit written comments no later than August 21, 2007, to John Peno, Chair, Employment Appeal Board, 4th Floor, Lucas State Office Building, 321 E. 12th St., Des Moines, Iowa 50319.

No fiscal impact is anticipated.

This amendment is intended to implement Iowa Code section 10A.601.

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)

EMPLOYMENT APPEAL BOARD[486](cont'd)

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

The following amendment is proposed.

Rescind and reserve **486—Chapter 10.**

ARC 6105B

EMPLOYMENT APPEAL BOARD[486]

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 10A.601, the Employment Appeal Board hereby gives Notice of Intended Action to rescind Chapter 11, “Boilers and Unfired Steam Pressure Vessels Appeals,” Iowa Administrative Code.

This amendment is being proposed because the Board's authority to hear appeals related to boilers and unfired steam pressure vessels has been rescinded.

Interested persons may submit written comments no later than August 21, 2007, to John Penni, Chair, Employment Appeal Board, 4th Floor, Lucas State Office Building, 321 E. 12th St., Des Moines, Iowa 50319.

No fiscal impact is anticipated.

This amendment is intended to implement Iowa Code section 10A.601.

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 and reserve **486—Chapter 11.**

ARC 6091B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, “Controlling Pollution,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

The purpose of the amendments is to adopt into the state air quality rules significant changes to the federal air quality regulations for ethanol production facilities.

The Department is proposing to adopt these amendments because of the potential impacts to new ethanol production facilities in the state. Currently, the Department is reviewing permit applications for approximately eight new projects or expansions. To provide consistency for owners and operators of proposed ethanol production plants, and to eliminate the uncertainty in the timing for the new emissions thresholds, the Department proposes to adopt these amendments as soon as possible.

After carefully reviewing and responding to all comments received during the public comment period following publication of this Notice, the Department plans to ask the Commission to approve adoption of the final amendments at the Commission meeting scheduled for October 2, 2007. This rule making, which is described in more detail below, will confer a benefit on ethanol production facilities in the state. Therefore, the Department is proposing, pursuant to the provisions of Iowa Code section 17A.5(2)“b,” that the adopted amendments become effective immediately upon filing with the Administrative Rules Coordinator. The first Iowa Administrative Bulletin filing deadline following the October Commission meeting is October 5, 2007.

On April 12, 2007, the Environmental Protection Agency (EPA) modified the definition of “chemical process plants” as it applies to three Clean Air Act permitting programs. These three programs are:

- Prevention of Significant Deterioration (PSD) permitting program, a preconstruction permitting program for major stationary sources located in areas that meet national ambient air quality standards (NAAQS);
- Nonattainment New Source Review (NSR) permitting program, a preconstruction permitting program for major stationary sources in areas not meeting the NAAQS; and
- Operating Permits (Title V) program, an operating program for major stationary sources.

These federal amendments became effective on July 1, 2007.

The Department's air permitting programs rely upon emissions thresholds to determine when program requirements will apply. If a facility has the potential to emit air pollutants in amounts equal to or greater than the threshold, requirements to obtain permits that specify emissions controls will apply.

The new air pollutant limit for ethanol production for the PSD program will increase from 100 tons per year to 250 tons per year. However, ethanol facilities that also operate fossil-fuel boilers with a cumulative total of more than 250 million Btu's per hour heat input will continue to be subject to the 100 tons per year threshold for PSD applicability for that equipment. The thresholds for the Title V programs will remain at the current level, which is 100 tons per year.

The Department is not pursuing amendments to the nonattainment NSR program at this time because Iowa currently does not have any areas that are not meeting the NAAQS. The Department will pursue these and other amendments to the NSR program at such time when it establishes any nonattainment areas. EPA has approved the Department's approach to nonattainment NSR.

The proposed amendments also will no longer require facilities that use carbohydrate feedstocks in producing ethanol to count fugitive emissions of criteria pollutants when determining if the facilities meet or exceed the emissions threshold for the Title V program or PSD program. Fugitive emissions are emissions that do not come from process stacks or

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

vents. This change may allow some plants to expand production.

Under the proposed amendments, permitted emissions limits and other requirements for existing sources will remain in effect and enforceable. These limits and other requirements may be modified only if the Department agrees to the facility's request for a permit revision. The Department will revise permits if the facility successfully demonstrates that permit modifications meet all requirements that apply to the facility and that the permit revisions will not contribute to air quality that would violate the NAAQS. The Department will issue review applications for permit revisions for existing ethanol facilities on a case-by-case basis.

Additionally, the Department is working closely with EPA and other states to clarify how to implement these changes, particularly for existing facilities. The Department will implement these changes in a manner consistent with EPA direction. If, based on EPA direction, further amendments are required, the Department will pursue rule making as needed.

Item 1 amends rule 567—22.100(455B), which contains the definitions for the Title V Operating Permit program, by revising the explanation of “chemical process plants” that is contained in the definition of “stationary source categories.” The amendment states that chemical processing plants shall not include ethanol production facilities that produce ethanol by natural fermentation included in the North American Industry Classification System (NAICS) codes 325193 or 312140.

The NAICS is a relatively new classification system that the federal government uses to identify industry sources affected by federal regulations. Traditionally, EPA has used the Standard Industrial Classification System (SIC), which is a similar system. In fact, EPA explains that when EPA originally interpreted the “chemical process plants” term, EPA did so in reference to SIC 28. Since the time EPA defined the chemical process plant based solely on reference to SIC 28, some federal agencies have replaced the SIC code manual with the NAICS.

Because the NAICS gives special attention to emerging industries (such as ethanol production) and NAICS groups similar production processes together, EPA has decided to use NAICS codes for purposes of EPA's final regulations for ethanol production plants. The NAICS codes and more information about the relationship between SIC and NAICS are available on EPA's Web site at <http://www.epa.gov/ttn/chief/codes/index.html#naics>.

Item 2 amends subrule 33.3(1) by revising the explanation of “chemical process plants” contained under the definition of “major stationary source” in the same manner as described above for Item 1.

Item 3 amends subrule 33.3(9) to update the reference to the federal regulations that list the exemptions from certain requirements for PSD-subject sources. In the federal regulations, proposed to be adopted by reference in subrule 33.3(9), the description of “chemical process plants” was amended in the same manner as described above for Item 1.

Any person may make written suggestions or comments on the proposed amendments and the Department's schedule for adopting the amendments on or before September 6, 2007. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to christine.paulson@dnr.state.ia.us.

A public hearing will be held on Wednesday, September 5, 2007, at 10 a.m. in the conference rooms at the Department's

Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at the public hearing. All comments must be received no later than Thursday, September 6, 2007.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)242-5154 to advise of specific needs.

These amendments are intended to implement Iowa Code sections 455B.133(2) and 455B.133(4). Iowa Code section 455B.133(4) states, in part, that the standards or limitations adopted by the Commission pursuant to subsection 455B.133(4) shall not exceed the standards or limitations promulgated by EPA.

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/LAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **567—22.100(455B)**, definition of “stationary source categories,” numbered paragraph “**20**,” as follows:

20. Chemical process plants — *The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;*

ITEM 2. Amend subrule **33.3(1)**, definition of “major stationary source,” paragraph “1”(a), listing for “• Chemical process plants,” as follows:

- Chemical process plants (*which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;*)

ITEM 3. Amend subrule 33.3(9) as follows:

33.3(9) Exemptions. The provisions for allowing exemptions from certain requirements for PSD-subject sources as specified in 40 CFR 52.21(i) as amended through November 29, 2005, May 1, 2007, are adopted by reference.

ARC 6092B**ENVIRONMENTAL PROTECTION COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” Iowa Administrative Code.

The purpose of the proposed rule changes is to make administrative amendments to the state's rules for the Clean Air Interstate Rule (CAIR) and the Clean Air Mercury Rule (CAMR).

The final rules for CAIR and CAMR were published in Chapter 34 of the Iowa Administrative Code on June 7, 2006.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

After the Department adopted the final rules and submitted the rules to the Environmental Protection Agency (EPA), Region VII, for approval into Iowa's State Implementation Plan (SIP), EPA identified an issue that required administrative amendments to Iowa's rules and to other states' rules.

The current definitions identify that the Department is the permitting authority. The CAIR and CAMR programs are unique in that they allow for trading and holding of emissions allowances that may have been originally allocated by another "permitting authority," such as EPA or another state agency. To account for this, EPA requested that the Department modify the definitions of "permitting authority" contained in the Iowa Administrative Code for purposes of CAIR and CAMR allocations by adopting the definition in the federal regulations. EPA made a written request for the changes to the Department on February 16, 2007. EPA then followed this letter with an E-mail, dated April 10, 2007, requesting that the Department commit to a schedule allowing for final rule adoption by January 2008. This time line is necessary so that the rule changes are in place before any trading commences under the CAIR program, which could occur as early as January 2008.

Item 1 amends rule 567—34.201(455B) to specify that the definition of "permitting authority" shall mean the definition contained in 40 CFR 96.102 for purposes of its use in the definitions of "allocate or allocation" or "CAIR NO_x allowance," also set forth in 40 CFR 96.102, and shall mean the Iowa Department of Natural Resources in all other references.

Item 2 amends rule 567—34.210(455B) to specify that the definition of "permitting authority" shall mean the definition contained in 40 CFR 96.202 for purposes of its use in the definitions of "allocate or allocation" or "CAIR SO₂ allowance," also set forth in 40 CFR 96.202, and shall mean the Iowa Department of Natural Resources in all other references.

Item 3 amends rule 567—34.221(455B) to specify that the definition of "permitting authority" shall mean the definition contained in 40 CFR 96.302 for purposes of its use in the definitions of "allocate or allocation" or "CAIR NO_x ozone season allowance," also set forth in 40 CFR 96.302, and shall mean the Iowa Department of Natural Resources in all other references.

Item 4 amends rule 567—34.301(455B) to specify that the definition of "permitting authority" shall mean the definition contained in 40 CFR 60.4102 for purposes of its use in the definitions of "allocate or allocation" or "Hg allowance," also set forth in 40 CFR 60.4102, and shall mean the Iowa Department of Natural Resources in all other references.

Any person may make written suggestions or comments on the proposed amendments on or before September 5, 2007. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to christine.paulson@dnr.state.ia.us.

A public hearing will be held on Tuesday, September 4, 2007, at 9 a.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at the public hearing. All comments must be received no later than September 5, 2007.

Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Christine Paulson at (515)242-5154 to advise of specific needs.

These amendments are intended to implement Iowa Code section 455B.133.

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

The following amendments are proposed.

ITEM 1. Amend rule 567—34.201(455B) as follows:

567—34.201(455B) CAIR NO_x annual trading program general provisions. The provisions in 40 CFR Part 96, Subpart AA (96.101 through 96.108), as amended through April 26, 2006, are adopted by reference, except that the definition of "permitting authority" in 96.102 shall ~~mean the department of natural resources~~ *have the meaning set forth in 96.102 for purposes of its use only in the definitions of "allocate or allocation" or "CAIR NO_x allowance," also set forth in 96.102, and shall mean the department of natural resources in all other references contained in rules 567—34.200(455B) through 567—34.209(455B).* Other terms contained in rules 567—34.200(455B) through 567—34.209(455B), and in Tables 1A and 1B, shall have the meanings set forth in 96.102.

ITEM 2. Amend rule 567—34.210(455B) as follows:

567—34.210(455B) CAIR SO₂ trading program. The provisions in 40 CFR Part 96, Subparts AAA through III, as amended through April 26, 2006, are adopted by reference, except that the definition of "permitting authority" contained in 96.202 shall ~~mean the department of natural resources~~ *have the meaning set forth in 96.202 for purposes of its use only in the definitions of "allocate or allocation" or "CAIR SO₂ allowance," also set forth in 96.202, and shall mean the department of natural resources in all other references contained in rule 567—34.210(455B).*

ITEM 3. Amend rule 567—34.221(455B) as follows:

567—34.221(455B) CAIR NO_x ozone season trading program general provisions. The provisions in 40 CFR Part 96, Subpart AAAA (96.301 through 96.308), as amended through April 26, 2006, are adopted by reference, except that the definition of "permitting authority" in 96.302 shall ~~mean the department of natural resources~~ *have the meaning set forth in 96.302 for purposes of its use only in the definitions of "allocate or allocation" or "CAIR NO_x ozone season allowance," also set forth in 96.302, and shall mean the department of natural resources in all other references contained in rules 567—34.221(455B) through 567—34.229(455B).* Other terms contained in rules 567—34.221(455B) through 567—34.229(455B), and in Tables 2A and 2B, shall have the meanings set forth in 96.302.

ITEM 4. Amend rule 567—34.301(455B) as follows:

567—34.301(455B) Mercury (Hg) budget trading program general provisions. The provisions in 40 CFR 60.4101 through 60.4108 as amended through June 9, 2006, are adopted by reference, except that the definition of "permitting authority" in 60.4102 shall ~~mean the department of natural resources~~ *have the meaning set forth in 60.4102 for purposes of its use only in the definitions of "allocate or allocation" or "Hg allowance," also set forth in 60.4102, and shall mean the department of natural resources in all other references contained in rules 567—34.301(455B) through 567—34.308(455B).* Other terms contained in rules 567—34.301(455B) through 567—34.308(455B), and in Tables 3A and 3B, shall have the meanings set forth in 60.4102.

ARC 6072B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission proposes to amend Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code.

The Iowa Legislature passed legislation (2007 Iowa Acts, Senate File 499) granting rule-making authority to the Environmental Protection Commission in response to provisions of the federal Energy Policy Act of 2005. The Iowa legislation requires the Commission to adopt rules consistent with Environmental Protection Agency guidance (see <http://www.epa.gov/OUST/index.htm>) requiring that all new underground storage tank and piping installations and replacements be constructed to provide secondary containment (i.e., double-walled tanks and piping) if they are within 1,000 feet of a community water system or a potable drinking water well. The Iowa legislation also requires that under-dispenser containment systems be installed whenever dispensers are replaced.

The Iowa legislation requires that all new and replacement UST systems installed after August 1, 2007, comply with EPA secondary containment guidance until Commission rules are adopted. The Department recommends that owners and operators comply with these proposed rules to meet the terms of the Iowa legislation until the rules are adopted.

The rules require secondary containment for all new underground storage tank and piping installations and replacements unless an exception can be proved by the tank owner. Most sites with an underground storage tank system provide water onsite and will be within 1,000 feet of a community water system or a potable drinking water well. Exceptions from the requirement to install secondary containment will be rare.

The replacement of piping with secondary containment is required when more than ten feet of piping is replaced. Under-dispenser containment is required when a dispenser is replaced along with changes in piping under the dispenser or when piping is replaced within ten feet of the dispenser.

The Iowa legislation requires the Commission to adopt rules consistent with EPA guidance to authorize a mechanism to prohibit the delivery of regulated substances to UST systems that are out of compliance with operation and maintenance rules. The EPA guidance requires states to adopt rules which at a minimum establish (1) criteria for determining under what conditions UST systems would be subject to a delivery prohibition; (2) mechanisms to identify UST systems which could be subject to the delivery prohibition; (3) criteria under which the delivery prohibition may be removed; (4) adequate procedural due process such as prior notice before imposition of the delivery prohibition; and (5) processes and criteria to identify UST systems which could be exempted from the delivery prohibition if they are

in rural or remote areas. The Department has determined that there are no remote or rural areas where access to a petroleum marketing facility is unavailable even in the event of a delivery prohibition.

The amendments propose to broaden the existing UST registration and annual tank management fee tagging system to require owners and operators to certify compliance with spill and overflow, release detection, and corrosion protection rules. UST systems that are potentially out of compliance would also be identified through biennial third-party compliance inspections and inspections of facilities by the Department.

The amendments establish three levels of criteria for determining noncompliance sufficient to warrant imposition of the delivery prohibition. Each level provides the owner and operator with a greater degree of due process in the form of prior notice and an opportunity to challenge the basis for the delivery prohibition. UST facilities may be designated as operating under "provisional" status if they are found to have a pattern of violations. Owners and operators would be offered a remedial plan, and if they fail to satisfy the terms of the plan, owners and operators would then be subject to the delivery prohibition after notice and an opportunity for a contested case hearing. This remedy is in addition to other enforcement mechanisms, such as the issuance of orders and the assessment of penalties.

Owners and operators subject to the delivery prohibition shall be required to return to the Department any registration tag or current annual tank management fee tag within three days. If the tags are not returned, the Department will attach a "red tag" to the UST fill pipe. It is illegal for an owner or operator to accept fuel or for a person to deposit fuel into a UST without current tags or with a "red tag."

Any interested person may submit written comments on the proposed amendments on or before Friday, August 24, 2007. Written comments should be sent to the Iowa Department of Natural Resources, Attn: Paul Nelson, Wallace State Office Building, Des Moines, Iowa 50319; fax (515)281-8895; or E-mail paul.nelson@dnr.state.ia.us.

Three public hearings will be held at the following locations:

August 21, 2007, at 1 p.m.
Iowa City Public Library
123 S. Linn Street
Iowa City, Iowa

August 22, 2007, at 1 p.m.
Community Meeting Room
Denison City Hall Clerk's Office
111 N. Main Street
Denison, Iowa

August 23, 2007, at 1 p.m.
Wallace State Office Building
502 E. Ninth Street
Fifth Floor East Conference Room
Des Moines, Iowa

Any person who intends to attend a public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact Paul Nelson at (515)281-8879 to advise of specific needs.

These amendments are intended to implement Iowa Code section 455B.474 as amended by 2007 Iowa Acts, Senate File 499.

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

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **135.1(3)“d”** as follows:

d. Deferrals. Rule 135.5(455B) does not apply to any UST system that stores fuel solely for use by emergency power generators. *All new and replacement UST systems for emergency power generators must meet the secondary containment requirements in subrule 135.3(9) and the leak detection and delivery prohibition requirements in subrule 135.3(8).*

ITEM 2. Amend rule **567—135.2(455B)** as follows:

Adopt the following **new** definitions in alphabetical order: “Appurtenances” means devices such as piping, fittings, flanges, valves, dispensers and pumps used to distribute, meter, or control the flow of regulated substances to or from an underground storage tank.

“Dispenser” means equipment that is used to transfer a regulated substance from underground piping through a rigid or flexible hose or piping located aboveground to a point of use outside the underground storage tank system, such as a motor vehicle.

“Replace” or “replacement” means the installation of a new underground tank system or component, including dispensers, in substantially the same location as an existing tank system or component in lieu of that tank system or component.

“Secondary containment tank” or “secondary containment piping” means a tank or piping which is designed with an inner primary shell and a liquid-tight outer secondary shell or jacket which extends around the entire inner shell, and which is designed to contain any leak through the primary shell from any part of the tank or piping that routinely contains product, and which also allows for monitoring of the interstitial space between the shells and the detection of any leak.

“Under-dispenser containment (UDC)” means containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or groundwater. Such containment must:

- Be intact and liquid tight on its sides and bottom and at any penetrations;
- Be compatible with the substance conveyed by the piping; and
- Allow for visual inspection and monitoring and access to the components in the containment system.

Amend the definition of “pipe” or “piping” as follows:

“Pipe” or “piping” means a hollow cylinder or tubular conduit that is constructed of nonearthen materials *and that routinely contains and conveys regulated substances from the underground tank(s) to the dispenser(s) or other end-use equipment. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground tank(s) to the dispenser(s). This definition does not include vent, vapor recovery, or fill lines.*

ITEM 3. Amend paragraph **135.3(3)“j”** as follows:

j. It is unlawful for a person to deposit or accept a regulated substance in an underground storage tank that has not been registered and issued permanent or annual tank management tags in accordance with rule 135.3(455B). *It is unlawful for a person to deposit or accept a regulated substance into an underground storage tank if the person has received notice that the underground storage tank is subject to a deliv-*

ery prohibition or if there is a “red tag” attached to the UST fill pipe or fill pipe cap as provided in subrule 135.3(8).

(1) The department may provide written authorization to receive a regulated substance when there is a delay in receiving tank tags or at new tank installations to allow for testing the tank system.

(2) The department may provide known depositors of regulated substances lists of underground storage tank sites that have been issued tank tags, ~~and~~ those that have not been issued tank tags, *and those subject to a delivery prohibition pursuant to subrule 135.3(8).* These lists do not remove the requirement for depositors to verify that current tank tags are affixed to the fill pipe prior to delivering product. Regulated substances cannot be delivered to underground storage tanks without current tank tags *or those displaying a delivery prohibition “red tag” as provided in subrule 135.3(8).*

(3) A person shall not deposit a regulated substance in an underground storage tank after receiving written or oral notice from the department that the tank is not covered by an approved form of financial responsibility in accordance with 567—Chapter 136.

ITEM 4. Amend paragraph **135.3(5)“d”** as follows:

d. A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of a current registration tag, *a current annual tank management fee tag, or a delivery prohibition “red tag” as provided in subrule 135.3(8).* If the tag is not affixed to the fill pipe or fill pipe cap *or if a delivery prohibition “red tag” is displayed,* the person ~~may~~ shall not deposit the substance in the tank.

ITEM 5. Adopt **new** subrules 135.3(8) and 135.3(9) as follows:

135.3(8) Delivery prohibition process.

a. Identifying sites subject to delivery response prohibition action.

(1) Annual registration tag and tank management fee process. Owners and operators shall certify to the following on a form prepared by the department when applying for annual tank tags pursuant to subrule 135.3(5):

1. Installation and performance of an approved UST and piping release detection method as provided in rule 135.5(455B), including an annual line tightness test and a line leak detector test if applicable.

2. Installation of an approved overflow and spill protection system as provided in paragraph 135.3(1)“c.”

3. Installation of an approved corrosion protection system as provided in paragraphs 135.3(1)“a” and “b.”

4. If the UST system has been out of operation for more than three months, that the UST system has been temporarily closed in accordance with rule 135.15(455B) and a certification of temporary closure has been submitted to the department.

5. If the UST system has been removed or filled in place within the last 12 months, the date of removal or filling in place and whether a closure report has been submitted as provided in rule 135.15(455B).

(2) Sites with provisional status. If the UST system has been classified as operating under provisional status as provided in subparagraph 135.3(8)“b”(3), owners and operators when applying for annual tank tags pursuant to subrule 135.3(5) must certify on a form prepared by the department that the owners and operators are in compliance with an approved provisional status remedial plan as provided in subparagraph 135.3(8)“b”(3).

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(3) Compliance inspections. The department may initiate a delivery prohibition response action based on: (1) a finding resulting from a third-party compliance inspection conducted pursuant to rule 135.20(455B); (2) a department investigation and inspection conducted pursuant to Iowa Code section 455B.475; or (3) review of a UST system check or other documentation submitted in response to a suspected release under rule 135.6(455B) or in response to a confirmed release under rule 135.7(455B).

b. Delivery prohibition eligibility criteria. A delivery prohibition response action may be initiated upon a finding that the UST system is out of compliance with department rules and meets the eligibility criteria under three general sets of standards: level one, level two or provisional status. Reinstatement criteria are established which will allow for resumption of fuel delivery. Each set of criteria establishes the minimum procedural due process afforded owners and operators prior to initiation of a delivery prohibition response action, such as prior notice and the opportunity to present facts to dispute the finding. Reinstatement criteria define the standards and process for owners and operators to document that they have taken corrective action sufficient to authorize delivery of fuel to the USTs. Where notice and the opportunity to take corrective action prior to initiation of a delivery prohibition response action are required, notice by the department or by a certified compliance inspector as provided in rule 135.20(455B) shall be sufficient.

(1) Level one criteria. If the department finds that any of the following criteria has been satisfied, the department may initiate a delivery prohibition response action following the notice procedures outlined in paragraph "c" of this subrule. After initiation of the delivery prohibition response action, the department will offer the owner or operator an opportunity to establish reinstatement criteria by written documentation and, if requested, an in-person meeting.

1. An approved release detection method for USTs or UST piping is not installed, such as automatic tank gauging, groundwater monitoring wells and line leak detectors, and there is no record that an approved method such as inventory control, statistical inventory reconciliation, or interstitial space monitoring has been employed during the previous three months. If the owner or operator claims to have documentation that an approved release detection method has been conducted, the owner or operator will be given two business days to produce the documentation.

REINSTATEMENT CRITERIA: The owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)"c" and 135.5(5)"b." The owner or operator must also document installation and operation of an approved release detection system. This may include proof that a contract has been signed with a qualified statistical inventory reconciliation provider or that a qualified inventory control method has been implemented and training has been provided to onsite supervisory personnel.

2. No documentation of a required annual line tightness test or line leak detector test has been provided, and the owner or operator has failed to conduct the required testing within 14 days of written notice by the department or a certified compliance inspector as provided in rule 135.20(455B).

REINSTATEMENT CRITERIA: The owner or operator must provide documentation of a passing line precision tightness test at the 0.1 gallon-per-hour leak rate in paragraph 135.5(5)"b" and a line leak detector test as provided in paragraph 135.5(5)"a."

3. Overfill and spill protection is not installed.

REINSTATEMENT CRITERION: The owner or operator must provide documentation that overfill and spill protection equipment has been installed.

4. A corrosion protection system is not installed or there is no record that an impressed current corrosion protection system has been in operation for the prior six months.

REINSTATEMENT CRITERIA: A manned entry tank integrity inspection must be completed prior to installation of a corrosion protection system, and the owner or operator must submit results of a passing UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)"c" and 135.5(5)"b." A corrosion protection analysis must be completed and approved by the department.

5. The owner or operator has failed to provide proof of financial responsibility in accordance with 567—Chapter 136.

REINSTATEMENT CRITERION: The owner or operator must submit acceptable proof of financial responsibility in accordance with 567—Chapter 136.

(2) Level two criteria. If the department finds that any of the following criteria has been satisfied, the department may initiate a delivery prohibition response action following the notice procedures outlined in paragraph "c" of this subrule. After initiation of the delivery prohibition response action, the department will offer the owner or operator an opportunity to establish reinstatement criteria by written documentation and, if requested, an in-person meeting.

1. A qualified UST system release detection method is installed and is being used but the documentation or the absence of documentation is sufficient to question the reliability of the release detection over the past 12-month period. The owner or operator shall be notified of the deficiencies, shall be given at least two business days to produce documentation of compliance and, if necessary, shall be required to conduct a leak detection system analysis and a system tightness test within 14 days. If the owner or operator fails to produce documentation of compliance or to conduct the system analysis and the UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)"c" and 135.5(5)"b," the department may initiate a delivery prohibition response action. Notice by the department or a compliance inspector as provided in rule 135.20(455B) shall be sufficient to initiate a delivery prohibition response action.

REINSTATEMENT CRITERIA: The owner or operator must submit documentation that the leak detection method analysis sufficiently documents compliance and explains the reasons for the accuracy and reliability concerns. If necessary, the owner or operator must submit passing results of a UST system precision tightness test at the 0.1 gallon-per-hour leak rate in paragraphs 135.5(4)"c" and 135.5(5)"b."

2. The owner or operator has failed to document completion of a three-year corrosion protection test or to repair defective corrosion protection equipment within 30 days after notice of the violation by the department or a certified compliance inspector as provided in rule 135.20(455B).

REINSTATEMENT CRITERION: The owner or operator must submit documentation of a three-year corrosion protection test as provided in rule 135.3(455B).

3. The owner or operator has failed to complete a compliance inspection required by rule 135.20(455B) within 60 days after written notice of the violation by the department.

REINSTATEMENT CRITERION: The owner or operator must submit a compliance inspection report as provided in rule 135.20(455B).

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4. The owner or operator has failed to take necessary abatement action in response to a confirmed release as provided in subrules 135.7(2) and 135.7(3).

REINSTATEMENT CRITERION: The owner or operator must document compliance with the abatement provisions in subrules 135.7(2) and 135.7(3).

5. The owner or operator has failed to undertake and document release investigation and confirmation steps within seven days in response to a suspected release as provided in paragraph 135.6(3)“a.”

REINSTATEMENT CRITERION: The owner or operator must document release confirmation and system check as provided in paragraph 135.6(3)“a.”

(3) Provisional status. The department may classify a UST system as operating under a provisional status when the department documents a pattern of UST operation and maintenance violations under rules 135.3(455B) through 135.5(455B) and suspected release and confirmed release response actions under rules 135.6(455B) and 135.7(455B). The department shall provide the owner or operator with a notice specifying the basis for the proposed classification and a proposed remedial action plan. The objective of the remedial action plan is to provide the owner and operator an opportunity to undertake certain remedial actions sufficient to establish a reasonable likelihood that future regulatory compliance will be achieved.

The remedial action plan may include but is not limited to provisions for owner/operator training, development of a facility-specific compliance manual, more frequent third-party compliance inspections than otherwise required under rule 135.20(455B), monthly reporting, and retention of a third-party compliance manager/consultant. If the owner or operator and the department cannot reach agreement on a remedial action plan, the department may initiate enforcement action by issuance of an administrative order pursuant to 567—Chapter 10. This provision does not grant the owner or operator an entitlement to this procedure, and the department reserves all discretion to undertake an enforcement action and assess penalties as provided in Iowa Code sections 455B.476 and 455B.477.

(4) Administrative orders. The department may impose a delivery prohibition as a remedy for violations of the operation and maintenance provisions in rules 135.3(455B) through 135.5(455B) and the suspected and confirmed release response actions in rules 135.6(455B) and 135.7(455B). This remedy may be in addition to the assessment of penalties as provided in Iowa Code section 455B.476 and other appropriate injunctive relief necessary to correct violations.

c. Delivery prohibition response action.

(1) Level one finding. Prior to imposing a delivery prohibition response action, the department will provide actual notice to the owner or operator or, if notice to the owner or operator cannot be confirmed, to a person in charge at the UST facility of the basis for the finding and the intent to initiate a delivery prohibition response action. Actual notice may be by oral contact or by certified mail to the UST facility address. The owner and operator will be given at least one business day to provide documentation that the finding is inaccurate or reinstatement criteria have been satisfied.

If no information is submitted to change the finding, the department will notify the owner or operator and a person in charge at the UST facility of the final decision to impose the delivery prohibition response action.

(2) Level two finding. Prior to imposing a delivery response action, the department will provide the owner or operator or, if the owner or operator cannot be contacted, a person in charge at the UST facility with oral and written notice by certified mail to the UST facility address or the last-known address of the owner or operator, stating the department's intent to impose a delivery prohibition response action, the basis for the finding, and the applicable reinstatement criteria. The notice shall give the party at least two full business days from the date of receipt of a written notice to contest the factual basis for the finding by submission of additional documentation and, if requested, an in-person conference or telephone conference.

If there is no response or if, after conducting the conference, the department is satisfied that the finding is factually accurate, the department will notify the owner or operator of the finding and initiate the delivery prohibition response action.

(3) Provisional status. Upon a finding that an owner or operator under provisional status has failed to comply with the terms of a remedial action plan as provided above, the department may initiate a delivery prohibition response action by giving actual notice to the owner or operator of the basis for the finding of noncompliance and the department's intent to initiate a delivery prohibition response action. The delivery prohibition response action shall not be imposed without providing the owner or operator the opportunity for an evidentiary hearing consistent with the provisions for suspension and revocation of licenses under 567—Chapter 7.

(4) Delivery prohibition procedure. Upon oral or written notice that the delivery prohibition response action has been imposed, the owner or operator and any person in charge of the UST facility shall be notified that they are not authorized to receive any further delivery of regulated substances until conditions for reinstatement of eligibility are satisfied. Owners and operators are required to immediately remove and return to the department the current annual tank management fee tags or the tank registration tags if there are no tank management fee tags. Owners and operators are required to provide the department with names and contact information for all persons who convey or deposit regulated substances to the USTs. The department will attempt to notify known persons who convey or deposit regulated substances to the USTs that they are not authorized to deliver to the USTs until further notice by the department as provided in paragraph 135.3(3)“j” and subrule 135.3(5).

If the tank tags are not returned within three business days, the department shall visit the site, remove the tags, and affix a “red tag” to the fill pipes or fill pipe caps of all affected USTs. It is unlawful for any person to deposit or accept a regulated substance into a UST that has a “red tag” affixed to the fill pipe or fill pipe cap. The department may allow the owner and operator to dispense and sell the remainder of existing fuel unless the department determines there is an immediate risk of a release or other risk to human health, safety or the environment. The department shall confirm in writing the basis for the delivery prohibition response action, contacts made prior to the action, and steps the owner or operator must take to reinstate fuel delivery.

135.3(9) Secondary containment requirements for new and replacement UST system installations. All new and replacement underground storage tank systems and appurtenances used for the storage and dispensing of petroleum products installed after [insert effective date of these amendments] shall have secondary containment in accordance with

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this subrule. The secondary containment provision includes the installation of turbine sumps, transition or intermediate sumps and under-dispenser containment (UDC).

a. The secondary containment may be manufactured as an integral part of the primary containment or constructed as a separate containment system.

b. Installation of any new or replacement turbine pumps involving the direct connection to the tank shall have secondary containment.

c. Any replacement of ten feet or more of piping or the replacement of piping within ten feet of a dispenser or containment sump shall have secondary containment.

d. All piping replacements requiring secondary containment shall be constructed with transition or intermediate containment sumps.

e. The design and construction of all primary and secondary containment shall meet the performance standards in subrule 135.3(1) and paragraphs 135.5(3)“b” and 135.5(4)“g.” At a minimum, the secondary containment must:

(1) Contain regulated substances released from the tank system until detected and removed;

(2) Prevent the release of regulated substances into the environment at any time during the operational life of the underground storage tank system; and

(3) Be checked for evidence of a release at least every 30 days as provided in paragraph 135.5(2)“a.”

f. Secondary containment with interstitial monitoring in accordance with 135.5(3)“b,” 135.5(4)“g” and 135.5(5)“d” shall become the primary method of leak detection for all new and replacement tanks and piping installed after [insert effective date of these amendments].

g. Testing and inspection. Secondary containment systems shall be liquid tight and must be inspected and tested every two years.

(1) Inspections for secondary containment sumps (spill catchment basins, turbine sumps, transition or intermediate sumps, and under-dispenser containment) shall:

1. Consist of a visual inspection by an Iowa-licensed installer or Iowa-certified inspector every two years. Sumps must be intact (no cracks or perforations) and liquid tight, including sides and bottom.

2. Sumps must be maintained and kept free of debris, liquid and ice at all times.

3. Regulated substances spilled into any spill catchment basin, turbine sump, transition/intermediate sump or under-dispenser containment shall be immediately removed.

(2) Sensing devices used to monitor the interstitial space shall be tested at least every two years for proper function.

h. Under-dispenser containment. When installing a new motor fuel dispenser or replacing a motor fuel dispenser, a UDC shall be installed whenever:

(1) A motor fuel dispenser is installed at a location where there previously was no dispenser (new UST system or new dispenser location at an existing UST system); or

(2) An existing motor fuel dispenser is removed and replaced with another dispenser and the equipment used to connect the dispenser to the underground storage tank system is replaced. This equipment includes unburied flexible connectors or risers or other transitional components that are beneath the dispenser and connect the dispenser to the piping. A UDC is not required when only the emergency shutoff or shear valves or check valves are replaced.

(3) A UDC shall also be installed beneath the motor fuel dispenser whenever piping is repaired or replaced within ten feet of a motor fuel dispenser.

i. Exceptions from secondary containment standards. A tank owner or operator may request an exception from the secondary containment standard if the location of the UST system is greater than 1,000 feet from a community water system or potable drinking water well. A community water system includes the distribution piping.

(1) “Community water system (CWS)” means a public water system which has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. “Public water supply system” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any “special irrigation district.” A “public water supply system” is either a “community water system” or a “noncommunity water system.”

(2) “Potable drinking water well” means any hole (dug, driven, drilled, or bored) that extends into the earth until it meets groundwater and that supplies water for a noncommunity public water system or supplies water for household use (consisting of drinking, bathing, and cooking or other similar uses). Such wells may provide water to entities such as a single-family residence, a group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities. A “noncommunity water system” is defined in rule 567—40.2(455B) as a public water system that is not a community water system. A “noncommunity water system” is either a “transient noncommunity water system (TNC)” or a “nontransient noncommunity water system (NTNC).”

(3) To determine if a new or replacement underground storage tank, piping, or motor fuel dispenser system is within 1,000 feet of an existing community water system or an existing potable drinking water well, at a minimum the distance must be measured from the closest part of the new or replacement underground storage tank or piping or the motor fuel dispenser system to:

1. The closest part of the nearest existing community water system, including:

- The location of the wellhead(s) for groundwater and the location of the intake point(s) for surface water;
- Water lines, processing tanks, and water storage tanks; and

- Water distribution/service lines under the control of the community water system operator.

2. The wellhead of the nearest existing potable drinking water well.

(4) If a new or replacement underground storage tank, piping, or motor fuel dispenser that is not within 1,000 feet of an existing community water system will be installed, and a community water system that will be within 1,000 feet of the UST system is planned or a permit application has been submitted to the department under 567—Chapter 40, secondary containment and under-dispenser containment are required unless the permit is denied.

(5) If a new or replacement underground storage tank, piping, or motor fuel dispenser that is not within 1,000 feet of an existing potable drinking water well will be installed and the owner will be installing a potable drinking water well at

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the new facility, or a private water well permit has been submitted pursuant to 567—Chapter 38 and pursuant to applicable county and municipal ordinances for a potable drinking water well that will be within 1,000 feet of the UST system, secondary containment and under-dispenser containment are required unless the permit is denied.

j. Documentation for exception from secondary containment. The following documentation must be provided by the tank owner or operator when requesting an exception from the UST system secondary containment requirement.

(1) A statement from the manager of the local community water system that the community water system is not located or planned within 1,000 feet of the UST system location. This would include rural water systems.

(2) A map showing homes and businesses within 1,000 feet of the UST system location.

(3) Identification of the source of water for the business at the UST system location.

(4) The results of an on-foot search around businesses and homes within a 1,000-foot radius for possible potable drinking water wells. Documentation that there are no pending nonpublic water well permit applications within 1,000 feet of the UST system from any applicable municipal permitting authority, county department of health with department-delegated authority or the department if there is not delegated permitting authority.

(5) Search results from the Geographic Information System (GIS) well mapping for well locations available from the Iowa Geological Survey.

(6) Documentation that the department's water supply section has no pending applications for a public water supply construction permit within 1,000 feet of a proposed UST system installation or replacement or motor fuel dispenser installation or replacement.

ITEM 6. Amend paragraph **135.5(4)“g,”** subparagraph (1), as follows:

g. Interstitial monitoring. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains product and also meets one of the following requirements:

(1) For ~~double-walled UST~~ *secondary containment systems*, the sampling or testing method ~~can~~ *must be able to* detect a release through the inner wall in any portion of the tank that routinely contains product;

1. *Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space; or*

2. *Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space.*

3. *The interstitial space shall be maintained and kept free of liquid, debris or anything that could interfere with leak detection capabilities.*

NOTE: The provisions outlined in the Steel Tank Institute's "Standard for Dual Wall Underground Storage Tanks" may be used as guidance for aspects of the design and construction of underground steel double-walled tanks.

ITEM 7. Adopt new paragraph **135.5(5)“d”** as follows:

d. Interstitial monitoring of secondary containment. Interstitial monitoring may be used for any piping with secondary containment designed for and capable of interstitial monitoring.

(1) Leak detection shall be conducted:

1. Continuously, by means of an automatic leak sensing device that signals to the operator the presence of any regulated substance in the interstitial space or containment sump; or

2. Monthly, by means of a procedure capable of detecting the presence of any regulated substance in the interstitial space or containment sump, such as visual inspection.

(2) The interstitial space or sump shall be maintained and kept free of water, debris or anything that could interfere with leak detection capabilities.

(3) At least every two years, any sump shall be visually inspected for integrity of sides and floor and tightness of piping penetration seals. Any automatic sensing device shall be tested for proper function.

ARC 6101B**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 225C.6(1), the Department of Human Services proposes to amend Chapter 25, “Disability Services Management,” Iowa Administrative Code.

Iowa Code subsection 225C.6(1), paragraph “m,” directs the Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission to establish state-wide financial eligibility guidelines for disability service funding administered by counties. Basic standards for income and resource eligibility are set in the statute as income under 150 percent of the federal poverty level and resources within the limits for the federal Supplemental Security Income (SSI) program. Counties are allowed to set less restrictive limits in their county management plans. The proposed amendments outline the financial eligibility requirements for county management plans, including the basic standards and standards that counties may adopt to extend financial eligibility to more consumers. The amendments explain how countable resources are determined for SSI and identify expectations for counties that decide to establish copayments for consumers.

These amendments provide that a county management plan may establish a policy to allow exceptions to the basic or extended financial eligibility standards on a case-by-case basis to benefit an individual consumer. This constitutes a waiver provision.

Any interested person may make written comments on the proposed amendments on or before August 24, 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.

Interested persons may also present their views either orally or in writing at the public hearings to be held at the places and times listed below. Any person who intends to at-

HUMAN SERVICES DEPARTMENT[441](cont'd)

tend a public hearing and requires special accommodations for specific needs, such as hearing or mobility impairments, should contact the Bureau of Policy Analysis and Appeals at (515)281-2440.

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| Conference Room 102 City View Plaza 1200 University Ave. Des Moines, Iowa | Wednesday, August 22, 2007 8:30 a.m. |
| Third Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa | Wednesday, August 22, 2007 9 a.m. |
| ICN Room Pottawattamie County DHS Office 417 E. Kanesville Blvd. Council Bluffs, Iowa | Wednesday, August 22, 2007 10 a.m. |
| First Floor Board Room Scott County Administrative Center 428 Western Ave. Davenport, Iowa | Wednesday, August 22, 2007 10 a.m. |
| Room 220 Pinecrest Office Building 1407 Independence Ave. Waterloo, Iowa | Wednesday, August 22, 2007 10 a.m. to 12 noon |
| First Floor Conference Room A/B Woodbury County DHS 822 Douglas St. Sioux City, Iowa | Thursday, August 23, 2007 10 a.m. |
| Room 3 Wapello County DHS 120 E. Main St. Ottumwa, Iowa | Thursday, August 23, 2007 10:30 a.m. |
| Fifth Floor Conference Room Iowa Building 411 Third St. SE Cedar Rapids, Iowa | Thursday, August 23, 2007 2:30 p.m. |
| Second Floor Conference Room Story County Human Services Building 126 S. Kellogg St. Ames, Iowa | Friday, August 24, 2007 11 a.m. to 12 noon |

These amendments are intended to implement Iowa Code section 331.439.

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—25.11(331)** as follows:

Amend the definition of "county management plan" as follows:

"County management plan" means the county plan, developed pursuant to Iowa Code section 331.439 as amended by 1999 Iowa Acts, chapter 160, division IV, for organizing, financing, delivering, and evaluating mental health, mental retardation, and developmental disabilities services and supports in a manner that deliberately seeks to control costs while delivering high-quality mental health, mental retardation, and developmental disabilities services and supports. The plan shall consist of three parts: (1) a policies and procedures manual, (2) a three-year strategic plan, and (3) an annual plan review.

Adopt the following **new** definitions in alphabetical order:

"Assistive technology account" means funds in contracts, savings, trust or other financial accounts, financial instruments, or other arrangements with a definite cash value that

are set aside and designated for the purchase, lease, or acquisition of assistive technology, assistive technology services, or assistive technology devices. Assistive technology accounts must be held separately from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology services or devices for a working person with a disability. Any withdrawal from an assistive technology account other than for the designated purpose becomes a countable resource.

"Countable resource" means real or personal property that has a cash value that is available to the owner upon disposition and is capable of being liquidated.

"Countable value" means the equity value of a resource, which is the current fair market value minus any legal debt on the item.

"Exempt resource" means a resource that is disregarded in the determination of eligibility for public funding assistance and in the calculation of client participation amounts.

"Household," for consumers who are 18 years of age or over, means the consumer, the consumer's spouse or domestic partner, and any children, stepchildren, or wards under the age of 18 who reside with the consumer. For consumers under the age of 18, "household" means the consumer, the consumer's parents (or parent and domestic partner), stepparents or guardians, and any children, stepchildren, or wards under the age of 18 of the consumer's parents (or parent and domestic partner), stepparents, or guardians who reside with the consumer.

"Income" means all gross income received by the consumer's household, including but not limited to wages, income from self-employment, retirement benefits, disability benefits, dividends, annuities, public assistance, unemployment compensation, alimony, child support, investment income, rental income, and income from trust funds.

"Liquid assets" means assets that can be converted to cash in 20 days. These include but are not limited to cash on hand, checking accounts, savings accounts, stocks, bonds, cash value of life insurance, individual retirement accounts, certificates of deposit, and other investments.

"Medical savings account" means an account that is exempt from federal income taxation pursuant to Section 220 of the United States Internal Revenue Code (26 U.S.C. §220) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

"Nonliquid assets" means assets that cannot be converted to cash in 20 days. Nonliquid assets include, but are not limited to, real estate, motor vehicles, motor vessels, livestock, tools, machinery, and personal property.

"Resources" means all liquid and nonliquid assets owned in part or in whole by the consumer household that could be converted to cash to use for support and maintenance and that the consumer household is not legally restricted from using for support and maintenance.

"Retirement account" means any retirement or pension fund or account listed in Iowa Code section 627.6(8)"f."

"Retirement account in the accumulation stage" means a retirement account into which a deposit was made in the previous tax year. Any withdrawal from a retirement account becomes a countable resource.

ITEM 2. Amend subrule **25.13(1)**, paragraph "**m**," as follows:

m. Consumer eligibility. The manual shall describe the eligibility criteria for services and supports. This description shall include, but not be limited to, a description of who is eli-

HUMAN SERVICES DEPARTMENT[441](cont'd)

gible to receive services and supports by eligibility group and type of service or support and the criteria for any consumer copayments that may be required. Any copayment requirements shall be related to the consumer's ability to pay for services and supports and be in compliance with all state and federal laws. *Financial eligibility and copayment criteria shall meet the requirements of rule 441—25.20(331).*

ITEM 3. Adopt **new** rule 441—25.20(331) as follows:

441—25.20(331) Consumer financial eligibility and payment responsibility. The county management plan shall identify basic financial eligibility standards for disability services consistent with this rule. The county may choose to assign responsibility for copayment to the consumer consistent with this rule. Nothing in this rule shall preclude a consumer from voluntarily paying a greater copayment than is provided in the county management plan.

25.20(1) General requirements. The basic financial eligibility standards identified in this rule are the minimum standards allowable. A county management plan may establish less restrictive financial standards, but shall not establish standards that are more restrictive.

a. The county management plan shall provide that a consumer who is eligible under all other eligibility standards of the county management plan shall be eligible for county disability services paid with public funding if the consumer meets the basic financial eligibility standards set forth in this rule.

b. The county management plan shall require no copayments by consumers, whether collected by the county or a provider, except as defined in this rule.

c. The county management plan may establish a policy to allow exceptions to the basic or extended financial eligibility standards on a case-by-case basis to benefit an individual consumer.

d. The income and resource standards in this rule shall not supersede the eligibility guidelines of any other federal, state, county, or municipal program, including general assistance guidelines adopted by the county board of supervisors.

e. Nothing in this rule shall be construed as relieving any consumer of financial obligations incurred pursuant to a Social Security Administration interim assistance agreement.

25.20(2) Basic eligibility standards. Except as otherwise provided in these rules, an applicant shall be financially eligible for county funding when the applicant meets the following standards:

a. If the applicant is eligible for federally funded or state-funded services or supports, the applicant has applied for and accepted those services and supports.

b. The applicant's household has:

(1) Income that is equal to or less than 150 percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services; and

(2) Resources that are equal to or less than \$2,000 in countable value for a single-person household or \$3,000 in countable value for a multiperson household.

25.20(3) Resource standards. Basic financial eligibility standards shall include the following provisions for determining financial eligibility:

a. The countable value of all countable resources, both liquid and nonliquid, shall be included in the eligibility determination except as exempted in this subrule.

b. A transfer of property or other assets within five years of the time of application with the result of, or intent to, quali-

fy for assistance may result in denial or discontinuation of funding.

c. The following resources shall be exempt:

(1) The homestead, including equity in a family home or farm that is used as the consumer household's principal place of residence. The homestead shall include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial spaces.

(6) Cash surrender value of life insurance with a face value of less than \$1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. Additional exemptions. If a person does not qualify for federally funded or state-funded services or other support, but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources shall additionally be considered exempt from consideration in eligibility determination:

(1) A retirement account that is in the accumulation stage.

(2) A medical savings account.

(3) An assistive technology account.

25.20(4) Basic copayment standards. Any copayments or other client participation required by any federal, state, county, or municipal program in which the consumer participates shall be required. Such copayments include, but are not limited to:

a. Client participation for maintenance in a residential care facility through the state supplementary assistance program.

b. Client participation for an intermediate care facility or an intermediate care facility for persons with mental retardation.

c. A portion of rent in conjunction with a rental assistance program consistent with guidelines of the United States Department of Housing and Urban Development.

d. A copayment, deductible, or spenddown required by the Medicare or Medicaid programs or any other third-party insurance coverage.

e. The financial liability for institutional services paid by counties as provided in Iowa Code sections 222.31 and 230.15.

f. The financial liability for attorney fees related to commitment as provided by Iowa Code section 229.19.

25.20(5) Copayment for services provided by a facility participating in the state supplementary assistance program. A county may require a copayment for a disability service provided to a consumer by a licensed residential care facility that participates in the state supplementary assistance program as follows:

a. A consumer who is approved for state supplementary assistance and pays client participation as determined through the state supplementary assistance program shall be considered eligible for disability services with no additional copayment.

b. A consumer who is ineligible for state supplementary assistance due to income or resources may be eligible for financial assistance under the county management plan through determination and payment of client participation as follows.

(1) Client participation in the service payment shall be determined by allowing the following deductions from available income and resources:

HUMAN SERVICES DEPARTMENT[441](cont'd)

1. Any income earned by the consumer in a supported employment, sheltered workshop, day habilitation, or adult day care program.

2. A personal allowance equivalent to the personal allowance provided under the state supplementary assistance program.

3. Room and board payment made by the consumer to the facility at the state supplementary assistance rate.

4. Payment for any medical expenses for which the consumer is financially responsible.

(2) Any income remaining after deduction of the expenses allowed in subparagraph (1) and any resources in excess of \$2,000 shall be considered the required client participation toward the service in the facility. For any consumer whose client participation does not equal 100 percent of the service cost, the county shall participate in payment to the facility up to that level.

25.20(6) Extended eligibility and copayment standards. Each county management plan shall indicate if additional, less restrictive financial eligibility standards will be applied. The county management plan may permit a person with an income above 150 percent of the federal poverty level or resources above the basic resource limits to be eligible for public funding provided that the plan meets the requirements in this subrule. To apply less restrictive financial eligibility standards, the county management plan shall include:

a. Policies relating to any income or resource limits that are different from the basic income and resource standards.

b. Policies relating to any resource exemptions that are different from the basic financial eligibility standards.

c. Policies relating to any other factors included in determination of financial eligibility and calculation of client participation.

d. Policies defining procedures for calculation and collection of client participation.

e. Policies providing for a copayment or other cost-sharing arrangement determined on a sliding fee scale based on household income and resources. Any sliding fee scale used for copayments shall be graduated and shall be based on the federal poverty guidelines. Policies shall address updates to the sliding fee scale.

f. Policies regarding any county payment of third-party insurance copayment.

g. Policies relating to exception provisions for financial eligibility determination and client participation calculation.

h. Policies relating to informing consumers of client participation required.

ARC 6075B**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 proposed amendments would modify IowaCare policies as follows:

- Language is added to prevent a member from claiming hardship for months that household circumstances were misrepresented. Currently, if the Department discovers that a member has misrepresented household circumstances, with the result that a premium is assessed for past months of coverage, the member is allowed to claim hardship and avoid paying the premiums. The proposed amendment would require the member to pay the premiums for those months. The Department would continue to allow a member to claim hardship for premiums assessed for past months due to an agency error in determining the amount of the premium.

- Language requiring determination of a newborn's eligibility for Medicaid at the end of the 60 days of IowaCare coverage is removed. Pregnant women eligible for IowaCare have income above the income limit for Medicaid. To require the Department to determine eligibility for persons who are known to be over the income limit for Medicaid is not an efficient use of resources for workers or households. If the newborn's household reports a decrease in income to below 200 percent of the federal poverty level, the mother would be advised to apply for Medicaid at that time.

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

Any interested person may make written comments on the proposed amendments on or before August 22, 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.

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

The following amendments are proposed.

ITEM 1. Amend subrule 92.7(3) as follows:

Amend the introductory paragraph as follows:

92.7(3) Hardship exemption. A member who submits a written statement indicating that payment of the monthly premium will be a financial hardship shall be exempted from premium payment for that month, *except as provided in paragraph "c."* If the statement is not postmarked by the premium due date, the member shall be obligated to pay the premium.

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

c. A member shall not be exempted from premium payment for a month in which the member misrepresented the household's circumstances.

ITEM 2. Amend subrule **92.8(3)**, paragraph "**b**," introductory paragraph, as follows:

b. Newborns will be eligible while hospitalized and for a period not to exceed 60 days from the date of birth. ~~Newborns who qualify for eligibility in the regular Medicaid program will be changed to that eligibility type and will have all benefits of the regular Medicaid program.~~

ARC 6086B**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 239B.4(4) and 239B.8(2), the Department of Human Services proposes to amend Chapter 93, “PROMISE JOBS Program,” Iowa Administrative Code.

Effective November 2005, the Department temporarily increased the transportation allowance for participation in PROMISE JOBS activities to 30 cents per mile. (See **ARC 4626B** in the November 9, 2005, Iowa Administrative Bulletin.) An expiration date of June 30, 2006, was set to allow the Department to reevaluate fuel prices and make a policy decision on whether to continue the higher reimbursement rates. The increase was extended through state fiscal year 2007 in rules Adopted and Field Emergency and published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5195B**.

This amendment makes the increase to 30 cents per mile the standard reimbursement. The amendment will be implemented retroactively to July 1, 2007, so that PROMISE JOBS participants do not suffer a hardship from a decrease in reimbursement.

This amendment does not provide for waivers in specified situations because it provides a benefit to the people affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 6085B**. 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 amendment on or before August 22, 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 239B.19.

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 6119B**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 252D.22, the Department of Human Services proposes to amend Chapter 98, “Support Enforcement Services,” Iowa Administrative Code.

These amendments modify child support rules regarding income withholding to collect court-ordered child support. The amendments make technical changes to conform the rules to statutory changes made to Iowa Code sections 252D.16A and 252D.18(2) pursuant to 2006 Iowa Acts, chapter 1119, and to changes in mandatory federal withholding forms.

In 2006, in response to employer and parent requests, the Iowa Legislature amended Iowa Code chapter 252D to authorize an alternative method for the Child Support Recovery Unit (CSRU) to amend or update the amount of income withheld to pay court-ordered support. The previous statutory method was for CSRU to issue both an income withholding order and income withholding notices every time the amount to withhold changed. The specific amount to withhold was listed in both the income withholding orders and notices.

Under the new alternative method, the amount to withhold can be updated using fewer forms. CSRU is still authorized to issue an initial order to withhold income to comply with a court order. However, rather than citing the specific dollar amount to withhold in that order, the amount to withhold is listed in notices to the employer and to the parent who is ordered to pay child support. If the amount to withhold later changes (for example, because the court changed the amount of child support or because delinquent support has been paid), CSRU can issue amended notices to the employer and parent without amending the underlying order. When the support has been paid and the court’s order ends, CSRU enters a final order terminating the income withholding.

The forms still provide the same information to employers and to parents. There is no change in the parent’s rights to contest the income withholding. Regardless of which method is used to amend the amount of withholding, the parent has the same rights to contest by requesting a conference with CSRU and a hearing with the court.

These amendments also delete language permitting CSRU to use income withholding notices to enforce health insurance orders under Iowa Code chapter 252E, because CSRU is now required to use standard federal forms for income withholding and for health insurance.

These amendments include processes to contest the actions of the unit.

Any interested person may make written comments on the proposed amendments on or before August 22, 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

HUMAN SERVICES DEPARTMENT[441](cont'd)

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 chapters 252D and 252E.

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—98.24(252D) as follows:

Amend the introductory paragraph as follows:

441—98.24(252D) Amount of order withholding. The child support recovery unit shall determine the amount to be withheld by the employer or other income providers as follows:

Amend subrule **98.24(3)**, paragraph “b,” as follows:

b. If hardship criteria are met in these circumstances, the amount withheld on reimbursement shall be determined by dividing the obligor's gross yearly income by 200 percent of the poverty level income for one person. The resulting number is the percent of the existing withholding order amount that will now be withheld. This amount will be reduced by one half if the obligor has legal custody of the child.

Amend subrule 98.24(4) as follows:

98.24(4) Lump-sum income source. Notwithstanding subrules 98.24(1), 98.24(2), and 98.24(3), when the obligor is paid by a lump-sum income source, the withholding order amount may include all current and delinquent support due through the current month. Lump-sum income includes income received in a sole payment or in payments which that occur at two-month or greater intervals.

ITEM 2. Amend rule 441—98.35(252D) as follows:

441—98.35(252D) Modification or termination of order withholding. The court or the child support recovery unit may modify or revoke the income withholding order based on the criteria of Iowa Code chapter 252D. However, the income withholding may not be revoked or terminated if there is any current support owed.

ITEM 3. Amend rule 441—98.40(252D,252E), introductory paragraph, as follows:

441—98.40(252D,252E) Maximum amounts to be withheld. An income withholding order entered or a notice issued by the child support recovery unit shall require that the employer or other income provider withhold no more than the maximum amounts allowed under the Federal Consumer Credit Protection Act, 15 U.S.C. 1673(b).

ITEM 4. Amend rule 441—98.41(252D) as follows:

441—98.41(252D) Multiple obligations. In the event that an obligor has more than one support obligation that is being enforced by the child support recovery unit, the unit may enter an income withholding order may be entered by the unit to enforce each obligation. The amount specified to be withheld on the arrearage under the income withholding order or notice shall be determined in accordance with rule 441—98.24(252D).

ITEM 5. Amend subrule **98.42(2)** as follows:

Amend paragraph “d” as follows:

d. The obligor's right to file a motion to quash the income withholding order or notice with the district court.

Adopt new paragraph “f” as follows:

f. The amount of any delinquency.

ITEM 6. Amend rule 441—98.43(252D) as follows:

Amend the introductory paragraph as follows:

441—98.43(252D) Contesting the order withholding. The obligor may contest the income withholding by means of an informal conference with the child support recovery unit or by filing a motion to quash.

Amend subrule 98.43(1) as follows:

98.43(1) Motion to quash. Procedures for filing a motion to quash the order or the notice of income withholding are specified in Iowa Code chapter 252D.

Amend subrule **98.43(2)** as follows:

Amend paragraph “a” as follows:

a. The obligor shall be entitled to only one informal conference for each new or modified income withholding order entered or notice issued by the child support recovery unit that specifies a new or modified total amount to withhold.

Amend paragraph “b,” subparagraphs (2) and (8), as follows:

(2) The obligor may request an informal conference with the child support recovery unit if the obligor believes the withholding was entered is in error or meets the hardship criteria defined by subrule 98.24(1).

(8) If the child support recovery unit has not complied with subrule 98.24(1), it shall then adjust the income withholding order amount.

Amend paragraphs “c” and “d” as follows:

c. The issues to be reviewed at the conference shall be as follows:

(1) For all income withholding orders or notices, whether:

1. The identity of the obligor is in error.
2. The amount of the current support obligation is in error.

(2) For orders or notices resulting from the existence of a delinquency, whether:

1. The amount of delinquent support is in error.
2. The hardship criteria are met.
3. For income withholding orders entered or notices issued after November 1, 1990, whether the guidelines described at rule 441—98.24(252D) were followed.

(3) For immediate income withholding orders or notices, whether the criteria of rules 441—98.32(252D) and 441—98.34(252D) were appropriately applied.

(4) For income withholding orders which include implementation of an order for provisions of a health benefit plan pursuant to Iowa Code chapter 252E, the issues in paragraph 98.8(2)“c” shall be reviewed.

d. The results of an informal conference shall in no way affect the right of the obligor to file a motion to quash the income withholding order or notice with the court.

Amend subrule 98.43(3) as follows:

98.43(3) Income withholding order issued from another state. The child support recovery unit shall only follow procedures for a motion to quash or conduct an informal conference based on an income withholding order or notice issued in another state only if the unit is providing services under 441—Chapter 95.

ITEM 7. Amend rule 441—98.45(252D) as follows:

Amend the introductory paragraph as follows:

441—98.45(252D) Modification of income withholding order. The child support recovery unit may, by ex parte order, modify a previously entered income withholding order to add or amend health insurance provisions as provided in Iowa Code section 252E.4 as amended by 1997 Iowa Acts, House File 612, section 74. The child support recovery unit may, by ex parte order, also modify a previously entered issued in-

HUMAN SERVICES DEPARTMENT[441](cont'd)

come withholding order *or notice* according to the guidelines established under rule 441—98.24(252D) if it is determined that:

Amend subrule 98.45(2), introductory paragraph, as follows:

98.45(2) Amount in error. The amount required to be withheld under the income withholding order *or notice* is in error as follows:

Amend subrules 98.45(3), 98.45(4), and 98.45(5) as follows:

98.45(3) Past-due support paid. Any past-due support debt has been paid in full. The withholding order *or notice* shall be modified to require that only the current support obligation be withheld from the income of the obligor. Should a delinquency later accrue, the withholding order *or notice* may again be modified to secure an additional payment toward the delinquency. The amount of the arrears payment shall be set at 20 percent of the current support amount.

98.45(4) Income withholding order and determination of controlling orders. An obligation amount different than what ~~CSRU~~ *the child support recovery unit* has been enforcing is established upon the determination of controlling order as allowed in Iowa Code section 252K.207. Upon the change to the new obligation amount, the amount withheld to be applied toward the liquidation of any delinquency shall be 20 percent.

98.45(5) Income withholding order and review and adjustment of orders. ~~CSRU~~ *The child support recovery unit* has conducted a review of the obligation pursuant to 441—Chapter 99, Division IV. ~~CSRU~~ *The unit* shall modify the amount withheld to be applied toward the liquidation of any delinquency to 20 percent upon completion of the review and adjustment process.

ITEM 8. Amend rule 441—98.46(252D) as follows:

Amend the introductory paragraph as follows:

441—98.46(252D) Refunds of amounts improperly withheld. The child support recovery unit shall refund to the obligor any amounts improperly withheld and received by the department under an income withholding order ~~entered~~ *or notice issued* by the unit, subject to the following:

Amend subrules 98.46(2) and 98.46(3) as follows:

98.46(2) Satisfaction of amount ~~ordered to withhold~~. No refund shall be made unless amounts have been collected which fully satisfy the amount ~~ordered specified~~ in the mandatory income withholding order *or notice* for the withholding period during which income has been generated.

98.46(3) When issued. Any amounts received in excess of ~~those ordered to be withheld~~ *the amounts specified in the order or notice to withhold* shall be issued to the obligor within 30 days of discovery by the child support recovery unit, unless the obligor requests in writing that these amounts be credited toward the arrearage or future child support. If there is a dispute regarding whether there is an overpayment, the obligor may request an informal conference by following the procedures set out in ~~subrule subparagraphs~~ 98.43(2)“a”(3) through 98.43(2)“a”(7). This procedure shall not preclude the obligor from utilizing other civil remedies.

ARC 6078B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

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

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

The purpose of the proposed amendments is to clarify that Iowa-licensed hospitals that are not accredited by either The Joint Commission (formerly known as the Joint Commission on the Accreditation of Healthcare Organizations) or the American Osteopathic Association shall be inspected according to the licensing standards set forth in Chapter 51. Only one hospital in Iowa will be impacted by this proposed change, which establishes administrative rules that reflect the Department’s current practice.

In addition, the proposed amendments update the name of the accreditation organization from the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) to The Joint Commission (JC).

The Department does not believe that the proposed amendments impose any financial hardship on any regulated entity. Rather, the amendments simply describe the standards used to inspect certain hospitals in Iowa and make a technical change regarding the name of the accreditation organization.

The proposed amendments were presented to the Hospital Licensing Board at its June 28, 2007, meeting, at which time the Board approved the amendments.

The State Board of Health also reviewed the proposed amendments at its July 11, 2007, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 21, 2007. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or E-mailed to David.Werning@dia.iowa.gov.

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

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 subrules 51.2(5) and 51.2(6) as follows:

51.2(5) The department shall recognize, in lieu of its own licensure inspection, the comparable inspections and inspection findings of ~~the~~ *The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) (JC)* or the American Osteopathic Association (AOA), if the department is provided with copies of all requested materials relating to the inspection process. In cases of the initial licensure, the department may require its own inspection when needed in addition

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

to comparable accreditations to allow the hospital to begin operations. The department may also initiate its own inspection when it is determined that the inspection findings of the ~~Joint Commission on Accreditation of Healthcare Organizations (JCAHO) JC~~ or the American Osteopathic Association AOA are insufficient to address concerns identified as possible licensure issues.

51.2(6) Hospitals not accredited by the ~~JCAHO JC~~ or the AOA shall be inspected by the department utilizing the current Medicare conditions of participation found in Title XVIII of the federal Social Security Act and 42 CFR Part 482, Subparts A, B, C, D, and E, or 42 CFR Part 485, Subpart F, as of October 1, 2006. *Licensed-only hospitals shall be inspected utilizing the requirements of this chapter.* The department may promulgate additional standards. The department may recognize, in lieu of its own licensure inspection, the comparable inspection and inspection findings of a Medicare conditions of participation survey.

ITEM 2. Amend rule 481—51.6(135B), introductory paragraph, as follows:

481—51.6(135B) Patient rights and responsibilities. The hospital governing board shall adopt a statement of principles relating to patient rights and responsibilities. In developing a statement of principles, the hospital may use reference statements of patient rights and responsibilities developed by the American Hospital Association, ~~the The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) (JC),~~ the American Osteopathic Association (AOA), and other appropriate sources.

ITEM 3. Amend subrule 51.53(7) as follows:

51.53(7) The department shall recognize, in lieu of its own inspection, the comparable inspections and inspections findings of ~~the The Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) (JC)~~ or the American Osteopathic Association (AOA) if the department is provided with copies of all requested materials relating to the inspections and the inspection process.

ARC 6077B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

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

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

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

The purpose of the amendment is to implement 2007 Iowa Acts, House File 528, section 1, which requires hospitals to establish procedures for the authentication of all verbal orders by a practitioner. Previously, Iowa Code section 135B.7A stipulated that medication and standing orders be authenticated.

The Department does not believe that the proposed amendment poses a financial hardship on any regulated enti-

ty. Rather, adoption of the proposed amendment will maintain the existing policies and procedures currently used by Iowa-licensed hospitals to authenticate verbal orders by a practitioner.

The proposed amendment was presented to the Hospital Licensing Board at its June 28, 2007, meeting, at which time the Board approved it.

The State Board of Health initially reviewed the proposed amendment at its July 11, 2007, meeting.

Any interested person may make written suggestions or comments on the proposed amendment on or before August 21, 2007. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or E-mailed to david.werning@dia.state.ia.us.

The proposed amendment is intended to implement 2007 Iowa Acts, House File 528, section 1.

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 51.14(3), introductory paragraph, as follows:

51.14(3) Medication orders. All *verbal* orders for ~~drugs and biologicals~~ must be *authenticated* in writing and signed by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge.

ARC 6123B**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 amend Chapter 100, "Administration," and adopt Chapter 107, "Game Nights," Iowa Administrative Code.

Proposed new Chapter 107 provides rules to implement 2007 Iowa Acts, Senate File 414, which provides for the payment of cash prizes at annual game nights held by eligible qualified organizations. The chapter includes definitions, standards for licensing, and rules for game nights.

Consideration will be given to all written suggestions or comments on the proposed rules received on or before August 21, 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.

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

These rules were also Adopted and Filed Emergency and are published herein as **ARC 6122B**. 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 6070B**LABOR SERVICES DIVISION[875]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board hereby gives Notice of Intended Action to amend Chapter 73, “Existing Conveyances,” Iowa Administrative Code.

The proposed amendment creates exceptions to an existing rule that requires pit floors of existing elevators to be excavated and lowered.

The purpose of this amendment is to ease requirements for the owner of a building to excavate and lower an existing elevator pit when the incremental improvement to public safety would be minimal in comparison to the cost.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on August 21, 2007, a public hearing will be held on August 22, 2007, at 1:30 p.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than August 22, 2007, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to kathleen.uehling@iwd.iowa.gov.

This amendment is intended to implement Iowa Code chapter 89A.

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 875—73.8(89A) as follows:

875—73.8(89A) Maintenance, repairs and alterations.

73.8(1) All maintenance, repairs and alterations shall comply with ASME A17.1-2004, A17.1a-2005 and A17.1S-2005, *except as noted in 73.8(3) and 73.8(4)*.

73.8(2) All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003).

73.8(3) *The provisions of ASME A17.1S-2005, Rule 2.2.2, that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:*

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. Evidence that groundwater has not entered the pit previously.

d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.

e. A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.

f. The labor commissioner approves the alternative means to maintain the pit in a dry condition.

g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

73.8(4) *The full length of the platform guard set forth in ASME A17.1S-2005, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:*

a. No other code or rule requires that the pit be excavated or lowered.

b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.

c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.

d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

ARC 6118B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 135.11 and 136A.8, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 4, “Center for Congenital and Inherited Disorders,” Iowa Administrative Code.

These amendments provide an explanation of the retention, use and disposition of residual maternal serum specimens, to be consistent with the policy for residual dried blood spot specimens. These amendments also include a provision to conduct newborn metabolic screening on all infants, even

PUBLIC HEALTH DEPARTMENT[641](cont'd)

those with conditions incompatible with life. Finally, technical amendments for due dates of required proposed budgets and annual reports are included.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 21, 2007. Such written comments should be directed to Kim Piper, State Genetics Coordinator, Center for Congenital and Inherited Disorders, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kpiper@idph.state.ia.us.

These amendments are intended to implement Iowa Code chapter 136A.

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 the implementation statutes for **641—Chapter 4** by striking “80GA,HF2362” and inserting “136A.”

ITEM 2. Amend subrule 4.3(2) as follows:

4.3(2) Neonatal metabolic screening procedure *for facilities and providers*.

a. Educating parent or guardian. Before a specimen from an infant is obtained, a parent or guardian shall be informed of the type of specimen, how it is obtained, the nature of the disorders for which the infant is being screened, and the consequences of treatment and nontreatment, and the retention, use and disposition of residual specimens.

b. Waiver. Should a parent or guardian refuse the screening, said refusal shall be documented in writing on the Iowa neonatal metabolic screening program waiver for newborn screening refusal form. The parent or guardian and licensed attending health care provider shall sign the waiver. The birthing hospital, birth center, or attending health care provider shall provide the central laboratory with a copy of the waiver within six days of the refusal. The original copy of the waiver shall become a part of the infant's medical record.

c. Collection of specimens. A filter paper blood specimen shall be collected from the infant at least 24 to 48 hours after the infant's birth, but not later than is valid up to five days after the infant's birth.

EXCEPTIONS:

(1) A blood specimen must be collected before any transfusion, even if the infant is less than 24 hours old.

(2) Every infant shall be screened prior to discharge even if the infant is less than 24 hours old.

(3) An infant transferred to another hospital must be screened by the receiving hospital unless the infant has already been screened. The transferring hospital is responsible for notifying the receiving hospital of the status of neonatal metabolic screening.

(4) The blood spot sample of an infant transferred after birth to an out-of-state hospital shall be collected and sent to the central laboratory by the receiving hospital prior to the infant's discharge. *The transferring hospital shall send an Iowa central laboratory dried blood spot collection form with the infant.*

d. Submission of specimens. All specimens shall be delivered via courier service or, if courier service is not available, forwarded by first-class mail or other appropriate means within 24 hours after collection to the University Hygienic Laboratory, the center's designated central laboratory.

e. No change.

f. Reporting of presumptive positive test results. A presumptive positive test result shall be reported within 24 hours to the consulting physician, or the physician's designee, who shall then notify the attending health care provider and the birthing hospital, birth center, or drawing laboratory. *EXCEPTION: If the presumptive positive report is for a condition that does not require emergency treatment, the consulting physician or designee may be notified on the next working day.* This initial report shall be followed by a written report to the birthing hospital, birth center, or drawing laboratory and, subsequently, to the attending health care provider.

ITEM 3. Amend subrule **4.3(4)**, paragraph “c,” subparagraph (2), as follows:

(2) If the infant is transferred out of house *within the state*, the birthing hospital or birth center shall notify the receiving hospital of the status of the neonatal metabolic screening. The receiving hospital shall then be responsible for completion of the neonatal metabolic screening prior to discharge of the infant.

ITEM 4. Rescind subrule **4.3(4)**, paragraph “d,” subparagraph (2), and renumber subparagraph (3) as subparagraph (2).

ITEM 5. Amend subrule **4.3(5)**, paragraph “e,” as follows:

e. Report a presumptive positive test result within 24 hours to the consulting physician or the physician's designee. *EXCEPTION: If the presumptive positive report is for a condition that does not require emergency treatment, the consulting physician or designee may be notified on the next working day.*

ITEM 6. Amend subrule **4.3(5)**, paragraph “h,” as follows:

h. Submit a written annual report of the previous ~~calendar~~ fiscal year to the center by ~~March 31~~ September 30 of each year. This report shall include:

(1) to (7) No change.

ITEM 7. Amend subrule **4.3(5)**, paragraph “i,” as follows:

i. In collaboration with the program consulting physicians, submit a proposed budget and narrative justification for the upcoming state fiscal year by ~~March 31~~ June 1 of each year.

ITEM 8. Amend subrule **4.3(6)**, paragraph “b,” as follows:

b. The follow-up programs shall submit a written annual report of the previous ~~calendar~~ fiscal year by ~~March 31~~ September 30 of each year. The report shall include:

(1) to (5) No change.

ITEM 9. Amend subrule **4.3(6)**, paragraph “c,” as follows:

c. In collaboration with the central laboratory, the follow-up programs shall submit a proposed budget and narrative justification for the upcoming fiscal year to the center by ~~March 31~~ June 1 of each year.

ITEM 10. Amend subrule 4.3(8), introductory paragraph, as follows:

4.3(8) Retention, use and disposition of residual neonatal metabolic screening specimens. ~~Beginning January 1, 2005, the following policy shall be implemented.~~

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 11. Amend subrule **4.3(10)** by adopting **new** paragraph “**e**” as follows:

e. The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

ITEM 12. Amend subrule **4.4(3)**, paragraph “**a**,” as follows:

a. In collaboration with the central laboratory, submit a proposed budget and narrative justification for the upcoming calendar fiscal year to the center by ~~March 31~~ *June 1* of each year, and

ITEM 13. Amend subrule **4.4(3)**, paragraph “**b**,” as follows:

b. Submit a written annual report of the previous fiscal year to the center by ~~March 31~~ *September 30* of each year. The report shall include:

(1) to (6) No change.

ITEM 14. Amend rule 641—4.4(136A) by adopting **new** subrules 4.4(6) and 4.4(7) as follows:

4.4(6) Sharing of information and confidentiality. Reports, records, and other information collected by or provided to the Iowa neonatal metabolic screening program relating to an infant’s neonatal metabolic screening results and follow-up information are confidential records pursuant to Iowa Code section 22.7.

a. Personnel of the program shall maintain the confidentiality of all information and records used in the review and analysis of neonatal metabolic screening and follow-up, including information that is confidential under Iowa Code chapter 22 or any other provisions of state law.

b. The program shall not release confidential information except to the following persons and entities, under the following conditions:

(1) The parent or guardian of an infant or child for whom the report is made.

(2) A local health care provider, birthing hospital, birth center, or submitting laboratory.

(3) A representative of a state or federal agency, to the extent that the information is necessary to perform a legally authorized function of that agency or the department. The state or federal agency will be subject to confidentiality regulations which are the same as or more stringent than those in the state of Iowa.

(4) A researcher, upon documentation of parental consent obtained by the researcher, and only to the extent that the information is necessary to perform research authorized by the department and the state board of health.

4.4(7) Retention, use and disposition of residual maternal serum screening specimens.

a. A maternal serum screening specimen collection consists of laboratory tubes with maternal serum specimens and attached information about the patient, health care provider, or drawing laboratory.

(1) Maternal serum screening specimens shall be held for a specified period of time in a locked area at the central laboratory in accordance with central laboratory policy and procedures.

(2) Reserved.

b. Research use.

(1) Investigators shall submit to the center proposals to use maternal serum specimens. Any intent to utilize information associated with the residual maternal serum screening specimen for the research study must be clearly delineated in the proposal.

(2) Before research can commence, proposals shall be approved by the researcher’s institutional review board, the congenital and inherited disorders advisory committee, and the department.

(3) Personally identifiable residual specimens or records shall not be disclosed without documentation of informed patient consent obtained by the researcher.

(4) Research on anonymized or identifiable residual specimens shall be allowed in instances where research would further maternal serum screening activities or general medical knowledge for existing public health surveillance activities.

ITEM 15. Amend subrule 4.5(3) as follows:

4.5(3) Patient fees.

a. A sliding fee scale for specialty genetics provider services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.

b. Families/clients seen in the regional genetic consultation service clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the RGCS.

c. *The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.*

ITEM 16. Amend subrule 4.6(3) as follows:

4.6(3) Patient fees.

a. A sliding fee scale for specialty genetic provider services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.

b. Families/clients seen in neuromuscular outreach clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the neuromuscular outreach clinics.

c. *The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.*

ITEM 17. Amend **641—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement ~~2004 Iowa Acts, House File 2362~~ *Iowa Code chapter 136A*.

ARC 6111B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 130, "Emergency Medical Services Advisory Council," Iowa Administrative Code.

The rules in Chapter 130 describe the purpose, membership, appointment process, officers, and meeting procedures for the Emergency Medical Services Advisory Council.

Any interested person may make written comments or suggestions on the proposed rules on or before August 21, 2007. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

These rules are intended to implement Iowa Code chapter 147A.

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 130
EMERGENCY MEDICAL SERVICES
ADVISORY COUNCIL

641—130.1(147A) Definitions. For the purposes of this chapter, the following definitions shall apply:

"Chairperson" means the chair of the advisory council, who has been elected by the majority of the advisory council's members.

"Department" means the Iowa department of public health.

"Director" means the director of the Iowa department of public health.

"Emergency medical care provider" means an individual who has been trained to provide emergency and non-emergency medical care at the first responder, EMT-basic, EMT-intermediate, EMT-paramedic, paramedic specialist, or other certification level recognized by the department before 1984 and who has been issued a certificate by the department.

"Emergency medical services" or "EMS" means an integrated medical care delivery system to provide emergency and non-emergency medical care at the scene or during out-of-hospital patient transportation in an ambulance.

641—130.2(147A) Purpose. The EMS advisory council shall advise the director and develop policy recommendations concerning the regulation, administration, and coordination of emergency medical services in the state.

641—130.3(147A) Appointment.

130.3(1) The EMS advisory council shall be appointed by the director. The appointments shall be for three-year stag-

gered terms which shall expire on June 30. Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

130.3(2) Membership of the council shall be comprised of individuals nominated from, but not limited to, the following state or national organizations:

a. One physician from each of the following organizations:

- (1) Iowa Osteopathic Medical Association.
- (2) Iowa Medical Society.
- (3) American College of Emergency Physicians.
- (4) Iowa Academy of Family Physicians.
- (5) University of Iowa Hospitals and Clinics.
- (6) American Academy of Emergency Medicine.
- (7) American Academy of Pediatrics.

b. Representatives from each of the following organizations:

- (1) Iowa Physician Assistant Society.
- (2) EMS Education Programs Committee.
- (3) EMS Regional Council.
- (4) Iowa Nurses Association.
- (5) Iowa Hospital Association.
- (6) Iowa State Association of Counties.

c. Two out-of-hospital emergency medical care providers from the Iowa Firemen's Association.

d. One out-of-hospital emergency medical care provider from the Iowa Professional Firefighters.

e. Three out-of-hospital emergency medical care providers, with at least one representing volunteer EMS, from the Iowa EMS Association.

641—130.4(147A) Absences. Three consecutive unexcused absences shall be grounds for the director to consider dismissal of the advisory council member and to appoint another. The chairperson of the advisory council is charged with providing notification of absences.

641—130.5(147A) Officers.

130.5(1) Officers of the advisory council shall be a chairperson and a vice chairperson who shall be elected at the first meeting of each fiscal year unless they are designated as officers at the time of their appointment.

a. Officers may serve no more than three consecutive terms as an officer.

b. Vacancies in the office of chairperson shall be filled by the vice chairperson.

c. Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

130.5(2) Duties of officers. The chairperson shall preside at all meetings of the advisory council, appoint such subcommittees as deemed necessary, and designate the chairperson of each subcommittee. If the chairperson is absent or unable to act, the vice chairperson shall perform the duties of the chairperson. When so acting, the vice chairperson shall have all the powers of and be subject to all the restrictions upon the chairperson. The vice chairperson shall also perform such other duties as may be assigned by the chairperson.

641—130.6(147A) Meetings.

130.6(1) The advisory council shall establish a meeting schedule on an annual basis to conduct business. There shall be a minimum of four meetings per year. Meetings may be scheduled as business requires, but notice to members must be at least five working days prior to the meeting date. Four weeks' notice is encouraged to accommodate the schedules of professional members.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

130.6(2) Robert's Rules of Order shall govern all meetings.

130.6(3) A majority of appointed members shall be considered a quorum.

130.6(4) Any advisory council member who is unable to attend a meeting will notify the chairperson; there may not be a meeting if a quorum is not present.

130.6(5) When a quorum is present, a position is carried by affirmative vote of the majority of those present.

130.6(6) Persons wishing to make a presentation to the advisory council shall submit the request to the chairperson not less than 14 days prior to the meeting. Presentations may be made either at the discretion of the chairperson or upon matters appearing on the agenda.

130.6(7) Persons wishing to submit written materials should do so at least 14 days in advance of the scheduled meeting to ensure that advisory council members have adequate time to receive and evaluate the materials.

130.6(8) The advisory council may conduct a meeting by electronic means only in circumstances in which an in-person meeting is impossible or impractical, pursuant to Iowa Code section 21.8.

641—130.7(147A) Subcommittees. The advisory council may designate one or more subcommittees to perform such duties as may be deemed necessary.

641—130.8(147A) Expenses of the advisory council members. The following may be considered necessary expenses for reimbursement of advisory council members when the expenses are incurred on behalf of advisory council business and are subject to established state reimbursement rates.

1. Reimbursement for travel in a private car.
2. Actual lodging and meal expenses including sales tax on lodging and meals.
3. Actual expenses of public transportation.

641—130.9(147A) Gender balance. If not otherwise provided by law, all advisory bodies of the department appointed by the governor, director or designee shall be gender-balanced.

These rules are intended to implement Iowa Code chapter 147A.

ARC 6114B**PUBLIC HEALTH
DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147A.27, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 136, "Trauma Registry," Iowa Administrative Code.

The rules in Chapter 136 describe the trauma registry procedures and policies. This proposed amendment updates the data dictionary for reportable patient data.

Any interested person may make written comments or suggestions on the proposed amendment on or before August

21, 2007. Such written comments should be directed to Kirk Schmitt, Bureau of EMS, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to kschmitt@idph.state.ia.us.

This amendment is intended to implement Iowa Code chapter 147A.

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 **136.2(1)**, paragraphs "a" and "c," as follows:

a. "Iowa Trauma Patient Data Dictionary" (~~April 2003~~ *July 2005*) is incorporated by reference for inclusion criteria and reportable patient data to be reported to the trauma registry or reported to a trauma care facility. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

c. "Iowa EMS Patient Registry Data Dictionary" (~~January 2004~~ *May 2007*) is incorporated by reference for inclusion criteria and reportable patient data to be reported to the department. For any differences which may occur between the adopted reference and this chapter, the administrative rules shall prevail.

ARC 6064B**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.

The State Fire Marshal, pursuant to the authority of Iowa Code section 100B.10, hereby gives Notice of Intended Action to amend Chapter 259, "Fire Fighter Training and Equipment Funds," Iowa Administrative Code.

Iowa Code chapter 100B establishes the Fire Service Training Bureau and the State Fire Service and Emergency Response Council within the Fire Marshal Division of the Department of Public Safety. The Fire Service Training Bureau and the State Fire Service and Emergency Response Council have broad responsibility to provide training for fire fighters and to coordinate fire fighter training provided by various providers across the state. Since 2003, the Fire Service Training Bureau and the State Fire Service and Emergency Response Council also have administered limited funds for planning of fire training facilities in the state. Legislation enacted during the 2006 session of the Iowa General Assembly dramatically increased the funds available for planning, design, and construction of regional fire training facilities, designated lead and partner agencies for these facilities, established specific areas to be served by each facility, made specific funding allocations to each, established requirements for receipt and use of the funds, and authorized the Fire Marshal to establish administrative rules to implement the regional fire training facility program. Legislation enacted in 2007 Iowa Acts, House File 911, provided addi-

PUBLIC SAFETY DEPARTMENT[661](cont'd)

tional funding for development and construction of these facilities and added agencies to the lists of lead and partner agencies for two of the regional facilities.

The proposed amendments are intended to implement changes in the law adopted in 2007 Iowa Acts, House File 911. In order to meet the time lines established in the law, these amendments were also Adopted and Filed Emergency and are published herein as **ARC 6065B**. The content of that submission is incorporated by reference. These amendments became effective July 1, 2007.

A public hearing on these proposed amendments will be held on September 5, 2007, at 10:30 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 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 are intended to implement Iowa Code chapter 100B as amended by 2007 Iowa Acts, House File 911.

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 6113B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

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 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 3, "Examination," Iowa Administrative Code.

The proposed amendments to Chapter 3 further define requirements for work product review to bring the State of Iowa into compliance with federally mandated guidelines as set forth by the Appraisal Qualifications Board. The proposed amendment to subrule 3.5(5) removes the reference to the 30-day processing time, as this restriction is inaccurate and misleading to the applicant. At the time the rule was pro-

mulgated, there were approximately 10 to 15 applicants for licensure per year. Since that time, the Board has experienced a significant increase in the number of applicants to approximately 75 per year. Furthermore, the Board does not have a full-time appraiser on staff; it relies on a small number of volunteer peer reviewers. Actual processing times, due to the increased number of applicants desiring certification prior to mandated criteria changes, are actually closer to 60 calendar days.

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

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before August 21, 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 amendments are intended to implement Iowa Code chapters 543D 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 amendments are proposed.

ITEM 1. Amend subrule 3.2(5) as follows:

3.2(5) If an applicant who has passed an examination does not obtain the related appraiser credential within 24 months of passing the examination, the examination result loses its validity to support issuing an appraiser credential. To regain eligibility for the credential, the applicant must retake and pass the examination. This requirement applies to individuals obtaining an initial certified credential or upgrading from a lower-level credential to either the certified residential or certified general classification. *Commencing January 1, 2008, the only examinations acceptable to the board are those prepared and graded using the AQB-adopted 2008 criteria. Applicants shall not be initially certified or upgraded on or after January 1, 2008, in reliance on examination results in connection with examinations completed prior to January 1, 2008. Applicants who successfully passed an examination prior to January 1, 2008, may only be certified or upgraded on or after January 1, 2008, if they are otherwise qualified and submit a completed application prior to January 1, 2008.*

ITEM 2. Amend subrule 3.5(1) as follows:

3.5(1) As a condition of original or upgrade certification, all applicants shall submit to the board *four copies each of three appraisals dated within six months prior to submission. When submitting appraisals for work product review, the applicant shall include the application form provided by the board.* The fee for processing review of the appraisals is provided in 193F—Chapter 12.

ITEM 3. Amend subrule 3.5(2) as follows:

3.5(2) ~~The applicant may select the appraisals to be submitted to the board. The applicant should submit appraisals that the applicant believes are of good quality, compliant with all applicable appraisal standards, and representative of the applicant's work product. An applicant shall submit to the board a log for the past six months. The board will then select three appraisals at random for work product review and request that the applicant submit the selected appraisals and copies accompanied by the appropriate form and fee. The board may select the appraisals at random from the en-~~

REAL ESTATE APPRAISER EXAMINING BOARD[193f](cont'd)

ture log or within certain types of appraisals. The board reserves the right to request one or more additional appraisals if those submitted by the applicant raise issues concerning the applicant's competency or compliance with applicable appraisal standards or the degree to which the submitted appraisals are representative of the applicant's work product. Such additional appraisals may be selected at random from the applicant's log or may be selected specifically to provide an example of the applicant's work product regarding a particular type of appraisal. *Applicants may also be requested to submit their work files for one or more of the submitted appraisals.*

ITEM 4. Amend subrule 3.5(4) as follows:

3.5(4) ~~At least two of the appraisals must be nonresidential appraisals if the~~ An applicant is seeking original or upgrade certification as a certified general real estate appraiser *shall submit one residential appraisal and two commercial appraisals for review.*

ITEM 5. Amend subrule 3.5(5) as follows:

3.5(5) The board, or a committee of the board, will evaluate the submitted work product for facial compliance with applicable appraisal standards. The board may submit one or more of the appraisals to a peer review consultant for an opinion on the appraiser's compliance with applicable appraisal standards. ~~In most instances, the board expects the work product evaluation process to take no longer than 30 calendar days. The applicant will be notified if the evaluation process may take longer than 30 days.~~

ARC 6127B

SECRETARY OF STATE[721]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby proposes to amend Chapter 21, "Election Forms and Instructions," Chapter 22, "Voting Systems," and Chapter 26, "Counting Votes," Iowa Administrative Code.

The changes to Chapter 22 are intended to implement the requirements of 2007 Iowa Acts, Senate File 369, which was signed by the Governor on May 29, 2007, and became effective on July 1, 2007. 2007 Iowa Acts, Senate File 369, makes significant changes to laws governing the use of voting equipment, including a requirement that direct recording electronic voting equipment include a paper record for review by the voter. In addition, 2007 Iowa Acts, Senate File 369, repeals all provisions of Iowa law relating to lever voting machines and central count of optical scan ballots (other than absentee and provisional ballots).

Any interested person may make written suggestions or comments on these proposed amendments until 4:30 p.m. on August 21, 2007. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office at (515)281-5823 or at

the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 4:30 p.m. on Tuesday, August 21, 2007.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6129B**. The content of that submission is incorporated by reference.

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

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

ARC 6128B

SECRETARY OF STATE[721]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments provide to county commissioners of elections instructions for mailing of absentee ballots, including a receipt form to be mailed with absentee ballots, and instructions for examining the absentee ballot affidavit envelopes and for contacting voters who have not completed the affidavit or who have made other mistakes that will result in rejection of the absentee ballot. Rules 721—21.370(53) through 21.376(53), describing the absentee courier process, are rescinded because Iowa Code sections 53.17, subsection 1, paragraph "c," and 53.17, subsection 4, which authorize this procedure, were, in effect, repealed by 2007 Iowa Acts, Senate File 601, sections 226 and 227, effective on July 1, 2007.

The above-described amendments to Chapter 21 were also Adopted and Filed Emergency on June 27, 2007, and are published herein as **ARC 6063B**. The content of that submission is incorporated by reference.

A proposed amendment to subrule 21.300(8) is also included in this Notice of Intended Action in order to make a necessary correction to the limitation on the distance from a satellite absentee voting station from which political signs and activity are barred. In 2005, Iowa Code section 53.11 was amended to extend this zone from 30 feet to 300 feet.

Any interested person may make written suggestions or comments on this proposed rule making until 4:30 p.m. on August 21, 2007. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office at (515)281-5823 or at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 4:30 p.m. on Tuesday, August 21, 2007.

These amendments are intended to implement 2007 Iowa Acts, Senate Files 416 and 601.

SECRETARY OF STATE[721](cont'd)

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

The following additional amendment is proposed.

Amend subrule **21.300(8)**, paragraph “c,” to read as follows:

c. Electioneering. No signs supporting or opposing any candidate or question on the ballot shall be posted within 300 feet of the satellite absentee voting station. No electioneering shall be allowed within the sight or hearing of voters while they are at the satellite absentee voting station.

ARC 6130B

SECRETARY OF STATE[721]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 22, “Voting Systems,” Iowa Administrative Code.

The proposed amendments streamline the process of testing voting equipment before it is used in an election by combining the preelection and public test procedures.

Any interested person may make written suggestions or comments on these proposed amendments until 4:30 p.m. on August 21, 2007. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office at (515)281-5823 or at the Secretary of State's offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 4:30 p.m. on August 21, 2007.

These amendments are intended to implement Iowa Code sections 52.9 and 52.35.

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 721—22.39(52) as follows:

721—22.39(52) Preelection testing and public testing for direct recording electronic voting machines. Before each election in which direct recording electronic (DRE) voting machines are used, the commissioner shall conduct preelection testing and public testing.

22.39(1) Automatic testing. Some vendors provide an automatically generated test program for direct recording electronic voting machines. Although these tests provide the user with information about the internal integrity of the machine, the automatic test is not an adequate preelection test; it does not include testing to show that the programming

for the current election is correctly done; and it does not test the voter-operated functions of the machine.

22.39(2) Preelection testing Testing personnel. The preelection testing shall be a part of the process of preparing for each election. Preelection DRE voting machine testing shall be conducted by authorized employees of the commissioner, working who may work in two-person teams. One person shall read the test and document the process; the other person shall perform the test on the DRE voting machine. The process and results of the preelection test shall be carefully documented and shall be available for inspection at the public test. Members of the public may observe preelection testing, but may not participate in it.

22.39(3) Preelection test plan Test process.

a.—As soon as possible after the program materials for an election are available and before the public test described in 22.39(4), the commissioner shall subject the direct recording electronic voting machine to the following tests. Each two-person team shall follow a written plan, with one person operating the DRE voting machine and another person observing and verifying that the correct actions were taken. The tests shall be conducted as follows for each machine:

(1) a. Automated test. Run the automated test on each machine and record the results.

(2) b. Visual test. Verify that the correct visual ballot (and audio ballot, if any) is installed for each direct recording electronic voting machine to be used in the election.

c. Testing in election mode. If the voting system provides for both a test mode and an election mode, the following portions of the public test shall be conducted with the DRE voting machine in election mode.

(1) Before beginning the test, print a zero report.

(2) Touch test. As each visual ballot (and audio ballot, if any) is reviewed, select and then deselect each candidate to verify that the candidate can be selected as a choice.

(3) Accuracy test. Use each voting method (visual, audio, etc.) available to conduct the accuracy test. Prepare a written test plan to guide the entry of votes into the machine. This test shall be conducted as follows:

1. Record votes for each candidate for an office, including offices to which more than one person will be elected, with each candidate receiving a different number of votes. For example, the first candidate may receive one vote; the second candidate may receive two votes; the third candidate may receive three votes; and so on.

2. For offices to which more than one candidate will be elected, test each combination of candidates in addition to the test in numbered paragraph “1,” above.

3. For each public measure and judge on the ballot, the “YES” position shall receive one vote and the “NO” position shall receive two votes, or vice versa.

4. Test every write-in position by selecting it at least once. Enter at least ten letters of the alphabet in the appropriate place. In the test, use all of the letters to make sure they function correctly. For offices with more than one person to be elected, test all of the write-in positions at the same time.

5. Attempt to overvote every office on the ballot.

6. For primary elections, verify that the voter may cast votes for the candidates of only one political party.

7. For general elections, test each straight party voting option separately from the tests listed in numbered paragraphs “1” through “5,” above. Prepare a written plan to test the straight party voting option as follows:

• Assign a specific number of votes to each straight party option, such as one vote to the first straight party option, two votes to the second, and so on.

SECRETARY OF STATE[721](cont'd)

- For each straight party choice, select the straight party option, then, for each affected office, select the write-in option and write the name of the straight party choice being changed.

- Mark no other votes on this set of test ballots.

8. Print the results of the machine tabulation and compare the results with the written test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be available for inspection during the public test described in subrule 22.39(4) and shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

9. Following the preelection test, the commissioner shall prepare the DRE for the public test.

d. *Electronic transmission.* If the results will be transmitted electronically from the precincts on election night, the commissioner shall test each modem before election day by transmitting test results to the election reporting software. It is not necessary to perform this test at the polling places. However, before election day the commissioner should also determine the location and suitability of the telephone connections in polling places.

b e. *Compilation of results.* The commissioner shall compile the results of all tests using the voting system's election reporting programs to demonstrate that the election reporting function will function correctly on election night and for the canvass of votes.

22.39(4) Public test participation. Every direct recording electronic voting machine that will be used in an election shall be tested publicly. If the voting system provides for both a test mode and an election mode, the public test shall be conducted with the voting machine in election mode. The commissioner shall provide notice of public testing of DRE voting machines to the chairpersons of the political parties and to the public as required by Iowa Code section 52.9. The test shall be done following a written plan, with one person operating the electronic voting machine and another person observing and verifying that the correct actions were taken. The tests shall be conducted as follows for each machine:

a. Before beginning the test, print a zero report.

b. Verify that each DRE voting machine has the correct ballot(s) for the election and for the precinct in which the DRE voting machine will be used.

c. Following a written plan, cast several ballots on the machine. Each candidate shall receive a different number of votes.

d. Compare the printed results with the written test plan.

e. The commissioner shall allow a reasonable amount of time for public participation. Members of the public, working with a person designated by the commissioner, may also provide a written test plan and test the operation of the DRE voting machines.

f. Following the test, print a zero totals report, and apply all required locks and seals and record the seal numbers on the appropriate documents.

g. Each person present at the test must sign a certificate of test, as required by Iowa Code section 52.9.

22.39(5) Electronic transmission. If the results will be transmitted electronically from the precincts on election night, the commissioner shall test each modem before election day by transmitting test results to the election reporting software. It is not necessary to perform this test at the polling places. However, before election day the commissioner should also determine the location and suitability of the tele-

phone connections in polling places. *Concluding the test.* Testing must be completed not less than 12 hours before the polls open on election day. Following the test, the commissioner shall print a zero totals report, apply all required locks and seals to each DRE voting machine, and record the seal numbers on the appropriate documents.

This rule is intended to implement Iowa Code section 52.9.

ITEM 2. Amend rules 721—22.41(52) to 721—22.43(52) as follows:

721—22.41(52) Preelection testing Testing of optical scan systems. As a part of preparation for use for each election, the commissioner shall thoroughly test all automatic tabulating equipment (including equipment that will be used for counting absentee ballots) before it is tested publicly as required by Iowa Code section 52.35 and rule 721—22.43(52). The process and results of the preelection testing test shall be carefully documented and shall be available for inspection at the public test. Members of the public may observe preelection testing, but may not participate in it.

22.41(1) Each automatic tabulating device (including equipment that will be used for counting absentee ballots) shall be tested to determine the following:

a. The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

b. Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

c. The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used in the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

d. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled, and the write-in votes are reported correctly.

e. For primary elections, the tabulating equipment accurately records votes cast for all political parties.

f. For general elections:

(1) A ballot marked with only a straight party vote is recorded with one vote for each candidate of the designated political party, and no other votes are recorded for partisan offices;

(2) The voter may override a straight party vote for any office by voting for any candidate not associated with that political party; and

(3) For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive a vote.

22.41(2) Conducting the test.

a. The commissioner shall follow the process described in rule 721—22.42(52) for preparing test decks.

b. If, during the test, there are differences between the test plan and the results produced by the optical scan device, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the faulty program or equipment shall not be used in the election.

SECRETARY OF STATE[721](cont'd)

c. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

This rule is intended to implement Iowa Code chapter 52.

721—22.42(52) Preparing test decks. The commissioner shall prepare test decks from all ballots printed for use in the election, including those for use at the polling places and for absentee balloting. Test ballots for optical scan voting equipment shall test the reporting of votes for every office and public measure on the ballot at the election. Each of the following test decks shall be prepared for every precinct and ballot style in the election. Commissioners may use additional test methods to supplement the process described in this rule.

22.42(1) Requirements for all test decks prepared by the commissioner and used in ~~preelection~~ and public testing.

a. The commissioner shall:

(1) Never erase errors and never use correction fluid or correction tape to cover errors. Replace the ballot instead.

(2) Fill in each oval completely using the recommended pen or pencil.

(3) Mark each ballot "Test Ballot" and label each ballot to indicate whether it is from the systematic test deck, the over-vote and blank ballot test deck or the straight party test deck.

b. In counties where the AutoMARK VAT is used, the commissioner may prepare some test ballots using the AutoMARK VAT.

c. Hand-marked ballots that include folds, erasures, marginal or extra marks shall not be used in the test decks described in this rule. An additional set of test ballots may be prepared to test election-day conditions, particularly for folded absentee ballots.

22.42(2) No change.

22.42(3) Systematic test deck. The commissioner shall use this deck to test each oval on the ballot. The commissioner shall determine a unique number of votes for each candidate in each office, such as one vote for each write-in oval for the office, two votes for the ~~second~~ *first* candidate listed (or "NO" votes on public measures and judges), three votes for the ~~third~~ *second* candidate, etc. It is not necessary to have a different number of votes for each write-in oval in offices for which the voter may select more than one candidate. However, the write-in oval shall have a different number of votes marked than any candidate for the office. The commissioner shall:

a. On general election ballots, leave the straight party choice blank.

b. For offices without candidates, mark all of the write-in ovals for that office.

c. For offices in which the voter may vote for more than one candidate, vote for the maximum allowed on at least one ballot.

d. On a ballot that contains at least one valid vote, over-vote one other office or question.

22.42(4) No change.

22.42(5) No change.

22.42(6) Combining test decks. ~~For preelection testing,~~ *The* commissioner may tabulate the combined test decks after separately testing each one. ~~For the public test, the commissioner may run only the combined test deck.~~

721—22.43(52) Public testing of optical scan systems. All automatic tabulating equipment (including equipment used to tabulate absentee ballots) shall be tested before use at any election, as required by Iowa Code sections 52.35 and ~~52.38~~.

22.43(1) No change.

22.43(2) Each automatic tabulating device shall be tested to determine that the device and its programs will accurately tabulate votes for each candidate and question on the ballot. ~~For this test, the commissioner may combine the test decks created for each precinct during preelection testing, as required by rule 721—22.42(52).~~

22.43(3) *The commissioner shall conclude the test not later than 12 hours before the polls open on election day.* Following the test, the tabulating equipment shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The automatic tabulating equipment is ready for operation at the election.

The results tape from each scanner produced during the public test shall be signed by the person conducting the test and by any observers present at the test. The signers shall write their signatures at the end of the tape where it will be detached from the machine. The tape shall be torn or cut across the signatures, so that a portion of the signature is on the tape remaining on the tabulating device. The test results tape, including a part of the tester's signature, shall be retained with the appropriate test deck for the period of time required by Iowa Code section 50.19.

22.43(4) No change.

Rules 22.41(52) through 22.43(52) are intended to implement Iowa Code section 52.35.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

| | |
|--|-------|
| August 1, 2006 — August 31, 2006 | 7.25% |
| September 1, 2006 — September 30, 2006 | 7.00% |
| October 1, 2006 — October 31, 2006 | 7.00% |
| November 1, 2006 — November 30, 2006 | 6.75% |
| December 1, 2006 — December 31, 2006 | 6.75% |
| January 1, 2007 — January 31, 2007 | 6.50% |
| February 1, 2007 — February 28, 2007 | 6.50% |
| March 1, 2007 — March 31, 2007 | 6.75% |
| April 1, 2007 — April 30, 2007 | 6.75% |
| May 1, 2007 — May 31, 2007 | 6.50% |
| June 1, 2007 — June 30, 2007 | 6.75% |
| July 1, 2007 — July 31, 2007 | 6.75% |
| August 1, 2007 — August 31, 2007 | 7.00% |

ARC 6124B

UTILITIES DIVISION[199]

Notice of Intended Action

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

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

Pursuant to Iowa Code sections 17A.4 and 476.10 and 2007 Iowa Acts, Senate File 554, the Utilities Board (Board)

UTILITIES DIVISION[199](cont'd)

gives notice that on July 13, 2007, the Board issued an order in Docket No. RMU-07-5, In re: Certificates of Franchise Authority for Cable and Video Service [199 IAC Chapter 44], "Order Commencing Rule Making."

The proposed amendment adds new Chapter 44 to implement the provisions of 2007 Iowa Acts, Senate File 554, "An Act Relating to Franchises for the Provision of Cable Service or Video Service Including Providing for Fees and Providing an Effective Date." Senate File 554 requires that, as of July 1, 2007, providers of cable or video service must have a franchise issued either by the Board or a municipality. The proposed rules establish procedures and filing fees for initial applications for, and subsequent modifications of, certificates of franchise authority issued by the Board. The order commencing rule making contains a more thorough discussion of the proposed rule making. The order is available on the Board's Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before August 21, 2007, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to present oral comments on the proposed amendment will be held at 10 a.m. on September 20, 2007, in the Board's hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

This amendment is intended to implement Iowa Code sections 17A.4 and 476.10 and 2007 Iowa Acts, Senate File 554.

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

The following amendment is proposed.

Adopt the following **new** chapter:

CHAPTER 44
CERTIFICATES OF FRANCHISE AUTHORITY
FOR CABLE AND VIDEO SERVICE

199—44.1(17A,476,82GA,SF554) Authority and purpose. These rules are intended to implement 2007 Iowa Acts, Senate File 554, relating to certificates of franchise authority issued by the board for the provision of cable service or video service. The purpose of these rules is to establish procedures and filing fees for initial applications for and subsequent modifications, transfers, terminations, or updates of certificates of franchise authority issued by the board.

199—44.2(17A,476,82GA,SF554) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

"Board" means the utilities board within the utilities division of the department of commerce.

"Cable operator" means the same as defined in 47 U.S.C. Section 522.

"Cable service" means the same as defined in 47 U.S.C. Section 522.

"Cable system" means the same as defined in 47 U.S.C. Section 522.

"Certificate of franchise authority" means the certificate issued by the board authorizing the construction and operation of a cable system or video service provider's network in a public right-of-way.

"Competitive cable service provider" means a person who provides cable service over a cable system in an area other than the incumbent cable provider providing service in the same area.

"Competitive video service provider" means a person who provides video service other than a cable operator.

"Franchise" means an initial authorization, or renewal of an authorization, issued by the board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a cable system or video service provider's network in a public right-of-way.

"Franchise fee" means the fee imposed pursuant to 2007 Iowa Acts, Senate File 554, section 8.

"Incumbent cable provider" means the cable operator serving the largest number of cable subscribers in a particular franchise service area on January 1, 2007.

"Municipality" means a county or a city.

"Public right-of-way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which the municipality has an interest, including other dedicated rights-of-way for travel purposes and utility easements. "Public right-of-way" does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility.

"Video programming" means the same as defined in 47 U.S.C. Section 522.

"Video service" means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. "Video service" does not include any video programming provided by a provider of commercial mobile service as defined in 47 U.S.C. Section 332 or cable service provided by an incumbent cable provider or a competitive cable service provider or any video programming provided solely as part of, and via, a service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

199—44.3(17A,476,82GA,SF554) Certificate of franchise authority. As provided in 2007 Iowa Acts, Senate File 554, section 3, after July 1, 2007, a person shall not provide cable service or video service in Iowa without a franchise. The franchise may be issued by either the board pursuant to this chapter or by a municipality pursuant to Iowa Code section 364.2.

44.3(1) Existing franchise agreements. A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to this requirement with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board.

44.3(2) Municipal utilities. A municipal utility that provides cable service or video service in Iowa is not required to

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obtain a certificate of franchise authority in the municipality in which the provision of cable service or video service by the municipality was originally approved.

44.3(3) Initial application. Within 15 business days after receiving an application and affidavit from an applicant using a form developed by and available from the board, the board shall issue a certificate of franchise authority or notify the applicant that the application is incomplete. The application must be signed by an officer or general partner of the applicant and shall provide the following information:

a. A statement that the applicant has filed or will timely file with the Federal Communications Commission (FCC) all forms required by the FCC in advance of offering cable service or video service in Iowa;

b. A statement that the applicant agrees to comply with all applicable federal and state statutes, regulations, and rules;

c. A statement that the applicant agrees to comply with all applicable state laws and nondiscriminatory municipal ordinances and regulations regarding the use and occupation of a public right-of-way in the delivery of the cable service or video service, including the police powers of the municipalities in which the service is delivered;

d. A description of the service area to be served and the municipalities to be served by the applicant, including descriptions of unincorporated areas, if applicable;

e. The address of the applicant's principal place of business and the names and titles of the applicant's principal executive officers; and

f. The telephone number for customer service contact.

The service area description must be sufficiently detailed to enable the board to ascertain the boundaries of the applicant's proposed service area. Applicants certificated by the board as local exchange carriers pursuant to Iowa Code section 476.29 may choose to refer to descriptions (including maps) of local exchange service areas on file with the board.

44.3(4) Content of certificate. A certificate of franchise authority issued by the board shall contain all of the following:

a. A grant of authority to provide cable service or video service in the service area designated in the application;

b. A grant of authority to use and occupy the public right-of-way in the delivery of cable service or video service, subject to the laws of Iowa, including the police powers of the municipalities in which the service is delivered;

c. A statement that the grant of authority provided by the certificate is subject to the lawful operation of the cable service or video service by the applicant or the applicant's successor; and

d. A statement that the franchise is for a term of ten years, is renewable, and is nonexclusive.

44.3(5) Modification of service area. At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board upon expansion or other change in service area using a form developed by and available from the board.

44.3(6) Transfer of certificate of franchise authority. The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor's principal place of

business and the names and titles of the successor's principal executive officers. A notice of transfer shall be effective 14 business days after the filing of the notice of transfer with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. The successor shall assume all regulatory rights and responsibilities of the holder of the certificate.

44.3(7) Termination of certificate of franchise authority. The holder of a certificate of franchise authority may terminate the certificate by providing written notice of termination to the board and to each affected municipality using a form developed by and available from the board.

44.3(8) Updates. The holder of a certificate of franchise authority shall notify the board of any change in the name of the entity holding the certificate, contact personnel, principal executive officers, address of principal place of business, telephone number, and customer service contact information by sending a letter to the board specifying the change and certificate number. The notice shall be provided within 14 days after the effective date of the change.

199—44.4(17A,476,82GA,SF554) Notice to municipality and incumbent cable provider. A competitive service provider shall notify affected municipalities and incumbent cable providers of its plan to offer service as provided in this rule.

44.4(1) At least 30 days before providing service in any part of a competitive cable or video service provider's certificated service area in which the provider has not yet offered service, a competitive cable service provider or competitive video service provider shall notify each municipality with authority to grant a franchise in the part of the competitive provider's service area to be served and the incumbent cable provider in that area that the competitive provider will provide service within the jurisdiction of the municipality and when such service will begin. A competitive cable service provider or competitive video service provider shall not provide service without having provided the notice required by this rule.

44.4(2) The competitive cable service provider or competitive video service provider shall file a copy of the notice required by this rule with the board.

44.4(3) If the competitive cable service provider or competitive video service provider determines that its entry into the market will be delayed, no further notice will be required unless market entry is delayed for more than 30 days after the date service was expected to begin.

199—44.5(17A,476,82GA,SF554) Conversion of municipal franchise by incumbent cable provider. If a competitive cable service provider or a competitive video service provider applies for a certificate of franchise authority to operate within a municipality, the incumbent cable provider in that municipality may apply for a certificate of franchise authority for that same municipality using an application form developed by the board and providing the information required in 44.3(3). The board shall automatically grant the incumbent's application, if complete, effective on the same day a competitive cable service provider or competitive video service provider files the 30 days' notice of offering service as required pursuant to 44.4(17A,476,82GA,SF554) if the incumbent cable provider files its application within 30 days of the day the competitive service provider provides the 30 days' notice. If the incumbent cable provider files its application more than 30 days after the date the competitive service provider provides the 30 days' notice, the board shall grant the incum-

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dent's application, if complete, to be effective on the date the application is filed with the board.

199—44.6(17A,476,82GA,SF554) Filing fees. Each applicant shall submit one or more of the following fees, as applicable:

1. A filing fee of \$100 with an initial application; and
2. A filing fee of \$50 with a notice of modification or transfer; and
3. A filing fee of \$25 with a notice of termination.

These rules are intended to implement Iowa Code sections 17A.4 and 476.10 and 2007 Iowa Acts, Senate File 554.

ARC 6126B**VETERANS AFFAIRS, IOWA
DEPARTMENT OF[801]****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(1)"b" and 2007 Iowa Acts, House File 817, sections 3 and 4, the Iowa Department of Veterans Affairs proposes to adopt new Chapter 14, "Veterans Trust Fund," Iowa Administrative Code.

These proposed rules implement Iowa Code section 35A.13, which establishes the Veterans Trust Fund, and 2007 Iowa Acts, House File 817, section 7. For the fiscal period beginning July 1, 2006, and ending June 30, 2009, Iowa Code section 35A.13(5) requires a minimum balance of \$5 million in the trust fund prior to expenditure of moneys from the trust fund. The trust fund now meets the minimum balance requirement. Interest and earnings on the fund plus any devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source made to the fund shall, as implemented in these proposed rules, be used for the purposes set out in Iowa Code section 35A.13(7).

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, August 21, 2007, from 2 to 4 p.m. in the Enhanced Classroom at Joint Forces Headquarters, Iowa National Guard, 6100 NW 78th Street, Johnston, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824, or at (515)242-5331, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)242-5331.

Any interested person may make written comments or suggestions on the proposed rules until 4:30 p.m. on August 21, 2007. Written comments and suggestions should be addressed to Patrick Palmersheim, Executive Director, Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A,

7105 NW 70th Avenue, Johnston, Iowa 50131-1824, or sent by E-mail to Patrick.Palmersheim@iowa.gov, or sent by fax to (515)242-5659.

These rules are intended to implement Iowa Code section 35A.13 as amended by 2007 Iowa Acts, House File 817, section 7.

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

The following **new** chapter is proposed.

**CHAPTER 14
VETERANS TRUST FUND**

801—14.1(35A) Purpose. These rules establish the requirements for veterans or their spouses or dependents to receive benefits from the veterans trust fund.

801—14.2(35A) Definition. For purposes of this chapter, "veteran" means the same as defined in Iowa Code section 35.1, or a resident of Iowa who served in the armed forces of the United States, completed a minimum aggregate of 90 days of active federal service, and was discharged under honorable conditions.

801—14.3(35A) Eligibility. Veterans, their spouses, and their dependents applying for benefits available under this chapter must meet the following threshold requirements.

14.3(1) Income. For the purposes of this chapter, an applicant's household income shall not exceed 130 percent of the federal poverty guidelines for the number of family members living in the primary residence in effect on the date the application is received by the county director of veterans affairs. Federal poverty guidelines shall be those guidelines established by the Iowa department of human services for the veteran's family size. The commission shall adjust the guidelines on July 1 of each year to reflect the most recent federal poverty guidelines.

14.3(2) Resources. The department may not pay benefits under this chapter if the available liquid assets of the veteran are in excess of \$5,000. For the purposes of this chapter, "available liquid assets" means cash on hand, cash in a checking or savings account, stocks, bonds, certificates of deposit, treasury bills, money market funds and other liquid investments owned individually or jointly by the applicant and the applicant's spouse, unless the applicant and spouse are separated or are in the process of obtaining a divorce, but does not include funds deposited in IRAs, Keogh plans or deferred compensation plans, unless the veteran is eligible to withdraw such funds without incurring a penalty. Cash surrender value of life insurance policies shall not be included as available liquid assets.

14.3(3) Funding from other sources. Applications shall not be approved if the applicant is eligible to receive aid from other sources to meet the purposes authorized in this chapter.

14.3(4) Additional requirements and limitations. Applicants must meet any additional requirements and are subject to any limitations which may be set out in this chapter or which may be established for a particular benefit.

801—14.4(35A) Benefits available. Applications may be approved for any of the following purposes.

14.4(1) Travel expenses for wounded veterans directly related to follow-up medical care. Travel expenses under this subrule include the cost of air fare, lodging, and a per diem of \$25 per day. The veteran shall provide such evidence as the

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commission may require, which includes but is not limited to evidence the injury or disability is service connected, the necessity of treatment in a particular facility and documentation of expenses. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$1,000.

14.4(2) Job training or college tuition assistance for job retraining.

a. The commission may pay a veteran not more than \$3,000 for retraining to enable the veteran to obtain gainful employment. The commission may provide aid under this subrule if all of the following apply:

(1) The veteran is enrolled in a training course in a technical college or school or is engaged in a structured on-the-job training program.

(2) The veteran is unemployed or underemployed or has received a notice of termination of employment.

(3) The commission determines that the veteran's proposed program will provide retraining that could enable the veteran to find gainful employment. In making its determination, the commission shall consider whether the proposed program provides adequate employment skills and is in an occupation for which favorable employment opportunities are anticipated.

(4) The veteran requesting aid has not received reimbursement from any other retraining or education programs and the veteran does not have other assets or income available to meet retraining expenses.

b. The veteran shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(3) Unemployment assistance during a period of unemployment due to prolonged physical or mental illness or disability resulting from military service. The commission may provide subsistence payments only to a veteran who has suffered a loss of income due to prolonged physical or mental illness or disability resulting from military service. The commission may provide subsistence payments of \$500 per month to a veteran on a month-to-month basis or for a three-month period. The commission may pay subsistence aid for a three-month period if the veteran will be incapacitated for more than three months and if earned or unearned income or aid from sources other than those listed in the application will not be available in the three-month period. No payment may be made under this subrule if the veteran has other assets or income available to meet basic subsistence needs. The veteran shall provide such evidence as the commission may require, which includes but is not limited to evidence that the mental illness or disability is service connected and evidence that the veteran is unemployed for the period of payments. The maximum amount of aid payable in a consecutive 12-month period under this subrule is \$1,500.

14.4(4) Expenses relating to nursing facility or home care.

a. The commission may provide health care aid to a veteran for dental care, including dentures; vision care, including eyeglass frames and lenses; and hearing care, including hearing aids.

b. The maximum amount that may be paid under this subrule for any consecutive 12-month period may not exceed \$2,500 for dental care, \$500 for vision care, and \$1,500 per ear for hearing care.

c. The commission shall not provide health care aid under this subrule unless the aid recipient's health care provider agrees to accept, as full payment for the health care provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the department determines the veteran is ca-

pable of paying. The department shall not pay health care aid under this subrule if the available liquid assets of the veteran are in excess of \$1,000.

14.4(5) Benefits provided to children of disabled or deceased veterans. The commission may provide a one-time payment of \$1,000 to minor children of disabled veterans or veterans who were disabled or who die in the line of duty. Minor children claiming eligibility due to the disability or death of a veteran in the line of duty shall submit, through the parent or guardian of the child, evidence from the appropriate military service indicating that the veteran died in the line of duty. For the purposes of this subrule, "children" means any biological child, any adopted child, any stepchild, or any other child who is a member of the veteran's household, or any nonmarital child if the veteran acknowledges paternity or paternity has been otherwise established. The applicant shall provide such evidence as the commission may require to satisfy the requirements of this subrule.

14.4(6) Individual counseling or family counseling programs.

a. The commission may make mental health and family counseling available to veterans and their families. Individual family members are eligible for counseling.

b. The assistance may include appropriate counseling and treatment programs for veterans and their families in need of services.

c. Any assistance provided under this subrule shall not duplicate other services readily available to veterans and their families.

d. The maximum amount that may be paid under this subrule for any consecutive 12-month period shall not exceed \$2,500.

e. The commission may not provide counseling under this subrule unless the aid recipient's counseling service provider agrees to accept, as full payment for the counseling services provided, the amount of the payment; the amount of the recipient's health insurance or other third-party payments, if any; and the amount that the department determines the veteran is capable of paying. The department shall not pay for counseling under this subrule if the available liquid assets of the veteran are in excess of \$1,000.

14.4(7) Family support group programs or programs for children of members of the military.

a. The commission may award grants to unit family readiness/support groups, family support offices, and other such organizations providing support and programs to families and children of family members.

b. The grant shall be only for projects or programs which are not funded from any other source. The commission shall determine that the applicant's proposed project or program will provide the intended support. In making its determination, the commission shall consider whether the proposed program will provide anticipated favorable results.

c. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a family readiness/support group is \$500.

14.4(8) Honor guard services.

a. The commission may reimburse veterans organizations for providing military funeral honors as follows:

(1) If a single veterans organization provides basic honors, \$25.

(2) If a single veterans organization provides full honors, \$50.

(3) If two or more veterans organizations participate in providing full honors and one of the organizations provides a

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firing detail, \$50. The organizations may request that the commission split the reimbursement.

(4) If two or more veterans organizations participate in providing basic honors, \$25. Payment shall be to one veterans organization, as determined by the commission.

b. A veterans organization may not receive an honorarium or donation or request payment from the funeral home or the family for military funeral honors for which reimbursement is sought under this subrule.

c. Notwithstanding paragraph "a," the commission shall not reimburse a veterans organization if federal funding is available to reimburse the veterans organization for providing military funeral honors. The veterans organization shall request reimbursement from federal sources. If a veterans organization receives federal funding for providing military funeral honors at the reimbursement rate of one funeral in a day, the department shall reimburse the organization for the provision of military funeral honors at any additional funerals on that day.

d. The maximum amount of aid payable in a consecutive 12-month period under this subrule to a veterans organization is \$500.

801—14.5(35A) Application procedure. Applications for benefits from the veterans trust fund may be obtained at any county veterans affairs office. The county director of veterans affairs shall date stamp the application and submit it to the Iowa Department of Veterans Affairs, Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824.

14.5(1) Application process. A person who wishes to apply shall complete an Application for Veterans Trust Fund Form and provide such documentation or other evidence as the commission may require in order to determine the awarding or denial of the benefits available under this chapter.

14.5(2) Date of application. The date of the application shall be the date the signed application and written verification are received by the county director of veterans affairs.

14.5(3) Eligibility determination. The county director of veterans affairs or members of the county commission shall make a recommendation to the Iowa commission of veterans affairs whether to approve or deny the application. The Iowa commission of veterans affairs shall approve or deny all applications at its quarterly meetings as set forth in 801—paragraph 1.2(2)"a." Applications must be approved by a majority vote of the commission membership. The director of the Iowa department of veterans affairs shall notify an applicant within 15 days of the commission's decision. An explanation of the reasons for rejection of an application will accompany denials.

14.5(4) Waiting list. After all veterans trust fund moneys have been obligated, the commission shall deny pending applications.

a. The denial notice shall state either that the applicant meets eligibility requirements but no funds are available and the applicant will be placed on the waiting list or that the applicant does not meet eligibility requirements.

b. Applicants not awarded funding who meet the eligibility requirements shall be placed on a statewide waiting list according to the order in which the completed applications and verification were received by the county commission of veteran affairs. In the event that more than one application is received at one time, the applicant shall be entered on the

waiting list on the basis of the day of the month of the person's birthday, the lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

c. When funding allows additional applicants to be approved, their names shall be taken from the statewide waiting list, and their need and eligibility shall be redetermined at that time. An application packet, which includes instructions and necessary forms for verification of continuing eligibility, shall be sent to each applicant for completion. Packets shall be returned to the Iowa department of veterans affairs within time lines specified by the department. If the signed application and verification of continuing eligibility are not received by the time line specified by the department, the applicant shall not be considered for funding.

801—14.6(35A) Recovery of erroneous payments.

14.6(1) Erroneous payments. The commission may recover payments made as a grant under this chapter if any of the following apply:

a. The information provided by the applicant is inaccurate.

b. The commission incorrectly calculated the grant amount.

c. The applicant is not entitled to a grant or is entitled to a lower grant amount as a result of a change in circumstances that affects the applicant's eligibility to receive the grant.

14.6(2) Amount of recovery. The commission may recover only the portion of the grant to which the applicant would not have been entitled if the correct information had been provided or if the grant had been properly calculated or as a change in circumstances warrants.

14.6(3) Remedies. The commission may request repayment of the amount due under subrule 14.6(2). In lieu of a lump-sum payment, the commission may enter into an agreement under which the applicant may repay the amount due within a 12-month period. If the applicant fails to repay the amount due within 30 days of a request for repayment or fails to comply with the terms of a repayment agreement, the commission may offset future grants that the applicant may be entitled to under this chapter until the amount due has been recovered. The commission may also suspend other benefits available to the applicant until the amount due has been recovered.

14.6(4) Waiver. The commission may temporarily or permanently waive its authority to recover payments under subrule 14.6(1) or suspend benefits under subrule 14.6(3) if the applicant's household income is totally exempt from Iowa garnishment law.

14.6(5) Appeal. Any commission decision under this chapter is subject to appeal under rule 801—14.7(35A).

801—14.7(35A) Appeal rights.

14.7(1) Final agency action. The approval or denial of an application by the commission shall be the final decision of the agency.

14.7(2) Judicial review. Judicial review of the commission's final decisions may be sought in accordance with Iowa Code section 17A.19.

These rules are intended to implement Iowa Code section 35A.13 as amended by 2007 Iowa Acts, House File 817, section 7.

ARC 6073B

ENVIRONMENTAL PROTECTION
COMMISSION[567]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 455B.474 and 2007 Iowa Acts, Senate File 499, section 10, the Environmental Protection Commission hereby amends Chapter 134, "Certification of Groundwater Professionals and Underground Storage Tank (UST) Compliance Inspectors," and Chapter 135, "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," Iowa Administrative Code.

2007 Iowa Acts, Senate File 499, section 10, requires the Commission to adopt existing Iowa Comprehensive Petroleum Underground Storage Tank Board rules contained in IAC 591—Chapter 15 by emergency rule making no later than August 1, 2007. These existing Board rules pertain to the licensing of UST installers, installer inspectors, testers and UST liners. Pursuant to the Act, the Board's licensing authority for UST installers, installer inspectors, testers and liners is being transferred to the Commission, and this emergency rule making is intended to effectuate that transition. Section 6 of the Act also grants rule-making authority to the Commission to expand the licensing requirements for UST installers, installer inspectors, testers, and liners and includes authority to establish a new licensing program for persons who provide services for the permanent closure of USTs. The Commission intends to initiate a separate Notice of Intended Action to further implement the authority granted in section 6 of the Act, but this emergency rule making provides for the transition of existing licensing authority from the Board to the Commission.

This rule making changes the existing Board rules only to the extent necessary to transfer existing rules to the Commission. The intent is not to change the substantive provisions of the existing Board rules.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary because 2007 Iowa Acts, Senate File 499, section 10, authorizes the adoption by emergency rule making in order to transfer regulatory authority from the Board to the Commission.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(1), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on July 6, 2007, as provided by 2007 Iowa Acts, Senate File 499, section 10.

Since this rule making is a transfer of existing regulatory authority from the Board to the Commission, there are no additional annual expenditures by all affected parties in excess of \$100,000 or \$500,000 within five years; and therefore, a fiscal impact statement as provided in Iowa Code section 17A.4(3) is not required.

These amendments are intended to implement 2007 Iowa Acts, Senate File 499, section 10.

These amendments became effective July 6, 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. Rescind the title of 567—Chapter 134 and adopt in lieu thereof the following **new** title:

CHAPTER 134

UNDERGROUND STORAGE TANK LICENSING
AND CERTIFICATION PROGRAMS

ITEM 2. Amend 567—Chapter 134 by adopting **new** Part C as follows:

PART C

UNDERGROUND STORAGE TANK
INSTALLER AND INSPECTOR LICENSING

567—134.17(455B) Definitions. As used herein:

"Board" means the Iowa comprehensive petroleum underground storage tank fund board.

"Certificate of noncompliance" means a document provided by the child support recovery unit certifying that the named obligor is not in compliance with a support order or with a written agreement for payment of support entered into by the unit and the obligor.

"Child support recovery unit" means the child support recovery unit created by Iowa Code section 252B.2.

"Deductible" means the portion of a claim paid by insureds on the policy issued by the board.

"Department" means the Iowa department of natural resources.

"Inspector" means a licensed individual who is engaged in the inspection and approval of the installation of new or upgraded underground storage tank systems.

"Installer" means a licensed individual or licensed company engaged in the installation of a new underground storage tank system or the upgrading or lining of existing underground storage tank systems.

"In the aggregate" means for all claims or suits in a single year seeking damages under an insurance policy issued by the board.

"Licensed company" means a person, or company which employs a person who meets all of the qualifications to install, upgrade, repair, test or line underground storage tank systems.

"Licensed individual" means an individual who has received a license to perform any of the activities regulated under this chapter.

"Liner" means a licensed company or an individual who lines a tank using an acceptable procedure under subrule 134.24(2).

"Maintenance" means minor service work to existing equipment, associated with underground storage tank systems, which is installed above grade level and can be observed from grade level. Maintenance does not require licensing.

"Obligor" means a natural person as defined in Iowa Code section 252B.1 who has been ordered by a court or administrative agency to pay support.

"OSHA" means the Occupational Safety and Health Act.

"Precision test" means a tank and line tightness test that meets the requirements in rule 567—135.4(455B).

"Removal" means the process of removing and disposing of an underground storage tank system no longer in service or the process of abandoning an underground storage tank system in place, in accordance with rule 567—135.9(455B).

"Repair" means modification or correction of any existing portion of an underground storage tank system through such means as replacement of valves, fill pipes, vents, liquid level monitoring systems, and installation of spill and overfill devices, provided the activity occurs above grade, and the

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maintenance and inspection of the efficacy of cathodic protection devices. Repair does not include activities which are maintenance as defined in this chapter.

“Self-insured retention” means the portion of a claim paid by insureds who self-insure a portion of their risk as part of a policy issued by the board. Expenses included as a part of the self-insured retention are the cost of claims settlements or suits, the cost of adjusting, legal fees, court costs and any other investigative cost associated with the claim.

“Tester” means a licensed company or individual who tests tanks, lines, leak detection systems, or monitoring systems, using an acceptable procedure under subrule 134.23(2). For the purposes of this definition, an owner, operator or one of their employees performing vapor monitoring, cathodic protection tests, statistical inventory reconciliation or using an automated in-tank gauging device installed at a site location they own or operate shall not be defined as a tester. An owner or operator or one of their employees may also perform volumetric, nonvolumetric or vacuum tests on their own tanks and hydrostatic pressure tests on their own lines, provided they have received certification from the manufacturer or supplier of the system for its usage and the system has been approved by the U.S. EPA.

“Testing” means the process of utilizing a system to test underground storage tank systems or any part thereof for tightness, leak detection, cathodic protection or monitoring.

“Underground storage tank system” means tank or tanks and associated piping intended to contain and dispense petroleum products and for which proof of financial responsibility is, or on a date definite will be required to be maintained pursuant to the Federal Resource Conservation and Recovery Act, 40 CFR 280, and the regulations in effect on December 31, 1994, adopted pursuant to that Act or successor Acts or amendments.

“Unit” means the child support recovery unit created in Iowa Code section 252B.2.

“U.S. EPA” means the United States Environmental Protection Agency.

“Withdrawal of a certificate of noncompliance” means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of an obligor’s license.

567—134.18(455B) Applicability of Part C. All persons and companies that are currently licensed under the former board rules in 591—Chapter 15 shall be subject to Part C of this chapter. All persons conducting underground storage tank installations and installation inspections as provided in 567—subparagraph 135.3(1)“e”(2) and installers, installer inspectors and testers required to be licensed under board rules shall be licensed by the department in accordance with this chapter.

567—134.19(455B) Licensing—general and fees. Effective January 1, 1995, new and renewal licenses shall be on a calendar-year basis, with the licensing fees to be prorated from the date of application or expiration of license to cover the time period to the next anniversary date. The license application will note the type of work the individual or company will be performing.

Persons working for a licensed company as an installer, liner or tester may not provide services as an inspector on sites that are being installed, upgraded or lined by that employer for the period of employment and the first six months following termination of employment with that company.

Persons working for a licensed company as an installer, liner or tester may provide services as an inspector on sites that are being installed or lined by their prior employer six months after leaving the licensed company.

If a licensed individual leaves the employment of a licensed company, the licensed company shall notify the department within 30 days of that occurrence.

134.19(1) Licensing of individuals. Licenses will not be issued to persons who are in noncompliance with the child support recovery unit. The following individuals shall be licensed:

a. Installers, liners and testers. The license application will note the type of work the individual will be performing: installation or the upgrading of underground liquid storage tank systems to meet federal U.S. EPA or 591—11.4(455B, 455G) requirements, corrosion protection, monitoring and leak detection systems, tank lining, tank and line tightness testing and removal done in conjunction with the above. The annual license fee is \$35. The annual \$35 individual fee is waived for a sole proprietor doing business as a licensed company.

b. Inspectors.

(1) The application for an inspector will note the type of work the inspector will be performing: inspections of underground storage tank systems or any part thereof on new or upgraded equipment.

(2) Underground storage tank systems which have been lined do not require an internal inspection by the inspector, but shall meet all requirements as outlined herein for lining underground storage tank systems.

(3) Cathodic systems do not need a separate inspection if the only work being completed is adding cathodic protection designed by a corrosion expert to an existing system.

(4) The annual license fee is \$50.

134.19(2) Licensed company. Companies employing licensed individuals for installation, upgrading, lining or testing of underground liquid storage tank systems shall be registered as a licensed company. A company shall lose its license if it fails to employ at least one licensed individual or if it employs unlicensed individuals to do work requiring a license. Sole proprietors need only to apply for a company license. However, employees of a sole proprietor must be licensed individually under 134.19(1)“a.” The annual license fee is \$50.

134.19(3) License not required. A license is not required for the following list of exceptions:

a. Individuals or companies performing only underground storage tank system removal. Please note that they may be subject to requirements in subrule 134.19(4).

b. Individuals or companies performing maintenance as herein defined.

c. Individuals installing groundwater or vapor monitoring wells used in the remediation of a site or to be used for leak detection at a site. Please note that individuals installing wells might be subject to the requirements in 567—Chapter 135 and this chapter.

134.19(4) OSHA safety requirements. All licensed individuals and companies regulated under this chapter will conduct their work as required by OSHA safety requirements defined under 29 CFR 1910, effective on July 1, 1993. OSHA standards apply whenever flammable, combustible or hazardous materials are present, especially during the following activities:

a. Excavating, placing liquid underground storage tank systems in excavations, and ballasting liquid underground storage tank systems with flammable, combustible or hazardous materials.

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b. Purging, cleaning and removal of liquid underground storage tank systems which have contained flammable, combustible or hazardous materials.

c. Testing as a part of an installation or after the system has been placed in service.

567—134.20(455B) Educational requirements for installers, liners, testers and inspectors.**134.20(1) Education and examination.**

a. Prior to the issuance of a license as an installer, liner or inspector, the applicant shall successfully complete a course of instruction and pass a qualification examination approved by the department, unless excepted under subrule 134.20(2).

b. Examination requirements for all installers, liners, and inspectors are as follows:

(1) A passing grade of not less than 85 percent is required on the Iowa examination.

(2) Candidates who have failed the examination may not perform work unless supervised by the appropriate licensed individual for the work they are performing.

(3) A fee as approved by the department may be charged for each examination and course of instruction.

(4) Nothing herein shall limit the right of the department to require additional educational requirements of license holders.

134.20(2) Exceptions on completion of the course of instruction or examination. A course of instruction is not required in the following circumstances:

a. Individuals doing testing only are not required to complete the course of instruction. However, the department will establish a separate test by January 1995 that all persons renewing their license as a tester will be required to take and pass in accordance with the same provisions outlined in subrule 134.20(1) in order to renew their license in 1996. The test will cover all types of systems being installed and also leak detection requirements.

b. Installers, liners, testers or inspectors with more than two years' experience as an installer, inspector or liner as defined under rule 134.17(455B) may take the examination without taking the course. If the candidate is not successful on the second attempt, then an approved course and the Iowa examination shall be successfully completed in order to obtain a license.

134.20(3) Reciprocity. Persons who complete the University of Wisconsin Liquid Storage Tank Program, or a program offered by another state or recognized regulatory agency which covers installations of underground liquid storage tank systems and is approved by the department, shall successfully pass the Iowa examination only. Candidates shall provide an outline and evidence of the successful completion of the course. If the content of the course taken is not similar to that offered by the department, the department may still require that the Iowa course be taken.

134.20(4) Continuing education. Effective January 1, 1995, each person licensed hereunder shall complete a refresher course covering changes in installation, lining and testing standards at least once every two years and the course shall be completed prior to the anniversary of the next license renewal. The department shall evaluate continuing education courses. Testers are exempt from this requirement. The first refresher course shall be completed prior to the January 1, 1996, license renewal date for all individuals licensed on or after January 1, 1995.

567—134.21(455B) Environmental liability insurance requirements. All licensed installers, liners, testers and inspectors are required to have environmental liability insur-

ance with minimum liability limits of \$250,000 per occurrence and in the aggregate, as approved by the department.

134.21(1) Licensed company. A licensed company is required to provide environmental liability insurance for all licensed activities of the company and its licensed installers, liners and testers.

134.21(2) Licensed installers, liners, testers and inspectors. Each licensed installer, liner, tester and inspector is required to provide proof of environmental liability insurance covering licensed activities. The insurance may be provided by the licensed company employing the individual, or by the individual licensee.

134.21(3) Exception to this requirement. Licensed installers, liners, testers and inspectors employed by owners or operators of underground storage tank systems, to work on their own system(s) and not for others, are exempted from insurance requirements. Licensed persons may install, line or inspect liquid underground storage tank systems owned by the licensed person's employer, but shall not perform both inspection and installation of a liquid underground storage tank system owned by the licensed company.

134.21(4) Forms of acceptable insurance. All parties covered by the licensing provisions of this chapter shall provide evidence of environmental liability insurance to the department upon request. This subrule applies to all companies and individuals as outlined in rule 134.21(455B).

a. Environmental liability insurance may be provided by a private insurer authorized to do business in Iowa.

b. Evidence of environmental liability insurance may be provided using methods of self-insurance as outlined in 567—Chapter 136.

c. Environmental liability insurance shall, at minimum, cover the same risks as provided for by the board in its approved insurance document form.

567—134.22(455B) Installers. Installers of underground liquid storage tank systems shall apply for a license as an installer and shall indicate on the license application the types of installations and upgrade procedures they use.

134.22(1) Installer licensing requirements. The requirements are as follows. The applicant shall:

a. Possess two years of experience in underground storage tank system installation procedures or other experience approved by the department.

b. Pay the annual licensing fee as provided for in rule 134.19(455B).

c. Provide evidence of environmental liability insurance as provided for in rule 134.21(455B).

d. Complete the educational and examination requirements described in rule 134.20(455B), unless otherwise excepted under subrule 134.20(2).

e. The applicant shall provide proof of certification, training or approval from the manufacturers or suppliers of underground liquid storage tank systems for which the applicant is requesting a license to install or upgrade including, but not limited to:

(1) Tank systems.

(2) Piping systems.

(3) Leak detection and monitoring systems.

(4) Corrosion protection systems.

f. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.22(2) Responsibilities of installers. A licensed installer shall be on site during the performance of all work, including subcontracted work, for which the owner/operator has contracted to have completed by the installer. A licensed installer does not need to be on site during paving, site grade

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preparations or when electrical work is being conducted. If removal is a part of the work being completed by or subcontracted by the installer, these same rules apply. Work on the site may be subcontracted by the licensed installer to another person or firm. The licensed installer is responsible for the integrity of the complete installation under the control of the licensed installer. Tank installation includes all work associated with the placement of the tanks, pipes, pumps, dispensers, gauging systems, monitoring systems, corrosion protection, containment devices, and ancillary systems which, if installed incorrectly, could cause or delay detection of a leak. This specifically includes excavation, equipment placement, backfilling, piping, electrical work, paving, testing calibration and start-up.

134.22(3) Documentation of work performed, installers and liners. Installations of all new systems or upgrading to meet U.S. EPA or 591—11.4(455G) requirements of underground liquid storage tank systems requires the submission to the department of a copy of the new owner-signed DNR Form 148 by the licensed company. Each licensed installer or liner responsible for the new system installation or the upgrading of an existing system shall sign the DNR Form 148 as required by 567—paragraph 135.3(3)“e.”

567—134.23(455B) Testers. Testers of underground liquid storage tank systems shall apply for licensing as a tester and note on the license application the systems and method(s) of testing they will use. If the applicant is employed by a licensed installer company as an installer or liner, a separate tester application is not required.

134.23(1) Tester licensing requirements. The requirements are as follows. The applicant shall:

- a. Possess one year’s experience in testing underground storage tank system installations.
- b. Pay the annual licensing fee as provided for in rule 134.19(455B).
- c. Provide evidence of environmental liability insurance as provided for in rule 134.21(455B).
- d. Provide the department proof of certification, training or approval from the manufacturers or suppliers of testing methods and systems for which the applicant is seeking a license and, after January 1, 1995, meet requirements outlined in rule 134.20(455B).

e. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.23(2) Approval of testing systems. Testing systems which have been evaluated by the U.S. EPA or the department and which meet or exceed the U.S. EPA criteria for the detection of leaks and cathodic protection shall be accepted.

134.23(3) Documentation of work performed—testers. A copy of the test results shall be attached to the DNR Form 148 when testing is done in connection with a new or the upgrading of an existing underground liquid storage system installation. A precision test is required when the system is covered and is ready to be placed into service; a volumetric, nonvolumetric or vacuum test may be used as a method for testing the system and a hydrostatic pressure test may be used for testing the lines. Systems used for leak detection or monitoring, such as statistical inventory reconciliation, vapor or water monitoring wells or tracer type tests, shall not be acceptable as a precision test at the completion of the installation of a new or upgrading of an existing system. Automatic in-tank gauging may be acceptable if third-party U.S. EPA approval as a precision test has been received for testing tanks.

a. The test results shall identify the tanks tested, the test method employed, the results of the test, and shall be dated and signed by the licensed tester performing the tests.

b. The original DNR Form 148 without attachments shall be mailed to the department.

c. Inspectors are not required for testing liquid underground storage tank systems, lines, leak detection and cathodic protection as required by 567—Chapter 135 after the liquid underground storage tank systems have been put into service.

567—134.24(455B) Additional liner requirements. Liners of underground liquid storage tank systems shall apply for licensing as a liner and the liner and lining system must be a U.S. EPA-approved system.

134.24(1) Liner licensing requirements. The requirements are as follows:

- a. The applicant must possess at least one year of experience in lining underground storage tank systems with an approved lining method (see subrule 134.24(2)).
- b. The applicant must pay the annual licensing fee as provided for in rule 134.19(455B).
- c. The applicant must complete educational and examination requirements described in rule 134.20(455B) unless otherwise excepted under subrule 134.20(2).
- d. The applicant must provide evidence of environmental liability insurance as provided for in rule 134.21(455B).
- e. The applicant must be certified, licensed or approved by a lining system manufacturer or supplier for which the applicant is requesting a license and which meets the requirements in subrule 134.24(2). A copy of the lining system specification installation instructions and other documentation shall be provided to the department with the license application.
- f. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.24(2) Approval of lining systems.

a. The lining method employed must be specifically designed for the purpose, compatible with the product stored, and meet acceptable national standards. The following standards are acceptable:

(1) American Petroleum Institute, Recommended Practice for the Interior Lining of Existing Steel Underground Storage Tanks, API 1631; or

(2) National Leak Detection Association, Interior Inspection, Repair and Lining of Steel and Fiberglass Storage Tanks, NLP Standard 631, Draft of the Third Edition, February 1990.

b. No other standard will be acceptable for lining. Licensed liners shall certify, in writing to the inspector, if the system is being fully upgraded, that the requirements as noted in subrule 134.24(2) have been met. If the system is only being lined, the liner shall certify to the department that the requirements as noted under 134.24(455B) have been met.

134.24(3) Documentation of work performed—liners. Liners shall follow the process as outlined in subrule 134.22(3) for the documentation of work performed.

567—134.25(455B) Inspectors. Inspectors of underground liquid storage tank systems shall apply for licensing as an inspector and shall be trained and licensed to do the requisite work. Engineers that have met requirements in Iowa to be a registered professional engineer (P.E.) may be exempt from the educational requirement as provided for in rule 134.20(455B), but not the examination requirement.

134.25(1) Inspector licensing requirements. The requirements are as follows:

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a. The applicant must possess at least one year of experience in underground storage tank system installations, testing, inspecting or design.

b. The applicant must pay the annual licensing fee as provided for in rule 134.19(455B).

c. The applicant must complete educational and examination requirements as described in rule 134.20(455B) unless otherwise excepted under subrule 134.20(2).

d. The applicant must provide evidence of environmental liability insurance as provided for in rule 134.21(455B).

e. The applicant shall not have been issued a certificate of noncompliance from the child support recovery unit.

134.25(2) Documentation of work performed—inspector.

a. A copy of the inspection report shall be attached to the DNR Form 148 when the inspection is done in connection with a new system or the upgrading of an existing underground liquid storage system installation. "Repair" and "maintenance" as defined in 134.17(455B) do not require inspection.

(1) A licensed inspector shall inspect the job site a minimum of two times during the course of the new tank or system installation or the upgrading of an existing system.

(2) If the work being completed consists of the adding or replacement of spill or overfill devices, lining or cathodic protection designed by a corrosion expert, an inspection is not required.

(3) If the work being done consists of more than lining or adding or replacement of spill/overfill equipment, then an inspection shall be completed.

b. New installations and upgrades shall have one of the inspections take place prior to the covering of the system when all tanks and pipes are exposed. The final inspection shall take place when all systems are operational and the system has been covered, but shall occur prior to actual operation. The inspector shall be present and visually observe the final inspection and be able to attest to the results. A video or other recording device showing the work completed by the installer or liner shall not be used nor shall it be an acceptable method of providing independent inspection of the work completed.

134.25(3) Compensation. Licensed inspectors shall be compensated on the basis of a fee for each inspection by the owner or operator.

567—134.26(455B) Inspector notification regulation.

134.26(1) The licensed company is responsible for notifying the licensed inspector hired by the owner/operator prior to performing approved work. The owner/operator is responsible for notifying any state or local agency with rules impacting installations or upgrades, and identifying who the inspector shall be, if other than a governmental entity.

134.26(2) Work plan approval requires prior notice to the inspector. The notification shall include, at a minimum, the following information:

a. Description of the work planned.

b. The licensed individual responsible for the work to be performed.

c. A schedule of the work to be performed.

The inspector shall review the work plan, and any required changes by the inspector must be submitted to the installer prior to the beginning of the described work.

134.26(3) A "preinstallation checklist" as approved by the department shall be submitted at least 14 days prior to an installation or upgrade by the licensed company to the inspector and the department.

134.26(4) Inspectors are required to use an inspection form or checklist which has been approved by the department. Payment for services and department-approved secondary containment is dependent on the owner or operator as required herein having the work inspected.

134.26(5) The licensed inspector and licensed individual or company shall agree upon an inspection schedule before work commences.

134.26(6) Rescheduling due to weather or unforeseen job-site conditions shall be done as soon as the extenuating circumstances are recognized to minimize the disruption of schedules.

134.26(7) Inspectors who work directly for or as a subsidiary of a licensed company may not inspect the work of those licensed companies.

a. If the inspector establishes a contract to perform inspection services for a company or individual in any form, or performs more than five inspections per calendar year for any one company or individual, then the inspector is required to disclose that relationship in writing to the department within 30 days of the fifth inspection.

b. The department may require the owner or operator to seek alternative inspection services for any reason deemed prudent to ensure quality installations.

134.26(8) An inspector has the right to keep work from starting or to stop work on a job if standards as outlined herein are not followed by the installer. Furthermore, once an inspector has been placed on a job, that inspector cannot be replaced without the department's approval.

567—134.27(455B) Standards. Standards for new tank installations are prescribed in 567—Chapter 135, the federal technical standards for underground storage tank systems (40 CFR Part 280) and the following publications:

1. Underground Storage Tanks; Technical Requirements and State Program Approval Final Rules, 40 CFR Parts 280 & 281, Part II, Federal Register, Friday, September 23, 1988, and 567—Chapter 135, except as mandated by upgrade requirements in 591—11.4(455B,455G).

2. Installation of Underground Storage Systems, American Petroleum Institute Publication 1615, 1987.

3. Recommended Practice for the Installation of Underground Liquid Storage System, Petroleum Equipment Institute RP100-90.

4. American National Standard Code for Pressure Piping, American Society of Mechanical Engineers Standard ANSI B31.

567—134.28(455B) General procedures.

134.28(1) Database. The department will maintain a database including the following information:

a. Liquid underground storage tank systems registered with the department.

b. Licensed individuals (installers, liners, testers, inspectors).

c. Licensed companies (employers of licensed individuals).

d. Violations (including disposition or status).

134.28(2) Revocation of license. A license may be revoked for 12 months if the licensed company or individual, including installers, testers, liners or inspectors:

a. Fails to perform duties or the assigned work consistent with industry standards as outlined in Part C of this chapter.

b. Intentionally falsifies reports to the department.

c. Intentionally fails to report to the department when a prohibited practice regulated by this chapter is observed or

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identified at a site at which they are performing work regulated by this chapter.

d. Fails to report to the department any practice by any party, including the owner/operator, which is prohibited under these rules.

e. Acts in collusion with any other party.

f. Fails to report a release from an underground storage tank system to the department that is discovered by the licensed individual at a site at which they are performing work regulated by this chapter, but which has not been reported as required under 567—135.6(455B).

g. A license will be revoked upon receipt by the department of a certificate of noncompliance from the child support recovery unit.

134.28(3) Appeal. Nothing herein shall eliminate the ability of the license holder to appeal, under Iowa Code chapter 17A procedures, any administrative action allowed by these rules. Notwithstanding Iowa Code section 17A.18, the obligor does not have a right to a hearing before the department to contest the department actions under Iowa Code chapter 252J but may request a court hearing pursuant to Iowa Code section 252J.9 within 30 days of the provision of notice under this section.

These rules are intended to implement 2007 Iowa Acts, Senate File 499, section 10, and Iowa Code chapter 252J.

ITEM 3. Amend subparagraph **135.3(1)“e”(2)** as follows:

(2) The installer has been certified or licensed by the ~~Iowa comprehensive underground storage tank fund board~~ department as provided in 567—Chapter 134, Part C; or

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

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6097B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” and Chapter 76, “Application and Investigation,” Iowa Administrative Code.

These amendments eliminate mandatory interviews for the Medicaid programs for which an interview is still required. Under current rules, no interview is required for children applying for or receiving Medicaid or HAWK-I benefits, for adults applying for IowaCare, or for people who receive federal Supplemental Security Income (SSI) benefits. Federal Medicaid regulations do not require an interview when eligibility is determined at the time of application or at the time of the annual review. Iowa is one of only 12 states that still have an interview requirement for some applicants and one of only 5 states that still have an interview requirement at the annual review for some members.

Eliminating mandatory interviews for adults applying under coverage groups related to the Family Medical Assistance Program or the medically needy coverage group and for adults applying under an SSI-related coverage group who do not receive SSI will:

- Make policy consistent across programs and result in equitable treatment of all applicants and members, regardless of the coverage group for which they may qualify.

- Improve access to medical assistance for people who are elderly or disabled and for working parents. With recent increases in gasoline prices, travel to a Department office for an interview may pose a hardship, particularly for people living in rural areas. Also, it may be difficult for parents to take off work (many times without pay) to attend the interview. Many elderly and disabled members are dealing with health concerns that make traveling difficult or have representatives who do not live close by.

- Reduce administrative costs resulting from the “churning” effect when an application is denied or assistance is canceled because the person failed to attend the interview and, therefore, has to reapply.

Eliminating the mandatory interview requirement does not prohibit the Department's eligibility workers from requesting an interview with the applicant or member if the information provided is questionable or the worker otherwise feels the need to discuss the person's situation. The Department will also hold an interview if the applicant or member requests one. The Department is still required to verify the identity of the applicant as a condition of eligibility.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 9, 2007, as **ARC 5874B**. No comments were received on these amendments. These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations because they benefit the people affected.

The Council on Human Services adopted these amendments July 11, 2007.

The Department finds that these amendments confer a benefit by simplifying the application process for applicants and members. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code section 249A.3.

These amendments became effective August 1, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 75, 76] is being omitted. These amendments are identical to those published under Notice as **ARC 5874B**, IAB 5/9/07.

[Filed Emergency After Notice 7/12/07, effective 8/1/07]

[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6095B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Ser-

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vices,” and Chapter 92, “IowaCare,” Iowa Administrative Code.

These amendments rescind the rule that prohibits Medicaid payment for “routine” physical examinations. A “routine” physical examination is defined as an examination provided without relationship to treatment or diagnosis for a specific illness, symptom, complaint, or injury. This change is consistent with the coverage and payment policies of virtually all health care payors, including Medicare and major commercial payors. Coverage of routine examinations has become a standard of care, based on the rationale that providing coverage for routine preventive examinations results in better health for members through early identification and treatment of potential health conditions.

Also, under the terms of the federal 1115 waiver that authorized the IowaCare Medicaid expansion, IowaCare members may not have a better coverage benefit than is otherwise available to “regular” Medicaid members. Originally, an annual examination was a condition of eligibility for IowaCare, although subsequent legislation provides that a member shall not be ineligible due to refusal to participate in risk assessment, medical examinations, or a personal health improvement plan.

These amendments clarify that any physician, advanced registered nurse practitioner, or physician assistant who is part of a medical institution in the IowaCare provider network may perform routine examinations under IowaCare. The amendments also expand the list of providers who can furnish IowaCare examinations to include any physician, advanced registered nurse practitioner, or physician assistant who participates in the Iowa Medicaid program.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5911B**. No comments were received on these amendments. These amendments are identical to those published under Notice of Intended Action.

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

The Council on Human Services adopted these amendments July 11, 2007.

The Department finds that these amendments confer a benefit by expanding coverage for Medicaid members. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement Iowa Code sections 249A.4 and 249J.6.

These amendments became effective August 1, 2007.

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 [78.1(1)“b,” 92.8] is being omitted. These amendments are identical to those published under Notice as **ARC 5911B**, IAB 5/23/07.

[Filed Emergency After Notice 7/12/07, effective 8/1/07]
[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6083B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

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

Effective November 2005, the Department temporarily increased Medicaid reimbursement for nonemergency transportation to 30 cents per mile. (See **ARC 4626B** in the November 9, 2005, Iowa Administrative Bulletin.) An expiration date of June 30, 2007, was set to allow the Department to reevaluate fuel prices and make a policy decision whether to continue the higher reimbursement rates. The increase was extended through state fiscal year 2007 in rules Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 6, 2006, as **ARC 5195B**.

This amendment makes the increase to 30 cents per mile permanent. The amendment will be implemented retroactively to July 1, 2007, so that Medicaid members do not suffer a hardship from a decrease in reimbursement.

This amendment does not provide for waivers in specified situations because it provides a benefit to the members affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment July 11, 2007.

The Department finds that notice and public participation on this amendment are impracticable and contrary to the public interest because the time required for regular rule making would cause a hardship to the members affected. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department finds that this amendment confers a benefit by keeping reimbursement more commensurate with costs. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

To allow for public comment, Notice of Intended Action for this amendment was published in the Iowa Administrative Bulletin on July 18, 2007, as **ARC 6045B**.

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

This amendment became effective July 12, 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 subrule **78.13(5)**, paragraph “a,” as follows:

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 trans-~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

portation provided from November 1, 2005, through June 30, 2007, the maximum payment shall be 30 cents per mile.

[Filed Emergency 7/12/07, effective 7/12/07]
[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6084B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 92, "Iowa-Care," Iowa Administrative Code.

This amendment removes the requirement for payment of a premium for IowaCare members whose income is at or below 100 percent of the federal poverty level, effective July 1, 2007. Eligibility for members at this income level will not be canceled for failure to pay a premium for July. Legislation in 2007 Iowa Acts, House File 909, section 104, directed the Department to make this change.

This amendment does not provide for waivers in specified situations, since the change benefits the members who are affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted this amendment on July 11, 2007.

The Department finds that notice and public participation are impracticable, since the Legislature has directed the Department to make this change. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department also finds that this amendment confers a benefit by making health care coverage more accessible to persons whose income is at or below the poverty level. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of this amendment is waived.

Notice of Intended Action to solicit public comment on this amendment and on other proposed amendments was published in the Iowa Administrative Bulletin on July 18, 2007, as **ARC 6051B**.

This amendment is intended to implement Iowa Code section 249J.8(1) as amended by 2007 Iowa Acts, House File 909, section 104.

This amendment became effective on July 12, 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 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 |
| 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 *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 *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.

[Filed Emergency 7/12/07, effective 7/12/07]
[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6085B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 239B.4(4) and 239B.8(2), the Department of Human Services amends Chapter 93, "PROMISE JOBS Program," Iowa Administrative Code.

Effective November 2005, the Department temporarily increased the transportation allowance for participation in PROMISE JOBS activities to 30 cents per mile. (See **ARC 4626B** in the November 9, 2005, Iowa Administrative Bulletin.) An expiration date of June 30, 2006, was set to allow the Department to reevaluate fuel prices and make a policy decision on whether to continue the higher reimbursement rates. The increase was extended through state fiscal year 2007 in Rules Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5195B**.

This amendment makes the increase to 30 cents per mile the standard reimbursement. The amendment will be implemented retroactively to July 1, 2007, so that PROMISE

HUMAN SERVICES DEPARTMENT[441](cont'd)

JOBS participants do not suffer a hardship from a decrease in reimbursement.

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

The Council on Human Services adopted this amendment July 11, 2007.

The Department finds that notice and public participation on this amendment are impracticable and contrary to the public interest because the time required for regular rule making would cause a hardship to the participants affected. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department also finds that this amendment confers a benefit by keeping reimbursement more commensurate with costs. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of this amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 6086B** to allow for public comment.

This amendment is intended to implement Iowa Code section 239B.19.

This amendment became effective on July 12, 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 subrule **93.110(6)**, paragraph “b,” as follows:

b. ~~For Effective November 1, 2005, for~~ participants who use a motor vehicle they operate themselves or who hire private transportation, the transportation allowance shall be based on a formula which uses the normally scheduled days of participation in the PROMISE JOBS activity for the period covered by the allowance times the participant's anticipated daily round-trip miles times the mileage rate of ~~24~~ 30 cents per mile. ~~EXCEPTION: From November 1, 2005, through June 30, 2007, the mileage rate shall be 30 cents per mile.~~

[Filed Emergency 7/12/07, effective 7/12/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6076B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed Emergency

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

The purpose of the amendment is to strike the sunset date found at subrule 51.14(3), which requires hospitals to establish procedures for the authentication of medications and standing orders by a practitioner. The authentication of a

practitioner's orders must occur within 30 days of a patient's discharge from a hospital.

This amendment implements 2007 Iowa Acts, House File 528, section 3, which strikes a provision contained in 2001 Iowa Acts, chapter 93, section 2, that repeals the authentication language effective June 30, 2007. 2007 Iowa Acts, House File 528, which Governor Chester Culver signed on April 20, 2007, took effect upon enactment.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary as the amendment conforms the administrative rule to Iowa law. Failure to adopt this amendment would create an inconsistency in the state's hospital licensure rules.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendment should be waived and this amendment should be made effective upon filing, as the statute governing the administrative rule became effective on April 20, 2007.

The Hospital Licensing Board approved the amendment at its June 28, 2007, meeting.

The State Board of Health adopted the amendment at its July 11, 2007, meeting.

This amendment became effective July 11, 2007.

This amendment is intended to implement 2007 Iowa Acts, House File 528, section 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 adopted.

Amend subrule 51.14(3), introductory paragraph, as follows:

51.14(3) Medication orders. All orders for drugs and biologicals must be in writing and signed by the prescribing practitioner within a period not to exceed 30 days following a patient's discharge. ~~This paragraph expires June 30, 2007.~~

[Filed Emergency 7/11/07, effective 7/11/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6122B

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 amends Chapter 100, “Administration,” and adopts Chapter 107, “Game Nights,” Iowa Administrative Code.

New Chapter 107 provides rules to implement 2007 Iowa Acts, Senate File 414, which provides for cash prizes for annual game nights held by certain eligible qualified organizations. The chapter includes definitions, standards for licensing, and rules for holding a game night.

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

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

to begin licensure of annual game nights for eligible qualified organizations.

Furthermore, the Department finds that these amendments confer a benefit by allowing eligible qualified organizations to seek licenses for annual game nights that allow cash prizes to be awarded. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

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

These amendments are also published herein under Notice of Intended Action as **ARC 6123B** to allow for public comment. This emergency filing permits the Department to implement the new provisions of law.

These amendments became effective July 13, 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. Rescind and reserve rules **481—100.31(99B)** and **481—100.60(99B)** to **481—100.63(99B)**.

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

CHAPTER 107
GAME NIGHTS

481—107.1(10A,99B) Definitions. In addition to definitions found in 481—Chapter 100, the following definitions apply to annual game nights.

“Any other person” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity except an eligible qualified organization, qualified organization, or school.

“Dedicated” means the net receipts shall be used for educational, civic, public, charitable, patriotic, or religious uses in this state. “Educational, civic, public, charitable, patriotic, or religious uses” includes uses that benefit a society for the prevention of cruelty to animals or animal rescue league; uses that benefit persons either by bringing them under the influence of education or religion or by relieving them from disease, suffering, or constraint, or by erecting or maintaining public buildings or works or otherwise lessening the burden of government; and uses that benefit any bona fide nationally chartered fraternal or military veterans' corporation or organization which operates in Iowa a clubroom, post, dining room, or dance hall, but does not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used for one or more of the uses stated in Iowa Code section 99B.7(3)“b.” “Public uses” specifically includes dedication of net receipts to political parties as defined in Iowa Code section 43.2. “Charitable uses” includes uses that benefit persons who are the victims of loss of home or household possessions as a result of explosion, fire, flood, or storm when the loss is uncompensated by insurance, and uses that benefit persons suffering from a seriously disabling disease or injury which causes severe loss of income or incurs extraordinary medical expense when the loss or expense is uncompensated by insurance.

“Eligible qualified organization” means any of the following:

1. A qualified organization representing veterans means any licensed organization which is a post, branch, or chapter

of a national association of veterans of the armed forces of the United States that is a federally chartered corporation, and which 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.

2. A qualified organization representing emergency services providers means volunteer firefighters, emergency medical care providers, emergency rescue technicians, and reserve peace officers.

3. A qualified organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code and that has conducted an annual game night during the period beginning January 1, 2001, and ending December 31, 2006.

“Qualified organization” means an organization also licensed under Iowa Code section 99B.7.

“School” means an organization within a public school or private school accredited by the state board of education.

481—107.2(99B) Restrictions on game nights.

107.2(1) An annual game night is restricted to the location applied for by the qualified organization or eligible qualified organization and approved by the department.

107.2(2) A game night shall not be conducted at a location of a licensed amusement concession as defined in Iowa Code section 99B.1 or fair as defined in 99B.1 during the fair.

107.2(3) A game night shall be held for no longer than 16 consecutive hours.

481—107.3(99B) Applications. Application forms are available from the following Web site: <http://www.dia.iowa.gov/page10.html>; or by writing to the Department of Inspections and Appeals, Social and Charitable Gambling Unit, Lucas State Office Building, 3rd Floor, 321 E. 12th St., Des Moines, Iowa 50319-0083; or by telephoning (515)281-6848.

481—107.4(99B) Games. Games of skill, games of chance including Bingo and raffles, and card games may lawfully be conducted during a game night meeting the requirements of this chapter and Iowa Code chapter 99B. The following restrictions apply:

1. Slot machines are not allowed.

2. Social gambling, which includes games held pursuant to Iowa Code sections 99B.6 and 99B.12, is not permitted during a game night.

3. No other gambling activity may be engaged in at the premises during a game night.

481—107.5(99B) Sponsors. A game night may be sponsored by a school, a qualified organization, an eligible qualified organization, or any other person as defined in 107.1(10A,99B). The license(s) required, participation fees permitted, participants allowed, prizes awarded, reports required, and frequency allowed depend upon the sponsor of the game night.

107.5(1) Schools. The following provisions apply to schools as defined in 107.1(10A,99B). Schools are not required to have a license if all of the following are complied with:

a. Approval. Public school organizations must receive approval for the game night from the board of directors, and

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private school organizations must receive approval for the game night from authorities in charge.

b. Participants. Only students shall be allowed to participate in game nights sponsored by organizations of public and private schools.

c. Participation fees. No participation fees are allowed. Students may use only play money for the game night.

d. Prizes. No restrictions or limits are placed upon prizes.

e. Reports. No reports are required for schools holding game nights pursuant to this subrule.

f. Frequency. There is no restriction on the frequency of game nights for schools.

107.5(2) Qualified organization. The following apply to a qualified organization as defined in rule 107.1(10A,99B).

a. License. The organization must be licensed under Iowa Code section 99B.7 and submit an application for an annual game night license along with the \$25 annual game night license fee. An annual game night license must be issued by the department prior to the commencement of the annual game night.

b. Participation fees. The sponsor may charge an entrance fee or a fee to participate in the games, and the participants may wager their own funds. No participant may expend more than a total of \$250 for entrance fee, game participation fees, and wagers.

c. Participants. No restrictions are placed upon who may participate.

d. Prizes. The organization may award only merchandise prizes. The value of prizes shall not exceed \$10,000. The organization shall not repurchase prizes. If gift cards are used as prizes, the gift card must be redeemable for merchandise only and not cash.

e. Reports. The organization must complete a quarterly report as required by rule 107.6(99B).

f. Frequency. An organization may hold only one game night per year.

NOTE: A qualified organization that held an annual game night between January 1, 2001, and December 31, 2006, and is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code may apply as an eligible qualified organization.

107.5(3) Eligible qualified organization. The following apply to an eligible qualified organization as defined in rule 107.1(10A,99B).

a. License. The organization must be licensed under Iowa Code section 99B.7, submit an application for an annual game night license along with the \$25 annual game night license fee. An annual game night license must be issued by the department prior to the commencement of the annual game night.

b. Participation fees. The sponsor may charge an entrance fee or a fee to participate in the games and the participants may wager their own funds. No participant may expend more than a total of \$250 for entrance fee, game participation fees, and wagers.

c. Participants. No restrictions are placed upon who may participate.

d. Prizes. The organization may award cash or merchandise prizes. The total value of all the cash and merchandise prizes shall not exceed \$10,000. A participant shall win no more than a total of \$5,000 in cash and merchandise. The organization shall not repurchase prizes.

e. Reports. The organization must complete a quarterly report as required by rule 107.6(99B).

f. Frequency. An organization may hold only one game night per year.

107.5(4) Any other person. The following apply to “any other person” as defined in rule 107.1(10A,99B).

a. License. The person must be licensed under Iowa Code section 99B.7, submit an application for an annual game night license along with the \$25 annual game night license fee. An annual game night license must be issued by the department prior to the commencement of the annual game night.

b. Participation fees. The sponsor may not charge an entrance fee or participation fee for participation in games. The sponsor shall not receive any consideration directly or indirectly, other than goodwill.

c. Participants. A bona fide social or employment relationship must exist between the participants and the sponsor.

d. Prizes. No restrictions or limits are placed upon prizes.

e. Reports. No reports are required.

f. Frequency. The person may hold only one game night per year.

481—107.6(99B) Reports and dedication of funds for qualified and eligible qualified organizations.

107.6(1) Reports. Qualified organizations and eligible qualified organizations are required to submit quarterly reports to the department on department forms. An eligible qualified organization that conducts an annual game night shall submit a quarterly report only for the quarter in which the annual game night is held. If an annual game night continues into a new quarter, the entire game night shall be deemed to be conducted in the quarter in which the game night ends. EXAMPLE: If an annual game night begins at 6 p.m. March 31 and ends at 6 a.m. April 1, the entire game night shall be reported on the second quarter report. Quarterly reports are submitted on a calendar-quarter basis as follows:

- 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.

Reports shall be submitted on forms prescribed by the department within 30 days after the end of the quarter. When the due date is on Saturday, Sunday or a legal holiday, the report shall be due the next business day. The quarterly report form can be printed from www.dia.iowa.gov/page10.html or obtained by telephoning the department at (515)281-6848.

107.6(2) Records. The department may require a qualified organization to submit additional records with the quarterly report or any other time.

107.6(3) Dedicated receipts. Dedicated net receipts are to be used for educational, civic, public, charitable, patriotic, or religious uses as defined in rule 107.1(10A,99B). The qualified organization or eligible qualified organization shall:

a. Distribute at least 75 percent of the net receipts to a dedicated purpose;

b. Distribute all the net receipts. “Net receipts” means the receipts of all games and participation fees less prizes and taxes. Other expenses (expenses other than prizes and taxes) shall not be greater than 25 percent of net receipts.

481—107.7(422) State and local option sales tax. Gross receipts from gambling are subject to state and local option sales tax, except for cities and counties. Tax information may be obtained from the Department of Revenue, Hoover State Office Building, Des Moines, Iowa 50319.

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These rules are intended to implement Iowa Code sections 99B.2(4), 99B.7, 99B.7B, 99B.8, and 423.2 as amended by 2007 Iowa Acts, Senate File 414.

[Filed Emergency 7/13/07, effective 7/13/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6065B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency**

The State Fire Marshal, pursuant to the authority of Iowa Code section 100B.10, hereby amends Chapter 259, "Fire Fighter Training and Equipment Funds," Iowa Administrative Code.

Iowa Code chapter 100B establishes the Fire Service Training Bureau and the State Fire Service and Emergency Response Council within the Fire Marshal Division of the Department of Public Safety. The Fire Service Training Bureau and the State Fire Service and Emergency Response Council have broad responsibility to provide training for fire fighters and to coordinate fire fighter training provided by various providers across the state. Since 2003, the Fire Service Training Bureau and the State Fire Service and Emergency Response Council also have administered limited funds for planning of fire fighter training facilities in the state. Legislation enacted during the 2006 session of the Iowa General Assembly dramatically increased the funds available for planning, design, and construction of regional fire fighter training facilities, designated lead and partner agencies for these facilities, established specific areas to be served by each facility, made specific funding allocations to each, established requirements for receipt and use of the funds, and authorized the Fire Marshal to establish administrative rules to implement the regional fire fighter training facility program. Legislation in 2007 Iowa Acts, House File 911, provided additional funding for development and construction of these facilities and added agencies to the lists of lead and partner agencies for two of the regional facilities.

The adopted amendments are intended to implement changes in the law adopted in 2007 Iowa Acts, House File 911. In order to meet the time lines established in the law, these amendments are being adopted through emergency procedures, so that the effective date of the amendments, July 1, 2007, is the same as that of the legislation.

These amendments are also published under Notice of Intended Action herein as **ARC 6064B** to provide for a period of public comment, including a public hearing. The public hearing will be held on September 5, 2007, at 10:30 a.m. in

Room 125, Department of Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319.

Pursuant to Iowa Code subsection 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments are impractical. The time-lines for awarding of funds to regional fire fighter training facilities were established by statute in 2006 and are ambitious. Having these rules in place is necessary to proceed with the funding process.

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 allowing the development of regional fire fighter training facilities to proceed as promptly as possible.

These amendments are intended to implement Iowa Code chapter 100B as amended by 2007 Iowa Acts, House File 911.

These amendments 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 amendments are adopted.

ITEM 1. Amend rule **661—259.302(100B)** by amending the following definitions:

"Allocated funds" means funds allocated *by the general assembly* for the construction of a particular regional emergency response training center.

"Competitive funds" means funds which are appropriated or otherwise available to the regional emergency response training center program for construction of regional emergency response training facilities, but which are not designated *by the general assembly* for the use of a particular regional emergency response training center.

"Lead agency" means one of the community colleges identified as lead agencies in 2006 Iowa Acts, ~~House File 2782, section 44~~ Code section 100B.22, subsection 1.

"Partner agency" means one of the agencies identified as partners in 2006 Iowa Acts, ~~House File 2782, section 44~~ Code section 100B.22, subsection 1.

"Regional emergency response training center" means one of the centers identified in 2006 Iowa Acts, ~~House File 2782, section 44~~ Code section 100B.22, subsection 1.

ITEM 2. Amend rule 661—259.303(100B) as follows:

661—259.303(100B) Availability of funds. Lead agencies of regional emergency response training facilities, acting in concert with their respective partner agencies, may apply for and receive funds appropriated or otherwise available for construction of regional emergency response training facilities.

NOTE: The following amounts have been allocated for regional training facilities for state fiscal year 2007:

| Merged Area | Lead Agency/Partners | Amount |
|-------------|---|-----------|
| I | Northeast Iowa Community College Partner: Dubuque County Firemen's Association | \$150,000 |
| II | North Iowa Area Community College Partner: Mason City Fire Department | \$400,000 |
| III | Iowa Lakes Community College | \$400,000 |
| V | Iowa Central Community College | \$400,000 |

PUBLIC SAFETY DEPARTMENT[661](cont'd)

| Merged Area | Lead Agency/Partners | Amount |
|---------------|--|--|
| VII | Hawkeye Community College Partner: Waterloo Regional Hazardous Materials Center | \$150,000 (allocated to Waterloo Regional Hazardous Materials Training Center) |
| IX | Eastern Iowa Community College Partner: Davenport Fire Department | \$400,000 |
| X | Kirkwood Community College Partners: Coralville Fire Department and Iowa City Fire Department | \$400,000 (allocated to Coralville Fire Department) |
| XI | Des Moines Area Community College | \$400,000 |
| XII | Western Iowa Technical Community College Partner: Sioux City Fire Department | \$400,000 (allocated to Sioux City Fire Department) |
| XIII, XIV | Iowa Western Community College Partners: Southwestern Community College and Council Bluffs Fire Department | \$500,000 (allocated to Council Bluffs Fire Department) |
| XV, XVI | Southeastern Iowa Community College Partners: Indian Hills Community College and Fort Madison Fire Department | \$400,000 |
| Not specified | Any lead agency (Priority is given to the two regional emergency response training centers which serve two merged areas each.) | \$300,000 |

ITEM 3. Amend subrule **259.304(1)**, paragraph “h,” as follows:

h. The deadline for submission of each completed application for funding during a state fiscal year 2007 is September 15, 2006 of that fiscal year.

EXCEPTION: If funds remain available for distribution through the regional emergency response training center program after all applications received by the September 15 deadline have been processed, the state fire marshal may conduct an additional application process during the same fiscal year. If such an additional application process is conducted, an announcement of the availability of funds, specifying the deadline for receipt of applications and other instructions for applying for funds, shall be provided to all regional emergency response training centers and shall be published in the Iowa Administrative Bulletin.

ITEM 4. Amend rule 661—259.305(100B) as follows:

661—259.305(100B) Processing of submitted applications.

259.305(1) No change.

259.305(2) After receiving the recommendations of the council or subcommittee, the fire marshal shall make a determination as to whether funding will be awarded in whole or in part for each application or whether the application will be denied. Each applicant shall be notified promptly of the disposition of the applicant’s application. If the application is denied or partial funding is awarded, the applicant shall be informed as to the reasons for the denial or partial funding. Applications for allocated funding shall be evaluated based on the criteria for funding included in 2006 Iowa Acts, House File 2782, section 44 Code section 100B.22, subsection 3, and any applicable criteria for establishing priority for the funding established by the general assembly. ~~Applications for competitive funding shall be evaluated on the basis of these same criteria and the criterion for establishing priority for this funding included in 2006 Iowa Acts, House File 2782, section 11. Competitive funding may not be used for facilities the primary purpose of which is to provide advanced training.~~

259.305(3) Appeals.

a. An applicant who is denied funding or whose application is funded in part may appeal this decision to the fire marshal. Such an appeal shall be treated as a contested case subject to the provisions of rules 661—10.301(17A) through 661—10.322(17A), *except that the request for an appeal shall be filed with the Fire Marshal Division, Department of*

Public Safety Building, 215 East 7th Street, Des Moines, Iowa 50319, and wherever “commissioner” or “commissioner of public safety” appears, “state fire marshal” shall be substituted.

b. Prior to appealing a decision, the applicant may submit a revised application to the fire marshal. If an applicant intends to submit a revised application, the applicant shall so notify the fire marshal within the time frame established for filing an appeal. Upon receipt of a revised application, the fire marshal shall cause the revised application to be processed in accordance with subrules 259.305(1) and 259.305(2). If a revised application is denied or funded in part, the applicant may appeal in accordance with paragraph “a” of this subrule.

ITEM 5. Amend **661—Chapter 259, Division III**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 100B as amended by 2006 2007 Iowa Acts, House File 2782 911.

[Filed Emergency 6/27/07, effective 7/1/07]

[Published 8/1/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6129B

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby amends Chapter 21, “Election Forms and Instructions,” Chapter 22, “Voting Systems,” and Chapter 26, “Counting Votes,” Iowa Administrative Code.

The changes to Chapter 22 are intended to implement the requirements of 2007 Iowa Acts, Senate File 369, which was signed by the Governor on May 29, 2007, and became effective on July 1, 2007. 2007 Iowa Acts, Senate File 369, makes significant changes to laws governing the use of voting equipment, including a requirement that direct recording electronic voting equipment include a paper record for review by the voter. In addition, 2007 Iowa Acts, Senate File 369, repeals all provisions of Iowa law relating to lever vot-

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ing machines and central count of optical scan ballots (other than absentee and provisional ballots).

In compliance with Iowa Code section 17A.4(2), the Secretary finds that notice and public participation are unnecessary because many of the changes made in implementing 2007 Iowa Acts, Senate File 369, are purely technical changes in terminology or are necessary because of the repeal of the statutes upon which many of the rules were based. Public notice and participation at this time are also contrary to the public interest, because 2007 Iowa Acts, Senate File 369, became effective on July 1, 2007, and these amendments are necessary guidance for counties to follow in conducting elections that will be held before the earliest possible implementation date of these amendments filed under Notice of Intended Action. However, these amendments are also published herein under Notice of Intended Action as **ARC 6127B** in order to solicit public comment and suggestions for improvements.

The Secretary also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendment should be made effective upon filing on July 13, 2007, as 2007 Iowa Acts, Senate File 369, became effective on July 1, 2007. The Governor signed 2007 Iowa Acts, Senate File 369, on May 29, 2007, leaving no time for the normal administrative rules process.

The Secretary of State adopted these amendments on July 13, 2007.

These amendments became effective on July 13, 2007.

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

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

The following amendments are adopted.

ITEM 1. Amend subrule **21.1(10)**, second unnumbered paragraph, to read as follows:

If voting machines ~~are~~ *or automatic tabulating equipment* is used, the machines *or automatic tabulating equipment* shall be closed and sealed without printing the results. Before the date the election is held, the machines *or automatic tabulating equipment* shall be reset to zero. Any documents showing the progress of the count, *including paper records required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2*, shall be sealed and stored. No one shall reveal the progress of the count. After six months, the envelope containing the vote totals shall *be* destroyed if no contest is pending.

ITEM 2. Amend rule 721—21.25(50) to read as follows:

721—21.25(50) Administrative recounts. When the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, the commissioner may request an administrative recount after the day of the election but not later than three days after the canvass of votes. The request shall be made in writing to the board of supervisors explaining the nature of the problem and listing the precincts to be recounted and which offices and questions shall be included in the administrative recount.

The recount shall be conducted by members of the special precinct board following the provisions of Iowa Code ~~sections~~ *section 50.48 as amended by 2007 Iowa Acts, Senate File 369, section 3, and Iowa Code section 50.49 and 721—*

Chapter 26. The recount board may use a computer program board which was not used in the election to compare with the suspected defective one.

If direct recording electronic voting machines were used in the election, the paper record required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2, shall be used in the recount. However, if the commissioner believes or knows that the paper records produced from a machine have been compromised due to damage, mischief, malfunction, or other cause, the printed ballot images produced from the internal audit log for that machine shall be the official record used in the recount. In addition to the external paper record, the internal audit log required by 2007 Iowa Acts, Senate File 369, section 7, subsection 1, paragraph “k,” shall be available for use in the recount and shall be used if the paper record has been compromised.

This rule is intended to implement ~~1997 Iowa Acts, House File 636, section 59~~ *Iowa Code section 50.48 as amended by 2007 Iowa Acts, Senate File 369, section 3, and Iowa Code section 50.49.*

ITEM 3. Amend rule 721—22.1(52) to read as follows:

721—22.1(52) Definitions for certification of voting equipment.

“Accredited independent test authority” means a person or agency that is ~~was~~ formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software. “Accredited independent test authority” *also includes voting system test laboratories accredited by the Election Assistance Commission to test voting systems for compliance with federal voting system standards and guidelines, as required by the Help America Vote Act, Section 231.*

“Audio ballot” means the presentation of the contents of a ballot on a direct recording electronic voting machine in a recorded format, played to the voter over headphones. ~~Audio~~ *An audio ballot is used to make voting accessible to persons with visual disabilities.*

“Automatic tabulating equipment” means apparatus, including but not limited to electronic data processing machines, that are utilized to ascertain in the manner in which optical scan ballots have been marked by voters or by electronic ballot marking devices, and count the votes marked on the ballots.

“Ballot” means the official document that includes all of the offices or public measures to be voted upon at a single election, whether they appear on one or more paper ballots. The term includes paper ballots designed to be read by automatic tabulating equipment. In appropriate contexts, “ballot” also includes conventional paper ballots.

“Ballot marking device” means a pen, pencil, or similar writing tool, or an electronic device, all designed for use in marking an optical scan ballot, and so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.

“Certification” means formal approval of voting machines or ~~electronic voting equipment~~ *optical scan voting systems* for use in Iowa pursuant to Iowa Code sections 52.5, ~~52.7~~ and 52.26 and 2007 Iowa Acts, Senate File 369, section 7.

“Early voting” means the process of receiving ballots from voters before election day without using absentee voting procedures. Iowa law does not authorize this process.

“Electronic ballot marking device” means a component of an optical scan voting system designed to assist voters with disabilities by displaying audio and visual ballot information to the voter, providing accessible methods for the voter to

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make selections, and then printing the voter's choices on an optical scan ballot.

"Electronic transmission" means using hardware and software components to send data over distances both within and external to the polling place and to receive an accurate copy of the transmission.

"Examiners" means the board of examiners for ~~voting machines and electronic~~ voting systems described in Iowa Code section 52.4 as amended by 2007 Iowa Acts, Senate File 369, section 28.

"Optical scan ballot" means a printed ballot designed to be marked by a voter with a ballot marking device and to be counted by use of automatic tabulating equipment.

"Optical scan voting system" means a system employing paper ballots under which votes are cast by voters by marking paper ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.

"Program" means the written record of the set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

"Qualification test" means the examination and testing of an ~~electronic~~ a voting system by an independent test authority using the voting system standards required by Iowa Code section 52.5 and rule 721—22.2(52) to determine whether the system complies with those standards.

"Vendor" means a person or representative of a person owning or being interested in a voting machine or ~~electronic optical scan~~ voting system seeking certification of the equipment for use in elections in Iowa.

"Voting booth" means an enclosure designed to be used by a voter while marking a *conventional* paper ballot, ~~special paper optical scan~~ ballot or ballot card.

"Voting equipment" means voting machines and ~~electronic optical scan~~ voting systems which are required by Iowa Code sections 52.5, ~~52.7~~, and 52.26 and 2007 Iowa Acts, Senate File 369, section 7, to be approved for use by the examiners.

"Voting machine" means a direct recording *electronic device* meeting the requirements of 2007 Iowa Acts, Senate File 369, section 7, subsections 1 and 2, and designated for use in casting, registering, recording, and counting votes at an election.

"Voting system" means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). "Voting system" also includes the practices and associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

ITEM 4. Amend subrule 22.5(8) to read as follows:

22.5(8) Descriptions of the equipment including the methods used to comply with the requirements of ~~Iowa Code section 52.7~~ 2007 Iowa Acts, Senate File 369, section 7, if the equipment to be examined is a voting machine, or Iowa Code section 52.26, if it is an ~~electronic optical scan~~ voting system. This description shall include an acknowledgment of the following requirements:

a. On or after July 1, 2007, a county whose voting system primarily utilizes voting machines, as defined in Iowa Code section 52.1 as amended by 2007 Iowa Acts, Senate File 369, section 5, shall, when seeking to replace the voting system, replace the voting system with an optical scan voting system only. A county shall meet the requirements of the federal Help America Vote Act relating to disabled voters through the use of electronic ballot marking devices that are compatible with an optical scan voting system.

b. On or after July 1, 2007, a county that utilizes a voting machine, as defined in Iowa Code section 52.1 as amended by 2007 Iowa Acts, Senate File 369, section 5, and an optical scan voting system concurrently at the same precinct shall, when seeking to replace the voting machine, replace the voting machine with an electronic ballot marking device that is compatible with an optical scan voting system in order to ensure that each precinct in the county shall have at least one electronic ballot marking device.

ITEM 5. Rescind subrule 22.5(10) and insert in lieu thereof the following **new** subrule:

22.5(10) The form prescribed by the state commissioner of elections to request examination and testing of voting systems.

ITEM 6. Amend subrule 22.9(1) to read as follows:

22.9(1) Test county for ~~central-count systems~~ *absentee voting*. Voting equipment which is designed to be used for tabulation of *absentee* ballots at a ~~counting center~~ pursuant to ~~Iowa Code section 52.34~~ shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. congressional district, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

ITEM 7. Amend subrule **22.10(2)** by rescinding paragraphs "**o**" and "**p**."

ITEM 8. Amend subrule **22.11(1)**, paragraphs "**a**" to "**d**," to read as follows:

- a. ~~Regional Library Township~~ Trustee
- b. ~~Township Clerk~~
- c. County Public Hospital Trustee
- d. Soil and Water Conservation District Commissioners
- e. Agricultural Extension Council

ITEM 9. Rescind rule 721—22.12(52) and insert in lieu thereof the following **new** rule:

721—22.12(52) Report of findings. The examiners shall complete a report showing their findings. The report shall include a checklist containing all statutory requirements for voting systems and shall indicate whether each requirement applies to the voting system being examined and whether the voting system is compliant or not compliant. The checklist must indicate that all applicable items are compliant with statutory requirements in order for the examiners to find that the voting system may be approved for use.

22.12(1) Approval permits use. If the report states that the voting system has been approved for use, the voting system may be adopted for use at elections.

22.12(2) Report filed with the secretary of state. The report shall be filed with the secretary of state. The secretary of state shall retain the vendor's application and other docu-

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ments submitted pertaining to the certification as long as the voting system remains certified.

ITEM 10. Amend subrule **22.18(1)**, paragraph “**d**,” to read as follows:

d. *Equipment that has been certified for use no longer complies with the requirements of Iowa law.*

e. Any other grounds that may materially affect delivery or performance of the equipment.

ITEM 11. Rescind and reserve rule **721—22.40(52)**.

ITEM 12. Amend rule 721—22.41(52), introductory paragraph, to read as follows:

721—22.41(52) Preelection testing of optical scan systems. As a part of preparation for use for each election, the commissioner shall thoroughly test all automatic tabulating equipment (including equipment that will be used for counting absentee ballots) before it is tested publicly as required by Iowa Code sections *section 52.35 and 52.38* and rule 721—22.43(52). The process and results of the preelection testing shall be carefully documented and shall be available for inspection at the public test. Members of the public may observe preelection testing, but may not participate in it.

ITEM 13. Amend rule 721—22.43(52), introductory paragraph, to read as follows:

721—22.43(52) Public testing of optical scan systems. All automatic tabulating equipment (including equipment used to tabulate absentee ballots) shall be tested before use at any election, as required by Iowa Code sections *section 52.35 and 52.38*.

ITEM 14. Amend rule 721—22.100(52) to read as follows:

721—22.100(52) Special paper Optical scan ballots, portable vote tallying systems automatic tabulating equipment, and central count systems absentee voting. The board of supervisors of any county may authorize, purchase and order the use of special paper *optical scan* ballots and a ~~portable vote tallying system automatic tabulating equipment~~ for voting at any or all of the polling places or for absentee voting within a county at any election. ~~The supervisors may also authorize the use of special paper ballots in conjunction with a central count system.~~

ITEM 15. Amend rule 721—22.101(52) to read as follows:

721—22.101(52) Definitions. The definitions established by this rule shall apply whenever the terms defined appear in relation to a ~~portable vote tallying an optical scan~~ system used with the type of ballot defined in this rule.

“Ballot” means the official document that includes all of the offices or public measures to be voted upon at a single election, whether they appear on one or more special paper *optical scan* ballots.

“Central count system” means a system employing special paper ballots under which votes are cast by voters marking special paper ballots with a vote marking device and are counted by use of automatic tabulating equipment at a counting center pursuant to Iowa Code *section 52.37*.

“Optical scan ballot” means a special paper ballot.

“Optical scan voting system” means a tabulating device that reads ballots by detecting voters’ marks using reflected or absorbed light. An optical scan voting system may be used to count ballots either at the polling place (precinct count) or at a counting center (central count). Optical scan ballots are special paper ballots designed for use with an optical scan

~~voting system~~ means a system employing paper ballots under which votes are cast by voters by marking paper ballots with a ballot marking device and thereafter counted by use of automatic tabulating equipment.

“Overvote” means to vote for more than the permitted number of choices for any office or question on a ballot.

~~“Portable vote tallying system” means a system employing special paper ballots under which votes are cast by voters marking special paper ballots with a vote marking device and are counted by use of automatic tabulating equipment located in the precinct polling place.~~

“Secrecy envelope” means a reusable envelope of sufficient construction that when the special paper *optical scan* ballot is inserted in it all portions indicating voting marks are hidden from view.

“Special paper ballot” means a printed ballot designed to be marked by a voter with a vote marking device.

“Tabulating device” means the portable apparatus which removes the special paper *optical scan* ballot from the secrecy envelope, examines and counts the votes recorded on the special paper *optical scan* ballot, and produces a paper print-out of the results of the voting.

“Ticket” means each list of candidates nominated by a political party or group of petitioners.

“Undervote” means to vote for fewer than the permitted number of choices for any office or question on a ballot.

“Voting system” means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). “Voting system” also includes the practices and associated documentation used to identify system components and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

“Voting target” means the space on a special paper *an optical scan* ballot which the voter marks to cast a vote for a candidate, judge or question. This target shall be printed according to the requirements of the voting system to be used to read the ballots.

ITEM 16. Amend rule 721—22.102(52) to read as follows:

721—22.102(52) Special paper Optical scan ballots. The special paper *optical scan* ballots shall be printed pursuant to Iowa Code chapters 43 and 49 and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the system.

22.102(1) The special paper *optical scan* ballots may be printed on both sides of a sheet of paper. If both sides are used, the words “TURN THE BALLOT OVER” “*Turn the ballot over*” shall be clearly printed in at least 24-point type (1/4” high) on the front and the back of the special paper *optical scan* ballot, at the bottom.

22.102(2) Printed at the top of the front side of the special paper *optical scan* ballot shall be the name and date of the election; the words, “Official Ballot”; a designation of the ballot rotation, if any; and a facsimile of the commissioner’s signature.

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22.102(3) The voting target shall be printed opposite each candidate's name and write-in line on the ~~special paper~~ *optical scan* ballot, and opposite the "yes" and "no" for each public measure and judge. Wherever possible, the voting target shall be printed on the left side of the name or "yes" and "no". The voting target shall be an oval unless the voting system requires a target with a different shape.

22.102(4) For partisan primary elections, the names of candidates representing each political party shall be printed on separate ~~special paper~~ *optical scan* ballots. The ballots shall be uniform in quality, texture and size. The name of the political party shall be printed in at least 24-point type (1/4" high) at the top of the ballot.

22.102(5) to 22.102(9) No change.

ITEM 17. Amend the heading that precedes rule **721—22.340(52)** to read as follows:

~~CENTRAL COUNT SYSTEMS~~ *OPTICAL SCAN VOTING SYSTEM
USED FOR ABSENTEE AND SPECIAL VOTERS PRECINCT*

ITEM 18. Amend rule 721—22.340(52) to read as follows:

721—22.340(52) Central count system processing Processing. All ~~central count~~ scanners *used to tabulate absentee and provisional ballots* shall be configured to sort blank ballots and ballots containing marks in write-in vote targets for review by the resolution board. ~~Central count~~ *The* scanners shall not be configured to sort ballots with overvotes. *However, if it is not possible to configure the scanners used to count absentee ballots differently from those used at the polling places, the person operating the scanner shall override the scanner and accept overvoted ballots as they are processed.* The resolution board shall follow the requirements of 721—subrule 26.2(2). The commissioner shall provide the resolution board with a copy of 721—Chapter 26, "Counting Votes."

This rule is intended to implement Iowa Code section 52.33 as amended by 2007 Iowa Acts, Senate File 369, section 9.

ITEM 19. Amend rule 721—22.341(52) to read as follows:

721—22.341(52) Counting Reporting results from absentee ballots and provisional ballots. Absentee and provisional ballot results shall be reported as a single precinct as required by subrule 22.102(7). ~~All other procedures for tabulating absentee and provisional ballots shall be performed according to the procedures prescribed for central count systems.~~

ITEM 20. Rescind rule 721—22.342(52) and insert in lieu thereof the following new rule:

721—22.342(52) Tally list for absentee and special voters precinct.

22.342(1) Write-in votes shall be reported on a separate tally sheet which provides a column for the names of offices, a column for the names of persons receiving votes, space to tally the votes received, and a column in which to report the total number of votes cast for each person. In tally lists provided for primary elections, separate pages shall be provided to tally the write-in votes for each political party. Each member of the board who participated in the count shall attest to each tally sheet for write-in votes.

22.342(2) The officials shall certify the procedures followed. The certification shall be in substantially the following form:

Absentee and Special Voters Tally Certificate

_____ County

We, the undersigned officials of the Absentee and Special Voters Precinct for this county, do hereby certify that all ballots delivered to the Board for this election were tabulated as shown in the attached report.

We further certify that a record of any write-in votes or other votes manually counted pursuant to Iowa Code chapter 52 is included in this Tally List, and that the numbers entered in the column headed "Total Votes" are the correct totals of all votes manually counted by us.

Signed at _____ on ___/___/___, ___:___ a.m./p.m.

[signatures of officials] 1. _____
2. _____(etc.)

22.342(3) The record generated by the tabulating equipment shall be attached to or enclosed with the tally list and shall constitute the official return of the precinct.

This rule is intended to implement Iowa Code section 52.33 as amended by 2007 Iowa Acts, Senate File 369, section 9.

ITEM 21. Amend rule 721—22.431(52) to read as follows:

721—22.431(52) Temporary use of printed ballots in voting machine precincts. The county commissioner of elections shall furnish a supply of printed ballots to each precinct where ~~voting machines, including~~ direct recording electronic (DRE) *voting machines*, are to be used for any election.

22.431(1) Conditions under which paper ballots shall be used. In any precinct in which voting machines are designated as the only method of voting for ~~any~~ *an* election, a paper ballot shall be furnished to any person offering to vote, ~~in addition to those under the provisions set out in~~ *of* Iowa Code sections 49.81 and 49.90, ~~if or to any person offering to vote if any of the following apply:~~

a. A power failure prevents use of the voting machines.

b. A malfunction occurs which prevents the use of one or more voting machines. *If one or more additional DRE voting machines are available and functioning properly, they may be used in lieu of the paper ballot at the voter's option.*

c. ~~It is found that any voting machine has been prepared with all or part of a ballot strip meant for another precinct. A malfunction occurs preventing one or more voting machines from producing the paper record required in 2007 Iowa Acts, Senate File 369, section 7, subsection 2. If one or more additional DRE voting machines are available and functioning properly, they may be used in lieu of the paper ballot at the voter's option.~~

d. ~~It is found that the ballot strips for any voting machine have been misprinted. A voter reports that the paper record shows different votes from those shown on the electronic screen. If this occurs, the precinct officials shall immediately shut down the DRE voting machine and contact the commissioner.~~

e. Any other condition exists due to a fault of the voting machine or machines which prevents the person or persons offering to vote at that precinct from casting their votes.

22.431(2) to 22.431(4) No change.

This rule is intended to implement Iowa Code section 49.28 as amended by 2007 Iowa Acts, Senate File 369, section 1.

ITEM 22. Rescind and reserve rule **721—22.461(52)**.

ITEM 23. Amend rule 721—22.463(52) by adding the following new subrule:

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22.463(4) Real time audit log (RTAL). In counties where the RTAL is available, the commissioner shall use this feature in every election in which the iVotronic is used. The RTAL ballot records are the official ballots to be used in any recount of votes received on the iVotronic.

ITEM 24. Amend subrule 22.464(4) to read as follows:

22.464(4) AccuView Printer Module (AVPM). ~~The In counties where the AVPM is available, the commissioner may shall use this optional feature. For elections held on or after November 4, 2008, Iowa law neither prohibits nor permits requires its use. The commissioner shall not provide to a recount board any information stored in the AVPM printer module canister as provided in subrule 26.104(1).~~

a. to d. No change.

e. After the polls close on election day, the precinct election officials shall remove the paper roll from each canister containing ballot images recorded during the election by following the procedure described in paragraph "d," above. The sealed paper rolls shall be stored for 22 months after federal elections and for 6 months after all other elections. After the retention period has passed, the tapes shall be destroyed without opening the envelope or other container, *unless there is a recount or an election contest that requires a recount.*

ITEM 25. Amend subrules 26.2(2) and 26.2(4) to read as follows:

26.2(2) Optical scan—~~central count absentee and special voters precinct.~~ The ballots shall be counted at the ~~counting center a single location on election day as required by Iowa Code section 52.37(2) 53.23.~~ When it is necessary to duplicate or enhance a ballot because it is read as blank, the officials shall follow the standards in rules 26.12(50) through 26.21(49).

26.2(4) Voting machines. Votes shall be counted following the standards in Part IV. If a voter leaves the voting booth without casting the ballot, the precinct election officials shall cast the ballot without examining the face of the machine. Emergency paper ballots shall be counted following the standards in Part III. The standards in Part IV apply to the Iowa-certified versions of the following voting systems:

- a. MicroVote.
- b. Election Systems & Software iVotronic.
- c. ~~Fidlar Doubleday EV2000.~~
- d. ~~Sequoia Pacific Automatic Voting Machine.~~
- e. ~~Sequoia Pacific Automatic Voting Computer.~~
- f b. Diebold Election Systems TSX.

ITEM 26. Amend subrule 26.4(1) to read as follows:

26.4(1) If an optical scan voting system is used, the board shall follow the procedures in subrule 26.2(2) ~~for central count.~~

ITEM 27. Rescind and reserve subrule **26.4(3)**.

ITEM 28. Amend rule 721—26.12(50) to read as follows:

721—26.12(50) Wrong ballots. Optical scan voting equipment shall be programmed to reject ballots not coded for use in the precinct, as required by 721—subrule 22.201(1).

26.12(1) Central count. ~~If the tabulating device sorts out ballots that are coded for a precinct other than the precinct being tabulated, the resolution board appointed pursuant to Iowa Code section 52.36 shall duplicate on the correct ballot for the precinct all offices and questions that are common to all voters in both precincts. An office or question that is included on the correct ballot for the precinct where the ballot was cast, or is not included on every ballot for that precinct,~~

~~shall not be duplicated. The officials shall note on the original ballot which offices have not been duplicated.~~

26.12(2) Precinct count. If a recount board appointed pursuant to Iowa Code section 50.48 finds ballots that are coded for a precinct other than the precinct being tabulated, those ballots shall not be counted unless the commissioner or the commissioner's designee reports that the wrong ballots were delivered to the polling place. The recount board shall immediately report to the commissioner the number of these ballots. The recount board and the commissioner shall securely seal the ballots coded for another precinct and attach to the ballot package a report of the findings. A copy of the report shall be forwarded to the county attorney as a possible violation of Iowa Code section 39A.2(1)"b"(2).

ITEM 29. Rescind and reserve rule **721—26.62(52)**.

ITEM 30. Amend subrule **26.104(1)**, paragraph "d," to read as follows:

d. For direct recording electronic voting systems, the ~~internal audit trail of ballot images paper record required by 2007 Iowa Acts, Senate File 369, section 7, subsection 2,~~ shall constitute the ballots for purposes of the recount. *However, if the commissioner believes or knows that the paper records produced from a machine have been compromised due to damage, mischief, malfunction, or other cause, the printed ballot images produced from the internal audit log for that machine shall be the official record used in the recount.*

ITEM 31. Amend subrules 26.105(2) and 26.105(3) to read as follows:

26.105(2) Optical scan tabulation duties. In counties with electronically tabulated ~~special paper optical scan~~ ballots, the recount board may request that the ballots be recounted by machine, may count the ballots by hand, or may do both. The county commissioner or members of the commissioner's staff shall operate the tabulation equipment for machine recounts. The same program used on election day shall be used in the recount unless the program is believed or known to be flawed.

26.105(3) DRE voting machine tabulation duties.

a. *Reel-to-reel paper records.* Because a record of each voter's ballot is preserved in the same order in which the ballots were cast, the commissioner shall not provide to recount board members any record of voters that may be used to determine the identity of any voter in connection with any ballot. *The commissioner shall provide one reel of ballot records at a time and, upon completion of the tally of the votes on the reel, return the reel to its secure storage device. Members of the recount board shall witness the process of sealing the paper records and sign where appropriate.*

b. *Internal audit log.* Working with one precinct at a time, the designated members of the commissioner's staff shall print the ballot images from the DRE voting machine internal audit log. The ballot image report from each precinct shall be sealed in the same manner as voted ballots at the conclusion of the recount.

[Filed Emergency 7/13/07, effective 7/13/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6063B**SECRETARY OF STATE[721]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments provide to county commissioners of elections instructions on the mailing of absentee ballots, including a receipt form to be mailed with absentee ballots, and instructions for examining the absentee ballot affidavit envelopes and for contacting voters who have not completed the affidavit or who have made other mistakes that will result in rejection of the absentee ballot. Rules 721—21.370(53) through 21.376(53), describing the absentee courier process, are rescinded because Iowa Code section 53.17, subsection 1, paragraph "c," and section 53.17, subsection 4, which authorize this procedure, were, in effect, repealed by 2007 Iowa Acts, Senate File 601, sections 226 and 227, effective on July 1, 2007.

In compliance with Iowa Code section 17A.4(2), the Secretary finds that notice and public participation are contrary to the public interest, because the effective date of the legislation mandating these changes is July 1, 2007. These amendments are necessary to provide a basic set of procedures for elections being held in July.

These amendments are also published herein under Notice of Intended Action as **ARC 6128B** in order to solicit public comment.

The Secretary also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on July 1, 2007, the effective date of the statutory changes. The Governor signed 2007 Iowa Acts, Senate File 369, on May 29, 2007, leaving no time for the normal administrative rules process.

The Secretary of State adopted these amendments on June 25, 2007.

These amendments became effective on July 1, 2007.

These amendments are intended to implement 2007 Iowa Acts, Senate Files 416 and 601.

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 721—21.300(53) as follows:

Amend the introductory paragraph as follows:

721—21.300(53) Satellite absentee voting stations. The county commissioner of elections may designate locations in the county for absentee voting stations. If the commissioner receives a petition requesting that a satellite absentee voting station be established at a location described on the petition, the commissioner shall provide the requested station if the petition was properly signed and filed. The petition shall be rejected if the site chosen is not accessible to elderly and disabled voters or has other physical limitations that make it impossible to meet the requirements for ballot security and secret voting, or if the owner of the site refuses permission to locate the satellite absentee voting station at the site named on the petition. *The commissioner may also refuse to conduct satellite voting for the runoff election if a special election is scheduled to be held between the regular city election and a*

city runoff election. The petition may be refused if the owner of the site demands payment for its use.

Amend the implementation clause as follows:

This rule is intended to implement Iowa Code section 53.11 as amended by 2007 Iowa Acts, Senate File 416.

ITEM 2. Amend 721—Chapter 21 by adding the following **new** rule:

721—21.303(53) Mailing absentee ballots. The commissioner shall mail the following materials to each person who has requested an absentee ballot:

1. Ballot. The ballot that corresponds to the voter's residence, as indicated by the address on the absentee ballot application.

2. Public measure text. The full text of any public measures that are summarized on the ballot, but not printed in full.

3. Secrecy envelope. Secrecy envelope, if the ballot cannot be folded to cover all of the voting ovals, as required by Iowa Code section 53.8(1).

4. Affidavit envelope. The affidavit envelope, which shall be marked with the serial number used to identify the absentee request in the commissioner's records.

5. Return carrier envelope. The return carrier envelope, which shall be addressed to the commissioner's office and bear appropriate return postage or a postal permit guaranteeing that the commissioner will pay the return postage and which shall be marked with the I-Voters-assigned sequence number used to identify the absentee request in the commissioner's records.

6. Delivery envelope. The delivery envelope, which shall be addressed to the voter and bear the serial number used to identify the absentee request in the commissioner's records. All other materials shall be enclosed in the delivery envelope.

7. Instructions. Absentee voting instructions, which shall be in substantially the form prescribed by the state commissioner of elections.

8. Receipt. The receipt form required by 2007 Iowa Acts, Senate File 601, section 227, which may be printed on the instructions required by numbered paragraph "7" above.

This rule is intended to implement Iowa Code section 53.8 as amended by 2007 Iowa Acts, Senate File 601, section 223, and Iowa Code section 53.17 as amended by 2007 Iowa Acts, Senate File 601, section 227.

ITEM 3. Amend 721—Chapter 21 by adding the following **new** rules:

721—21.350(53) Absentee ballot processing for elections held following July 1, 2007. For elections in which absentee voting begins before July 1, 2007, the commissioner shall not review affidavit envelopes of any absentee ballots before July 1, 2007. Not later than Monday, July 2, 2007, the commissioner shall review the affidavit envelopes of all absentee ballots returned before that date. The commissioner shall follow the process in rules 21.352(53) through 21.355(53).

This rule is intended to implement Iowa Code section 53.18 as amended by 2007 Iowa Acts, Senate File 601.

721—21.351(53) Receiving absentee ballots. The commissioner shall carefully account for and protect all absentee ballots returned to the office.

21.351(1) Time of receipt. The commissioner shall write or file-stamp on the return carrier envelope the date and time that the ballot arrived in the commissioner's office. The

SECRETARY OF STATE[721](cont'd)

commissioner shall also record receipt of the ballot in I-Voters.

21.351(2) Temporary storage. If necessary, the commissioner shall immediately put the ballot into a secure container, such as a locked ballot box, until the ballots can be moved to the secure storage area.

21.351(3) Secure area. The commissioner shall deliver the ballots to a secure area where returned absentee ballots will be reviewed for deficiencies.

721—21.352(53) Review of returned affidavit envelopes.

21.352(1) Personnel. The commissioner may assign staff members to complete the review of returned affidavit envelopes. Only persons designated in the office security plan and who have been trained for this responsibility shall be authorized to review affidavit envelopes.

21.352(2) Affidavit envelopes reviewed. The affidavit envelopes of all absentee ballots returned to the commissioner's office shall be reviewed, including those of ballots returned by the bipartisan team delivering absentee ballots to health care facilities, such as hospitals and nursing homes. If a reviewer finds deficiencies in absentee affidavits returned from any health care facility, the commissioner shall send the bipartisan delivery team back to make any necessary corrections or to deliver any replacement ballots.

21.352(3) Instructions. Each reviewer shall receive instructions in substantially the form prescribed by the state commissioner of elections. The instructions shall provide basic security and procedural guidance and include a method for accounting for all returned absentee ballots. The prohibitions shall include:

- a. Not to leave unsecured ballots unattended.
- b. Not to alter any information on any affidavit.
- c. Not to add any information to any affidavit, except as specifically required to comply with the requirements of the law.
- d. Not to seal any affidavit envelope found open.
- e. Not to discard any return carrier envelopes, ballots, or affidavit envelopes returned by voters.

721—21.353(53) Opening the return carrier envelopes.

The commissioner may direct a staff member to open the return carrier envelopes with an automatic letter opener. Only a trained reviewer may remove the contents of the envelope.

721—21.354(53) Review process. A reviewer shall remove the contents from only one return carrier envelope at a time.

21.354(1) Return carrier envelopes preserved. The return carrier envelopes shall be stored in a manner that will facilitate their retrieval, if necessary. They shall be stored for 22 months for federal elections and 6 months for local elections.

21.354(2) Examination of affidavit envelope. The reviewer shall make sure that:

- a. The affidavit envelope is sealed, apparently with the ballot inside.
- b. The affidavit envelope has not been opened and resealed.
- c. The affidavit includes all of the following:
 - (1) An address.
 - (2) A signature.
 - (3) For primary elections only, political party affiliation.

21.354(3) No deficiencies or other problems. If the reviewer finds no deficiencies that would cause the absentee board to reject the ballot, the reviewer shall put the affidavit envelope into a group of envelopes to be retained in the secure storage area with others that require no further attention until they are delivered to the special precinct board.

21.354(4) Deficient affidavits. The commissioner shall contact the voter if the reviewer finds any of the following deficiencies in the affidavit or affidavit envelope:

a. The commissioner shall contact the voter immediately if:

- (1) The absentee ballot is not enclosed in the affidavit envelope.
- (2) The affidavit envelope is not sealed.
- (3) The affidavit envelope has been opened and resealed.

b. The commissioner shall contact the voter within 24 hours if the affidavit lacks:

- (1) The signature of the voter.
- (2) The address at which the voter is registered.
- (3) For primary elections only, political party affiliation.

c. If an affidavit envelope has flaws that are included in both paragraphs "a" and "b," the commissioner shall follow the process in paragraph "a."

21.354(5) Deficient affidavits stored separately. The commissioner shall store the deficient and improperly closed affidavit envelopes separately from other returned absentee ballots.

a. Affidavit envelopes requiring voter correction must be available for retrieval when the voter comes to make corrections.

b. Improperly closed affidavit envelopes must be attached to the original application, replacement application and replacement ballot for review by the special precinct board.

721—21.355(53) Notice to voter. When the commissioner finds a deficiency in an absentee ballot affidavit or finds an improperly closed affidavit envelope, the commissioner shall notify the voter in writing and, if possible, by telephone or by E-mail. The commissioner shall keep a separate checklist for each voter showing the reasons for which the voter was contacted and the methods used to contact the voter.

21.355(1) Notice to voter—deficient ballot affidavit. Within 24 hours after receipt of an absentee ballot with a deficient affidavit, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include:

a. Reason for deficiency (lack of signature, address or, for primary elections only, political party affiliation).

b. The voter's options for correcting the affidavit as follows:

- (1) Completing the affidavit at the commissioner's office by 5 p.m. the day before the election; or
- (2) Casting a provisional ballot at the polls on election day.

c. Address of commissioner's office, business hours and contact information.

21.355(2) Notice to voter—defective ballot affidavit. Immediately after determining that an absentee ballot affidavit envelope was not properly closed, the commissioner shall send a notice to the voter at the address where the voter is registered to vote, as well as to the address where the ballot was sent, if it is a different address. The notice shall include the following information:

a. Reason for defect, such as envelope not sealed, envelope opened and resealed, or the ballot was outside the affidavit envelope.

b. The voter's options for correcting the defect as follows:

- (1) Applying for a replacement ballot; or
- (2) Casting a provisional ballot at the polls on election day.

SECRETARY OF STATE[721](cont'd)

c. Process for applying for a replacement ballot.

d. Address of commissioner's office, business hours and contact information.

21.355(3) Telephone contact. If the voter has provided a telephone number, either on the absentee ballot application or on the voter's registration record, the commissioner shall also attempt to contact the voter by telephone. The commissioner shall keep a written record of the telephone conversation. The written record shall include the following information:

a. Name of the person making the call.

b. Date and time of the call.

c. If a person answered the telephone, the name of that person.

21.355(4) E-mail contact. If the voter has provided an E-mail address, either on the absentee ballot application or on the voter's registration record, the commissioner shall also attempt to contact the voter by E-mail. The E-mail message shall be the same message that was mailed to the voter. A copy of the E-mail message shall be attached to the checklist.

Rules 21.351(53) through 21.355(53) are intended to implement Iowa Code section 53.18 as amended by 2007 Iowa Acts, Senate File 601, section 229.

ITEM 4. Amend subrule 21.359(4) to read as follows:

21.359(4) If a voter has not enclosed the ballot in a secrecy envelope *and the ballot has not been folded in a manner that conceals all votes marked on the ballot*, the officials shall put the ballot in a secrecy envelope without examining the ballot. Two of the special precinct election officials, one from each of the political parties referred to in Iowa Code section 49.13(2), shall sign the secrecy envelope.

ITEM 5. Rescind and reserve rules **721—21.370(53)** to **721—21.376(53)**.

[Filed Emergency 6/27/07, effective 7/1/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6094B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 17A.3(1)"b," 2007 Iowa Acts, House File 817, sections 3 and 4, and 2007 Iowa Acts, House File 767, the Department of Veterans Affairs hereby amends Chapter 11, "Injured Veterans Grant Program," Iowa Administrative Code.

These amendments implement the provisions of 2007 Iowa Acts, House File 767, which expand coverage under the Injured Veterans Grant Program to a nonresident of this state who is or was a member of a national guard unit located in this state prior to alert for mobilization, who has served on active duty at any time after September 11, 2001, and who was injured while serving in the national guard unit located in this state and is not eligible to receive a similar grant from another state for that injury. In addition, these amendments remove the requirement that the presence or assistance of family members is necessary.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are im-

practicable and contrary to public interest because of the immediate need for amendments to implement provisions of 2007 Iowa Acts, House File 767, to permit eligible nonresident veterans to apply for grants immediately upon adoption of these amendments.

The Department also finds that these amendments confer a benefit on the persons affected, i.e., eligible nonresident injured veterans, in that the amendments ease and speed the administration of an important state grant program benefiting those veterans and that these amendments should be implemented as soon as feasible in order to facilitate the awarding of grants under the program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

The Department adopted these amendments on July 2, 2007.

These amendments became effective July 12, 2007.

These amendments are intended to implement Iowa Code section 35A.14(1) as amended by 2007 Iowa Acts, House File 767.

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 rules **801—11.1(81GA,SF2312)** to **801—11.4(81GA,SF2312)**, parenthetical implementation, as follows:

(81GA,SF2312 35A)

ITEM 2. Amend rule 801—11.1(35A) as follows:

801—11.1(35A) Purpose. ~~2006 Iowa Acts, Senate File 2312, enacts the injured veterans grant program, which is retroactively applicable to veterans injured after September 11, 2001. A total of \$1 million has been appropriated to the Iowa department of veterans affairs (IDVA) to fund this program. The purpose and legislative intent of this program are to provide immediate financial assistance to an injured veteran so that family members may be with the veteran during recovery and rehabilitation from an injury or illness received in the line of duty in a combat zone or in a designated hostile fire zone. Since the program is retroactive, it is also intended to reimburse veterans injured after September 11, 2001.~~

ITEM 3. Amend subrule 11.3(1) as follows:

11.3(1) For purposes of this program, the term "veteran" means: ~~a person who is currently serving or has served in the active military, naval, coast guard, or air force armed services of the United States. For those persons who have been discharged or released from service, that discharge or release must be under honorable conditions.~~

a. ~~A resident of this state who is or was a member of the national guard, reserve, or regular component of the armed forces of the United States who has served on active duty at any time after September 11, 2001, and, if discharged or released from service, was discharged or released under honorable conditions; or~~

b. ~~A nonresident of this state who is or was a member of a national guard unit located in this state prior to alert for mobilization who has served on active duty at any time after September 11, 2001, was injured while serving in the national guard unit located in this state, is not eligible to receive a similar grant from another state for that injury, and, if dis-~~

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charged or released from service, was discharged or released under honorable conditions.

ITEM 4. Amend subrule 11.3(2) as follows:

11.3(2) In addition to the requirements set out in subrule 11.3(1), an eligible veteran must meet all of the following conditions:

- a. ~~The veteran must be a resident of the state of Iowa at the time of injury; and~~
- b. a. The veteran must have sustained an injury or illness in a combat zone or hostile fire zone; and
- e. b. The injury or illness was serious enough to require medical evacuation from the combat zone; and
- d. c. The injury or illness was or is considered by the military to have been received in the line of duty, based upon the circumstances known at the time of evacuation.

ITEM 5. Amend subrule **11.4(1)**, paragraph “b,” subparagraph (4), as follows:

(4) Any document to establish Iowa residency at the time of injury, such as Iowa income tax forms, *or to establish that the veteran is or was a member of a national guard unit located in this state prior to mobilization and was injured while serving in that national guard unit and is not eligible to receive a similar grant from another state for that injury.*

ITEM 6. Amend subrule **11.4(2)**, paragraph “b,” as follows:

b. When the department receives an official casualty notification from a designated service office that a veteran has been medically evacuated from a combat zone, the department will assign a case manager to serve as a point of contact for the next of kin designated on the veteran’s DD93. The case manager will, within 48 hours, confirm Iowa residency of the veteran *or, in the case of a nonresident, confirm that the veteran is or was a member of a national guard unit located in this state prior to mobilization and was injured while serving in that national guard unit and is not eligible to receive a similar grant from another state for that injury* and provide the department with the required data to disburse the first grant payment. The check will be made payable to the veteran and mailed or presented to the next of kin. The case manager will then maintain weekly contact with the service component and the next of kin to track the treatment progress of the veteran and ensure that subsequent grant payments are disbursed in a timely manner.

ITEM 7. Amend **801—Chapter 11**, implementation clause, as follows:

These rules are intended to implement 2006 Iowa Acts, Senate File 2342 Iowa Code section 35A.14 as amended by 2007 Iowa Acts, House File 767.

[Filed Emergency 7/12/07, effective 7/12/07]

[Published 8/1/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6093B

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 17A.3(1)“b,” 2007 Iowa Acts, House File 817, sections 3 and

4, and 2007 Iowa Acts, Senate File 578, section 1, the Iowa Department of Veterans Affairs hereby adopts new Chapter 13, “Vietnam Conflict Veterans Bonus,” Iowa Administrative Code.

The purpose of these rules is to implement a Vietnam conflict veterans bonus for persons who served on active duty for not less than 120 days in the armed forces of the United States at any time between July 1, 1973, and May 31, 1975, both dates inclusive, and who were legal residents of the state of Iowa for at least six months immediately before entering into active duty service. The rules establish two levels of compensation: one for those who served at least a portion of their active duty service in the Vietnam service area during that period of time and one for those who did not.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to public interest because of the immediate need for new rules to implement provisions of 2007 Iowa Acts, Senate File 578, to permit eligible veterans of the Vietnam conflict to apply for grants immediately upon adoption of these rules.

The Department also finds that these rules confer a benefit on the persons affected, i.e., eligible veterans of the Vietnam conflict, in that the rules ease and speed the administration of an important state grant program benefiting those veterans of the Vietnam conflict and that these rules should be implemented as soon as feasible in order to facilitate the awarding of grants under the program. 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.

The Department adopted these rules on July 2, 2007.

These rules became effective July 12, 2007.

These rules are intended to implement 2007 Iowa Acts, Senate File 578.

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 13

VIETNAM CONFLICT VETERANS BONUS

801—13.1(82GA,SF578) Bonus for persons serving in the Vietnam service area.

13.1(1) Service requirement. A person serving in the Vietnam service area is a person who served on active duty for not less than 120 days in the armed forces of the United States at any time between July 1, 1973, and May 31, 1975, both dates inclusive, and who at the time of entering into active duty service was a legal resident of the state of Iowa, and who had maintained the person’s residence in this state for a period of at least six months immediately before entering into active duty service, and was honorably discharged or separated from active duty service, or is still in active service in an honorable status, or has been retired, or has been furloughed to a reserve, or has been placed on inactive status and was on active duty service in the Vietnam service area, within the dates specified in this subrule, if the veteran earned either a Vietnam service medal or an armed forces expeditionary medal in Vietnam or can otherwise establish service in the Vietnam service area during that period.

13.1(2) Compensation. Compensation for persons who served in the Vietnam service area shall be as follows:

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801](cont'd)

a. The amount of compensation shall be the sum of \$17.50 for each month that the person was on active duty service in the Vietnam service area, within the dates specified in subrule 13.1(1).

b. In addition, the person shall receive compensation at the sum of \$12.50 for each month that the person was on active duty service within the dates specified in subrule 13.1(1) and was not in the Vietnam service area. For example, a person who served six months in the Vietnam service area and six months not in the Vietnam service area will receive compensation for six months at \$17.50 per month, which is \$105, and six months at \$12.50 per month, which is \$75, for a total compensation payment of \$180.

c. Compensation under this subrule shall not exceed a total sum of \$500. Compensation for a fraction of a month shall not be considered unless the fraction is 16 days or more, in which case the fraction shall be computed as a full month.

801—13.2(82GA,SF578) Bonus for persons serving outside the Vietnam service area.

13.2(1) Service requirement. A person serving outside the Vietnam service area is a person otherwise qualified under subrule 13.1(1) except that the person did not earn either a Vietnam service medal or an armed forces expeditionary medal in Vietnam and did not serve in the Vietnam service area during the period between July 1, 1973, and May 31, 1975, both dates inclusive.

13.2(2) Compensation. Compensation shall be the sum of \$12.50 for each month that the person was on active duty service within the dates specified in subrule 13.2(1). Compensation under this subrule shall not exceed a total sum of \$300. Compensation for a fraction of a month shall not be considered unless the fraction is 16 days or more, in which case the fraction shall be computed as a full month.

801—13.3(82GA,SF578) Other Vietnam veterans compensation.

13.3(1) Compensation from other states. A person is not entitled to compensation pursuant to this chapter if the person received from another state a bonus or compensation similar to that provided in this chapter.

13.3(2) Compensation from previous bonus. The maximum compensation a person may receive pursuant to this chapter shall be reduced by the amount of any Vietnam veterans bonus received from this state by that person for service prior to July 1, 1973. For example, if a veteran received compensation under the Vietnam veterans bonus authorized in 1973 Iowa Acts, House File 656, for service between July 1, 1958, and June 30, 1973, that compensation would be subtracted from the maximum amount permitted under this chapter in order to determine the amount of compensation the veteran may receive under this chapter. If the veteran received the maximum amount permitted, no compensation is payable under this chapter.

801—13.4(82GA,SF578) Definition of active duty. “Active duty” means full-time duty in the armed forces of the United States, excluding active duty for training purposes only and excluding any period a person was assigned by the armed forces to a civilian institution for a course of education or training which was substantially the same as established courses offered to civilians, or as a cadet or midshipman, however enrolled, at one of the service academies.

801—13.5(82GA,SF578) Survivor compensation. The surviving unmarried widow or widower, child or children, mother, father, or person standing in loco parentis, in the order named and none other, of any deceased person shall be paid

the compensation that the deceased person would be entitled to pursuant to this chapter, if living. However, if any person has died or shall die, or is disabled, from service-connected causes incurred during the period and in the area from which the person is entitled to receive compensation pursuant to this chapter, the person or the first survivor as designated by this rule, and in the order named, shall be paid \$500 or \$300, whichever maximum amount would have been applied pursuant to rule 801—13.1(82GA,SF578) or 801—13.2(82GA,SF578), regardless of the length of service.

801—13.6(82GA,SF578) Persons not eligible for compensation. A person is not entitled to compensation pursuant to this chapter if the person was on active duty service after July 1, 1973, and the person refused to be subject to military discipline on conscientious, political, religious, or other grounds.

801—13.7(82GA,SF578) Penalties. A person who knowingly makes a false statement relating to a material fact in supporting an application under this chapter is guilty of a serious misdemeanor. A person convicted under Iowa Code section 35A.8 as amended by 2007 Iowa Acts, Senate File 578, section 1, subsection 5c, shall forfeit all benefits to which the person may have been entitled under this chapter.

801—13.8(82GA,SF578) Tax exemption. All payments and allowances made under this chapter shall be exempt from taxation, levy, and sale on execution.

801—13.9(82GA,SF578) Application procedures and determination of eligibility.

13.9(1) Application procedures. Application shall be made on forms provided by the Iowa department of veterans affairs. Applications may be obtained from the department at the address listed in subrule 13.9(4) or from the department’s Web site at www.iowava.org. The applicant shall provide the information requested on the application and include any additional documentation required (for example, a copy of the applicant’s DD Form 214). The completed application, including documentation, shall be returned to the department at the address listed in subrule 13.9(4).

13.9(2) Department processing and investigation. The executive director of the Iowa department of veterans affairs will approve or disapprove the application.

13.9(3) Appeals procedure. Decisions of the executive director are subject to review by the commission pursuant to 801—Chapter 8, Contested Cases. Applicants may appeal the decisions of the commission as provided by Iowa Code section 17A.19.

13.9(4) Office address. Persons may contact the Iowa department of veterans affairs at Camp Dodge, Bldg. A6A, 7105 NW 70th Avenue, Johnston, Iowa 50131-1824; telephone (515)242-5331 or 1-800-838-4692; fax (515)242-5659. The department’s Web address is www.iowava.org.

801—13.10(82GA,SF578) Bonus restrictions and limitations. All bonuses under the program are subject to funding availability. Bonuses will be awarded in the order in which completed applications are received.

These rules are intended to implement 2007 Iowa Acts, Senate File 578.

[Filed Emergency 7/12/07, effective 7/12/07]

[Published 8/1/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6069B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

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

The amendment provides applicants clear guidance on which credential evaluation services the Board of Educational Examiners will accept.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 9, 2007, as **ARC 5866B**. A public hearing on the amendment was held on May 30, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 5, 2007.

The following amendment is adopted.

Amend rule 282—14.104(272) as follows:

282—14.104(272) Applicants from foreign institutions. An applicant for initial licensure whose preparation was completed in a foreign institution ~~will be required to have all records translated into English~~ *must obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file these records this report* with the board of educational examiners for a determination of eligibility for licensure. *The applicant must demonstrate English proficiency by providing evidence of passing the TOEFL test at the level established by the board.*

[Filed 7/3/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6067B**EDUCATIONAL EXAMINERS
BOARD[282]****Adopted and Filed**

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

The amendment expands the ability of a paraeducator holding a substitute authorization to work in K-6 special education classrooms.

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 28, 2007, as **ARC 5764B**. A public hearing on the amendment was held on March 21, 2007. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective September 5, 2007.

The following amendment is adopted.

Amend rule 282—14.143(272), introductory paragraph, as follows:

282—14.143(272) Requirements for a substitute authorization. A substitute authorization allows an individual to substitute in a middle school, junior high school, or high school for no more than five consecutive days in one job assignment. An individual who holds a paraeducator certificate and completes the substitute authorization program is authorized to substitute only in the special education classroom in which the individual paraeducator is employed. *This special education classroom may be on the elementary school level as well as the middle school, junior high school or high school level.*

[Filed 7/3/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6074B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.173, the Environmental Protection Commission hereby amends Chapter 40, "Scope of Division—Definitions—Forms—Rules of Practice," and Chapter 43, "Water Supplies—Design and Operation," Iowa Administrative Code.

The amendments to Chapter 40 pertain to the forms of the public water supply program, while the amendments to Chapter 43 pertain to the public water supply program's construction permitting requirements for design and operation. Construction permits are required of all systems for any construction, installation, or modification of any project that affects a public water supply system. The amendments create a Minor Water Main Construction Permit to allow for the construction of extensions to and replacement of minor water mains for the duration of the permit so that the system does not have to apply for an individual permit prior to each minor water main construction project. The amendments establish minimum criteria that must be met by a public water supply system in order to obtain a Minor Water Main Construction Permit. The "as-built" plans that have been prepared and submitted by a licensed professional engineer, construction permit fees, and construction permit schedules must be submitted to the Department each year under the permit.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 28, 2007, as **ARC 5795B**. A public hearing was held on April 19, 2007, where two people spoke in support of the rule making. No written comments were received. The public comment period closed on April 20, 2007. There are no changes to the Notice of Intended Action.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

These amendments are intended to implement Iowa Code sections 17A.3(1)"b," 455B.105 and 455B.173 and chapter 455B, division III, part 2.

These amendments will become effective on September 5, 2007.

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 [40.3(1), 40.4(1), 40.4(4), 43.3(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 5795B**, IAB 3/28/07.

[Filed 7/6/07, effective 9/5/07]
[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6079B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 2, "Public Records and Fair Information Practices," Iowa Administrative Code.

Iowa Code section 68B.32A(6) requires the Board to adopt rules concerning the use of information obtained on statements and reports filed with the Board. 2007 Iowa Acts, Senate File 40, section 3, amends the statute by removing the prohibition on using information to solicit campaign contributions when the information is on statements and reports filed with the Board. The amendment reflects that statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

This amendment is intended to implement Iowa Code section 68B.32A(6) as amended by 2007 Iowa Acts, Senate File 40, section 3.

This amendment will become effective on September 5, 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 351—2.18(68B) as follows:

351—2.18(68B) Use of information prohibited. Pursuant to Iowa Code Supplement section 68B.32A(6) as amended by 2006 Iowa Acts, House File 2512, section 2 2007 Iowa Acts, Senate File 40, section 3, the information obtained from statements or reports filed with the board under Iowa Code chapter 68A, Iowa Code chapter 68B, Iowa Code section 8.7, or rules adopted by the board shall not be copied or otherwise used to solicit contributions or for any commercial purpose including soliciting any type of contribution or donation of money or something of monetary value, such as political or charitable contributions. For purposes of this rule, "commercial pur-

pose" shall include solicitations by a business or charitable organization.

2.18(1) Exceptions. The following uses of information for solicitations are permissible:

a. Information used in newspapers, magazines, books, or other similar communications, so long as the principal purpose of such communications is for providing information to the public and not to solicit contributions or for other commercial purpose.

b. Solicitations by statutory political committees (state parties and county central committees) Soliciting political campaign contributions.

2.18(2) Sanctions. Any person violating the provisions of this rule shall be subject to the board's complaint and disciplinary process set out in Iowa Code chapter 68B and the board's rules.

This rule is intended to implement Iowa Code Supplement section 68B.32A(6) as amended by 2006 Iowa Acts, House File 2512, section 2 2007 Iowa Acts, Senate File 40, section 3.

[Filed Without Notice 7/11/07, effective 9/5/07]
[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6080B**ETHICS AND CAMPAIGN
DISCLOSURE BOARD, IOWA[351]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

Iowa Code section 68A.401 requires campaign finance statements and reports to be filed with the Board. 2007 Iowa Acts, Senate File 39, section 5, and 2007 Iowa Acts, House File 413, section 1, amended the statute to change the filing methods and to remove the requirement that the Board provide copies of certain statements and reports to the county commissioners of elections. The amendment reflects these statutory changes.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

This amendment is intended to implement Iowa Code section 68A.401 as amended by 2007 Iowa Acts, Senate File 39, section 5, and 2007 Iowa Acts, House File 413, section 1.

This amendment will become effective on September 5, 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.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

Amend rule 351—4.8(68A,68B) as follows:

351—4.8(68A,68B) Disclosure reporting required—where reports filed.

4.8(1) Place of filing. Disclosure reports shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319. Reports may also be filed by fax at ~~(515) 281-3074~~ (515)281-4073, as an E-mail attachment, or electronically through the board's Web site at www.iowa.gov/ethics.

4.8(2) Reports made available to county commissioner. ~~The board shall make available to the appropriate county commissioner of elections reports filed by a county, city, school, or other political subdivision committee. The board shall make available to the appropriate county commissioner of elections the report summary page (DR-2) and the relevant pages of a report filed by a political committee that makes contributions to both state and local committees. Reports made available. The board shall post on its Web site at www.iowa.gov/ethics all statements and reports filed under Iowa Code chapter 68A.~~

4.8(3) ~~The board shall make the reports in subrule 4.8(2) available to the appropriate county commissioner of elections electronically via the board's Web site at www.iowa.gov/ethics. A county commissioner of elections who establishes an Internet link between a public computer in the commissioner's office and the board's Web site shall be deemed in compliance with the requirement in Iowa Code Supplement section 68A.401(3) to retain the reports. Records retention. The board shall maintain and retain all statements and reports filed under Iowa Code chapter 68A under the applicable provisions of Iowa Code chapter 305.~~

This rule is intended to implement Iowa Code Supplement sections section 68A.401 as amended by 2007 Iowa Acts, Senate File 39, section 5, and 2007 Iowa Acts, House File 413, section 1 and 68A.402.

[Filed Without Notice 7/11/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6090B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

2007 Iowa Acts, Senate File 351, requires statewide and local ballot issue committees to file additional campaign disclosure reports during an election year. The amendment in Item 1 reflects this statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.402(8) as amended by 2007 Iowa Acts, Senate File 351.

These amendments will become effective on September 5, 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 4.9(12) as follows:

4.9(12) Statewide or local ballot issue committee (ballot issue PAC). A committee expressly advocating the passage or defeat of a statewide or local ballot issue shall file campaign disclosure reports as follows:

a. Election year.

| Report due | Covering period |
|---------------------------------|--|
| Five days before election | Date of initial activity or previous report through ten days before election |
| May 19 | Date of initial activity or previous report through May 14 |
| July 19 | Date of initial activity or previous report through July 14 |
| October 19 | Date of initial activity or previous report through October 14 |
| January 19 (next calendar year) | Cutoff date from previously filed report through December 31 |

b. No change.

ITEM 2. Amend rule **351—4.9(68A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code Supplement section 68A.402 as amended by 2004 Iowa Acts, House File 2319, section 1.

[Filed Without Notice 7/12/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6089B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

2007 Iowa Acts, Senate File 42, section 1, and 2007 Iowa Acts, House File 413, section 3, require campaign disclosure reports that are due five days before an election to be filed with the Board by 4:30 p.m. on the due date. The amendment reflects this statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of this amendment are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

This amendment is intended to implement Iowa Code section 68A.402 as amended by 2007 Iowa Acts, Senate File 42, section 1, and 2007 Iowa Acts, House File 413, section 3, and Iowa Code section 68B.32A(6) as amended by 2007 Iowa Acts, Senate File 40, section 3.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

This amendment will become effective on September 5, 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 351—4.10(68A,68B) as follows:

351—4.10(68A,68B) Time of filing. A report must be physically received by the board or, if mailed, must shall bear a United States Postal Service postmark dated on or before the report due date. Faxed, E-mailed, or electronically filed reports must be submitted on or before 11:59 p.m. of the report due date. *However, as provided in Iowa Code section 68A.402 as amended by 2007 Iowa Acts, Senate File 42, section 1, and 2007 Iowa Acts, House File 413, section 3, any report that is required to be filed five days prior to an election must be physically received by the board prior to 4:30 p.m. on the report due date.* If the due date falls on a Saturday, Sunday, or holiday on which the board office is closed, the due date is extended to the first working day when the board office is open.

This rule is intended to implement Iowa Code Supplement section 68A.402 as amended by 2007 Iowa Acts, Senate File 42, section 1, and 2007 Iowa Acts, House File 413, section 3, and Iowa Code section 68B.32A(6) as amended by 2007 Iowa Acts, Senate File 40, section 3.

[Filed Without Notice 7/12/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6087B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

Iowa Code section 68A.501 requires campaign committees to escheat to the state of Iowa anonymous contributions in excess of \$10. 2007 Iowa Acts, Senate File 39, section 8, amended the statute to reflect that the proper state office where the escheats are to be deposited is the Office of Treasurer of State. The amendment in Item 1 reflects this statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.501 as amended by 2007 Iowa Acts, Senate File 39, section 8.

These amendments will become effective on September 5, 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 4.30(2) as follows:

4.30(2) Escheat to the state. Any contribution in excess of \$10 from an unknown source or campaign funds in excess of \$10 that cannot be accounted for and reconciled shall escheat to the state of Iowa as required by Iowa Code Supplement section 68A.501 as amended by 2007 Iowa Acts, Senate File 39, section 8. A committee required to escheat shall escheat such funds by depositing the funds into the committee's campaign account and issuing a committee check to the general fund in the same amount. The committee check shall be sent to the board office at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, for transmittal to the ~~director of revenue~~ office of treasurer of state.

ITEM 2. Amend rule **351—4.30(68A,68B)**, implementation clause, as follows:

This rule is intended to implement Iowa Code Supplement section 68A.501.

[Filed Without Notice 7/12/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6081B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

Federal and out-of-state political committees are required to file a Verified Statement of Registration (VSR) with each contribution in excess of \$50 to an Iowa campaign committee. 2007 Iowa Acts, Senate File 39, section 3, removes the requirement that a federal or out-of-state political committee file a copy of a VSR with the recipient Iowa campaign committee. The amendment in Item 1 reflects this statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.201(5) as amended by 2007 Iowa Acts, Senate File 39, section 3.

These amendments will become effective on September 5, 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 4.32(2) as follows:

4.32(2) Verified statement of registration. In lieu of filing a statement of organization and regular disclosure reports as

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

required by Iowa Code Supplement sections ~~68A.201 and 68A.402~~ *chapter 68A*, the out-of-state committee shall ~~send file with the board~~ a verified statement registration form (VSR) ~~with for~~ each contribution in excess of \$50, ~~and shall also file a copy with the board~~. The VSR shall contain the following information:

- a. The complete name, address and telephone number of the out-of-state committee;
- b. The state or federal agency with which the out-of-state committee is registered;
- c. All parent entities or other affiliates or sponsors of the out-of-state committee;
- d. The purpose of the out-of-state committee;
- e. The name, address and telephone number of an Iowa resident authorized to receive service on behalf of the out-of-state committee;
- f. The name and address of the Iowa recipient committee;
- g. The date and amount of the contribution, including description if the contribution is in-kind; and
- h. An attested statement that the jurisdiction with which the out-of-state committee is registered has reporting requirements substantially similar to those of Iowa Code Supplement chapter 68A. The statement shall include confirmation that the contribution is made from an account that does not accept contributions prohibited by Iowa Code Supplement section 68A.503 *as amended by 2007 Iowa Acts, Senate File 42, section 2*, unless the contribution from the out-of-state committee is made to an Iowa ballot issue committee.

ITEM 2. Amend subrule 4.32(4) as follows:

4.32(4) ~~Copy filed with the board~~ *Where filed*. A copy of every VSR filed ~~with for~~ a contribution in excess of \$50 shall be filed with the board at 510 East 12th Street, Suite 1A, Des Moines, Iowa 50319, *electronically using the board's Web site at www.iowa.gov/ethics, as an E-mail attachment*, or by fax at ~~(515)281-3704 (515)281-4073~~.

ITEM 3. Amend rule **351—4.32(68A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code Supplement section 68A.201(5) *as amended by 2007 Iowa Acts, Senate File 39, section 3*.

[Filed Without Notice 7/11/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6088B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 4, "Campaign Disclosure Procedures," Iowa Administrative Code.

Iowa Code section 68A.402 requires, in part, that permanent organizations that temporarily engage in campaign activities file paperwork with the Board. Due to a renumbering of the sections of the statute, it is necessary for the Board's

rule to reflect the renumbering. The amendment in Item 1 reflects this correction.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of these amendments are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

These amendments are intended to implement Iowa Code section 68A.402(9).

These amendments will become effective on September 5, 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 rule 351—4.35(68A), introductory paragraph, as follows:

351—4.35(68A) Permanent organizations forming temporary political committees; one-time contributor filing Form DR-OTC. Pursuant to Iowa Code Supplement section 68A.402(6) (9), a permanent organization temporarily engaging in activity that exceeds the \$750 financial filing threshold described in rule 351—4.1(68A,68B) is required to organize and register a political committee (PAC), file disclosure reports, and, upon completion of activity, file a notice of dissolution. A permanent organization that is temporarily a political committee shall comply with all of the campaign laws in Iowa Code Supplement chapter 68A and this chapter. A permanent organization that makes loans to a candidate or committee or that is owed debts from a candidate or committee is not deemed to be engaging in political activity requiring registration.

ITEM 2. Amend rule **351—4.35(68A)**, implementation clause, as follows:

This rule is intended to implement Iowa Code Supplement sections 68A.102(18) and 68A.402 ~~as amended by 2004 Iowa Acts, House File 2319, section 1~~.

[Filed Without Notice 7/12/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6082B

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 68B.32A, the Iowa Ethics and Campaign Disclosure Board hereby amends Chapter 6, "Executive Branch Ethics," Iowa Administrative Code.

2007 Iowa Acts, Senate File 40, section 1, amends Iowa Code section 68B.3 concerning state officials and employees selling goods or services to state agencies as part of private sector transactions. The amendment reflects this statutory change.

Pursuant to Iowa Code section 17A.4(2), the Board finds that notice and public participation prior to the adoption of

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351](cont'd)

this amendment are impracticable, as it is desirable to have the Board's rules reflect current statutory requirements.

This amendment is intended to implement Iowa Code section 68B.3 as amended by 2007 Iowa Acts, Senate File 40, section 1.

This amendment will become effective on September 5, 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 351—6.10(68B) as follows:

351—6.10(68B) Prohibition on sales; when public bids required—disclosure of income. Pursuant to Iowa Code section 68B.3 as amended by 2007 Iowa Acts, Senate File 40, section 1, an official or employee shall not sell, in any one occurrence, goods or services having a value in excess of \$2,000 to a state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding.

6.10(1) Exceptions. The prohibition in Iowa Code section 68B.3 as amended by 2007 Iowa Acts, Senate File 40, section 1, and this rule shall not apply to any of the following:

a. Sales of goods or services done as part of the official's or employee's state duties.

~~b. Sales of services to a state agency when the official or employee does not serve the agency or is not employed by that agency.~~

~~c. Sales of services to a state agency with which the official or employee does not have substantial and regular contact as part of the official's or employee's state duties.~~

d. The publication of resolutions, advertisements, or other legal propositions or notices in newspapers designated by law for the publication of such materials and for which publication rates are fixed by law.

e. Instruction at an accredited educational institution if the official or employee meets the minimum education and licensing requirements established for other instructors at the educational institution.

6.10(2) Sales to political subdivisions. An official who sells goods or services to a political subdivision of the state shall disclose on the official's Form PFD as provided in 351—Chapter 7 if income was received from the sale.

This rule is intended to implement Iowa Code section 68B.3 as amended by 2007 Iowa Acts, Senate File 40, section 1.

[Filed Without Notice 7/11/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6100B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 65, "Food

Assistance Program Administration," Iowa Administrative Code.

These amendments allow for the use of a standard medical expense deduction in determining Food Assistance eligibility, which will be implemented upon U.S. Food and Nutrition Service approval of a five-year demonstration project in Iowa. Currently, a household member who is 60 years of age or older or who is disabled may claim verified, unreimbursed medical expenses that are in excess of \$35 per month as a deduction from the member's income in the calculation of countable income for eligibility and benefit determination. Under the proposal, all elderly or disabled Food Assistance household members will be allowed to choose between using a standard deduction for the "excess" medical expenses or claiming a deduction based on their actual verified expenses.

The standard deduction will ease the burden of proving all medical expenses. Since the application process will be easier, the Department believes that this change will make the Food Assistance program more accessible to elderly and disabled people, who historically have had the lowest participation rate among potentially eligible persons. Issuance errors and application processing time are also likely to decrease due to use of the standardized method for medical expense deductions.

To attain the cost neutrality necessary for the demonstration project, these amendments add an additional step to the procedure for calculating the standard utility allowances for households with and without heating or air-conditioning expenses that reduces those amounts by \$5 each. Current amounts for these allowances are \$356 per month and \$152 per month, respectively. These amounts are indexed for inflation and are recalculated annually in October based on changes in the consumer price index.

Any household that receives an excess shelter deduction will potentially receive a slightly lower amount of benefits (\$1 to \$3 monthly) due to the decrease in the standard utility allowances. However, the Department will be lowering the utility allowances at the same time the annual cost-of-living increases go into effect, which will make the transition virtually invisible to the public. The utility allowances will still increase on October 1, 2007, but the increases will not be as large as they would have been without the change in calculation.

These amendments also remove references to the Medicare drug discount cards, an interim program under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. Drug discount cards were in effect for calendar years 2004 and 2005. The allowable period for using this expense as a medical deduction has expired.

These amendments do not provide for waivers in specified situations because households have the choice of whether to claim actual expenses or use the standard deduction. Food Assistance policies are almost entirely set by federal regulation, which the Department does not have the authority to waive.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5904B**. No comments were received on these amendments. Item 1 was revised to include rescission of paragraph "c" of subrule 65.8(7), regarding Medicare drug discount cards which are no longer in effect. This paragraph was inadvertently overlooked at the time of the Notice.

The Council on Human Services adopted these amendments July 11, 2007.

These amendments are intended to implement Iowa Code section 234.12.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments shall become effective October 1, 2007.

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 [65.8, 65.22(1)"c"] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5904B**, IAB 5/23/07.

[Filed 7/12/07, effective 10/1/07]
[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6098B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 80, "Procedure and Method of Payment," and Chapter 88, "Managed Health Care Providers," Iowa Administrative Code.

These amendments eliminate references to rehabilitative treatment services (RTS) and rehabilitation services for adults with chronic mental illness (ARO) as Medicaid services. Effective November 1, 2006, the Department added remedial services as a covered service under Medicaid. (See **ARC 5514B**, published in the Iowa Administrative Bulletin on November 8, 2006.) This change was made to reflect a medical model of rehabilitation. These amendments also correct an error in that filing in the reference to the basis of reimbursement for remedial services. Effective January 1, 2007, the Department also added home- and community-based habilitation services as a covered service under Medicaid. (See **ARC 5650B**, published in the Iowa Administrative Bulletin on January 3, 2007.)

Medicaid remedial and habilitation services include services that were previously furnished by RTS and ARO providers. When the rules on remedial services were adopted, a transition period was put in place to allow for potential delays in the transition of members to the new services. Authorizations for RTS and ARO services were issued through December 31, 2006, as necessary. All authorized RTS and ARO services shall end no later than June 30, 2007.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5906B**. No comments were received on these amendments. These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations because they merely remove obsolete language and make a technical correction.

The Council on Human Services adopted these amendments July 11, 2007.

These amendments are intended to implement Iowa Code section 249A.4 and 2006 Iowa Acts, chapter 1184, section 10(11).

These amendments will become effective September 5, 2007.

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 [77.38, 77.42, 78.42, 78.48, 79.1, 79.6, 80.2(2), 80.4, 88.5(3), 88.25(3), 88.65(6)] is being omitted. These amendments are identical to those published under Notice as **ARC 5906B**, IAB 5/23/07.

[Filed 7/12/07, effective 9/5/07]
[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6099B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 130, "General Provisions," Chapter 150, "Purchase of Service," and Chapter 153, "Funding for Local Services," rescinds Chapter 173, "Family Planning Services," and amends Chapter 176, "Dependent Adult Abuse," Iowa Administrative Code.

These amendments remove policies applicable to purchase of family planning services. With the implementation of Iowa Family Planning Network benefits in February 2006, after approval of a waiver of federal Medicaid requirements, Social Services Block Grant funds are no longer used for family planning.

The amendments also remove references to eligibility for other services previously offered to adults through the Department. Rules on adult day care and transportation were rescinded in 2002. Funding for purchasing adult services is now administered through the Medicaid home- and community-based services waivers and through the county central points of coordination.

These amendments do not provide for waivers in specified situations because funding for these services is no longer available.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 9, 2007, as **ARC 5875B**. No comments were received on these amendments. Amendments to paragraph 150.3(5)"p" have been removed from Item 2 because those changes were included in amendments Adopted and Filed Emergency that were published in the Iowa Administrative Bulletin on July 4, 2007, as **ARC 5992B**.

The Council on Human Services adopted these amendments July 11, 2007.

These amendments are intended to implement Iowa Code section 234.6.

These amendments will become effective September 5, 2007.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the

HUMAN SERVICES DEPARTMENT[441](cont'd)

Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend 130.7, 150.3(4)“a,” 153.5(2), 176.6(7); rescind Ch 173] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 5875B**, IAB 5/9/07.

[Filed 7/12/07, effective 9/5/07]
[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6068B

LABOR SERVICES DIVISION[875]

Adopted and Filed

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

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

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

No waiver or variance provisions are contained in this rule making because 875—Chapter 66 establishes waiver and variance procedures that are applicable in this situation.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 5844B** on April 25, 2007. No comments from the public regarding the proposed amendments were received. These amendments are identical to those published under Notice of Intended Action.

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

These amendments will become effective on September 5, 2007.

The following amendments are adopted.

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

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

[Filed 7/3/07, effective 9/5/07]
[Published 8/1/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6121B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 90A.7, the Labor Commissioner hereby amends Chapter 177, “Professional Shoot Fighting,” Iowa Administrative Code.

The amendment enhances an existing rule by stipulating that the promoter is responsible for the conduct of all participants and officials at shoot-fighting events.

The principal reasons for adoption of this amendment are to implement the legislative intent behind Iowa Code chapter 90A, protect the safety and health of the public, and limit liability.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5929B**. During a meeting with the Labor Commissioner, one representative of promoters opposed this amendment and expressed a preference for a rule-making package consistent with a specific legislative proposal. In the absence of legislative action, the comprehensive package preferred by the promoters is not an option. No changes have been made from the Notice of Intended Action.

No waiver provision is contained in these rules as there are waiver procedures at 875—Chapter 1.

This amendment is intended to implement Iowa Code chapter 90A.

This amendment will become effective on September 5, 2007.

The following amendment is adopted.

Amend subrule 177.2(2) as follows:

177.2(2) General. The promoter shall have responsibility for compliance with the rules of this chapter. The promoter shall make certain that the referee is familiar with rules and that the referee enforces them. *The promoter shall be responsible for the conduct of all officials and participants at a shoot-fighting event.* The promoter shall be answerable to the commissioner for noncompliance.

[Filed 7/13/07, effective 9/5/07]
[Published 8/1/07]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6120B

LABOR SERVICES DIVISION[875]

Adopted and Filed

Pursuant to the authority of Iowa Code section 90A.7, the Labor Commissioner hereby amends Chapter 177, “Professional Shoot Fighting,” Iowa Administrative Code.

The amendment rescinds a rule requiring the attendance of the Labor Commissioner or the Labor Commissioner’s designee at each professional shoot-fighting event.

The principal reasons for adoption of this amendment are to implement the legislative intent behind Iowa Code chapter 90A, allow greater flexibility in work assignments, and limit liability.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5928B**. During a meeting with the Labor Commissioner, one representa-

LABOR SERVICES DIVISION[875](cont'd)

tive of promoters opposed this amendment and expressed a preference for a rule-making package consistent with a specific legislative proposal. In the absence of legislative action, the comprehensive package preferred by the promoters is not an option. No changes have been made from the Notice of Intended Action.

No waiver provision is contained in these rules as there are waiver procedures at 875—Chapter 1.

This amendment is intended to implement Iowa Code chapter 90A.

This amendment will become effective on September 5, 2007.

The following amendment is adopted.

Rescind and reserve rule **875—177.9(90A)**.

[Filed 7/13/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6125B**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 90A.7, the Labor Commissioner hereby amends Chapter 177, "Professional Shoot Fighting," Iowa Administrative Code.

The amendment requires a promoter of shoot-fighting events to provide life, medical, surgical, and hospital insurance to shoot fighters and sets forth minimum coverage requirements for insurance.

The principal reasons for adoption of this amendment are to implement the legislative intent behind Iowa Code chapter 90A and to protect the safety and health of shoot fighters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5934B**. During a meeting with the Labor Commissioner, one representative of promoters opposed this rule and expressed a preference for a rule-making package consistent with a specific legislative proposal. In the absence of legislative action, the comprehensive package preferred by the promoters is not an option. No changes have been made from the Notice of Intended Action.

No waiver provision is contained in these rules as there are waiver procedures at 875—Chapter 1.

This amendment is intended to implement Iowa Code chapter 90A.

This amendment will become effective on September 5, 2007.

The following amendment is adopted.

Adopt **new** rule 875—177.10(90A) as follows:

875—177.10(90A) Health insurance.

177.10(1) Each promoter shall obtain \$25,000 of health insurance coverage on each fighter to provide for medical, surgical and hospital care for injuries sustained and illnesses contracted during the event. If the fighter pays for covered care, the insurance proceeds shall be paid to the fighter or the fighter's beneficiaries as reimbursement for payment. The deductible, if any, shall be the sole responsibility of the promoter and shall not be charged to or paid by the fighter.

177.10(2) Each promoter shall provide no less than \$20,000 of life insurance coverage on each fighter to cover death caused by injuries sustained or illnesses contracted during the event.

177.10(3) The promoter shall provide a certificate of health and life insurance to the labor commissioner at least one week before an event. Failure to provide timely proof of insurance that is acceptable to the labor commissioner shall be grounds to deny the issuance of a license for the event.

177.10(4) Insurance policies shall be purchased from companies authorized to do business in the state of Iowa.

[Filed 7/13/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6066B**MEDICINE BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medicine hereby amends Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

The Board of Medicine approved the amendment during a telephone conference call on June 28, 2007. The amendment was proposed at the request of the Board of Pharmacy.

This amendment corrects the name of the Accreditation Council for Pharmacy Education due to the recent change of name of this accreditation body. The amendment also provides that acceptable training for a pharmacist to qualify as a pharmacist authorized to administer immunizations pursuant to rule 653—13.3(147) include an organized course of study in a college or school of pharmacy or an approved program of pharmaceutical continuing education that meets the standards identified in subrule 13.3(1). The Board of Pharmacy also submitted a Notice of Intended Action, published on May 9, 2007, as **ARC 5867B**, proposing to amend similar language in 657—subrule 8.33(1), paragraph "a."

The Board of Medicine and the Board of Pharmacy jointly regulate the area of practice addressed by rule 653—13.3(147). Neither Board feels it necessary or expedient to provide for waiver of the rule. Any deviation from the requirements of the rule would need to be negotiated and determined by both Boards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 9, 2007, as **ARC 5862B**. No public comments were received. This amendment is identical to the one published under Notice.

This amendment is intended to implement Iowa Code sections 147.76 and 272C.3.

This amendment will become effective September 5, 2007.

The following amendment is adopted.

Amend subrule **13.3(1)**, paragraph "**a**," introductory paragraph, as follows:

a. "Authorized pharmacist" means an Iowa-licensed pharmacist who has documented that the pharmacist has successfully completed an educational program meeting the training standards on vaccine administration as provided by an American Accreditation Council on Pharmaceutical for Pharmacy Education (ACPE)-approved provider of continu-

MEDICINE BOARD[653](cont'd)

ing pharmaceutical education *program on vaccine administration* that:

[Filed 6/28/07, effective 9/5/07]
[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6116B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 10, "Definitions," Iowa Administrative Code.

This amendment rescinds an ineffective chapter. The five definitions that comprise the sole content of this chapter (i.e., department, dwelling, health officer, local board, and public swimming pool) serve no purpose in the absence of any context to which they would be applicable. These definitions are appropriately found in other chapters where they do exercise applicability, meaning and purpose.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because the definitions rescinded here are appropriately found in other chapters where they do exercise applicability, meaning and purpose.

This amendment shall become effective September 5, 2007.

This amendment is intended to implement Iowa Code section 135.11.

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 and reserve **641—Chapter 10.**

[Filed Without Notice 7/13/07, effective 9/5/07]
[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6106B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 136C.3, the Department of Public Health hereby amends Chapter 38, "General Provisions for Radiation Machines and Radioactive Materials," Chapter 39, "Registration of Radiation Machine Facilities, Licensure of Radioactive Materials and Transportation of Radioactive Materials," Chapter 41, "Safety Requirements for the Use of Radiation Machines and Certain Uses of Radioactive Materials," Chapter 42, "Minimum

Certification Standards for Diagnostic Radiographers, Nuclear Medicine Technologists, and Radiation Therapists," Chapter 45, "Radiation Safety Requirements for Industrial Radiographic Operations," and Chapter 46, "Minimum Requirements for Tanning Facilities," Iowa Administrative Code.

The following paragraphs itemize the changes.

Item 1 increases fees for registering generally licensed radioactive materials. The agency is tasked with charging fees necessary to cover the cost of operation.

Item 2 increases fees for the industrial radiography examination given by the agency. The fee charged by the company providing the examination was increased.

Item 3 corrects language to cover all entities possessing radioactive materials or machines that might need surveillance activities.

Item 4 adds fees for podiatry assistants. This program has been transferred from the Board of Podiatry Examiners to the Bureau of Radiological Health.

Item 5 ties the training requirements for radiation therapy physicists to the fees for providing services.

Item 6 places restrictions on operators of CT equipment that have been agency standards for some time.

Item 7 adds a definition required to meet Nuclear Regulatory Commission compatibility.

Items 8, 13, and 16 rescind a subrule that is no longer applicable.

Items 9, 12, 14, 15, and 17 correct references.

Items 10 and 11 change language in order to meet Nuclear Regulatory Commission compatibility.

Items 18, 19, 20, 25, 26, 27, and 34 add language for podiatry assistants. This program has been transferred from the Board of Podiatry Examiners to the Bureau of Radiological Health.

Items 21, 22, 23, 30, and 31 add language for certification of operators of CT units. This is a new area of regulation.

Items 24, 28, 29, 32, and 33 correct and clarify language for training of operators in diagnostic radiography, nuclear medicine, and radiation therapy.

Item 35 adds language to clarify who is qualified as a trainer of industrial radiographers.

Item 36 clarifies the process for registering a tanning facility.

Item 37 adds information about the different types of tanning units to the information that all tanning customers are required to read. This information is intended to clarify the differences between the tanning units.

Notice of Intended Action regarding these amendments was published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5912B**. A public hearing was held on June 26, 2007. Three individuals attended the hearing and presented two sets of verbal comments. Seven sets of written comments were received and reviewed, and changes were incorporated as appropriate. The changes made from the Notice of Intended Action are as follows:

1. In Item 18, the words "but not CT or fluoroscopy" were added to the definition of "podiatry assistant." Podiatry assistants are not allowed to perform CT or fluoroscopic studies. The definition now reads as follows:

"Podiatry assistant" means an individual employed in a podiatry office who performs podiatric radiography but not CT or fluoroscopy."

2. In Item 20, the words, "podiatric radiographer," were changed to read, "podiatric assistant." These words are consistent with the rest of the rules. Paragraphs "a," "b," and "d" of subrule 42.2(2) now read as follows:

PUBLIC HEALTH DEPARTMENT[641](cont'd)

"a. Operating as a diagnostic radiographer, podiatric assistant, radiologist assistant, nuclear medicine technologist, or radiation therapist without meeting the requirements of this chapter.

"b. Allowing any individual excluding a licensed practitioner as defined in 641—38.2(136C) to operate as a diagnostic radiographer, podiatric assistant, radiologist assistant, nuclear medicine technologist, or radiation therapist if that individual cannot provide proof of certification by the agency.

"d. Submitting false information in order to obtain certification or renewal certification as a diagnostic radiographer, podiatric assistant, radiologist assistant, nuclear medicine technologist, or radiation therapist."

3. In Item 32, new wording was added and changed in subrule 42.3(1), paragraph "a," subparagraph (7). The following wording was added to the end of the existing text of subparagraph (7): "Clinical experience for each area must be directly supervised by a formally educated general radiographer until competency for the area is completed. After competency is completed, indirect supervision is permitted. All retakes and portable radiography must be directly supervised." The additional wording was omitted from the noticed amendment.

4. In Item 34, the wording in subrule 42.7(1), paragraph "a," subparagraph (2), numbered paragraph "1," was changed from "include equipment maintenance, exposures and positioning, film processing, film evaluation for quality, and mounting and filing of radiographic films" to "include equipment maintenance, exposures and positioning, image processing, image evaluation for quality, and display and storage of radiographic images." The change uses updated language.

The State Board of Health adopted these amendments on July 11, 2007.

These amendments become effective September 5, 2007.

These amendments are intended to implement Iowa Code chapters 136C and 136D.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 38, 39, 41, 42, 45, 46] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5912B**, IAB 6/6/07.

[Filed 7/13/07, effective 9/5/07]
[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6108B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 135.11 and 135.22B, the Department of Public Health hereby adopts new Chapter 56, "Brain Injury Services Program," Iowa Administrative Code.

A Brain Injury Services Program was created through legislation passed in 2006. The purpose of the Brain Injury Ser-

vices Program is to provide services, service funding, or other support for persons with a brain injury under either the waiver-eligible component or the cost-share component, as provided by Iowa Code section 135.22B. The new chapter provides guidance on how to apply for assistance and the financial eligibility requirements for the waiver-eligible and cost-share components of the program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 6, 2007, as **ARC 5915B**. A public hearing was held on June 26, 2007. One comment was received from the Brain Injury Association of Iowa recommending that the definition of brain injury in these rules be replaced with the definition of brain injury in the Department of Human Services Brain Injury Waiver Program rules, 441—83.81(249A). This change was not made since the statute defines brain injury for the Brain Injury Services Program. In addition, these rules were simultaneously Adopted and Filed Emergency as **ARC 5914B**. These rules are identical to the rules published under Notice of Intended Action and Adopted and Filed Emergency.

These rules were adopted by the State Board of Health on July 11, 2007.

These rules shall become effective September 5, 2007, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement Iowa Code section 135.22B.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 56] is being omitted. These rules are identical to those published under Notice as **ARC 5915B** and Adopted and Filed Emergency as **ARC 5914B**, IAB 6/6/07.

[Filed 7/13/07, effective 9/5/07]
[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6117B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby rescinds Chapter 82, "Statewide Indigent Obstetrical and Orthopedic Patient Care Program," Iowa Administrative Code.

This amendment rescinds the rules that pertain to the Statewide Indigent Obstetrical and Orthopedic Patient Care Program under Iowa Code chapter 255A. The Legislature repealed Iowa Code chapter 255A in 2005.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because the Legislature has repealed the Iowa Code chapter related to this program; the program no longer exists.

This amendment shall become effective September 5, 2007.

This amendment is intended to implement Iowa Code section 135.11.

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Rescind and reserve **641—Chapter 82**.

[Filed Without Notice 7/13/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6109B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 93, "Abuse Education Review Panel," Iowa Administrative Code.

The rules in Chapter 93 describe the purpose, composition, and duties of the abuse education review panel; standards for approval of abuse education curricula; process for application review and approval; and process for appeal.

Currently, the abuse education review panel is comprised of six members with a quorum of two-thirds of the members present. However, there have been meetings during the past year when three members have been absent and, as a result, a quorum could not be established. The Assistant Attorney General assigned to the Department has recommended that the composition of the panel be changed from six members to seven members with a quorum of four members. These amendments will allow three members to be absent while still maintaining a quorum of four members.

The amendment in Item 1 increases the size of the panel from six members to seven members and requires that the added member represent mandatory reporters or employers of mandatory reporters. The amendment in Item 2 establishes a quorum to be four members.

Notice of Intended Action was published in the June 6, 2007, Iowa Administrative Bulletin as **ARC 5913B**. The adopted amendments are identical to those published under Notice.

These amendments were adopted by the State Board of Health on July 11, 2007.

These amendments will become effective September 5, 2007.

These amendments are intended to implement Iowa Code chapter 135.

The following amendments are adopted.

ITEM 1. Amend subrule 93.2(1) as follows:

93.2(1) Panel composition. The director shall appoint the members of the panel. The panel shall be comprised of ~~six~~ *seven* members, with one member having expertise in issues related to child abuse, one member having expertise in issues related to dependent adult abuse, one member having expertise in curriculum development, and ~~three~~ *four* members representing mandatory reporters or employers of mandatory reporters. Appointments shall be for three-year staggered terms that shall expire on June 30. A member shall serve no more than three terms or nine years. The director shall fill any vacancy for the unexpired term of the vacancy. The di-

rector shall make all reasonable efforts to ensure that the total composition of the panel is fair, impartial, and equitable.

ITEM 2. Amend rule 641—93.3(135) as follows:

641—93.3(135) Meetings. The panel shall meet as necessary and appropriate. ~~Two-thirds of~~ *Four* members shall constitute a quorum, and ~~the affirmative vote of two-thirds of members present shall be necessary for any action to be taken by the panel.~~ However, no recommendations may be adopted without the affirmative vote of at least four members of the panel. The members of the panel shall be eligible for reimbursement of actual and necessary expenses for the performance of their official duties.

[Filed 7/13/07, effective 9/5/07]

[Published 8/1/07]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/1/07.

ARC 6110B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147A.4, the Department of Public Health hereby amends Chapter 131, "Emergency Medical Services Provider Education/Training/Certification," Iowa Administrative Code.

The rules in Chapter 131 describe the standards for the education, training, and certification of emergency medical care providers and establish a standard of conduct for training programs, students, and providers. These amendments clarify the continuing education requirements for emergency medical care providers, increase the continuing education opportunities which may be considered formal education, clarify the actions which may lead to disciplinary action by the Department, and remove the requirement that practical testing must be completed prior to the written examination.

Notice of Intended Action was published in the May 23, 2007, Iowa Administrative Bulletin as **ARC 5903B**. One written comment in support of the amendments was received. The adopted amendments are identical to those published under Notice.

These amendments were adopted by the State Board of Health on July 11, 2007.

These amendments will become effective September 5, 2007.

These amendments are intended to implement Iowa Code chapter 147A.

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 [131.1, 131.4, 131.7(2)] is being omitted. These amendments are identical to those published under Notice as **ARC 5903B**, IAB 5/23/07.

[Filed 7/13/07, effective 9/5/07]

[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6112B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 125.7(4), the Department of Public Health hereby amends Chapter 157, "Standards for Substance Abuse Treatment and Assessment Programs and the Operating a Motor Vehicle While Intoxicated (OWI) Law," Iowa Administrative Code.

Recognizing the need to update the requirements while organizing the rules in a more understandable fashion, the Department has undertaken the task to review and update rules relating to substance abuse treatment and assessment programs and the OWI law. The Department also took this opportunity to make other changes primarily updating and correcting references to the Iowa Code and to federal regulations. The following paragraphs itemize the changes:

Item 1 rescinds five definitions and adds four new definitions.

Item 2 amends rule 641—157.2(125) to specify that required substance abuse treatment shall be at a licensed substance abuse treatment program; adds new subrule 157.2(4) to specify how substance abuse treatment providers may provide the drinking drivers course; and makes other minor amendments to the language of the rule.

Item 3 amends rule 641—157.3(125) to specify how the substance abuse treatment provider shall report satisfactory completion of Iowa Code chapter 321J requirements, to clarify that programs shall abide by the Health Insurance Portability and Accountability Act (HIPAA) of 1996, and to make other minor amendments to the language of the rule.

Item 4 amends rule 641—157.4(125) to increase the maximum charge for screening and evaluation from \$100 to \$125 and to make other minor amendments to the language of the rule.

Item 5 amends rule 641—157.5(125) to make minor amendments to the language of the rule.

Item 6 amends rule 641—157.6(125) to specify that programs shall abide by HIPAA and to make other minor amendments to the language of the rule.

Item 7 amends rule 641—157.7(125) to specify that programs shall maintain records for a total of seven years, rather than five years, and to make other minor amendments to the language of the rule.

Item 8 amends rule 641—157.8(125) to make minor amendments to the language of the rule.

Notice of Intended Action was published in the April 11, 2007, Iowa Administrative Bulletin as **ARC 5823B**. A public hearing was held on May 1, 2007. No one attended the public hearing. One written comment was received. The commenter did not take issue with the proposed changes.

Several changes have been made since the Notice of Intended Action to provide additional clarification. In Item 2, the second occurrence of the word "persons" has been stricken in the introductory paragraph of rule 641—157.2(125) and new language has been added to subrule 157.2(1) to identify the abuse screening instrument. Subrule 157.2(1) now reads as follows:

"**157.2(1) Screening.** The initial screening shall consist of a generally accepted standardized substance abuse screening instrument. The program shall utilize a recognized diagnostic test or tool to determine "substance abuse" or "dependence" as those terms are defined in the DSM IV (Diagnostic

and Statistical Manual of Mental Disorders, Fourth Edition). In addition, programs shall collect information on blood alcohol content at time of arrest; history of other alcohol or drug-related arrests; history of alcohol/drug treatment; history of mental health problems and treatment; any OWI arrest that included personal injury or additional charge(s); and family history of substance abuse."

In Item 3, new language has been added to subrules 157.3(2) and 157.3(3) to include cross references to state and federal confidentiality regulations and provisions. The subrules now read as follows:

"**157.3(2) Primary treatment.** Upon completion of primary treatment, programs shall report to the department of transportation and the courts that treatment has been completed in accordance with Iowa Code section 321J.22; the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR, Part 2, effective June 9, 1987; HIPAA; and other relevant provisions of federal and state law.

"**157.3(3) Posttreatment results.** If the court orders a post-treatment program, the program shall report progress and attendance to the person's probation officer or otherwise as ordered by the court in accordance with Iowa Code section 321J.22; the federal confidentiality regulations, "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 CFR, Part 2, effective June 9, 1987; HIPAA; and other relevant provisions of federal and state law."

The State Board of Health adopted these amendments on July 11, 2007.

These amendments are intended to implement Iowa Code chapter 125.

These amendments shall become effective on September 5, 2007.

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 [157.1 to 157.8] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5823B**, IAB 4/11/07.

[Filed 7/13/07, effective 9/5/07]

[Published 8/1/07]

[For replacement pages for IAC, see IAC Supplement 8/1/07.]

ARC 6115B**PUBLIC HEALTH
DEPARTMENT[641]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby amends Chapter 173, "Contested Cases," Iowa Administrative Code.

The Department has some programs with statutory authority to issue subpoenas. This amendment outlines what needs to be included in the subpoena, the process for challenging a subpoena, and the process for resolving a challenge.

Notice of Intended Action was published in the April 11, 2007, Iowa Administrative Bulletin as **ARC 5824B**. The

PUBLIC HEALTH DEPARTMENT[641](cont'd)

adopted amendment is identical to that published under Notice.

This amendment was adopted by the State Board of Health on July 11, 2007.

This amendment will become effective on September 5, 2007.

This amendment is intended to implement Iowa Code chapters 17A and 135.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [173.14] is being omitted. This amendment is identical to that published under Notice as **ARC 5824B**, IAB 4/11/07.

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ARC 6107B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Adopted and Filed

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby amends

Chapter 12, "Fees," and adopts new Chapter 16, "Enforcement Proceedings Against Nonlicensees," Iowa Administrative Code.

The amendment to Chapter 12 increases registration fees for associate and certified residential, associate and certified general and reciprocal applicants. Chapter 16 sets procedure for investigating and enforcing nonlicensees in accordance with Iowa Code chapter 543D as amended by 2007 Iowa Acts, Senate File 137. The amendment and new chapter are subject to waiver or variance pursuant to 193—Chapter 5.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 23, 2007, as **ARC 5889B**. No public comments were received. No changes have been made from the Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 543D as amended by 2007 Iowa Acts, Senate File 137, and chapter 17A.

These amendments will become effective on September 5, 2007.

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 [12.1, Ch 16] is being omitted. These amendments are identical to those published under Notice as **ARC 5889B**, IAB 5/23/07.

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