



# IOWA ADMINISTRATIVE BULLETIN

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Pages 157 to 268

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## PREFACE

The Iowa Administrative Bulletin is published biweekly 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:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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### CITATION of Administrative Rules

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

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

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

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

## Schedule for Rule Making 2008

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 26 '07*</b>	Jan. 16 '08	Feb. 5 '08	Feb. 20 '08	Feb. 22 '08	Mar. 12 '08	Apr. 16 '08	July 14 '08
Jan. 11	Jan. 30	Feb. 19	Mar. 5	Mar. 7	Mar. 26	Apr. 30	July 28
Jan. 25	Feb. 13	Mar. 4	Mar. 19	Mar. 21	Apr. 9	May 14	Aug. 11
Feb. 8	Feb. 27	Mar. 18	Apr. 2	Apr. 4	Apr. 23	May 28	Aug. 25
Feb. 22	Mar. 12	Apr. 1	Apr. 16	Apr. 18	May 7	June 11	Sep. 8
Mar. 7	Mar. 26	Apr. 15	Apr. 30	May 2	May 21	June 25	Sep. 22
Mar. 21	Apr. 9	Apr. 29	May 14	<b>***May 14***</b>	June 4	July 9	Oct. 6
Apr. 4	Apr. 23	May 13	May 28	May 30	June 18	July 23	Oct. 20
Apr. 18	May 7	May 27	June 11	June 13	July 2	Aug. 6	Nov. 3
May 2	May 21	June 10	June 25	<b>***June 25***</b>	July 16	Aug. 20	Nov. 17
<b>***May 14***</b>	June 4	June 24	July 9	July 11	July 30	Sep. 3	Dec. 1
May 30	June 18	July 8	July 23	July 25	Aug. 13	Sep. 17	Dec. 15
June 13	July 2	July 22	Aug. 6	Aug. 8	Aug. 27	Oct. 1	Dec. 29
<b>***June 25***</b>	July 16	Aug. 5	Aug. 20	<b>***Aug. 20***</b>	Sep. 10	Oct. 15	Jan. 12 '09
July 11	July 30	Aug. 19	Sep. 3	Sep. 5	Sep. 24	Oct. 29	Jan. 26 '09
July 25	Aug. 13	Sep. 2	Sep. 17	Sep. 19	Oct. 8	Nov. 12	Feb. 9 '09
Aug. 8	Aug. 27	Sep. 16	Oct. 1	Oct. 3	Oct. 22	Nov. 26	Feb. 23 '09
<b>***Aug. 20***</b>	Sep. 10	Sep. 30	Oct. 15	Oct. 17	Nov. 5	Dec. 10	Mar. 9 '09
Sep. 5	Sep. 24	Oct. 14	Oct. 29	Oct. 31	Nov. 19	Dec. 24	Mar. 23 '09
Sep. 19	Oct. 8	Oct. 28	Nov. 12	<b>***Nov. 12***</b>	Dec. 3	Jan. 7 '09	Apr. 6 '09
Oct. 3	Oct. 22	Nov. 11	Nov. 26	<b>***Nov. 26***</b>	Dec. 17	Jan. 21 '09	Apr. 20 '09
Oct. 17	Nov. 5	Nov. 25	Dec. 10	<b>***Dec. 10***</b>	Dec. 31	Feb. 4 '09	May 4 '09
Oct. 31	Nov. 19	Dec. 9	Dec. 24	<b>***Dec. 24***</b>	Jan. 14 '09	Feb. 18 '09	May 18 '09
<b>***Nov. 12***</b>	Dec. 3	Dec. 23	Jan. 7 '09	Jan. 9 '09	Jan. 28 '09	Mar. 4 '09	June 1 '09
<b>***Nov. 26***</b>	Dec. 17	Jan. 6 '09	Jan. 21 '09	Jan. 23 '09	Feb. 11 '09	Mar. 18 '09	June 15 '09
<b>***Dec. 10***</b>	Dec. 31	Jan. 20 '09	Feb. 4 '09	Feb. 6 '09	Feb. 25 '09	Apr. 1 '09	June 29 '09
<b>***Dec. 24***</b>	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, July 25, 2008	August 13, 2008
5	Friday, August 8, 2008	August 27, 2008
6	Wednesday, August 20, 2008	September 10, 2008

**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\*\*\***

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]</b>		
Sustainable community projects; downtown revitalization fund, amendments to ch 23 IAB 7/16/08 <b>ARC 6944B</b>	Iowa Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 6, 2008 3 p.m.
Housing fund, amendments to ch 25 IAB 7/16/08 <b>ARC 6943B</b>	ICN/Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 11, 2008 1 p.m.
Regional sports authority districts, 38.1 to 38.8 IAB 7/16/08 <b>ARC 6942B</b>	Iowa Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 7, 2008 3 to 4 p.m.
Targeted industries networking fund, 107.1 to 107.8 IAB 7/16/08 <b>ARC 6941B</b>	ICN/Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 6, 2008 3:30 to 4:30 p.m.
Lean manufacturing institute, supplier capacity and product database, and management talent recruitment, chs 110 to 112 IAB 7/16/08 <b>ARC 6940B</b>	ICN/Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 8, 2008 10 to 11:30 a.m.
River enhancement community attraction and tourism fund, amendments to chs 211, 212 IAB 7/16/08 <b>ARC 6939B</b>	ICN/Main Conference Room, Second Floor 200 E. Grand Ave. Des Moines, Iowa	August 7, 2008 2:30 to 4:30 p.m.
<b>EDUCATIONAL EXAMINERS BOARD[282]</b>		
Designation of legal counsel by the board, 11.21(3) IAB 7/16/08 <b>ARC 6980B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Adding endorsements to licenses, 14.106 IAB 7/16/08 <b>ARC 6971B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Administrator licenses, 14.114 IAB 7/16/08 <b>ARC 6977B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Two-year teacher exchange license, 14.120(1) IAB 7/16/08 <b>ARC 6973B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
Special education instructional endorsements, 15.1(2) IAB 7/16/08 <b>ARC 6978B</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 6, 2008 1 p.m.
<b>ENVIRONMENTAL PROTECTION COMMISSION[567]</b>		
Quorum and voting requirements, 1.6 IAB 7/2/08 <b>ARC 6922B</b> (See also <b>ARC 6921B</b> )	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 22, 2008 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>HISTORICAL DIVISION[223]</b>		
Historic tax credits, amendments to ch 48 IAB 7/16/08 <b>ARC 6927B</b> (See also <b>ARC 6925B</b> herein) <b>(ICN Network)</b>	ICN Classroom 600 East Locust St. Des Moines, Iowa (For a listing of ICN sites, go to <a href="http://www.culturalaffairs.org/about/admin_rules/index.htm">http://www.culturalaffairs.org/about/ admin_rules/index.htm</a> )	August 12, 2008 2 p.m.
<b>INSURANCE DIVISION[191]</b>		
Workers' compensation insurance rate filing procedures, ch 60 IAB 7/2/08 <b>ARC 6909B</b>	330 Maple St. Des Moines, Iowa	July 30, 2008 10 a.m.
Determining reserve liabilities for preneed life insurance, ch 95 IAB 7/2/08 <b>ARC 6888B</b>	330 Maple St. Des Moines, Iowa	July 22, 2008 10 a.m.
Sales of cemetery merchandise, funeral merchandise and services, chs 100 to 106 IAB 7/2/08 <b>ARC 6904B</b>	330 Maple St. Des Moines, Iowa	July 22, 2008 2 p.m.
<b>IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]</b>		
Benefits; service credit and purchases; dividends, amendments to chs 4, 6 to 8, 13 to 15 IAB 7/16/08 <b>ARC 6975B</b>	7401 Register Dr. Des Moines, Iowa	August 5, 2008 9 a.m.
IPERS benefits, 6.3, 14.3(1), 14.4, 14.16 IAB 7/2/08 <b>ARC 6917B</b>	7401 Register Dr. Des Moines, Iowa	July 22, 2008 9 a.m.
<b>LABOR SERVICES DIVISION[875]</b>		
Construction personnel hoists, amendments to chs 71, 75, 76 IAB 7/16/08 <b>ARC 6946B</b> (See also <b>ARC 6947B</b> herein)	Stanley Room 1000 East Grand Ave. Des Moines, Iowa	August 6, 2008 10 a.m. (If requested)
<b>PROFESSIONAL LICENSURE DIVISION[645]</b>		
Board of psychology, rescind chs 239, 243; amend chs 240 to 242 IAB 7/16/08 <b>ARC 6931B</b>	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	August 5, 2008 10 to 11 a.m.
<b>PUBLIC HEALTH DEPARTMENT[641]</b>		
Immunizations, amendments to ch 7 IAB 7/16/08 <b>ARC 6974B</b> <b>(ICN Network)</b>	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	August 7, 2008 9 to 10 a.m.
	Room 106, Activity Center North Iowa Area Community College 500 College Dr. Mason City, Iowa	August 7, 2008 9 to 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>PUBLIC HEALTH DEPARTMENT[641]</b> (Cont'd)		
	Room 116, Red Oak Center Southwestern Community College 2300 N. 4th St. Red Oak, Iowa	August 7, 2008 9 to 10 a.m.
	Room 528, Trustee Hall, North Campus Southeastern Community College 1500 West Agency West Burlington, Iowa	August 7, 2008 9 to 10 a.m.
	Loess Hills AEA 13 24997 Hwy. 92 Council Bluffs, Iowa	August 7, 2008 9 to 10 a.m.
	Room 157, Vocational Technical Bldg. Ottumwa High School 501 E. 2nd St. Ottumwa, Iowa	August 7, 2008 9 to 10 a.m.
	Room 302, Kahl Educational Center Eastern Iowa Community College District 326 W. 3rd St. Davenport, Iowa	August 7, 2008 9 to 10 a.m.
	Fiberoptic Education Center Orange City Hospital and Clinics 400 Central Ave. Orange City, Iowa	August 7, 2008 9 to 10 a.m.
	Meeting Room D Public Library 123 S. Linn St. Iowa City, Iowa	August 7, 2008 9 to 10 a.m.
	Public Library 524 Main St. Cedar Falls, Iowa	August 7, 2008 9 to 10 a.m.
	Public Library 424 Central Ave. Fort Dodge, Iowa	August 7, 2008 9 to 10 a.m.
<b>PUBLIC SAFETY DEPARTMENT[661]</b>		
Manufactured housing support and anchorage systems, 16.622, 16.625, 16.626, ch 322 IAB 7/2/08 <b>ARC 6897B</b> (See also <b>ARC 6898B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 10 a.m.
Records retention manual; employee photographs, 25.11, 25.15 IAB 7/2/08 <b>ARC 6916B</b>	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 8 a.m.
Temporary storage of flammable liquids in disaster emergencies, 221.4(4) IAB 7/16/08 <b>ARC 6949B</b> (See also <b>ARC 6967B</b> herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 8 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>PUBLIC SAFETY DEPARTMENT[661] (Cont'd)</b>		
Fire fighter certification standards, 251.202 IAB 7/2/08 <b>ARC 6894B</b>	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 8:30 a.m.
Energy conservation in construction, 300.4(1), 300.6(4), 303.1 to 303.3 IAB 7/2/08 <b>ARC 6883B</b> (See also <b>ARC 6885B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 10:30 a.m.
Suspension of installation requirements for manufactured homes during emergencies, 322.12 IAB 7/16/08 <b>ARC 6969B</b> (See also <b>ARC 6970B</b> herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 10 a.m.
Manufactured housing installer certification, ch 374 IAB 7/2/08 <b>ARC 6880B</b> (See also <b>ARC 6881B</b> )	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 9 a.m.
Temporary emergency certification for manufactured housing installers, 374.11 IAB 7/16/08 <b>ARC 6965B</b> (See also <b>ARC 6966B</b> herein)	First Floor Public Conf. Rm. 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 12, 2008 9 a.m.

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

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

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

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

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
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AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECT
Iowa Homeland Security and Emergency Management Division (HSEMD)	Hazard Mitigation Grant Program (HMGP) DR 1763 Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA)	<ul style="list-style-type: none"> <li>• State Agencies and Local Governments</li> <li>• Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations.</li> <li>• Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in the 44 Code of Federal Regulations (CFR), Section 206.221 (e)</li> <li>• All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP.</li> <li>• All Applicants for a project grant must have a FEMA approved local hazard mitigation plan prior to FEMA awarding HMGP project funds.</li> </ul> <p><b>Application Process:</b></p> <ul style="list-style-type: none"> <li>- Potential buy out project applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: <a href="https://www.iowahomelandsecurity.org/Partners/CountyCoordinators/Grants/HMGP/tabid/145/Default.aspx">https://www.iowahomelandsecurity.org/Partners/CountyCoordinators/Grants/HMGP/tabid/145/Default.aspx</a></li> <li>- NOI Form must be E-mailed to <a href="mailto:hsemd.mitigation@iowa.gov">hsemd.mitigation@iowa.gov</a> by September 12, 2008</li> <li>- NOI's will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review.</li> <li>- Entities selected for full project application development (anticipated mid October 2008) will be notified and provided a minimum of two months to complete the application.</li> </ul> <p style="text-align: center;"><b>For additional information please contact:</b></p> <p style="text-align: center;"> <b>John Wageman 515-725-3225</b>  <b>Jim Russell 515-725-3217</b>  <b>Jessica Alaniz 515-725-3247</b>  <b>Linda Roose 515-725-3212</b> </p> <p style="text-align: center;"> <b>Iowa Homeland Security and Emergency Management Division</b>  <b>Camp Dodge, Bldg W4</b>  <b>Johnston, Iowa 50131</b> </p>	<p><b>Eligible Project Types</b></p> <ul style="list-style-type: none"> <li>- <b>Structural Acquisition (Buy Out) of flood-prone property.</b></li> </ul>

## ARC 6944B

## ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]

## 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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to adopt amendments to Chapter 23, "Iowa Community Development Block Grant Program," Iowa Administrative Code.

The amendments add sustainable community projects as an eligible activity within the contingency fund, change the amount of the contingency fund from 5 percent of all block grant funds to \$1 million, revise the rating criteria to include considerations relating to sustainability and site design criteria, and create a new downtown revitalization fund.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 5, 2008. Interested persons may submit written comments to Hank Manning, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4836.

A public hearing to receive comments about the proposed amendments will be held on August 6, 2008, at 3 p.m. in the Iowa Room, Second Floor, at the above address.

These amendments are intended to implement Iowa Code section 15.108(1)"a."

The following amendments are proposed.

ITEM 1. Amend rule 261—23.2(15) as follows:

**261—23.2(15) Definitions.** When used in this chapter, unless the context otherwise requires:

"*Activity*" means one or more specific activities, projects or programs assisted with CDBG funds.

"*Average county wage*" means the average the department calculates annually using the most current four quarters of wage and employment information as provided in the Quarterly Covered Wage and Employment Data report as provided by the Iowa workforce development department, audit and analysis section. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"*Average regional wage*" means the wage calculated annually by the department using a methodology in which each particular county is considered to be a geographic center of a larger economic region. The wage threshold for the central county is calculated using the average wage of that county, plus each adjoining county, so that the resulting figure reflects a regional average that is representative of the true labor market area. In performing the calculation, the greatest importance is given to the central county by weighting it by a factor of four, compared to weighting of one for each of the other adjoining counties. The central county is given the greatest importance in the calculation because most of the employees in that central county will come from that same county, as compared to commuters from other adjoining counties.

~~"*Bold possibilities*" means projects that meet one of the goals of IOWA 2010.~~

"*Career link*" means a program providing training and enhanced employment opportunities to the working poor and underemployed Iowans.

"*CDBG*" means community development block grant.

"*EDSA*" means economic development set-aside.

"*HUD*" means the U.S. Department of Housing and Urban Development.

"*IDED*" means the Iowa department of economic development.

~~"*IOWA 2010*" means the goals and objectives outlined in the report dated November 1, 2000, issued by the governor's strategic planning council.~~

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

“LMI” means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.

“PFSA” means public facilities set-aside.

“Program income” means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.

“Program year” means the annual period beginning January 1 and ending December 31.

“Quality jobs program” means a job training program formerly funded with CDBG funds that is no longer operational.

“Recipient” means a local government entity awarded CDBG funds under any CDBG program.

“Sustainable community activities” means activities to develop viable communities while preserving precious environment and resources.

“Working poor” means an employed person with an annual household income between 25 and 50 percent of the area median family income.

ITEM 2. Amend subrules 23.4(5) and 23.4(8) as follows:

**23.4(5) Contingency funds.** IDED reserves the right to allocate up to ~~5 percent of funds~~ \$1 million for projects dedicated to addressing threats to public health and safety and for ~~bold possibilities~~ sustainable community demonstration projects.

**23.4(8) Recaptured funds.** Recaptured funds shall be ~~returned to the competitive program available~~ for use through the water and sewer fund, ~~and the community facilities and services fund, the contingency fund, the housing fund, and the downtown revitalization fund.~~ As approved by the director, recaptured funds may be used to fund projects from the job creation, retention and enhancement fund ~~or housing fund~~ in order to respond to an immediate ~~community or business need~~ if no funds are available through the economic development set-aside fund or public facilities set-aside fund. Recaptured funds remaining at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.

ITEM 3. Amend subrule 23.5(7) as follows:

**23.5(7)** Applications shall include a community development and housing needs assessment. ~~In evaluating applications, IDED shall give supplementary credit to applicants that have developed comprehensive community and economic development plans.~~

ITEM 4. Adopt the following new subparagraph **23.6(4)“c”(9)**:

(9) Whether the project meets or exceeds the minimum building and site design criteria established by IDED to be eligible for funding.

ITEM 5. Rescind and reserve paragraph **23.7(1)“k.”**

ITEM 6. Amend rule 261—23.10(15) as follows:

**261—23.10(15) Requirements for the contingency fund.** The contingency fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or communities ~~addressing bold possibilities~~ developing a sustainable community demonstration project. Up to ~~5 percent~~ \$1 million of CDBG funds may be used for this purpose.

**23.10(1)** No change.

**23.10(2) Application review.** Upon receipt of a request for contingency funding, IDED shall determine whether the project is eligible for funding and notify the applicant of its determination. A project shall be considered eligible if it meets the following criteria:

a. Projects to address a threat to health and safety.

(1) to (4) No change.

b. Projects to ~~address bold possibilities~~ demonstrate sustainable community activities.

(1) The project ~~addresses one of the goals of IOWA 2010~~ is consistent with sustainability and smart growth principles.

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

(2) to (7) No change.

(8) The project is innovative and could be replicated in other communities.

(9) The project meets or exceeds the minimum building and site design criteria established by IDED.

**23.10(3)** and **23.10(4)** No change.

ITEM 7. Amend subrules 23.15(2) and 23.15(8) as follows:

**23.15(2) *General financial management standards.*** Recipients shall comply with 24 CFR 85, as revised ~~April 1, 1997~~ January 1, 2007, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. Allowable costs shall be determined in accordance with OMB Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

**23.15(8) *Contract closeout and audit.*** Upon completion of project activities and contract expiration, IDED shall initiate closeout procedures. Contracts may be subject to audit before closeout of the contract can be completed. Recipients that expend \$500,000 or more of federal funds ~~of \$300,000 or more~~ within one year must have these funds audited. The audit shall be performed in a manner consistent with the provisions set forth in the Single Audit Act, as revised in 1996, and described in the CDBG management guide.

ITEM 8. Adopt the following **new** rule 261—23.16(15):

**261—23.16(15) Requirements for the downtown revitalization fund.** Downtown revitalization funds are reserved for eligible CDBG activities that assist in the revitalization of downtown areas.

**23.16(1) *Maximum grant award.*** The maximum grant award for individual applications is \$500,000.

**23.16(2) *Application procedure.*** Application forms and instructions shall be available upon request from IDED, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, or on the division Web site at [www.iowalifechanging.com/community](http://www.iowalifechanging.com/community).

**23.16(3) *Review criteria.*** IDED shall review applications and make funding decisions based on the following criteria:

- a. Impact of the project on the community.
- b. Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion.
- c. Level of community support for a downtown revitalization effort.
- d. Degree to which downtown revitalization fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount of local financial support for the activity.
- e. Degree to which the activity meets or exceeds the minimum building and site design criteria established by IDED to be eligible for funding.
- f. Level of planning completed for comprehensive downtown revitalization efforts.

**ARC 6943B**

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

### **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 15.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 25, "Housing Fund," Iowa Administrative Code.

The proposed amendments add a number of new definitions; incorporate new "green development" standards and criteria into the housing program; add a new eligible activity, "development subsidy," to cover

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

some of the additional costs of green development; increase the maximum award amounts for several of the housing activity categories; and include a number of other clarifying revisions.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 11, 2008. Interested persons may submit written or oral comments by contacting: Terry Vestal, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4850.

A public hearing to receive comments about the proposed amendments will be held on August 11, 2008, at 1 p.m. at the above address in the ICN/Main Conference Room, Second Floor.

These amendments are intended to implement Iowa Code section 15.108(9)“b.”

The following amendments are proposed.

ITEM 1. Adopt the following new definitions in rule **261—25.2(15)**:

“*Development subsidies*” means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing that is in compliance with the Iowa green communities criteria. In such cases, the total cost of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.

“*Gut rehabilitation*” means an activity or project that involves the total removal and replacement of all interior (nonstructural) systems, equipment, components or features of a multifamily structure, whereby the existing structure will be reduced down to the basic structure or exterior building shell (e.g., the foundation system; exterior walls; roofs; and interior structural components such as columns, beams, floors and structural bearing walls). “Gut rehabilitation” may also include structural or nonstructural modifications to the exterior of the structure.

“*Iowa green communities criteria*” means a set of rating factors, some optional and some mandatory, prepared by IDED and intended to promote public health, energy efficiency, water conservation, smart locations, operational savings and sustainable building practices.

“*Lead hazard reduction or abatement carrying costs*” means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. “Lead hazard reduction or abatement carrying costs” includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

“*Technical services*” means all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, (11) value determination (new construction) or after rehabilitation value determination (existing structures), and (12) project-specific environmental clearance processes.

ITEM 2. Amend rule 261—25.3(15) as follows:

**261—25.3(15) Eligible applicants.** Eligible applicants for housing fund assistance include all incorporated cities and all counties within the state of Iowa; nonprofit organizations; CHDOs; and for-profit corporations, partnerships and individuals.

1. Any eligible applicant may apply directly.
2. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

ITEM 3. Amend subrule 25.4(1) as follows:

**25.4(1)** Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance (including development subsidies), owner-occupied housing rehabilitation, and other

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

housing-related activities as may be deemed appropriate by IDED. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

a. and b. No change.

~~e. — In communities with populations of 15,000 or less, all single family rehabilitation must be done in compliance with Iowa's Minimum Housing Rehabilitation Standards (November 1999), and all applicable state and local codes, rehabilitation standards and ordinances, and shall, at a minimum, meet HUD Section 8 Housing Quality Standards, 24 CFR 882 (April 1, 1997). New units must be constructed pursuant to one of the standards specified at 24 CFR 92.251(a)(1) (April 1, 1997).~~

c. Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.

(1) All rental activities involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.

(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa's Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).

d. Iowa green communities criteria. All newly constructed housing (single-family and multifamily housing) and all multifamily rental activities involving gut rehabilitation shall meet the mandatory requirements of the Iowa green communities criteria. All other multifamily rental activities involving rehabilitation (that is, not gut rehabilitation) shall meet the applicable mandatory requirements of the Iowa green communities criteria regarding rehabilitation.

ITEM 4. Amend rule 261—25.5(15) as follows:

**261—25.5(15) Application procedure.** All potential housing fund applicants are encouraged, but not required, to complete and submit a HART form describing the proposed housing activity prior to the submittal of a formal housing fund application. If the proposal is determined to be appropriate for housing fund assistance, IDED shall inform the applicant of the appropriate application procedure by mail.

**25.5(1) to 25.5(3)** No change.

**25.5(4) Housing fund applications.** Housing fund applications shall be reviewed through an annual competition. ~~Once funds have been allocated, IDED will not accept applications seeking funding for review until the next established deadline.~~ IDEED reserves the right to withhold funding from the annual housing fund competitive cycle to compensate for insufficient numbers or quality of applications received; to ensure that IDED meets its 15 percent CHDO set-aside from HOME funds; to add HOME funds to existing HOME awards within one year of the original award date; to reallocate de-obligated or recaptured funds; and to fund projects that are consistent with Iowa green communities criteria. In the event that funds are withheld from the annual competitive cycle, IDED will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IDED.

**25.5(5) Joint applications.** For applicants requesting funding for both the housing fund and low-income housing tax credit (LIHTC) programs, the applicant may request application forms and related materials from the Iowa finance authority (IFA). IFA will make available an application package to a potential applicant. The applicant must submit the completed application, with required housing fund attachments, to IFA by the deadline established in the application package.

a. No change.

b. IDED staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final award decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan (scoring and set-asides). Staff from each agency will make recommendations for funding to their respective decision makers. A decision by one agency does not bind the other agency to fund a project.

c. No change.

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

ITEM 5. Amend rule 261—25.6(15) as follows:

**261—25.6(15) Minimum application requirements.** To be considered for housing fund assistance, an application shall meet the following threshold criteria:

**25.6(1)** The application shall propose a housing activity consistent with the housing fund purpose and eligibility requirements, sustainability and smart growth principles, and the state consolidated plan and any local housing plans.

**25.6(2)** The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. ~~Documentation of the availability of certified lead professionals and contractors trained or certified in safe work practices may also be required.~~ IDED reserves the right to deny funding to an applicant that has failed to comply with federal and state requirements in the administration of a previous project funded by IDED. Documentation of the ability of the applicant to provide technical services and of the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the housing fund activity.

**25.6(3)** The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, consistency with sustainability and smart growth principles, and the feasibility of the proposed activity.

**25.6(4) to 25.6(6)** No change.

**25.6(7)** An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IDED HOME funds requested. Sources of a local PJ funds financial commitment could include one or more of the following: HOME, CDBG, TIF, tax abatement, or general funds.

**25.6(8)** ~~An application for a home ownership activity must indicate that recipients will require the beneficiaries of their home ownership assistance to use a principal mortgage loan product offered by one of the following: Iowa Finance Authority, USDA Rural Development, Federal Home Loan Bank, HUD (including FHA and VA), Fannie Mae, Habitat for Humanity, or Freddie Mac. One of these entities will be the principal, and only, mortgage lender in terms of repayable loans in all individual home ownership assistance projects. Any of the named mortgage lending entity's principal mortgage loan products may be used, provided they meet the following minimum requirements: loan terms will minimally include a 90 percent loan to value ratio and will be no less than a 15 year, fully amortized, fixed rate mortgage.~~ An application for a home ownership assistance activity must indicate that recipients will require the beneficiaries of their home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

a. With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual home ownership assistance projects.

b. The housing fund assistance may be recorded in junior position to the principal mortgage loan, but must be recorded in senior position to any and all other funding in all home ownership assistance projects. Recipients of housing fund home ownership assistance activities must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other forms of assistance, such as home equity loans.

c. Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:

(1) Loan interest rates may be no higher than two percentage points above the federal prime interest rate at the time of loan closing;

(2) Loan terms will include an 80 percent or higher loan-to-value ratio;

(3) No less than a 15-year, fully amortized, fixed-rate mortgage may be used; and

(4) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.

d. Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa Finance

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

Authority; USDA-Rural Development; Federal Home Loan Bank; HUD (including FHA and VA); Habitat for Humanity; Fannie Mae; or Freddie Mac.

**25.6(9)** An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time homebuyers only, and that the assisted unit will remain as the assisted homebuyer's principal residence throughout the required period of affordability.

ITEM 6. Amend rule 261—25.7(15) as follows:

**261—25.7(15) Application review criteria.** IDED shall evaluate applications and make funding decisions based on general activity criteria, need, impact, sustainability and smart growth principles, feasibility, and activity administration based upon the specific type of activity undertaken. The activity criteria shall be a part of the application. A workshop will be held at least 60 days prior to the application deadline to provide information, materials, and technical assistance to potential applicants.

**25.7(1)** As applicable, the review criteria for home ownership assistance applications shall include the following:

- a. *General criteria.*
  1. Activity objectives.
  2. Total number of units.
  3. Activities and cost estimates.
  4. If new construction, availability of necessary infrastructure and utilities.
  5. Form(s) of assistance.
  6. Type(s) of assistance (e.g., mortgage buy-down, development subsidy, down payment, closing costs, rehabilitation, and combinations thereof).
  7. Median purchase price for single-family housing in the community.
  8. Initial purchase price or after rehabilitation value per assisted unit limitation.
  9. Mortgage lender participation documentation and the current underwriting standards.
  10. Methodology to determine maximum amount of conventional financing affordable to buyer.
  11. Selection criteria for participants and their access to the proposed activity.
  12. Methodology to ensure that the property will be the buyer's principal residence throughout the period of affordability.
  13. Assurance of compliance with HUD lead-safe housing regulations as applicable.
  14. Compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards ~~(November 1999)~~ and, as applicable, local standards, codes, and ordinances, or the state building code, as each may be applicable.
  15. Activity time line.

b. and c. No change.

**25.7(2)** As applicable, the review criteria for owner-occupied housing rehabilitation applications shall include the following:

- a. *General criteria.*
  1. Activity objectives.
  2. Area of benefit and reason for selection.
  3. Condition of infrastructure in the activity area served.
  4. Form of assistance to homeowners.
  5. Selection criteria for participants.
  6. Method to determine that the property is the homeowner's principal residence.
  7. Compliance with the most current version of Iowa's Minimum Housing Rehabilitation Standards ~~(November 1999)~~.
  8. Assurance of compliance with HUD lead-safe housing regulations, as applicable.
  9. Plans for properties infeasible to rehabilitate.
  10. Activity time line.
- b. No change.
- c. *Administrative criteria.*
  1. Plan for activity administration.

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

2. Previous activity management experience.
3. Budget for general administration.
4. List of prior CDBG or HOME funding.
5. If application is for a continuation of a prior activity, list of performance targets completed.

**25.7(3)** As applicable, the review criteria for rental housing assistance applications shall include the following:

*a. General criteria.*

1. Activity objectives.
2. Total number of units and number of assisted units.
3. Activities and cost estimates.
4. Eligibility criteria for renters of assisted units (income, age, disability, other).
5. Rationale for activity location.
6. Availability and condition of infrastructure; availability of utilities.
7. Zoning compliance.
8. Environmental issues.
9. Potential tenant displacement including estimated Uniform Relocation Act (URA) costs.
10. Accessibility.
11. Assurance of compliance with HUD lead-safe housing regulations, as applicable.
12. Activity time line.

*b. Need, impact and feasibility criteria.*

1. Evidence of need for the activity.
2. Percentage of need to be met through this activity.
3. Number and percentage of low- and moderate-income persons in the community.
4. Number of renters and owners.
- ~~4~~ 5. Housing costs, housing supply, condition of available housing, rental vacancy rate in the community.
- ~~5~~ 6. If new construction, documentation of need for new construction.
- ~~6~~ 7. Other recent or current housing improvement activities in the activity area served or community served.
- ~~7~~ 8. Ongoing comprehensive community development efforts in the activity area served or community served.
- ~~8~~ 9. New businesses or industries in the past five years in the community.
- ~~9~~ 10. Local involvement and financial support.
- ~~10~~ 11. Opposition to the activity and plans to alleviate concerns.
- ~~11~~ 12. Financial contribution to the activity from other sources (including all underwriting criteria).
- ~~12~~ 13. Reason for “gap” in activity financing; justification for housing fund request amount.

*c. Administrative criteria.*

1. Plan for activity administration and property management.
2. Previous administrative experience.
3. Plan to ensure long-term affordability.
4. Plan for annual certification of tenant eligibility and compliance with ~~Section 8 Housing Quality Standards~~ the applicable property standards and any ongoing maintenance to ensure long-term lead-safe housing.
5. Previous CDBG- or HOME-funded housing activities and current status.
6. Applicant’s other rental housing activities and addresses.

**25.7(4)** and **25.7(5)** No change.

ITEM 7. Amend rule 261—25.8(15) as follows:

**261—25.8(15) Allocation of funds.**

**25.8(1)** and **25.8(2)** No change.

**25.8(3)** ~~Up to a maximum of 60 percent of the state’s annual HOME allocation may be reserved for rental housing activities jointly funded with HOME and low income housing tax credits.~~ IDED reserves the right

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

to reserve a portion of the state's annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits.

**25.8(4) and 25.8(5)** No change.

**25.8(6)** Awards shall be limited to no more than \$500,000 for all single-family activities assisting homeowners or homebuyers. Awards shall be limited to no more than ~~\$800,000~~ \$900,000 for all multifamily rental activities.

**25.8(7) Single-family per unit subsidies.** ~~The maximum per unit housing fund subsidy for all single-family activities is \$24,999. Additional funds in excess of the \$24,999 per unit limitation may be used to pay technical services costs, lead hazard reduction costs, lead hazard reduction carrying costs, and temporary relocation costs as necessary or applicable.~~

a. The maximum per unit subsidy for all single-family activities involving rehabilitation is \$37,500. The \$37,500 per unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; home ownership assistance activities; technical services costs, including lead hazard reduction or abatement carrying costs; lead hazard reduction or abatement costs; and temporary relocation. All applicable technical services costs, including any lead hazard reduction or abatement carrying costs, are limited to \$3,750 per unit.

b. Single-family activities providing acquisition assistance for newly constructed housing (mortgage buy-down, downpayment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

c. Single-family activities providing development subsidies for newly constructed housing is limited to \$20,000 per unit. Development subsidies may be provided in addition to acquisition assistance activities.

**25.8(8) Multifamily per unit subsidies.** ~~The maximum per unit housing fund subsidy for all multifamily activities is \$50,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units. The \$50,000 per unit multifamily limit includes all applicable costs including, but not limited to: hard costs of construction or rehabilitation; architectural or technical services costs; lead hazard reduction, lead hazard reduction or abatement costs; and temporary relocation. The maximum per unit housing fund subsidy for all multifamily activities is \$60,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The \$60,000 per unit multifamily limit includes all applicable costs including, but not limited to, hard costs of construction or rehabilitation; architectural design or technical services costs; lead hazard reduction or abatement costs; lead hazard reduction or abatement carrying costs; and temporary relocation.~~

**25.8(9)** Recipients shall ~~justify~~ identify general administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for general administration ~~and technical services~~, but in no case shall the amount for general administration exceed 10 percent of a total housing fund award. Only local government and nonprofit recipients are eligible for general administrative funds.

**25.8(10) and 25.8(11)** No change.

ITEM 8. Amend rule 261—25.9(15) as follows:

**261—25.9(15) Administration of awards.** Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

**25.9(1)** A preaudit survey ~~will~~ may be required for all for-profit and nonprofit direct recipients for grants that exceed \$150,000.

**25.9(2) to 25.9(4)** No change.

**25.9(5) Record keeping and retention.** ~~The recipient shall retain all financial records, supporting documents and all other records pertinent to the housing fund activity for five years after contract expiration.~~

a. CDBG-funded projects. For CDBG-funded projects, the recipient shall retain all financial records, supporting documents and all other records pertinent to the funded activity for five years after the state of Iowa has closed out the corresponding program year with HUD.

b. HOME-funded projects. For HOME-funded projects, 24 CFR 92.508 provides the record retention requirements. All records pertaining to each fiscal year of HOME funds must be retained for the most recent five-year period, except as provided in the following:

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

(1) For rental housing projects, records may be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five-year period, until five years after the affordability period terminates;

(2) For home ownership housing projects, records may be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the affordability period terminates;

(3) For tenant-based rental assistance projects, records must be retained for five years after the period of rental assistance terminates;

(4) Written agreements must be retained for five years after the agreement terminates;

(5) For records covering displacements and acquisitions, see 24 CFR 92.508;

(6) For records relating to litigation, see 24 CFR 92.508.

c. Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

**25.9(6) to 25.9(11)** No change.

## ARC 6942B

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

#### 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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to adopt amendments to Chapter 38, "Regional Sports Authority Districts," Iowa Administrative Code.

The amendments will make it possible for applications to be accepted and reviewed on an annual basis, rather than for one year only. The amendments will also clarify that the certification of a district is good for only one fiscal year and that IDED will certify no more than ten districts each year.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 7, 2008. Interested persons may submit written or oral comments by contacting Nancy Landess, Iowa Tourism Office Manager, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4702.

A public hearing to receive comments about the proposed amendments will be held from 3 to 4 p.m. on August 7, 2008, in the Iowa Room, Second Floor, at the above address.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2432, section 1(5)"c."

The following amendments are proposed.

ITEM 1. Amend **261—Chapter 38**, parenthetical implementation, as follows:  
(82GA,~~HF911~~ SF2432)

ITEM 2. Amend rule **261—38.2(82GA,SF2432)**, definition of "Act," as follows:  
"Act" means the regional sports authority districts Act established by 2007 2008 Iowa Acts, ~~House File 911, section 32.~~ Senate File 2432, section 1(5)"c."

ITEM 3. Amend rule 261—38.7(82GA,SF2432) as follows:

#### **261—38.7(82GA,SF2432) Funding of grants.**

**38.7(1)** ~~The Act authorizes the department to certify up to ten districts and requires that the department disburse an equal amount of funding to each certified district.~~ The department will certify up to ten districts annually.

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

~~38.7(2) For fiscal year 2008, the Act appropriates \$500,000 to the department for certified districts. Each certified district will receive \$50,000. The department will award an equal amount of funding to each of the certified districts, from the funding available.~~

~~38.7(3) If by April 1, 2008 of each year, the department has certified fewer than ten districts, the department will accept applications from those certified districts for additional promotional activities for youth sports, high school athletic activities, the special olympics, and other nonprofessional sporting events in the local area. Any unobligated funds will then be divided equally among the certified districts whose applications have been approved by the department.~~

ITEM 4. Amend **261—Chapter 38**, implementation sentence, as follows:

These rules are intended to implement ~~2007 Iowa Acts, House File 911, section 32.~~ 2008 Iowa Acts, Senate File 2432, section 1(5)“c.”

**ARC 6941B**

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

### **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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to adopt amendments to Chapter 107, “Targeted Industries Networking Fund,” Iowa Administrative Code.

The amendments redefine the formats allowed for networking events, add the requirement of specified topics for discussion, open the events to participation by venture capitalists and community colleges, and increase the maximum award to \$5,000 per event.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 6, 2008. Interested persons may submit written or oral comments by contacting Kim Bentley, Program Manager, Innovation and Commercialization Division, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4808.

A public hearing to receive comments about the proposed amendments will be held from 3:30 to 4:30 p.m. on August 6, 2008, in the ICN/Main Conference Room, Second Floor, at the above address.

These amendments are intended to implement 2007 Iowa Acts, chapter 122, section 7(7).

The following amendments are proposed.

ITEM 1. Amend **261—Chapter 107**, parenthetical implementation, as follows:

(82GA,~~HF829~~ ch122)

ITEM 2. Amend rule 261—107.2(82GA,ch122) as follows:

**261—107.2(82GA,ch122) Purpose.** The purpose of the targeted industries networking fund is to provide financial assistance to support sponsorships of networking events for the creation of new deal flow within the targeted industries. Sponsors of networking events will bring together entrepreneurs, start-up businesses, established companies, venture capitalists, and members of the university academic research community to discuss new technologies ~~and the innovations which the technologies support~~, innovations, opportunities, resources, or needs of the targeted industries.

ITEM 3. Amend rule **261—107.3(82GA,ch122)**, definition of “Networking event,” as follows:

“*Networking event*” means a sponsored event that facilitates linkages between businesses ~~and between businesses and university~~, investors, and academic problem solvers to create new deal flow within the targeted industries.

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

ITEM 4. Amend subrule 107.4(1) as follows:

**107.4(1)** The maximum award shall not exceed ~~\$3,000~~ \$5,000 for a single project. However, as deemed appropriate, the committee may review proposals for funding in excess of ~~\$3,000~~ \$5,000 to support the presentation of a nationally recognized speaker in the field of innovation and commercialization.

ITEM 5. Amend subrules 107.6(1) and 107.6(3) as follows:

**107.6(1)** ~~For events on or after September 1, 2007, an~~ An industry group, business or other sponsor of a networking event must submit an application for financial assistance, in the form specified by the department, to the Iowa Department of Economic Development, Innovation and Commercialization Division, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available at this address or at the department's Web site at www.iowalifechanging.com.

**107.6(3)** An application for financial assistance shall include all information required by the department including, but not limited to, the following:

*a. ~~Event plan~~ topic.* A description of the theme for the networking event and key strategies to be funded that addresses the goals of the event or planned topic of discussion. Topics must be substantive in nature and address key innovations, opportunities, resources, or needs of the event attendees. Networking events must include a business panel, business executive presentation, intellectual property discussion, critical resources discussion or other format deemed appropriate by the department.

*b. Event format.* Events must have a planned structure, including an agenda. Formats may include business panels, business executive presentations with question and answer periods, intellectual property showcases and presentations, roundtable discussions, "speed dating" sessions, workshops, plant and laboratory tours, or other formats deemed appropriate by the department. Strictly social events and member-only events for associations will not qualify for funding.

~~*c.*~~ *Resources and budget.* A budget that includes a detailed description of the sources and uses of the funds.

~~*d.*~~ *Project outcomes.* A statement of the anticipated project outcomes including potential industry connections and benefits to the targeted industries.

ITEM 6. Amend **261—Chapter 107**, implementation sentence, as follows:

These rules are intended to implement 2007 Iowa Acts, ~~House File 829~~ chapter 122.

**ARC 6940B**

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

### **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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to adopt Chapter 110, "Lean Manufacturing Institute Program," Chapter 111, "Supplier Capacity and Product Database Program," and Chapter 112, "Management Talent Recruitment Program," Iowa Administrative Code.

The new rules implement programs authorized by 2007 Iowa Acts, chapter 122, sections 7(1), 7(2), and 7(8). The rules describe the purpose of the programs; the application submittal, review, and approval procedures; and the contract administration provisions.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on August 8, 2008. Interested persons may submit written or oral comments by contacting: Mark Laurenzo, Biosciences Coordinator, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4723.

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

A public hearing to receive comments about the proposed rules will be held from 10 to 11:30 a.m. on August 8, 2008, in the ICN/Main Conference Room, Second Floor, at the above address.

These amendments are intended to implement 2007 Iowa Acts, chapter 122, sections 7(1), 7(2) and 7(8). The following amendments are proposed.

ITEM 1. Adopt the following **new** 261—Chapter 110:

CHAPTER 110  
LEAN MANUFACTURING INSTITUTE PROGRAM

**261—110.1(82GA,ch122) Authority.** The authority for establishing rules governing the lean manufacturing institute initiative is 2007 Iowa Acts, chapter 122, section 7(1).

**261—110.2(82GA,ch122) Purpose.** The purpose of this program is to plan for the creation of a statewide lean manufacturing institute to provide training assistance to manufacturing companies. Targeted industries will be provided technical assistance to identify and adopt appropriate performance improvement programs.

**261—110.3(82GA,ch122) Definitions.**

“*Board*” means the Iowa department of economic development board established in Iowa Code section 15.103.

“*Committee*” means the technology commercialization committee authorized by Iowa Code section 15.116.

“*Department*” means the Iowa department of economic development.

“*Lean manufacturing institute*” means technical assistance focused on identifying holistic and sustainable manufacturing performance improvement programs providing a competitive advantage.

“*Supply chain development*” means strategic and operational activities implemented by manufacturers to effectively and efficiently meet the requirements of their existing customers and to identify possible new customers.

“*Targeted industry*” means the industries of advanced manufacturing, biosciences, and information technology.

**261—110.4(82GA,ch122) Program funding.**

**110.4(1)** Awards shall be made on a per-project basis upon board approval. The maximum award shall not exceed \$100,000 for a single project.

**110.4(2)** Funds shall be used for the development and delivery of performance improvement programs and for acquiring or developing learning materials. Funds shall not be used to purchase equipment.

**110.4(3)** Funds shall not be used for university overhead or indirect expenses or for any work that was conducted by the applicant or for any third-party consultant prior to the term of the contract.

**110.4(4)** Awards from the program shall be in the form of a grant.

**261—110.5(82GA,ch122) Matching funds requirement.** In order to receive financial assistance, an applicant must demonstrate the ability to secure one dollar of nonstate moneys for every one dollar received from the department.

**261—110.6(82GA,ch122) Eligible applicants.**

**110.6(1)** An eligible applicant must be a for-profit business located in Iowa and must demonstrate the commitment of more than one company from one or more of the following industries as classified by the North American Industry Classification System:

- Biosciences.
- Information technologies.
- Advanced manufacturing.

**110.6(2)** Applications from the Iowa manufacturing extension partnership (IMEP) on behalf of eligible for-profit businesses located in Iowa will be considered for funding.

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

**261—110.7(82GA,ch122) Ineligible applicants.**

**110.7(1)** A business which is engaged in retail sales or which provides health services is ineligible.

**110.7(2)** A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operation to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

**261—110.8(82GA,ch122) Application process.**

**110.8(1)** An organization, institution of higher learning, individual or business must submit an application to the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, in a form provided by the department. Required forms and instructions are available at this address or may be printed from the department's Internet site at [www.iowalifechanging.com](http://www.iowalifechanging.com).

**110.8(2)** The technology commercialization committee shall have the authority to evaluate each application and shall provide a suggested funding amount to the board for consideration.

**110.8(3)** An application for technical assistance under the program shall include any information required by the department including, but not limited to, all of the following:

- a. Proposed services for performance improvement programs, outreach, and technical assistance.
- b. A listing of the Iowa companies and executives committed to participating in the technical assistance services.
- c. A description of the scope of work.
- d. A description of the performance metrics.
- e. Resources and project budget.
- f. Project time line and milestones.

**261—110.9(82GA,ch122) Application selection criteria.** In reviewing applications for technical assistance, the committee shall consider the following criteria:

1. Experience in implementing successful performance improvement programs with Iowa manufacturing companies.
2. Experience in implementing successful supply chain development programs with Iowa manufacturing companies.
3. Formal linkages to resources available from national organizations providing performance improvement programs.
4. The number of Iowa original equipment manufacturers (OEMs) and suppliers involved in the application.
5. Established, existing data and experience preparing organized information regarding Iowa manufacturers' performance improvement programs.
6. The degree to which the performance improvement program could be sustained and replicated.
7. Potential impact on the manufacturing output of Iowa OEMs and suppliers.
8. Budget, financial matching, and total leverage.
9. Return on state investment.

**261—110.10(82GA,ch122) Intellectual property.** All intellectual property developed or used for the application must be made available to the department for future performance improvement efforts with Iowa manufacturers and suppliers. If the applicant does not own the intellectual property described in the application, the applicant must provide satisfactory evidence of its right to use or further develop the intellectual property.

**261—110.11(82GA,ch122) Contract and reporting.**

**110.11(1) Notice of award.** Successful applicants shall be notified in writing of an award of assistance, including any conditions and terms of the approval.

**110.11(2) Contract required.** The department shall prepare a contract which includes, but is not limited to, a description of the project to be completed by the business; conditions to disbursement; required reports; the repayment requirements imposed on the business in the event the business does not fulfill its obligations

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

described in the contract; and other specific repayment provisions (“clawback” provisions) to be established on a project-by-project basis.

**110.11(3) Reporting.** An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2008 Iowa Acts, House File 2450, section 6(9) “l,” and any other reports deemed necessary by the department, the board, the general assembly or the governor’s office.

These rules are intended to implement 2007 Iowa Acts, chapter 122, section 7(1).

ITEM 2. Adopt the following **new** 261—Chapter 111:

CHAPTER 111  
SUPPLIER CAPACITY AND PRODUCT DATABASE PROGRAM

**261—111.1(82GA,ch122) Authority.** The authority for establishing rules governing the manufacturing supply chain development program is 2007 Iowa Acts, chapter 122, section 7(2).

**261—111.2(82GA,ch122) Purpose.** The purpose of this program is for the Iowa department of economic development to collaborate with the department of workforce development to create a supplier capacity and product database. Targeted industries will be provided technical assistance for supply chain development through improved linkages to Iowa suppliers, the targeted industries’ production capabilities and capacities, and technology commercialization services.

**261—111.3(82GA,ch122) Definitions.**

“*Board*” means the Iowa economic development board established in Iowa Code section 15.103.

“*Committee*” means the technology commercialization committee authorized by Iowa Code section 15.116.

“*Department*” means the Iowa department of economic development.

“*Supplier capacity and product database*” means organized information regarding manufacturers’ production capabilities, capacities, and technology commercialization services.

“*Supply chain*” means a network of facilities that procure raw materials, transform them into intermediate goods and then final products, and deliver the products to customers through a distribution system.

“*Supply chain development*” means strategic and operational activities implemented by manufacturers to effectively and efficiently meet the requirements of their existing customers and to identify possible new customers.

“*Targeted industry*” means the industries of advanced manufacturing, biosciences, and information technology.

**261—111.4(82GA,ch122) Program funding.**

**111.4(1)** Awards shall be made on a per-project basis upon board approval. The maximum award shall not exceed \$100,000 for a single project.

**111.4(2)** Funds shall be used for the analysis of targeted industry clusters and the development and delivery of manufacturing supply chain development programs. Funds may be used for personnel, software, research data services, and training. Funds shall not be used to purchase equipment.

**111.4(3)** Funds shall not be used for university overhead or indirect expenses or for any work that was conducted by the applicant or any third-party consultant prior to the term of the contract.

**111.4(4)** Awards from the program shall be in the form of a grant.

**261—111.5(82GA,ch122) Matching funds requirement.** In order to receive financial assistance, an applicant must demonstrate the ability to secure one dollar of nonstate moneys for every one dollar received from the department. This requirement does not apply to collaborative projects between the Iowa department of economic development and the department of workforce development.

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

**261—111.6(82GA,ch122) Eligible applicants.**

**111.6(1)** An eligible applicant must be a for-profit business located in Iowa and must demonstrate the commitment of more than one company from one or more of the following industries as classified by the North American Industry Classification System:

- Biosciences.
- Information technologies.
- Advanced manufacturing.

**111.6(2)** Applications from the Iowa manufacturing extension partnership (IMEP) on behalf of eligible for-profit businesses located in Iowa will be considered for funding.

**111.6(3)** The department will establish discrete projects and collaborative projects with the department of workforce development, which do not require application, for supplier capacity and product database initiatives.

**261—111.7(82GA,ch122) Ineligible applicants.**

**111.7(1)** A business which is engaged in retail sales or which provides health services is ineligible.

**111.7(2)** A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operation to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

**261—111.8(82GA,ch122) Application process.**

**111.8(1)** An organization, institution of higher learning, individual or business must submit an application to the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, in a form provided by the department. Required forms and instructions are available at this address or may be printed from the department's Internet site at [www.iowalifechanging.com](http://www.iowalifechanging.com).

**111.8(2)** The technology commercialization committee shall have the authority to evaluate each application and shall provide a suggested funding amount to the board for consideration.

**111.8(3)** An application for technical assistance under the program shall include any information required by the department including, but not limited to, all of the following:

- a. Proposed services for manufacturing supply chain development, organized information, or technical assistance.
- b. A listing of the Iowa companies and executives committed to participating in the technical assistance services.
- c. A description of the scope of work.
- d. A description of the performance metrics.
- e. Resources and project budget.
- f. Project time line and milestones.

**261—111.9(82GA,ch122) Application selection criteria.** In reviewing applications for technical assistance, the committee shall consider the following criteria:

1. Experience in implementing successful supply chain development programs with Iowa manufacturing companies.
2. Experience in implementing successful performance improvement programs with Iowa manufacturing companies.
3. Formal linkages to resources available from national organizations providing supply chain development programs.
4. Number of Iowa original equipment manufacturers (OEMs) and suppliers involved in the application.
5. Established, existing data and experience in preparing organized information (e.g., database, product flow, analysis, GIS tools, charts) regarding Iowa manufacturers' supply chain development programs.
6. Ability to create and analyze targeted industry cluster and subcluster data to generate strategic recommendations for economic development.
7. The degree to which the supply chain development program could be sustained and replicated.
8. Potential impact on the manufacturing output of Iowa OEMs and suppliers.

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

9. Budget, financial matching, and total leverage.
10. Return on state investment.

**261—111.10(82GA,ch122) Intellectual property.** All intellectual property developed or used for the application must be made available to the department for future supply chain development efforts with Iowa manufacturers and suppliers. If the applicant does not own the intellectual property described in the application, the applicant must provide satisfactory evidence of its right to use or further develop the intellectual property.

**261—111.11(82GA,ch122) Contract and reporting.**

**111.11(1) Notice of award.** Successful applicants shall be notified in writing of an award of assistance, including any conditions and terms of the approval.

**111.11(2) Contract required.** The department shall prepare a contract which includes, but is not limited to, a description of the project to be completed by the business; conditions to disbursement; required reports; the repayment requirements imposed on the business in the event the business does not fulfill its obligations described in the contract; and other specific repayment provisions (“clawback” provisions) to be established on a project-by-project basis.

**111.11(3) Reporting.** An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2008 Iowa Acts, House File 2450, section 6(9) “l,” and any other reports deemed necessary by the department, the board, the general assembly or the governor’s office.

These rules are intended to implement 2007 Iowa Acts, chapter 122, section 7(2).

ITEM 3. Adopt the following **new** 261—Chapter 112:

CHAPTER 112  
MANAGEMENT TALENT RECRUITMENT PROGRAM

**261—112.1(82GA,ch122) Authority.** The authority for establishing rules governing the management talent recruitment program is 2007 Iowa Acts, chapter 122, section 7(8).

**261—112.2(82GA,ch122) Purpose.** The purpose of this program is to develop activities for the recruitment of out-of-state executive and operations management personnel. New or expanding targeted industries will be provided technical assistance to identify a network of potential human capital resources appropriate for the targeted industries’ business life cycle.

**261—112.3(82GA,ch122) Definitions.**

“*Board*” means the Iowa economic development board established in Iowa Code section 15.103.

“*Committee*” means the technology commercialization committee authorized by Iowa Code section 15.116.

“*Department*” means the Iowa department of economic development.

“*Early-stage company*” means a company with three or fewer years of operating experience.

“*Eligible applicant*” means an early-stage company that is commercializing a new product or process and seeking new venture capital financing or equity investment.

“*Management talent*” means individuals experienced in executive and operations functions who are willing to provide management or technical decision-making skills, based on a business consulting model.

“*Targeted industry*” means the industries of advanced manufacturing, biosciences, and information technology.

**261—112.4(82GA,ch122) Program funding.**

**112.4(1)** Awards shall be made on a per-project basis upon board approval. The maximum award shall not exceed \$10,000 for a single project.

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

**112.4(2)** Funds shall be used for the identification of potential management talent, participation in human resource-business opportunity matching events, marketing materials, preparation of organized information (e.g., database, Internet applications, networks, talent profiles), and relocation expenses. Funds shall not be used for human resource recruitment, search, or placement service expenses or to purchase equipment.

**112.4(3)** Funds shall not be used for university overhead or indirect expenses or for any work that was conducted by the applicant or any third-party consultant prior to the term of the contract.

**112.4(4)** Awards from the program shall be in the form of a grant.

**261—112.5(82GA,ch122) Matching funds requirement.** In order to receive financial assistance, an applicant must demonstrate the ability to secure two dollars of nonstate moneys for every one dollar received from the department.

**261—112.6(82GA,ch122) Eligible applicants.**

**112.6(1)** An eligible applicant must be a for-profit business located in Iowa from one of the following industries as classified by the North American Industry Classification System:

- Biosciences.
- Information technologies.
- Advanced manufacturing.

**112.6(2)** Applications from venture capital companies (NAIC 523910) on behalf of an eligible for-profit business located in Iowa will be considered for funding.

**112.6(3)** The department will establish discrete projects and collaborative projects, which do not require application, for the identification and recruitment of executive and operations management talent benefitting Iowa targeted industry.

**261—112.7(82GA,ch122) Ineligible applicants.**

**112.7(1)** A business which is engaged in retail sales or which provides health services is ineligible.

**112.7(2)** A business which closes or substantially reduces its workforce by more than 20 percent at existing operations in order to relocate substantially the same operation to another area of the state is ineligible for 36 consecutive months at any of its Iowa sites from the date the new establishment opens.

**261—112.8(82GA,ch122) Application process.**

**112.8(1)** An individual or business must submit an application to the Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, in a form provided by the department. Required forms and instructions are available at this address or may be printed from the department's Internet site at [www.iowalifechanging.com](http://www.iowalifechanging.com).

**112.8(2)** The technology and commercialization committee shall have the authority to evaluate each application and shall provide a suggested funding amount to the board for consideration.

**112.8(3)** An application for technical assistance under the program shall include any information required by the department including, but not limited to, all of the following:

- a. Proposed services for management talent recruitment, connectivity services, and technical assistance.
- b. A listing of Iowa companies and executives committed to participating in the technical assistance services.
- c. A description of the scope of work.
- d. A description of the performance metrics.
- e. Resources and project budget.
- f. Project time line and milestones.

**261—112.9(82GA,ch122) Application selection criteria.** In reviewing applications for technical assistance, the committee shall consider the following criteria:

**112.9(1)** Experience in identifying and successfully recruiting management talent for Iowa targeted industries.

**112.9(2)** Formal linkages to associations and individual members of international organizations providing management talent recruitment.

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

**112.9(3)** Number of Iowa targeted industries involved in the application.

**112.9(4)** Established information, and methods for the identification, due diligence, profiling, and connectivity ability of management talent recruitment.

**112.9(5)** Strength of the business plan in the following areas:

- a. Description of the company and the overall industry;
- b. Product and production plan;
- c. Market, competition, and the marketing strategy;
- d. Executive or operations management; and
- e. Financial information and business capitalization plan.

**112.9(6)** Management team, management expertise, and background (including education, training, work experience, and other factors) which will be provided to the business.

**112.9(7)** Budget, financial matching, and total leverage.

**112.9(8)** Return on state investment.

**261—112.10(82GA,ch122) Intellectual property.** All intellectual property developed or used for the application must be made available to the department for future management talent recruitment for Iowa targeted industries. If the applicant does not own the intellectual property described in the application, the applicant must provide satisfactory evidence of its right to use or further develop the intellectual property.

**261—112.11(82GA,ch122) Contract and reporting.**

**112.11(1) Notice of award.** Successful applicants shall be notified in writing of an award of assistance, including any conditions and terms of the approval.

**112.11(2) Contract required.** The department shall prepare a contract which includes, but is not limited to, a description of the project to be completed by the business; conditions to disbursement; required reports; the repayment requirements imposed on the business in the event the business does not fulfill its obligations described in the contract; and other specific repayment provisions (“clawback” provisions) to be established on a project-by-project basis.

**112.11(3) Reporting.** An applicant shall submit any information requested by the department in sufficient detail to permit the department to prepare the report required pursuant to 2008 Iowa Acts, House File 2450, section 6(9)“l,” and any other reports deemed necessary by the department, the board, the general assembly or the governor’s office.

These rules are intended to implement 2007 Iowa Acts, chapter 122, section 7(8).

## ARC 6939B

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

#### 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 15F.104 and 15.106, the Iowa Department of Economic Development hereby gives Notice of Intended Action to amend Chapter 211, “Community Attraction and Tourism Development Program,” and Chapter 212, “Vision Iowa Program,” Iowa Administrative Code.

On June 11, 2008, the Vision Iowa Board, pursuant to the authority of Iowa Code section 15F.104, approved the filing of these amendments with the Administrative Rules Coordinator.

The proposed amendments incorporate the new River Enhancement Community Attraction and Tourism Fund established by 2008 Iowa Acts, Senate File 2430, section 5, update statutory references, and incorporate

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the legislation enacted by 2008 Iowa Acts, House File 2450, which allows the Director of IDED to appoint a designee to the Vision Iowa Board.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 7, 2008. Interested persons may submit written or oral comments by contacting Alaina Santizo, Vision Iowa Program Manager, Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone number (515)242-4827.

A public hearing to receive comments on the proposed amendments will be held from 2:30 to 4:30 p.m. on August 7, 2008, at the above address in the ICN/Main Conference Room, Second Floor.

These amendments are intended to implement Iowa Code chapter 15F as amended by 2008 Iowa Acts, Senate File 2430 and House File 2450.

The following amendments are proposed.

ITEM 1. Amend **261—Chapter 211**, title, as follows:

COMMUNITY ATTRACTION AND  
TOURISM DEVELOPMENT (CATD) PROGRAM PROGRAMS

ITEM 2. Amend **261—Chapter 211** by adopting the following new division heading:

DIVISION I  
GENERAL PROVISIONS

ITEM 3. Amend rule 261—211.1(78GA,ch1174) as follows:

**261—211.1(78GA,ch1174 15F) Purpose.** The community attraction and tourism development ~~program is~~ programs are designed to assist communities in the development and creation of multiple-purpose attraction and tourism facilities. The CATD programs include the CAT fund and the RECAT fund. The rules in this division apply to all applications and awards from the CAT and RECAT funds.

ITEM 4. Amend rule 261—211.2(78GA,ch1174) as follows:

**261—211.2(78GA,ch1174 15F) Definitions.** When used in this chapter, unless the context otherwise requires:

“*Attraction*” means a permanently located recreational, cultural, educational, or entertainment activity that is available to the general public.

“*Board*” means the vision Iowa board established by ~~2000 Iowa Acts, chapter 1174, section 2~~ Iowa Code section 15F.102.

“*CAT*” means the community attraction and tourism component of the CATD programs.

“*CATD*” means community attraction and tourism development.

“*CATD programs*” means the CAT fund and RECAT fund.

“*CAT fund*” means the community attraction and tourism fund established pursuant to Iowa Code section 15F.204.

“*Community*” or “*political subdivision*” means a city or county, or an entity established pursuant to Iowa Code chapter 28E.

“*Community attraction and tourism program review committee*” or “*CAT review committee*” means the committee established by ~~2000 Iowa Acts, chapter 1174, section 9,~~ Iowa Code section 15F.203(2) and identified as the following members of the vision Iowa board: ~~the three~~ members of the general public, one from each of the three tourism regions; the mayor of a city with a population of less than 20,000; and the county supervisor from a county that has a population ranking in the bottom 33 counties according to the 1990 census. The chair and vice chair of the vision Iowa board may serve as ex officio members of any subcommittee of the board.

“*Department*” or “*IDED*” means the Iowa department of economic development.

“*Economic development organization*” means an entity organized to position a community to take advantage of economic development opportunities and strengthen a community’s competitiveness as a place to work and live.

“*Float loan*” or “*interim financing*” means a short-term loan (maximum of 30 months) from obligated but unexpended funds.

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

~~“Fund” means the community attraction and tourism fund established pursuant to 2000 Iowa Acts, chapter 1174, section 10(1).~~

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the award. A deferred loan is one for which the payment of principal, interest, or both, is not required for some specified period. A forgivable loan is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions.

“Local support” means endorsement by local individuals and organizations that have a substantial interest in a project.

“Nonfinancial support” may include, but is not limited to, the value of labor and services which may not total more than 25 percent of a local match. Real property and personal property donated for purposes of the project are considered financial support at their fair market value.

“Private organization” means a corporation, partnership, or other organization that is operated for profit.

~~“Program” means the community attraction and tourism program established in 2000 Iowa Acts, chapter 1174, section 8.~~

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization including those that sponsor or support community or tourism attractions and activities.

“RECAT” means river enhancement community attraction and tourism.

“RECAT fund” means the river enhancement community attraction and tourism fund established pursuant to 2008 Iowa Acts, Senate File 2430, section 7.

~~“Recipient” means the entity under contract with the vision Iowa board to receive community attraction and tourism development CAT or RECAT funds and undertake the funded activity.~~

“Recreational and cultural attraction” means an attraction that enhances the quality of life in the community.

“River enhancement” means an attraction that promotes and enhances recreational opportunities on and near rivers or lakes within cities.

“School district” means a school corporation organized under Iowa Code chapter 274.

“Subrecipient” means a private organization or other entity operating under an agreement or contract with a recipient to carry out a funded ~~community attraction and tourism development~~ CAT or RECAT activity.

“Tourism opportunity” means a facility that draws people into the community from at least 50 miles (one way) away from home.

“Vertical infrastructure” means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails. “Vertical infrastructure” does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

ITEM 5. Amend rule 261—211.3(78GA,ch1174) as follows:

~~261—211.3(78GA,ch1174 15F) Program components.~~ There are ~~two~~ four direct components ~~to the community attraction and tourism development program~~ of the CATD programs. The first component relates to community attraction, tourism or leisure projects that are sponsored by political subdivisions, public organizations, and school districts in cooperation with a city or county. This component is referred to as the community attraction component. The second component provides community attraction and tourism development funds for interim financing for eligible projects under the community attraction component. This component is referred to as the interim financing component. The third component relates to river enhancement community attraction and tourism projects. This component is referred to as the river enhancement component. The fourth component relates to marketing projects that have received funding from the vision Iowa or CATD programs. This component is referred to as the marketing component.

**211.3(1) Community attraction component—CAT.** The objective of the ~~community attraction~~ CAT component is to provide financial assistance for community-sponsored attraction and tourism projects. Community attraction projects may include but are not limited to the following: museums, theme parks, cultural and recreational centers, heritage attractions, sports arenas and other attractions.

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**211.3(2) *Interim financing component.***

a. The objective of the ~~community attraction and tourism development~~ interim financing component is to provide short-term financial assistance for eligible community attraction and tourism projects. Financial assistance may be provided as a float loan. A float loan may only be made for projects that can provide the vision Iowa board with an irrevocable letter of credit or equivalent security instrument from a lending institution rated AA or better, in an amount equal to or greater than the principal amount of the loan.

b. Applications for float loans shall be processed, reviewed and considered on a first-come, first-served basis to the extent funds are available. Applications that are incomplete or require additional information, investigation or extended negotiation may lose funding priority. Applications for float loans shall meet all other criteria required for the community attraction component.

**211.3(3) *River enhancement component—RECAT.*** The objective of the RECAT component is to provide financial assistance for projects that are related to, closely connected with, and that enhance rivers, lakes, or river corridors within cities. River enhancement projects may include but are not limited to pedestrian trails and walkways, amphitheaters, bike trails, water trails or white water courses for watercraft, and any modifications necessary for the safe mitigation of dams.

**211.3(4) *Marketing component.*** The objective of the marketing component is to provide financial assistance for the marketing of vision Iowa or CATD projects.

ITEM 6. Rescind rule **261—211.4(78GA,ch1174).**

ITEM 7. Renumber rule **261—211.5(78GA,ch1174)** as **261—211.4(78GA,ch1174).**

ITEM 8. Amend renumbered rule 261—211.4(78GA,ch1174) as follows:

**261—211.4(78GA,ch1174 15F) Eligible applicants.** Eligible applicants for ~~community attraction and tourism development~~ CAT and RECAT funds include political subdivisions, public organizations, and school districts in cooperation with a city or county.

**211.4(1)** Any eligible applicant may apply directly or on behalf of a subrecipient.

**211.4(2)** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

ITEM 9. Renumber rule **261—211.6(78GA,ch1174)** as **261—211.5(78GA,ch1174).**

ITEM 10. Amend renumbered rule 261—211.5(78GA,ch1174) as follows:

**261—211.5(78GA,ch1174 15F) Eligible projects and forms of assistance.**

**211.5(1)** Eligible projects include those which are related to a community or tourism attraction, and which would position a community to take advantage of economic development opportunities in tourism and strengthen a community's competitiveness as a place to work and live. Eligible projects include building construction or reconstruction, rehabilitation, conversion, acquisition, demolition for the purpose of clearing lots for development, site improvement, equipment purchases, and other projects as may be deemed appropriate by the vision Iowa board.

**211.5(2)** Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, float loans under the interim financing component, interest subsidies, deferred payment loans, forgivable loans, ~~loan guarantees~~, or other forms of assistance as may be approved by the vision Iowa board.

**211.5(3)** Financial assistance for an eligible project may be provided in the form of a multiyear award to be paid in increments over a period of years, subject to the availability of funds.

**211.5(4)** IDED, with the approval of the chair or vice chair of the vision Iowa board, reserves the right to make technical corrections which are within the intent of the terms of a board-approved award.

**211.5(5)** Applicants must report other sources of funding or pending funding, public or private, for the project including the local recreation infrastructure grants program administered by the Iowa department of natural resources and the Iowa historic site preservation grant program administered by the historical division of the Iowa department of cultural affairs. IDED may consult with appropriate staff from the department of cultural affairs and the department of natural resources to coordinate the review of applications under the programs.

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ITEM 11. Renumber rule ~~261—211.7(78GA,ch1174)~~ as ~~261—211.6(78GA,ch1174)~~.

ITEM 12. Amend renumbered rule 261—211.6(78GA,ch1174) as follows:

**261—211.6(78GA,~~ch1174~~ 15F) Ineligible projects.**

**211.6(1)** The vision Iowa board shall not approve an application for assistance under this program to refinance an existing loan.

**211.6(2)** An applicant may not receive more than one award under ~~this program~~ the CATD programs for a single project. However, previously funded projects may receive an additional award(s) if the applicant demonstrates that the funding is to be used for a significant expansion of the project, a new project, or a project that results from previous project-development assistance.

**211.6(3)** The vision Iowa board shall not approve an application for assistance in which ~~community attraction and tourism development~~ the combination of RECAT and CAT funding would constitute more than 50 percent of the total project costs. RECAT funding may constitute up to one-third of the total project cost. A portion of the resources provided by the applicant for project costs may be in the form of in-kind or nonfinancial contributions.

ITEM 13. Renumber rule ~~261—211.8(78GA,ch1174)~~ as ~~261—211.7(78GA,ch1174)~~.

ITEM 14. Amend renumbered rule 261—211.7(78GA,ch1174) as follows:

**261—211.7(78GA,~~ch1174~~ 15F) Threshold application requirements.** To be considered for funding under the ~~community attraction and tourism development program~~ CATD programs, an application must meet the following threshold requirements:

**211.7(1)** There must be demonstrated local support for the proposed activity.

**211.7(2)** A need for ~~community attraction and tourism development program~~ the CAT or RECAT funds must exist after other financial resources have been identified for the proposed project.

**211.7(3)** The proposed project must primarily involve the creation or renovation of vertical infrastructure with demonstrated substantial regional or statewide economic impact.

**211.7(4)** The project must provide and pay at least 50 percent of the cost of a standard medical insurance plan for all full-time employees working at the project after the completion of the project for which financial assistance was received.

ITEM 15. Renumber rule ~~261—211.9(78GA,ch1174)~~ as ~~261—211.8(78GA,ch1174)~~.

ITEM 16. Amend renumbered rule 261—211.8(78GA,ch1174) as follows:

**261—211.8(78GA,~~ch1174~~ 15F) Application review criteria.** Applications meeting the threshold requirements of rule ~~211.8(78GA,ch1174)~~ 211.7(15F) will be reviewed by IDED staff and passed on to the vision Iowa board. IDED staff shall provide a review, analysis and evaluation of the applications to the CAT review committee of the vision Iowa board. All eligible applications will be reviewed by the vision Iowa board. The CAT review committee shall evaluate and rank applications based on the following criteria:

**211.8(1) Feasibility (0-25 points).** The feasibility of the existing or proposed facility to remain a viable enterprise. The applicant's comprehensive business plan and operational plan will be reviewed as part of this criterion. Rating factors for this criterion include, but are not limited to, the following: analysis of the comprehensive business plan which shall include a description of initial capitalization, sources of funding, project budget, detailed financial projections for five years, marketing analysis, marketing plan, management team, and operational plan that provides detailed information about how the proposed attraction will be operated and maintained including a time line for implementing the project. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

**211.8(2) Economic impact (0-25 points).** Number of jobs created and other measures of economic impact including long-term tax generation, but excluding the use of economic multipliers. The evaluation of the economic impact of a proposed project shall also include a review of the wages and benefits (including health benefits) associated with the jobs to be created, safety, and other attributes of the project that would improve the quality of attraction and tourism employment in the community. Additionally, the economic impact of the project shall be reviewed based on the degree to which the project enhances the quality of life in a community;

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increases the recreational and cultural attraction and tourism opportunities; contributes to the community's efforts to retain and attract a skilled workforce; and creatively uses existing resources in the community. In order to be eligible for funding, proposals must score at least 15 points on this rating factor.

**211.8(3) Leveraged activity (0-10 points).** The degree to which the facility or project will stimulate the development of other recreational and cultural attractions or tourism opportunities and enhance economic growth and job opportunities. In order to be eligible for funding, proposals must score at least 6 points on this rating factor.

**211.8(4) Matching funds (0-25 points).** The proportion of nonstate match to be contributed to the project, and the extent of public and private participation. ~~Moneys expended toward implementation of the project after May 9, 2000, may be considered to be a local match.~~ Moneys raised at any time but not yet spent may also be considered to be a local match.

**211.8(5) Planning principles (0-10 points).** The extent to which the project has taken the following planning principles into consideration:

a. Efficient and effective use of land resources and existing infrastructure by encouraging compact development in areas with existing infrastructure or capacity to avoid costly duplication of services and costly use of land. Compact development maximizes public infrastructure investment and promotes mixed uses, greater density, bike and pedestrian networks, and interconnection with the existing street grid.

b. Provision for a variety of transportation choices, including public transit, pedestrian and bicycle traffic.

c. Maintenance of unique sense of place by respecting and enhancing local cultural, historical and natural environmental features.

d. Conservation of open space and farmland and preservation of critical environmental areas.

e. Promotion of the safety, livability, and revitalization of existing urban and rural communities.

f. Construction and promotion of developments, buildings, and infrastructure that conserve natural resources by reducing waste and pollution through efficient use of land, energy, water, and materials.

g. Capture, retention, infiltration and harvesting of rainfall using storm water best management practices such as permeable pavement, bioretention cells, bioswales, and rain gardens to protect water resources.

h. Implementation of the green sustainable design principles described in the CAT and RECAT application green design checklist.

i. Extent to which project design, construction, and use incorporate renewable energy sources including, but not limited to, solar, wind, geothermal, and biofuels, and support the following state of Iowa plans and goals:

(1) Office of energy independence's Iowa energy independence plan.

(2) General reduction of greenhouse gas emissions.

**211.8(6) Technology and values (0-5 points).** Whether the project has taken the following into consideration:

a. Extent to which the project encourages technologies that allow regional or statewide access for long-distance learning and Internet access to facility resources.

b. Extent to which the project enhances education, wellness (health), and breadth of the project to attract Iowans of all ages.

c. Extent to which facilities are nonsmoking.

d. Extent to which facilities enhance or promote fine arts. For purposes of this paragraph, "fine arts" means "fine arts" as defined in Iowa Code section 304A.8(2) and also includes landscaping.

e. Extent to which facilities promote healthy indoor environments by employing the use of healthy and sustainable building materials, furnishings, cleaning products, and maintenance practices.

A minimum score of 65 points is needed for a project to be recommended for funding.

ITEM 17. Renumber rule **261—211.10(78GA,ch1174)** as **261—211.9(78GA,ch1174)**.

ITEM 18. Amend renumbered rule 261—211.9(78GA,ch1174) as follows:

**261—211.9(78GA,ch1174 15F) Application procedure.** Subject to availability of funds, applications are reviewed by IDED staff on an ongoing basis and reviewed at least quarterly by the board. Applications will

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

be reviewed by staff for completeness and eligibility. If additional information is required, the applicant shall be provided with notice, in writing, to submit additional information. A review, analysis and evaluation from the IDED staff will be submitted to the CAT review committee of the board, who will then make a final recommendation to the complete board for final approval, denial or deferral. The vision Iowa board has the option ~~to fund~~ of funding a component of a proposed project if the entire project does not qualify for funding.

**211.9(1)** Application forms shall be available upon request from IDED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4770 4827; and on IDED's Web site at www.iowalifechanging.com.

**211.9(2)** IDED may provide technical assistance to applicants as necessary. IDED staff and board members may conduct on-site evaluations of proposed projects.

**211.9(3)** Applications shall include, at a minimum, the information detailed in rule ~~211.9(78GA,ch1174)~~ 211.8(15F), application review criteria.

ITEM 19. Renumber rule ~~261—211.11(78GA,ch1174)~~ as **261—211.10(78GA,ch1174)**.

ITEM 20. Amend renumbered rule 261—211.10(78GA,ch1174) as follows:

**~~261—211.10(78GA,ch1174 15F)~~ Administration.**

**211.10(1) Administration of awards.**

a. A contract shall be executed between the recipient and the vision Iowa board. These rules and applicable state laws and regulations shall be part of the contract. The board reserves the right to negotiate wage rates as well as other terms and conditions of the contract.

b. The recipient must execute and return the contract to the vision Iowa board within 45 days of transmittal of the final contract from the vision Iowa board. Failure to do so may be cause for the vision Iowa board to terminate the award.

c. Certain projects may require that permits or clearances be obtained from other state or local agencies before the project may proceed. Awards may be conditioned upon the timely completion of these requirements.

d. Awards may be conditioned upon commitment of other sources of funds necessary to complete the project.

e. Awards may be conditioned upon IDED receipt and board approval of an implementation plan for the funded project.

**211.10(2) Requests for funds.** Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

**211.10(3) Record keeping and retention.** The recipient shall retain all financial records, supporting documents and all other records pertinent to the community attraction and tourism development activity for three years after contract closeout. Representatives of IDED shall have access to all records belonging to or in use by recipients pertaining to community attraction and tourism development funds.

**211.10(4) Performance reports and reviews.** Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform any reviews or field inspections necessary to ensure recipient performance.

**211.10(5) Amendments to contracts.** Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alteration of the funded project that change the scope, location, objectives or scale of the approved project. Amendments must be requested in writing by the recipient and are not considered valid until approved by the vision Iowa board and confirmed in writing by IDED following the procedure specified in the contract between the recipient and IDED.

**211.10(6) Contract closeout.** Upon contract expiration, IDED shall initiate contract closeout procedures.

**211.10(7) Compliance with state and local laws and regulations.** Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program, and with applicable local regulations.

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

**211.10(8) Remedies for noncompliance.** At any time before contract closeout, the board may, for cause, find that a recipient is not in compliance with the requirements of this program. At the board's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to the board. Reasons for a finding of noncompliance include but are not limited to the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded projects in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations, or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

ITEM 21. Reserve rules **261—211.11** to **261—211.49**.

ITEM 22. Amend **261—Chapter 211** by adopting the following **new** division heading:

DIVISION II  
COMMUNITY ATTRACTION AND TOURISM (CAT) FUND

ITEM 23. Adopt the following **new** rule 261—211.50(15F):

**261—211.50(15F) Applicability.** The rules in this division are in addition to the general provisions of division I and only apply to the CAT fund.

ITEM 24. Adopt the following **new** rule 261—211.51(15F):

**261—211.51(15F) Allocation of funds.**

**211.51(1)** Except as otherwise noted in this rule, all CAT funds shall be awarded for projects as specified in rule 211.3(15F).

**211.51(2)** One-third of the moneys shall be allocated to provide assistance to cities and counties which meet the following criteria:

- a. A city which has a population of 10,000 or less according to the most recently published census.
- b. A county which has a population that ranks in the bottom 33 counties according to the most recently published census.

**211.51(3)** Two-thirds of the moneys shall be allocated to provide assistance to any city and county in the state, which may include a city or county included under subrule 211.51(2).

**211.51(4)** If two or more cities or counties submit a joint project application for financial assistance from the CAT fund, all joint applicants must meet the criteria of subrule 211.51(2) in order to receive any moneys allocated under that subrule.

**211.51(5)** If any portion of the allocated moneys under subrule 211.51(2) has not been awarded by April 1 of the fiscal year for which the allocation is made, the portion which has not been awarded may be utilized by the vision Iowa board to provide financial assistance from the CAT fund to any city or county in the state.

ITEM 25. Reserve rules **261—211.52** to **261—211.100**.

ITEM 26. Amend **261—Chapter 211** by adopting the following **new** division heading:

DIVISION III  
RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM (RECAT) FUND

ITEM 27. Adopt the following **new** rule 261—211.101(15F):

**261—211.101(15F) Applicability.** The rules in this division are in addition to the general provisions of division I and only apply to the RECAT fund.

ITEM 28. Adopt the following **new** rule 261—211.102(15F):

**261—211.102(15F) Allocation of funds.**

**211.102(1)** Except as otherwise noted in this rule, all river enhancement community attraction and tourism funds shall be awarded for projects as specified in rule 211.3(15F).

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

**211.102(2)** Application contents. Applications for river enhancement projects shall include, as an exhibit to the standard CATD program application, information about the project's connection and interaction with a river, lake or river corridor.

**211.102(3)** Application review criteria. In addition to the application review criteria in rule 211.8(15F), river enhancement projects shall be reviewed using the following additional criteria:

*a.* Connection and interaction with a river, lake or river corridor. The extent that the project relates to, connects with, and enhances a body of water. An explanation of the relevance of the body of water with regard to the project overall (0-5 points).

*b.* A description of the green sustainable design and construction practices, including storm water best management practices, such as permeable pavement, bioretention cells, and bioswales that will be utilized on the project to protect from pollution the body of water enhanced by the project (0-5 points).

ITEM 29. Amend **261—Chapter 211**, implementation sentence, as follows:

These rules are intended to implement ~~2000 Iowa Acts, chapter 1174~~ Iowa Code chapter 15F as amended by 2008 Iowa Acts, Senate File 2430 and House File 2450.

ITEM 30. Strike "(78GA,ch1174)" in rules **261—212.1(78GA,ch1174)** through **261—212.10(78GA,ch1174)** and insert "(15F)" in lieu thereof.

ITEM 31. Amend rule 261—212.1(15F) as follows:

**261—212.1(15F) Purpose.** The vision Iowa board is charged by the Iowa legislature and the governor with establishing, overseeing and providing approval of the administration of the vision Iowa program, ~~and the community attraction and tourism (CAT) program of the state of Iowa, and the river enhancement community attraction and tourism (RECAT) fund.~~ The board will encourage and support creative projects that enhance the lives of Iowans throughout the state, will encourage and support visionary thinking in cities and towns and counties of all sizes and in all areas, and will leverage state ~~money~~ moneys as heavily as possible to attract funds for these projects from other sources. The vision Iowa board will support projects that build on Iowa's unique assets and values and expand the recreational, cultural, educational, and entertainment opportunities in the state.

ITEM 32. Amend rule **261—212.2(15F)**, definitions of "Board," "Fund," "Program," and "Vision Iowa program review committee," as follows:

"*Board*" means the vision Iowa board as established in ~~2000 Iowa Acts, chapter 1174~~ Iowa Code section 15F.102.

"*Fund*" means the vision Iowa fund established pursuant to ~~2000 Iowa Acts, chapter 1174, section 16(1)~~ Iowa Code section 12.72.

"*Program*" means the vision Iowa program established in ~~2000 Iowa Acts, chapter 1174~~ Iowa Code section 15F.302.

"*Vision Iowa program review committee*" means the committee established by ~~2000 Iowa Acts, chapter 1174, Iowa Code section 15F.304(2)~~ and identified as the following members of the vision Iowa board: ~~the~~ four members of the general public, the mayor of a city with a population of 20,000 or more, the director of the Iowa department of economic development or designee, the treasurer of state or designee, and the auditor of state or designee. The chair and vice chair of the vision Iowa board may serve as ex officio members of any subcommittee of the board.

ITEM 33. Amend rule 261—212.3(15F) as follows:

**261—212.3(15F) Allocation of funds.** Except as otherwise noted in ~~2000 Iowa Acts, chapter 1174~~ Iowa Code chapter 15F, all vision Iowa funds shall be awarded for projects as specified in Iowa Code section 12.72.

ITEM 34. Amend **261—Chapter 212**, implementation sentence, as follows:

These rules are intended to implement ~~2000 Iowa Acts, chapter 1174~~ Iowa Code chapter 15F as amended by 2008 Iowa Acts, Senate File 2430 and House File 2450.

**ARC 6980B****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 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

The proposed amendment to subrule 11.21(3) adds language stating who may serve as the legal representative of the Board. The change gives the Board the option of designating an attorney to represent it.

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 6, 2008, 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 8, 2008. 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](mailto:marcia.henderson@iowa.gov), or by fax to (515)281-7669.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 6959B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code chapter 272.

**ARC 6971B****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 amendment conforms the rule to current practice by requiring that practitioners who are adding an elementary or early childhood endorsement and have not student taught on the elementary or early childhood level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement. In

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

addition, the amendment adds a secondary methods class to the requirements of practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement area being added.

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 6, 2008, 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 8, 2008. 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](mailto:marcia.henderson@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—14.106(272) as follows:

**282—14.106(272) Adding endorsements to licenses.** After the issuance of a teaching, administrative, or school service personnel license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement, as listed in 282—14.140(272) and 282—14.141(272), have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

In addition to the requirements listed in 282—14.140(272) and 282—14.141(272), applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area of the endorsement added.

Practitioners who are adding an elementary or early childhood endorsement and have not student taught on the elementary or early childhood level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

Practitioners who are adding a secondary teaching endorsement and have not student taught on the secondary level shall complete a teaching practicum appropriate for teaching at the level of the new endorsement.

Practitioners holding the K-8 endorsement in the content area of the 5-12 endorsement being added may satisfy the requirement for ~~a~~ the secondary methods class and the teaching practicum by completing all required coursework and presenting verification of competence. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level. This verification of competence may be submitted at any time during the term of the ~~conditional~~ Class B license. The practitioner must obtain a ~~two-year conditional~~ Class B license while practicing with the 5-12 endorsement.

**14.106(1) and 14.106(2)** No change.

ARC 6977B

**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.

When the professional administrator license was created, the Board was notified by the committee writing the standards that the criteria for each standard would eventually be added to the established standards. The amendment incorporates the standards and the criteria for each of those standards into the rule for the professional administrator license.

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 6, 2008, 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 8, 2008. 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](mailto:marcia.henderson@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend rule 282—14.114(272) as follows:

**282—14.114(272) Requirements for an administrator license.**

**14.114(1) Requirements for an initial administrator license.** An initial administrator license valid for one year may be issued to an applicant who:

- a. Is the holder of or eligible for a standard license; and
- b. Has three years of teaching experience; and
- c. Has completed a state-approved ~~administrator education~~ PK-12 principal and PK-12 supervisor of special education (subrule 14.142(1)) program ~~at a college or university approved by the state board of education or the state board of educational examiners in the individual's preparation state;~~ and
- d. Is assuming a position as a ~~school district administrator~~ PK-12 principal and PK-12 supervisor of special education (subrule 14.142(1)) for the first time or has ~~one year~~ two years of out-of-state or nonpublic administrative experience; and
- e. Has completed an approved human relations component; and
- f. Has completed an exceptional learner component; and
- g. Has completed an evaluator approval program.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Renewal requirements for this license are set out in ~~rule 282—17.13(272)~~ 282—Chapter 17.

**14.114(2) Requirements for a professional administrator license.** A professional administrator license valid for five years may be issued to an applicant who ~~completes:~~

a. Completes the requirements in 14.114(1) “a” to “g.” “a” to “g”; and

b. Successfully meets each standard listed below:

(1) Shared vision. An educational leader promotes the success of all students by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community. The administrator:

1. In collaboration with others, uses appropriate data to establish rigorous, concrete goals in the context of student achievement and instructional programs.

2. Uses research and best practices in improving the educational program.

3. Articulates and promotes high expectations for teaching and learning.

4. Aligns and implements the educational programs, plans, actions, and resources with the district’s vision and goals.

5. Provides leadership for major initiatives and change efforts.

6. Communicates effectively to various stakeholders regarding progress with school improvement plan goals.

(2) Culture of learning. An educational leader promotes the success of all students by advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional development. The administrator:

1. Provides leadership for assessing, developing and improving climate and culture.

2. Systematically and fairly recognizes and celebrates accomplishments of staff and students.

3. Provides leadership, encouragement, opportunities and structure for staff to continually design more effective teaching and learning experiences for all students.

4. Monitors and evaluates the effectiveness of curriculum, instruction and assessment.

5. Evaluates staff and provides ongoing coaching for improvement.

6. Ensures that staff members have professional development that directly enhances their performance and improves student learning.

7. Uses current research and theory about effective schools and leadership to develop and revise the administrator’s professional growth plan.

8. Promotes collaboration with all stakeholders.

9. Is easily accessible and approachable to all stakeholders.

10. Is highly visible and engaged in the school community.

11. Articulates the desired school culture and shows evidence about how it is reinforced.

(3) Management. An educational leader promotes the success of all students by ensuring management of the organization, operations and resources for a safe, efficient and effective learning environment. The administrator:

1. Complies with state and federal mandates and local board policies.

2. Recruits, selects, inducts, and retains staff to support quality instruction.

3. Addresses current and potential issues in a timely manner.

4. Manages fiscal and physical resources responsibly, efficiently, and effectively.

5. Protects instructional time by designing and managing operational procedures to maximize learning.

6. Communicates effectively with both internal and external audiences about the operations of the school.

(4) Family and community. An educational leader promotes the success of all students by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources. The administrator:

1. Engages family and community by promoting shared responsibility for student learning and support of the education system.

2. Promotes and supports a structure for family and community involvement in the education system.

3. Facilitates the connections of students and families to the health and social services that support a focus on learning.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

4. Collaboratively establishes a culture that welcomes and honors families and community and seeks ways to engage them in student learning.

(5) Ethics. An educational leader promotes the success of all students by acting with integrity and fairness and in an ethical manner. The administrator:

1. Demonstrates ethical and professional behavior.

2. Demonstrates values, beliefs, and attitudes that inspire others to higher levels of performance.

3. Fosters and maintains caring professional relationships with staff.

4. Demonstrates appreciation for and sensitivity to diversity in the school community.

5. Is respectful of divergent opinions.

(6) Societal context. An educational leader promotes the success of all students by understanding the profile of the community and, responding to and influencing the larger political, social, economic, legal and cultural context. The administrator:

1. Collaborates with service providers and other decision makers to improve teaching and learning.

2. Advocates for the welfare of all members of the learning community.

3. Designs and implements appropriate strategies to reach desired goals; and

c. Shows evidence of successful completion of a mentoring and induction program as determined by a comprehensive evaluation of the standards in paragraph 14.114(2)“b” and one of year successful administrative experience. In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of two years’ successful administrative experience in an Iowa nonpublic school or two years’ successful administrative experience in an out-of-state K-12 educational setting.

Renewal requirements for this license are set out in ~~rule 282—17.7(272)~~ 282—Chapter 17.

**ARC 6973B**

## **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.

Based on the current exchange license requirements, an applicant obtains an Iowa exchange license with all of the endorsements currently listed on the out-of-state license. During the term of the two-year exchange license, the person completes any deficiencies that are noted after the transcript review. Many applicants receive endorsements in other states based on a test or based on very few course requirements. This amendment ensures that the person has completed at least half of the Iowa requirements in order to have the endorsement listed on the Iowa license.

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 6, 2008, 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.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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 8, 2008. 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](mailto:marcia.henderson@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 14.120(1) as follows:

**14.120(1) Two-year teacher exchange license.**

a. A two-year nonrenewable exchange license may be issued to an applicant under the following conditions:

- (1) The applicant has completed a state-approved teacher education program; and
- (2) The applicant holds a valid regular certificate or license in the state in which the preparation was completed; and
- (3) The applicant is not subject to any pending disciplinary proceedings in any state; and
- (4) The applicant complies with all requirements with regard to application processes and payments of licensure fees; and
- (5) If the applicant has fewer than three years of teaching experience, the applicant must verify successful completion of mandated tests in the state in which the applicant is ~~current~~ currently licensed.

b. Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed. The applicant must have completed at least 50 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the exchange license.

c. Each individual receiving the two-year exchange license must complete any identified licensure deficiencies in order to be eligible for a regular license in Iowa.

**ARC 6978B**

**EDUCATIONAL EXAMINERS BOARD[282]**

**Notice of Intended Action**

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

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

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

The amendment conforms the rule to current practice by requiring that practitioners who hold the K-8 special education endorsement for the 5-12 endorsement area being added may satisfy the requirements for the secondary methods class and the student teaching experience by completing all the required coursework and presenting verification of competence of teaching a minimum of two years while properly licensed.

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 6, 2008, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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 8, 2008. 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](mailto:marcia.henderson@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 15.1(2) as follows:

**15.1(2)** *Adding special education instructional endorsements to Iowa licenses.* After the issuance of a practitioner license, an individual may add other special education instructional endorsements to that license upon proper application provided current requirements for the endorsement(s) have been met. However, if an applicant is seeking to add a special education instructional endorsement at the same level, elementary or secondary, as other endorsements held, the student teaching component set out in the rules for added endorsement areas is not required.

However, if the applicant holds the K-8 special education endorsement for the 5-12 endorsement area being added, the applicant may satisfy the ~~requirement~~ requirements for ~~a~~ the secondary methods class and the student teaching experience by completing all the required coursework and presenting verification of competence of teaching a minimum of two years while properly licensed. This verification of competence shall be signed by a licensed evaluator who has observed and formally evaluated the performance of the applicant at the secondary level.

**ARC 6927B**

## **HISTORICAL DIVISION[223]**

### **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 303.1A, the Director of the Department of Cultural Affairs proposes to amend Chapter 48, "Historic Preservation and Cultural and Entertainment District Tax Credits," Iowa Administrative Code.

The amendments to Chapter 48 clarify the procedures by which the public may access the historic preservation and cultural and entertainment district tax credits and are based on constituent input.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 12, 2008. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail [Kristen.VanderMolen@iowa.gov](mailto:Kristen.VanderMolen@iowa.gov). Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

Also, there will be a public hearing on August 12, 2008, at 2 p.m. at the above address in the ICN Classroom, and at ICN classrooms across the state. For a listing of the ICN classroom locations participating in the hearing, please contact the Department of Cultural Affairs at (515)281-4228 or visit the Department's

HISTORICAL DIVISION[223](cont'd)

Web site at [http://www.culturalaffairs.org/about/admin\\_rules/index.htm](http://www.culturalaffairs.org/about/admin_rules/index.htm). At the hearing, persons may present their views either orally or in writing. Persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department and advise of specific needs.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6925B**. The content of that submission is incorporated by reference.

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

## ARC 6929B

### 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(9), the Department of Human Services proposes to amend Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

The proposed amendments add Medicaid coverage for behavioral health services provided by a licensed marital and family therapist (LMFT), a licensed independent social worker (LISW), or a licensed master social worker (LMSW) practicing under the supervision of an LISW. These changes were mandated by 2008 Iowa Acts, Senate File 2425, section 123.

These amendments do not provide for waivers in specified situations because the Department holds that all providers should be subject to the same standards. 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 6, 2008. 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](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 249A.4 and 2008 Iowa Acts, Senate File 2425, section 123.

The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 441—77.26(249A):

**441—77.26(249A) Behavioral health services.** The following persons are eligible to participate in the Medicaid program as providers of behavioral health services.

**77.26(1) Licensed marital and family therapists (LMFT).** Any person licensed by the board of behavioral science pursuant to 645—Chapter 31 as a marital and family therapist is eligible to participate. A marital and family therapist in another state is eligible to participate when duly licensed to practice in that state.

**77.26(2) Licensed independent social workers (LISW).** Any person licensed by the board of social work pursuant to 645—Chapter 280 as an independently practicing social worker is eligible to participate. An independent social worker in another state is eligible to participate when duly licensed to practice in that state.

**77.26(3) Licensed master social workers (LMSW).** Any person licensed by the board of social work pursuant to 645—Chapter 280 as a master social worker is eligible to participate when providing treatment

HUMAN SERVICES DEPARTMENT[441](cont'd)

under the supervision of an independent social worker licensed pursuant to 645—Chapter 280. A master social worker in another state is eligible to participate when the person:

- a. Is duly licensed to practice in that state; and
- b. Provides treatment under the supervision of an independent social worker duly licensed in that state.

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

ITEM 2. Adopt the following **new** rule 441—78.29(249A):

**441—78.29(249A) Behavioral health services.** Payment shall be made for medically necessary behavioral health services provided by a participating marital and family therapist, independent social worker, or master social worker within the practitioner’s scope of practice pursuant to state law and subject to the limitations and exclusions set forth in this rule.

**78.29(1) Limitations.**

- a. An assessment and a treatment plan are required.
- b. Services provided by a licensed master social worker must be provided under the supervision of an independent social worker qualified to participate in the Medicaid program.

**78.29(2) Exclusions.** Payment will not be approved for the following services:

- a. Services provided in a medical institution.
- b. Services performed without relationship to a specific condition, risk factor, symptom, or complaint.
- c. Services provided for nonspecific conditions of distress such as job dissatisfaction or general unhappiness.
- d. Sensitivity training, marriage enrichment, assertiveness training, and growth groups or marathons.

**78.29(3) Payment.**

- a. Payment shall be made only for time spent in face-to-face consultation with the member.
- b. A unit of service is 15 minutes. Time spent with members shall be rounded to the quarter hour, where applicable.

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

ITEM 3. Amend subrule **79.1(2)** by adopting **new** provider category “Behavioral health services,” in alphabetical order, as follows:

Provider category	Basis of reimbursement	Upper limit
Behavioral health services	Fee schedule	Fee schedule.

ITEM 4. Adopt the following **new** subparagraph **79.3(2)“d”(39)**:

(39) Behavioral health services:

- 1. Assessment.
- 2. Individual treatment plan.
- 3. Service or office notes or narratives.

**ARC 6928B**

**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 237A.12, the Department of Human Services proposes to amend Chapter 109, “Child Care Centers,” and Chapter 110, “Child Development Homes,” Iowa Administrative Code.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

The proposed amendments implement changes in the licensing standards for child care centers and the registration standards for child development homes as required by the Smoke-Free Air Act enacted by the 82nd General Assembly. Previously, smoking was prohibited during the hours of child care operation. Under this legislation, child care centers and homes are defined as a "public place," and smoking is completely prohibited. The law also requires posting of "no smoking" signs on the premises.

The Iowa Department of Public Health has an Internet Web site ([www.iowasmokefreeair.gov](http://www.iowasmokefreeair.gov)) devoted to helping affected businesses understand the law through links to resources and examples of signage. The Department of Public Health is also drafting administrative rules to implement this legislation and will be holding public hearings through the Iowa Communications Network.

The expected benefits from these amendments are fewer smoke-related health issues for children, child-care providers, and other family members in child development homes.

These amendments do not provide for waivers in specified situations because the Department does not have the authority to waive statutory provisions.

Any interested person may make written comments on the proposed amendments on or before August 6, 2008. 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](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code chapter 237A as amended by 2008 Iowa Acts, House File 2212, sections 12 and 13.

The following amendments are proposed.

ITEM 1. Amend subrule 109.10(11) as follows:

**109.10(11) Smoking.** Smoking and the use of tobacco products shall be prohibited in the center, outdoor play area and in the center-operated vehicle ~~during hours of operation of the center.~~ Nonsmoking signs shall be posted at every entrance of the child care center and in every vehicle used to transport the children. All signs shall include:

- a. The telephone number for reporting complaints, and
- b. The Internet address of the department of public health ([www.iowasmokefreeair.gov](http://www.iowasmokefreeair.gov)).

ITEM 2. Amend paragraph **110.5(1)"o"** as follows:

*o.* Smoking and the use of tobacco products shall be prohibited in areas that may be used by children receiving care in the home, in the outdoor play area, and in any vehicle in which children receiving care in the home are transported ~~during the home's hours of operation.~~ Nonsmoking signs shall be posted at every entrance of the child care home and in every vehicle used to transport the children. All signs shall include:

- (1) The telephone number for reporting complaints, and
- (2) The Internet address of the department of public health ([www.iowasmokefreeair.gov](http://www.iowasmokefreeair.gov)).

**ARC 6930B**

## 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 234.6, the Department of Human Services proposes to amend Chapter 170, "Child Care Services," Iowa Administrative Code.

The proposed amendment will update the Child Care Assistance provider reimbursement rate ceiling charts to reflect a 2 percent increase for licensed child care centers and registered child development homes, as mandated by legislation. Providers will have the opportunity to submit new child care agreements for an adjusted rate if their private-pay rate for child care is higher than their current Child Care Assistance rate.

HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment does 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 amendment on or before August 6, 2008. 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](mailto:policyanalysis@dhs.state.ia.us).

This amendment is intended to implement Iowa Code section 273A.13 and 2008 Iowa Acts, Senate File 2425, section 32(11).

The following amendment is proposed.

Amend paragraph **170.4(7)“a”** as follows:

*a. Rate of payment.* The rate of payment for child care services, except for in-home care which shall be paid in accordance with 170.4(7) “d,” shall be the actual rate charged by the provider for a private individual, not to exceed the maximum rates shown below. When a provider does not have a half-day rate in effect, a rate is established by dividing the provider’s declared full-day rate by 2. When a provider has neither a half-day nor a full-day rate, a rate is established by multiplying the provider’s declared hourly rate by 4.5. Payment shall not exceed the rate applicable to the provider and age group in Table I, except for special needs care which shall not exceed the rate applicable to the provider and age group in Table II. To be eligible for the special needs rate, the provider must submit documentation to the child’s service worker that the child needing services has been assessed by a qualified professional and meets the definition for “child with special needs,” and a description of the child’s special needs, including, but not limited to, adaptive equipment, more careful supervision, or special staff training.

Table I Half-Day Rate Ceilings for Basic Care				
Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	<del>\$15.50</del> <u>\$15.81</u>	<del>\$12.00</del> <u>\$12.24</u>	<del>\$11.50</del> <u>\$11.73</u>	\$8.19
Preschool	<del>\$12.50</del> <u>\$12.75</u>	<del>\$11.25</del> <u>\$11.48</u>	<del>\$11.25</del> <u>\$11.48</u>	\$7.19
School Age	<del>\$11.25</del> <u>\$11.48</u>	<del>\$10.00</del> <u>\$10.20</u>	<del>\$10.00</del> <u>\$10.20</u>	\$7.36

Table II Half-Day Rate Ceilings for Special Needs Care				
Age Group	Child Care Center	Child Development Home Category A or B	Child Development Home Category C	Nonregistered Family Home
Infant and Toddler	<del>\$48.00</del> <u>\$48.96</u>	<del>\$15.75</del> <u>\$16.07</u>	<del>\$12.38</del> <u>\$12.63</u>	\$10.24
Preschool	<del>\$28.13</del> <u>\$28.69</u>	<del>\$14.63</del> <u>\$14.92</u>	<del>\$12.38</del> <u>\$12.63</u>	\$ 8.99
School Age	<del>\$28.04</del> <u>\$28.60</u>	<del>\$13.50</del> <u>\$13.77</u>	<del>\$11.25</del> <u>\$11.48</u>	\$ 9.20

The following definitions apply in the use of the rate tables:

- (1) and (2) No change.

**ARC 6975B****IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]****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 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby gives Notice of Intended Action to amend Chapter 2, "Investment Board," Chapter 4, "Employers," Chapter 6, "Covered Wages," Chapter 7, "Service Credit and Vesting Status," Chapter 8, "Service Purchases," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 15, "Dividends," Iowa Administrative Code.

The proposed amendments implement provisions of 2008 Iowa Acts, Senate File 2424, which requires the amendment or adoption of various sections: removing the 0.4 percent cap on management expenses for investments; adjusting contribution rates for members by IPERS staff based on actuarial valuation; adding new employee classes to IPERS protection occupation class; eliminating bonuses and allowances except for legislative pay; providing service credit at no cost to members of the military who served in a combat zone or hazardous area and received a service-related injury or disease that resulted in the member's death within two years after suffering the injury or disease; expanding choices for buying service time for IPERS members, including new "buy up" service purchase provisions for members who have a mixture of regular and special service credit; clarifying eligibility for disability benefit payments for regular class members; increasing the amount payable to custodians for minors who are beneficiaries to coordinate with other Iowa Code provisions; allowing nonspouse beneficiaries to roll over a deceased member's death benefit to a Roth IRA as an acceptable vehicle for IPERS lump sum distributions; and clarifying that November dividend adjustments will not be made unless statutory contribution rates meet or exceed the actuarially required rate for that fiscal year.

Previously, Iowa Code chapter 97B and administrative rules identified certain types of service as nonqualified service (e.g., employment with a qualified Canadian governmental entity or with the Peace Corps). Effective July 1, 2008, nonqualified service credit is not required to be linked to employment at all and is limited in the aggregate to 20 quarters. Therefore, references to specific categories of nonqualified service are eliminated.

Additional proposed amendments remove provisions for employer-mandated reductions in hours because the time for that program has expired; remove provisions for patient advocate service purchases because the time for that program has also expired; and remove outdated law citations and update corresponding implementation clauses.

These amendments were prepared after consultation with IPERS administration, Benefits Advisory Committee, investment, legal, operations and benefits divisions.

Waiver provisions are not included in the proposed amendments; however, the amendments are subject to the normal IPERS appeal process.

Any person may make written suggestions or comments on the proposed amendments on or before August 5, 2008. Such written suggestions or comments should be directed to the IPERS Administrative Rules Coordinator at IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117. Persons who wish to present their comments orally may contact the IPERS Administrative Rules Coordinator at (515)281-3081. Comments may also be submitted by fax to (515)281-0045 or by E-mail to [adminrule@ipers.org](mailto:adminrule@ipers.org).

A public hearing will be held on August 5, 2008, at 9 a.m. at IPERS, 7401 Register Drive, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Persons who attend the hearing will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6976B**. The content of that submission is incorporated by reference.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

**ARC 6946B****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 71, "Administration," Chapter 75, "Fees," and Chapter 76, "Permits," Iowa Administrative Code.

Pursuant to 2008 Iowa Acts, Senate File 2154, construction personnel hoists will come under the jurisdiction of Iowa's elevator safety program for the first time on July 1, 2008. In a separate rule making that will become effective on July 23, 2008, the Elevator Safety Board has adopted by reference an appropriate safety code for construction personnel hoists. Because construction personnel hoists differ significantly from other conveyances currently covered by Iowa Code chapter 89A, new rules governing permits, inspections and fees for construction personnel hoists are also needed.

These amendments establish fees for operating permits, alteration permits, installation permits, and inspections of construction personnel hoists. These amendments require owners of construction personnel hoists installed prior to July 1, 2008, to register their construction personnel hoists with the Labor Commissioner no later than July 23, 2008. These amendments set forth procedures for construction personnel hoist alteration permits, installation permits, and operating permits.

If requested in accordance with Iowa Code section 17A.4(1)"b" by the close of business on August 5, 2008, a public hearing will be held on August 6, 2008, at 10 a.m. in the Stanley Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendments. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)242-5869 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than August 6, 2008, 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](mailto:kathleen.uehling@iwd.iowa.gov).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 6947B** to allow public comment. The content of that submission is incorporated by reference.

The principal reasons for adoption of these rules are to protect worker safety and health and to implement legislative intent. No variance provision is included in these rules as 875—Chapter 66 sets forth applicable variance procedures.

These amendments are intended to implement Iowa Code Supplement sections 89A.1, 89A.2 and 89A.9 as amended by 2008 Iowa Acts, Senate File 2154.

**ARC 6931B****PROFESSIONAL LICENSURE DIVISION[645]****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 147.76, the Board of Psychology hereby gives Notice of Intended Action to rescind Chapter 239, "Administrative and Regulatory Authority for the Board of Psychology Examiners," to amend Chapter 240, "Licensure of Psychologists," Chapter 241, "Continuing Education for Psychologists," and Chapter 242, "Discipline for Psychologists," and to rescind Chapter 243, "Fees," Iowa Administrative Code.

These proposed amendments rescind chapters and rules that duplicate existing rules in 645—Chapters 4 and 5; eliminate outdated or duplicative language in the requirements for licensure; clarify the process and expand the options for curriculum evaluation of foreign-trained psychologists; accept examination scores received from the state of initial licensure for endorsement applicants; provide consistency in the administrative requirements for the certified health service provider in psychology; eliminate the jurisprudence examination requirement; require new licensees to complete six hours of continuing education in legal aspects of practice; require six hours of continuing education in ethical or legal aspects of practice for subsequent renewals; allow licensees to submit mandatory reporter training for continuing education credit; revise grounds for discipline to be consistent with changes in Iowa Code chapter 147; and provide for Web-based reporting of name and address changes by licensees.

Any interested person may make written comments on the proposed amendments no later than August 5, 2008, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [sdozier@idph.state.ia.us](mailto:sdozier@idph.state.ia.us).

A public hearing will be held on August 5, 2008, from 10 to 11 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154B and 272C.

The following amendments are proposed.

ITEM 1. Rescind and reserve **645—Chapter 239**.

ITEM 2. Strike the words "board of psychology examiners" wherever they appear in **645—Chapter 240**, **645—Chapter 241**, and **645—Chapter 242**, and replace them with the words "board of psychology."

ITEM 3. Rescind and reserve subparagraph **240.2(1)"d"(3)**.

ITEM 4. Amend paragraph **240.2(1)"e"** as follows:

*e.* An applicant shall successfully pass the national examination ~~and Iowa jurisprudence examination.~~

ITEM 5. Rescind and reserve paragraph **240.2(1)"g"**.

ITEM 6. Rescind and reserve subrule **240.3(2)**.

ITEM 7. Amend subrules 240.3(3) and 240.3(4) as follows:

**240.3(3)** ~~As of January 1, 2006, at~~ At the time of an applicant's graduation:

*a.* and *b.* No change.

**240.3(4)** Foreign-trained psychologists shall:

*a.* Provide an equivalency evaluation of their educational credentials by ~~one of the following: International Educational Research Foundations, Inc., Credentials Evaluation Service, P.O. Box 3665, Culver City, CA 90231-3665, telephone (310)258-9451, Web site [www.ierf.org](http://www.ierf.org), or E-mail [info@ierf.org](mailto:info@ierf.org); or~~

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

~~International Credentialing Associates, Inc., 7245 Bryan Dairy Road, Bryan Dairy Business Park II, Largo, Florida 33777, telephone (727)549-8555. The professional curriculum must be equivalent to that stated in these rules. The candidate shall bear the expense of the curriculum evaluation~~ the National Register of Health Service Providers in Psychology, 1120 G Street NW, Suite 330, Washington, D.C. 20005, telephone (202)783-7663, Web site [www.nationalregister.org](http://www.nationalregister.org), or by an evaluation service with membership in the National Association of Credentials Evaluation Services, Inc., at [www.naces.org](http://www.naces.org). A certified translation of documents submitted in a language other than English shall be provided. The candidate shall bear the expense of the curriculum evaluation and translation of application documents. The educational credentials must be equivalent to programs stated in 240.3(3).

~~b. Provide a notarized copy of the certificate or diploma awarded to the applicant from a psychology program in the country in which the applicant was educated.~~

~~c. Receive a final determination from the board regarding the application for licensure. Submit evidence of meeting all other requirements for licensure stated in these rules.~~

d. Receive a final determination from the board regarding the application for licensure.

ITEM 8. Amend rule 645—240.4(154B), introductory paragraph, as follows:

**645—240.4(154B) Examination requirements.** An applicant must pass the national examination ~~and Iowa jurisprudence examination~~ to be eligible for licensure in Iowa.

ITEM 9. Rescind and reserve subrule **240.4(5)**.

ITEM 10. Amend subrule 240.5(3) as follows:

~~**240.5(3)** Notwithstanding other provisions of these rules, applicants~~ Applicants for licensure who are engaged in organized health service training programs as specified in rule 645—240.7(154B) ~~may be designated “psychology intern” or “intern in psychology” during their time in training.~~ shall use one of the titles specified in paragraph 240.7(2) “i.”

ITEM 11. Amend paragraph **240.7(1)“b”** as follows:

~~b. Complete~~ Complete a board-approved application and submit supporting documentation. Application forms may be obtained from the board’s Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to the Board of Psychology ~~Examiners~~, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075. An applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board. Incomplete applications that have been on file in the board office for more than two years without additional supporting documentation shall be:

(1) Considered invalid and shall be destroyed; or

(2) Maintained upon written request of the applicant. The applicant is responsible for requesting that the file be maintained.

ITEM 12. Amend subrule 240.10(3) as follows:

~~**240.10(3)** Provides an one of the following: the official copy of the EPPP score sent directly to the board from the Association of State and Provincial Psychology Boards, or verification of the EPPP score sent directly from the state of initial licensure.~~ The passing score is established by the Association of State and Provincial Psychology Boards.

ITEM 13. Rescind and reserve subrule **240.10(6)**.

ITEM 14. Rescind and reserve rules **645—240.15(147)** to **645—240.17(17A,147,272C)**.

ITEM 15. Amend subrule 240.18(2) as follows:

~~**240.18(2)** Pay the reactivation fee that is due as specified in 645—Chapter 243~~ 645—Chapter 5.

ITEM 16. Rescind subrule 241.3(2) and adopt the following new subrule in lieu thereof:

**241.3(2)** Specific criteria.

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

a. For the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in either of the following areas: Iowa mental health laws and regulations, or risk management.

b. For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management.

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.12(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(4) Conducting scholarly research or other activities that integrally relate to the practice of psychology, the results of which are published in a recognized professional publication.

(5) Preparing new courses that have received approval from the board.

(6) Completing home study courses for which a certificate of completion is issued.

(7) Completing electronically transmitted courses for which a certificate of completion is issued.

(8) Attending workshops, conferences, or symposiums that meet the criteria in rule 645—241.3(154B,272C).

d. A combined maximum of 20 hours of credit per biennium may be used for scholarly research and preparation of new courses.

ITEM 17. Rescind and reserve rules **645—241.4(154B,272C)** to **645—241.7(154B,272C)**.

ITEM 18. Amend subrules 242.2(3), 242.2(12) and 242.2(26) as follows:

**242.2(3)** Professional ~~incompetency~~ incompetence. Professional ~~incompetency~~ incompetence includes, but is not limited to:

a. to f. No change.

**242.2(12)** Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee's ability to practice psychology. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**242.2(26)** Failure to report a change of name or address within 30 days after it occurs. Name and address changes may be reported on the form provided by the board at: [www.idph.state.ia.us/licensure](http://www.idph.state.ia.us/licensure).

ITEM 19. Rescind and reserve **645—Chapter 243**.

**ARC 6974B**

**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 139A.8(8) and 139A.26(5), the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 7, "Immunization and Immunization Education: Persons Attending Elementary or Secondary Schools, Licensed Child Care Centers, or Institutions of Higher Education," Iowa Administrative Code.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

The rules in Chapter 7 describe immunization requirements for attendance at elementary or secondary schools or licensed child care centers and requirements for immunization education of students entering institutions of higher education.

These proposed amendments clarify the definition of “certified medical assistant”; further explain the use of medical and religious exemptions; update the immunization requirements to more accurately reflect the recommendations of the Advisory Committee on Immunization Practices (ACIP) and to include the required immunization for invasive pneumococcal disease for children enrolling in licensed child care centers; and set forth guidelines for completing the certificate of immunization and provisional certificate of immunization, including details as to who is required to sign a provisional certificate. The amendments also remove the requirement that a school or licensed child care center offer to meet with a child’s parents before the child’s provisional enrollment expires and replace it with the requirement that the school or licensed child care center provide a written explanation of provisional enrollment rules to the parents. The amendments clarify the need for a second provisional enrollment certificate whenever a provisional certificate expires because of the need to adhere to “minimum interval” requirements. Finally, the amendments clarify rules concerning who may provide and who may receive immunization record information.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 7, 2008. Such written materials should be directed to Bridget Konz, Bureau of Disease Prevention and Immunization, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075; fax (800)831-6292. Persons who wish to convey their views orally should contact the Bureau of Disease Prevention and Immunization at (515)281-7228.

Also, there will be a public hearing on August 7, 2008, from 9 to 10 a.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

The public hearing will originate from the Iowa Communications Network (ICN) Room on the sixth floor of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, and will be accessible over the ICN from the following additional locations:

- Mason City – North Iowa Area Community College, 500 College Drive, Activity Center, Room 106
- Red Oak – Southwestern Community College, 2300 North 4th Street, Red Oak Center, Room 116
- West Burlington – Southeastern Community College, 1500 West Agency Road, North Campus/Trustee Hall, Room 528
- Council Bluffs – Loess Hills Area Education Agency 13, 24997 Hwy. 92
- Ottumwa – Ottumwa High School, 501 East 2nd Street, Voc. Tech. Building, Room 157
- Davenport – Eastern Iowa Community College District, 326 West 3rd Street, Room 302, Kahl Educational Center
- Orange City – Orange City Hospital and Clinics, 400 Central Avenue, Fiberoptic Education Center
- Iowa City – Iowa City Public Library, 123 South Linn Street, Meeting Room D
- Cedar Falls – Cedar Falls Public Library, 524 Main Street
- Fort Dodge – Fort Dodge Public Library, 424 Central Avenue

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Bureau of Disease Prevention and Immunization and advise of specific needs.

These amendments are intended to implement Iowa Code sections 139A.8 and 139A.26.

The following amendments are proposed.

ITEM 1. Amend rule **641—7.1(139A)**, definitions of “Certified medical assistant,” and “Signature,” as follows:

“*Certified medical assistant*” means a person who is certified to practice as a certified medical assistant following completion of a postsecondary medical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs or the Accrediting Bureau of Health Education Schools and successful completion of the certification examination and is directed by a supervising physician, physician assistant, or nurse practitioner.

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

“*Signature*” means an original signature, or the authorized use of a stamped signature, or electronic signature ~~of a physician, physician assistant, or nurse.~~

ITEM 2. Adopt the following **new** definition in rule **641—7.1(139A)**:

“*Student*” means an individual who is enrolled in a licensed child care center, elementary school or secondary school.

ITEM 3. Amend rule 641—7.3(139A) as follows:

**641—7.3(139A) Persons excluded.** Exclusions to these rules are permitted on an individual basis for medical and religious reasons. Applicants approved for medical or religious exemptions shall submit to the admitting official a valid Iowa department of public health certificate of immunization exemption.

**7.3(1)** To be valid, a certificate of immunization exemption for medical reasons shall contain, at a minimum, the applicant’s last name, first name, and date of birth, the vaccine(s) exempted, and an expiration date (if applicable) and shall bear the signature of a physician, nurse practitioner, or physician assistant. A medical exemption may be granted to an applicant when, in the opinion of a physician, nurse practitioner, or physician assistant, ~~the:~~

*a.* The required immunizations would be injurious to the health and well-being of the applicant or any member of the applicant’s family or household. ~~A In this circumstance, a medical exemption may apply to a specific vaccine(s) or all required immunizations vaccines. A certificate of immunization exemption for medical reasons is valid only when signed by a physician, nurse practitioner, or physician assistant.~~ If, in the opinion of the physician, nurse practitioner, or physician assistant issuing the medical exemption, the exemption should be terminated or reviewed at a future date, an expiration date shall be recorded on the certificate of immunization exemption; or

*b.* Administration of the required vaccine would violate minimum interval spacing. In this circumstance, an exemption shall apply only to an applicant who has not received prior doses of the exempted vaccine. An expiration date, not to exceed 60 calendar days, and the name of the vaccine exempted shall be recorded on the certificate of exemption.

**7.3(2)** A religious exemption may be granted to an applicant if immunization conflicts with a genuine and sincere religious belief.

*a.* ~~A~~ To be valid, a certificate of immunization exemption for religious reasons shall be signed by contain, at a minimum, the applicant’s last name, first name, and date of birth and shall bear the signature of the applicant or, if the applicant is a minor, by of the applicant’s parent or guardian or legally authorized representative and shall attest that immunization conflicts with a genuine and sincere religious belief and that the belief is in fact religious, and not based merely on philosophical, scientific, moral, personal, or medical opposition to immunizations.

*b.* The certificate of immunization exemption for religious reasons is valid only when notarized.

**7.3(3)** ~~Religious~~ Medical and religious exemptions shall become null and void during under this rule do not apply in times of emergency or epidemic as determined by the state board of health and declared by the director of public health.

ITEM 4. Rescind subrule 7.4(1) and adopt the following **new** subrule in lieu thereof:

**7.4(1)** Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements below:

IMMUNIZATION REQUIREMENTS

Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below. If, at any time, the age of the child is between the listed ages, the child must have received the number of doses in the "Total Doses Required" column.

Institution	Age	Vaccine	Total Doses Required
Licensed Child Care Center	Less than 4 months of age	This is not a recommended administration schedule, but contains the minimum requirements for participation in licensed child care. <b>Routine vaccination begins at 2 months of age.</b>	
	4 months through 5 months of age	Diphtheria/Tetanus/Pertussis	1 dose
		Polio	1 dose
		<i>haemophilus influenzae</i> type B	1 dose
		Pneumococcal	1 dose
	6 months through 11 months of age	Diphtheria/Tetanus/Pertussis	2 doses
		Polio	2 doses
		<i>haemophilus influenzae</i> type B	2 doses
		Pneumococcal	2 doses
	12 months through 18 months of age	Diphtheria/Tetanus/Pertussis	3 doses
		Polio	2 doses
		<i>haemophilus influenzae</i> type B	2 doses; or 1 dose received when the applicant is 15 months of age or older.
		Pneumococcal	3 doses; or 2 doses if the applicant did not receive any doses prior to 12 months of age.
	19 months through 23 months of age	Diphtheria/Tetanus/Pertussis	4 doses
		Polio	3 doses
		<i>haemophilus influenzae</i> type B	3 doses, with the final dose in the series received on or after 12 months of age, or 1 dose received when the applicant is 15 months of age or older.
		Pneumococcal	4 doses; or 3 doses if the applicant received 1 or 2 doses before 12 months of age; or 2 doses if the applicant has not received any previous doses or has received one dose on or after 12 months of age.
		Measles/Rubella <sup>1</sup>	1 dose of measles/rubella-containing vaccine received on or after 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Varicella	1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease.
	24 months and older	Diphtheria/Tetanus/Pertussis	4 doses
		Polio	3 doses
		<i>haemophilus influenzae</i> type B	3 doses, with the final dose in the series received on or after 12 months of age; or 1 dose received when the applicant is 15 months of age or older. Hib vaccine is not indicated for persons 60 months of age or older.
		Pneumococcal	4 doses; or 1 dose if received when the applicant is aged 24 through 59 months. Pneumococcal vaccine is not indicated for persons 60 months of age or older.
		Measles/Rubella <sup>1</sup>	1 dose of measles/rubella-containing vaccine received on or after 12 months of age; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
Varicella		1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, unless the applicant has had a reliable history of natural disease.	

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Applicants enrolled or attempting to enroll shall have received the following vaccines in accordance with the doses and age requirements listed below. If, at any time, the age of the child is between the listed ages, the child must have received the number of doses in the "Total Doses Required" column.

Institution	Age	Vaccine	Total Doses Required
Elementary or Secondary School (K-12)	4 years of age and older	Diphtheria/Tetanus/Pertussis <sup>2, 3, 4</sup> .	3 doses, with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born on or before September 15, 2000; or 4 doses, with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born after September 15, 2000, but before September 15, 2003; or 5 doses with at least 1 dose of diphtheria/tetanus/pertussis-containing vaccine received on or after 4 years of age if the applicant was born on or after September 15, 2003. DTaP is not indicated for persons 7 years of age and older.
		Polio <sup>5, 6</sup>	3 doses, with at least 1 dose received on or after four years of age if the applicant was born on or before September 15, 2003; or 4 doses, with at least 1 dose received on or after four years of age if the applicant was born after September 15, 2003.
		Measles/Rubella <sup>1</sup>	2 doses of measles/rubella-containing vaccine; the first dose shall have been received on or after 12 months of age; the second dose shall have been received no less than 28 days after the first dose; or the applicant demonstrates a positive antibody test for measles and rubella from a U.S. laboratory.
		Hepatitis B	3 doses if the applicant was born on or after July 1, 1994.
		Varicella <sup>7</sup>	1 dose received on or after 12 months of age if the applicant was born on or after September 15, 1997, but born before September 15, 2003, unless the applicant has had a reliable history of natural disease; or 2 doses received on or after 12 months of age if the applicant was born on or after September 15, 2003, unless the applicant has a reliable history of natural disease.

<sup>1</sup> Mumps vaccine may be included in measles/rubella-containing vaccine.  
<sup>2</sup> The 5<sup>th</sup> dose of DTaP is not necessary if the 4<sup>th</sup> dose was administered on or after 4 years of age.  
<sup>3</sup> Applicants 7 through 18 years of age who received their 1<sup>st</sup> dose of diphtheria/tetanus/pertussis-containing vaccine before 12 months of age should receive a total of 4 doses, with one of those doses administered on or after 4 years of age.  
<sup>4</sup> Applicants 7 through 18 years of age who received their 1<sup>st</sup> dose of diphtheria/tetanus/pertussis-containing vaccine at 12 months of age or older should receive a total of 3 doses, with one of those doses administered on or after 4 years of age.  
<sup>5</sup> If an applicant, born after September 15, 2003, received an all-inactivated poliovirus (IPV) or all-oral poliovirus (OPV) series a 4<sup>th</sup> dose is not necessary if the 3<sup>rd</sup> dose was administered on or after 4 years of age. If 4 polio doses are administered at greater than 6 weeks of age and the doses are all separated by at least 4-week intervals, a 5<sup>th</sup> dose is not needed, even if the 4<sup>th</sup> dose was administered before 4 years of age.  
<sup>6</sup> If both OPV and IPV were administered as part of the series, a total of 4 doses are required, regardless of the applicant's current age.  
<sup>7</sup> Administer 2 doses of varicella vaccine, at least 3 months apart, to applicants less than 13 years of age. Do not repeat the 2<sup>nd</sup> dose if administered 28 days or greater from the 1<sup>st</sup> dose. Administer 2 doses of varicella vaccine to applicants 13 years of age or older at least 4-weeks apart. The minimum interval between the 1<sup>st</sup> and 2<sup>nd</sup> dose of varicella for an applicant 13 years of age or older is 28 days.

ITEM 5. Amend subrule 7.4(2) as follows:

7.4(2) Vaccine doses administered ≤ less than or equal to 4 days before the minimum interval or age shall be counted as valid. Doses administered ≥ greater than or equal to 5 days earlier than the minimum interval or age shall not be counted as valid doses and shall be repeated as ~~age~~ appropriate.

ITEM 6. Amend rule 641—7.6(139A) as follows:

**641—7.6(139A) Proof of immunization.**

7.6(1) ~~Applicants, or their parents or guardians, shall submit a~~ A valid Iowa department of public health certificate of immunization shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. To be valid, the certificate shall be the certificate of immunization issued and provided by the department, a computer-generated copy from the immunization registry, or a certificate of immunization which has been approved in writing by the department and shall be signed by. The certificate shall contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, and the signature of a physician, a physician assistant, a nurse, or a certified medical assistant directed to sign by a supervising physician, physician assistant, or nurse practitioner. A faxed copy, photocopy, or electronic copy of the valid certificate is acceptable. The judgment of the

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

adequacy of the applicant's immunization history should be based on records kept by the person signing the certificate of immunization or on that person's personal knowledge of the applicant's immunization history, or comparable immunization records from another person or agency, or an international certificate of vaccination, or the applicant's personal health records. If personal health records are used to make the judgment, the records shall ~~provide~~ include the vaccine(s) administered and the date given. Persons validating the certificate of immunization are not held responsible for the accuracy of the information used to validate the certificate of immunization if the information is from sources other than their own records or personal knowledge.

**7.6(2)** Persons wishing to enroll who do not have a valid Iowa department of public health certificate of immunization available to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant ~~directed by a supervising physician, physician assistant, or nurse practitioner~~ to obtain a valid certificate.

ITEM 7. Amend subrule 7.7(1) as follows:

**7.7(1)** A valid Iowa department of public health provisional enrollment certificate shall be submitted by the applicant or, if the applicant is a minor, by the applicant's parent or guardian to the admitting official of the school or licensed child care center in which the applicant wishes to enroll. Applicants who have begun but not completed the required immunizations may be granted provisional enrollment. To qualify for provisional enrollment, applicants shall have received at least one dose of each of the required vaccines or be a transfer student from another school system. A transfer student is an applicant seeking enrollment from one United States elementary or secondary school into another. ~~Applicants shall submit a valid Iowa department of public health provisional certificate of immunization to the admitting official of the school or licensed child care center in which the applicant wishes to be provisionally enrolled.~~ To be valid, the provisional certificate shall ~~be signed by~~ contain, at a minimum, the applicant's last name, first name, and date of birth, the vaccine(s) administered, the date(s) given, the remaining vaccine(s) required, the reason that the applicant qualifies for provisional enrollment, and the signature of the applicant, or if the applicant is a minor, the applicant's parent or guardian, and a physician, a physician assistant, a nurse, or a certified medical assistant ~~directed to sign by a supervising physician, physician assistant, or nurse practitioner.~~ Persons validating the provisional certificate of immunization are not held responsible for the accuracy of the information used to validate the provisional certificate of immunization if the information is from sources other than their own records or personal knowledge.

*a.* Any person wishing to be provisionally enrolled who does not have a valid Iowa department of public health provisional certificate of immunization to submit to the admitting official shall be referred to a physician, a physician assistant, a nurse, or a certified medical assistant ~~directed by a supervising physician, physician assistant, or nurse practitioner~~ to obtain a valid certificate.

*b.* Reserved.

ITEM 8. Amend subrule 7.7(4) as follows:

**7.7(4)** If the applicant has not submitted a certificate of immunization by 10 calendar days prior to the expiration of the provisional enrollment, the admitting official shall notify the applicant, or if the applicant is a minor, the ~~minor's~~ applicant's parents or guardian, in writing of the impending expiration of provisional enrollment and ~~invite the applicant and parents or guardian for a conference to discuss~~ shall include a written explanation of the rules regarding provisional enrollment.

ITEM 9. Amend subrule 7.7(6) as follows:

**7.7(6)** If at the end of the provisional enrollment period the applicant has not completed the required immunizations due to minimum interval requirements, ~~the provisional enrollment may be extended if the applicant or parent or guardian submits another~~ a new Iowa department of public health provisional certificate of immunization shall be submitted to the admitting official.

ITEM 10. Amend subrule 7.8(1) as follows:

**7.8(1)** It shall be the duty of the admitting official of a licensed child care center or elementary or secondary school to ensure that the admitting official has a valid Iowa department of public health certificate of immunization, certificate of immunization exemption, or provisional certificate of immunization on file

## PUBLIC HEALTH DEPARTMENT[641](cont'd)

for each ~~child enrolled student~~. ~~The admitting official shall ensure that the certificate be properly completed and include, at a minimum, last name, first name, date of birth, vaccine(s) administered, date(s) given, and validation by the appropriate party.~~

a. The admitting official shall keep the certificates on file in the school or licensed child care center in which the ~~applicant student~~ is enrolled and assist the ~~applicant student~~ or parent or guardian in the transfer of the certificate to another school or licensed child care center upon the transfer of the ~~applicant student~~ to another school or licensed child care center.

b. No change.

ITEM 11. Amend subrule 7.8(4) as follows:

**7.8(4)** The admitting official of an institution of higher education shall provide to the department of ~~education~~ public health by December 1 each year aggregate data regarding compliance with Iowa Code section 139A.26. The data shall be forwarded to the department within 30 days. The data shall include, but not be limited to, the total number of incoming postsecondary freshmen students living in a residence hall or dormitory who have:

a. to c. No change.

ITEM 12. Adopt the following new subparagraph **7.11(4)“a”(6)**:

(6) The admitting official of a licensed child care center, elementary school, or secondary school; or medical or health care providers providing continuity of care.

ITEM 13. Amend paragraph **7.11(4)“b”** as follows:

b. Enrolled users shall not release immunization data obtained from the registry except to the person immunized, the parent or legal guardian of the person immunized, ~~health records staff~~ admitting officials of licensed child care centers and schools, medical or health care providers providing continuity of care, and other enrolled users of the registry.

ITEM 14. Amend rule 641—7.12(22) as follows:

**641—7.12(22) Release of immunization information.**

**7.12(1)** ~~Between a physician, a physician assistant, nurse, or a certified medical assistant directed by a supervising physician, physician assistant, or nurse practitioner and the elementary or secondary school or licensed child care center that the child student attends.~~ A physician, a physician assistant, a nurse, or a certified medical assistant ~~directed by a supervising physician, physician assistant, or nurse practitioner~~ shall disclose a student's immunization information, including the student's name, date of birth, and demographic information, the month, day, year and vaccine(s) administered, and clinic source and location, to an elementary or secondary school or a licensed child care center upon written or verbal request from the elementary or secondary school or licensed child care center. Written or verbal permission from a student or parent is not required to release this information to an elementary or secondary school or licensed child care center that the student attends.

**7.12(2)** ~~Among physicians, physician assistants, nurses, or certified medical assistants directed by a supervising physician, physician assistant, or nurse practitioner.~~ Immunization information, including the student's last name, first name, date of birth, and demographic information, the month, day, year and vaccine(s) administered, and clinic source and location, shall be provided by ~~one a~~ a physician, physician assistant, nurse, or a certified medical assistant ~~directed by a supervising physician, physician assistant, or nurse practitioner~~ to another health care provider without written or verbal permission from the student, ~~or the parent or guardian~~.

**7.12(3)** Among an elementary school, secondary school, and licensed child care center that the student attends. An elementary school, secondary school, or licensed child care center shall disclose a student's immunization information, including the student's last name, first name, date of birth, and demographic information, the month, day, and year of vaccine(s) administered, and clinic source and location, to another elementary school, secondary school, or licensed child care center that the student attends. Written or verbal permission from a student, or if the student is a minor, the student's parent or guardian, is not required to

PUBLIC HEALTH DEPARTMENT[641](cont'd)

release this information to an elementary school, secondary school, or licensed child care center that the student attends.

**ARC 6949B**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 221, "Flammable and Combustible Liquids," Iowa Administrative Code.

Iowa Code section 101.1 authorizes the State Fire Marshal to adopt rules for the safe transportation, storage, handling, and use of flammable liquids. This amendment is based upon the International Fire Code and relevant national standards published by the National Fire Protection Association.

Flooding of existing flammable liquid storage tanks at motor fuel dispensing facilities has left many of these facilities unable to meet the standards of the State Fire Marshal for aboveground storage of flammable liquids and the standards of the Department of Natural Resources for underground petroleum storage tanks.

The amendment proposed herein would provide standards for temporary emergency storage of flammable liquids in aboveground tanks in situations in which the usual storage provisions of a motor fuel dispensing facility are inoperable. These provisions would be available to facilities in areas covered by disaster emergency proclamations or otherwise approved by the State Fire Marshal. Generally, use of temporary flammable liquid storage would be allowed for 90 days.

A public hearing on this proposed amendment will be held on August 12, 2008, at 8 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters 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, Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by telephone at (515)725-6185; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us), at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on August 11, 2008, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on August 11, 2008.

This amendment was also Adopted and Filed Emergency, effective July 1, 2008, and is published herein as **ARC 6967B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code chapter 101.

**ARC 6969B****PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 322, "State Building Code—Manufactured Housing Support and Anchorage Systems," Iowa Administrative Code, with the approval of the Building Code Advisory Council.

Responsibility for establishing standards for the installation of manufactured housing in Iowa is assigned to the Building Code Commissioner. These standards are adopted as part of the State Building Code, with the approval of the Building Code Advisory Council. Rules establishing these standards were recently reorganized into new Chapter 322 of the administrative rules for the Department of Public Safety. This new chapter was adopted through emergency procedures and became effective July 1, 2008.

Recent widespread disasters in Iowa have created substantial demand for immediate availability of manufactured housing in the state. In order to facilitate rapid availability of housing, the rule proposed herein would allow for temporary occupancy of manufactured housing in the absence of compliance with all of the normal requirements for installation. These units would be for temporary use only, unless reinstalled in compliance with all of the standards which normally apply to such installations.

A public hearing on this proposed rule will be held on August 12, 2008, at 10 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. This hearing will be held concurrently with the hearing scheduled to accept comments on **ARC 6897B**, published in the Iowa Administrative Bulletin on July 2, 2008, which proposed the adoption of Chapter 322. 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 hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by telephone at (515)725-6185 or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) at least one day prior to the hearing.

Any interested persons may make oral or written comments concerning this proposed amendment to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on August 11, 2008. Comments may also be submitted by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) by 4:30 p.m. on August 11, 2008.

This amendment was also Adopted and Filed Emergency, effective July 1, 2008, and is published herein as **ARC 6970B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 103A.9.

**ARC 6965B****PUBLIC SAFETY DEPARTMENT[661]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 103A.56, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 374, "Manufactured Housing Installer Certification," Iowa Administrative Code.

Iowa Code section 103A.59 establishes the certification program for manufactured housing installers in Iowa. The rules implementing this section were recently organized into new Chapter 374 of the administrative rules for the Department of Public Safety. This new chapter was adopted through emergency procedures and became effective July 1, 2008.

Recent widespread disaster conditions in Iowa have created a need for qualified installers from out of state to be able to work in Iowa. The rule proposed herein would provide for the temporary emergency certification of manufactured housing installers, provided that they produce evidence of certification or licensing as installers from other states and proof of liability insurance coverage. The temporary emergency certificates would be valid for 90 days and may be renewed once.

A public hearing on this proposed rule will be held on August 12, 2008, at 9 a.m. in the First Floor Public Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. This hearing will be held concurrently with the hearing scheduled to accept comments on **ARC 6880B**, published in the Iowa Administrative Bulletin on July 2, 2008, which proposed the adoption of Chapter 374. 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 hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; by telephone at (515)725-6185; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) at least one day prior to the hearing.

Any interested persons may make oral or written comments concerning this proposed amendment to the Agency Rules Administrator by mail, telephone, or in person at the above address by 4:30 p.m. on August 11, 2008. Comments may also be submitted by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us) by 4:30 p.m. on August 11, 2008.

This amendment was also Adopted and Filed Emergency, effective July 1, 2008, and is published herein as **ARC 6966B**.

This amendment is intended to implement Iowa Code section 103A.59.

**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:

July 1, 2007 — July 31, 2007	6.75%
August 1, 2007 — August 31, 2007	7.00%
September 1, 2007 — September 30, 2007	7.00%
October 1, 2007 — October 31, 2007	6.75%
November 1, 2007 — November 30, 2007	6.50%
December 1, 2007 — December 31, 2007	6.50%
January 1, 2008 — January 31, 2008	6.25%
February 1, 2008 — February 29, 2008	6.00%

## USURY(cont'd)

March 1, 2008 — March 31, 2008	5.75%
April 1, 2008 — April 30, 2008	5.75%
May 1, 2008 — May 31, 2008	5.50%
June 1, 2008 — June 30, 2008	5.75%
July 1, 2008 — July 31, 2008	6.00%

**ARC 6959B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

The amendment to subrule 11.21(3) adds language stating who may serve as the legal representative of the Board. The change gives the Board the option of designating an attorney to represent it.

In compliance with Iowa Code section 17A.4(1), the Board finds that notice and public participation are unnecessary because this amendment is simultaneously being proposed under Notice of Intended Action to allow for public comment.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on June 25, 2008, as the Board of Educational Examiners has the authority under Iowa Code section 272.2 to establish the requirements for legal representation of the Board.

The Board of Educational Examiners adopted this amendment on June 13, 2008.

This amendment is also published herein under Notice of Intended Action as **ARC 6980B** to allow for public comment.

This amendment is intended to implement Iowa Code chapter 272.

This amendment became effective on June 25, 2008.

The following amendment is adopted.

Amend subrule 11.21(3) as follows:

**11.21(3) Legal representation.**

*a.* The respondent has a right to participate in all hearings or prehearing conferences and may be represented by an attorney or another person authorized by law.

*b.* The office of the attorney general or an attorney designated by the executive director shall be responsible for prosecuting complaint allegations in all contested case proceedings before the board, except those cases in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations. The assistant attorney general or other designated attorney assigned to prosecute a contested case before the board shall not represent the board or the complainant in that case, but shall represent the public interest.

*c.* In a case in which the sole allegation involves the failure of a practitioner to fulfill contractual obligations, the person who files the complaint with the board, or the complainant's designee, shall represent the complainant during the contested case proceedings.

[Filed Emergency 6/25/08, effective 6/25/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6925B****HISTORICAL DIVISION[223]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 303.1A, the Director of the Department of Cultural Affairs hereby amends Chapter 48, "Historic Preservation and Cultural and Entertainment District Tax Credits," Iowa Administrative Code.

The amendments to Chapter 48 clarify the procedures by which the public may access the historic preservation and cultural and entertainment district tax credits and are based on constituent input.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary as the changes are based on constituent input and the amendments confer a benefit to constituents.

## HISTORICAL DIVISION[223](cont'd)

The Department 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 June 19, 2008, as they confer a benefit on and remove a restriction from the constituents interested in applying for historic preservation and cultural and entertainment district tax credits.

The Department adopted these amendments on June 18, 2008.

These amendments are also published herein under Notice of Intended Action as **ARC 6927B** to allow for public comment.

These amendments became effective on June 19, 2008.

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

The following amendments are adopted.

ITEM 1. Amend rule 223—48.2(303,404A) as follows:

**223—48.2(303,404A) Definitions.** The definitions listed in Iowa Code section 17A.2 and rules 223—1.2(17A,303), 223—1.6(303), 223—13.2(303), 223—22.2(303), and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, the following definitions apply:

“*Assessed value*” means the amount of the most current property tax assessment.

“*Commercial property*” means a building ~~with~~ used for retail, office, or other business ~~space~~ uses not otherwise classified as residential use pursuant to the Iowa state building code.

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

“*Mixed-use property*” means a ~~commercial~~ property that includes three or more residential units ~~in the same building~~ and may also contain a commercial property component in the same building.

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

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

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

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

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

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

ITEM 2. Amend rule 223—48.3(303,404A) as follows:

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

1. Property verified as listed on the National Register of Historic Places or determined eligible for such listing through the established procedures of the state historic preservation office (SHPO);

2. Property designated as a building contributing to the historic significance of a district listed on the National Register of Historic Places or ~~eligible for such designation by being located in an area previously surveyed and evaluated as eligible for listing on the National Register of Historic Places as a historic district~~ contributing to the historic significance of a district determined eligible for such listing through the established procedures of the SHPO;

3. A property or district designated as a local landmark by a city or county ordinance; or

4. A barn constructed prior to 1937.

ITEM 3. Amend rule 223—48.4(303,404A) as follows:

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

**48.4(1) to 48.4(4)** No change.

**48.4(5)** Only qualified rehabilitation costs incurred ~~beginning two years prior to the project completion date and ending on the project completion date~~ during the 24-month period immediately prior to the project

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completion date may be used for determination of historic tax credits, excluding any costs incurred prior to inception of this program.

*a. and b.* No change.

48.4(6) Any submission of a part three of the application with qualified rehabilitation costs of more than \$500,000 shall include a certified statement by a certified public accountant verifying that the expenses statement includes only qualified rehabilitation costs incurred in the time period established in subrule 48.4(5).

ITEM 4. Amend rule 223—48.5(303,404A) as follows:

**223—48.5(303,404A) ~~Eligibility of projects, rehabilitation costs~~ Rehabilitation cost limits and amount of credit.**

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

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

**48.5(3)** For residential or mixed-use property, the amount of rehabilitation costs shall not exceed \$100,000 per residential unit ~~plus the~~ excluding any qualified rehabilitation costs for the commercial space and excluding any qualified rehabilitation costs for the weather surfaces of the building envelope including exterior windows and doors.

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

**48.5(5)** Applicants may develop subsequent projects for qualified rehabilitation costs not previously included in a tax credit application for a building which had tax credits previously reserved or awarded. Each subsequent application shall meet eligibility requirements as stated in subrules 48.5(1) to 48.5(4) and shall be reviewed individually and independently. The cumulative total for applications for buildings funded through the small projects funding queue shall not exceed \$500,000. Any application for a building previously funded through the small projects funding queue that causes the cumulative total for that building to exceed \$500,000 may be considered for funding in accordance with rule 223—48.8(303,404A).

ITEM 5. Amend rule 223—48.6(303,404A) as follows:

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

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

*a. and b.* No change.

*c.* Part three of the application provides the information and documentation required to request certification of project completion and must include all requested information including certification in accordance with subrule 48.4(6). SHPO staff shall notify the applicant in writing if part three of the application is incomplete. Incomplete applications will not be processed. Incomplete applications may be subject to abandonment as outlined in rule ~~48.10(303,404A)~~ 223—48.11(303,404A).

*d.* Amendments to applications. An applicant may amend an approved part two of the application to notify SHPO of, and to request review of, modifications to the original description of the rehabilitation project. Amendments to part two of the application shall not include modification of the rehabilitation costs estimated in the originally approved part two of the application. Amendments to part two of the application shall not result in the reservation of additional tax credits for a project.

**48.6(2) and 48.6(3)** No change.

**48.6(4)** ~~An~~ A part two of an application that mirrors includes the same scope of work as a rehabilitation project which qualifies for the federal rehabilitation credit under Section 47 of the Internal Revenue Code shall automatically be approved for the state historic tax credit when submitted in accordance with rule

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223—48.8(303,404A) and to the extent that all historic tax credits appropriated for the fiscal year have not already been ~~awarded~~ reserved.

**48.6(5)** Response to application parts.

a. No change.

b. Review of part two of the application shall result in one of three responses which may be provided to the department of revenue:

(1) to (3) No change.

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

c. Review of part three of the application shall result in one of two responses which may be provided to the department of revenue:

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

(2) No change.

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

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

d. Questions concerning specific tax consequences or interpretation of the state tax code must be addressed to the department of revenue.

**48.6(6)** No change.

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

a. and b. No change.

c. An authorized representative of the SHPO, with due notice to the applicant, may inspect projects to determine if the work meets the Standards.

**48.6(8)** Approval of part three of the application. Upon approval of part three of the application, the SHPO shall issue a tax credit certificate to the applicant in an amount equal to 25 percent of the qualified rehabilitation costs as estimated in part two of the application for the tax credit year originally reserved for the project upon approval of part two of the application, unless the qualified rehabilitation costs in part three of the application differ from the estimated qualified rehabilitation costs in part two of the application.

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

b. If the qualified rehabilitation costs documented in part three of the application are greater than the qualified rehabilitation costs estimated in part two of the application, the SHPO shall issue a tax credit certificate to the applicant in an amount equal to 25 percent of the documented qualified rehabilitation costs that exceed the qualified rehabilitation costs estimated in part two of the application for the next available tax credits in the same funding queue from which tax credits were initially awarded according to procedures established in rule 223—48.8(303,404A).

ITEM 6. Amend rule 223—48.8(303,404A) as follows:

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

**48.8(1) Order of review.** The SHPO anticipates the receipt of a large number of applications for historic tax credits for projects with qualified rehabilitation costs in excess of \$500,000 at the beginning of each state fiscal year. At the start of each state fiscal year, the SHPO will utilize a project review sequencing system to establish the order in which applications will be reviewed. Applications for projects with qualified rehabilitation costs under \$500,000 making application for credits from the small project funding queue

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will be accepted and reviewed throughout the calendar year until all available credits from that funding queue are reserved. When all available credits are reserved from the small project funding queue, subsequent applications will be accepted utilizing the procedures in subrules 48.8(1) to 48.8(6) for projects with qualified rehabilitation costs in excess of \$500,000.

**48.8(2) *Filing window. Applications*** Projects with qualified rehabilitation costs documented in part three of the application in excess of the estimated rehabilitation costs in part two pursuant to paragraph 48.6(8) "b" and applications for state historic tax credits received during the first ten working days of the state fiscal year shall be included in a project review sequencing system to determine the order in which they will be reviewed.

**48.8(3) *Initial sequencing process.*** An initial sorting process based on the status of the project application at the start of the state fiscal year will be used to associate applications with the appropriate initial sequencing category. Following initial sorting into a category, each application within the assigned category will be sequenced in accordance with rule 223—48.8(303,404A).

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

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

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

a. Category A projects are comprised of projects with qualified rehabilitation costs documented in part three of the application in excess of the estimated rehabilitation costs in part two pursuant to paragraph 48.6(8) "b" and which could not be otherwise reserved from available credits in the appropriate funding queue.

b. Category B projects are comprised of a state historic tax credit application submitted during any previous year's filing window, and was included in that year's sequencing system, and did not receive a tax credit reservation. Category B projects must be resubmitted during the present year's filing window.

c. Category C projects are comprised of a state historic tax credit application that includes the same scope of work approved for federal rehabilitation tax credits, as documented by a signed part two of the federal tax credit application approved prior to the first business day of the state fiscal year, and applications with rehabilitation costs in excess of \$500,000 which are not eligible for the federal program. Applications eligible for this category must include one of the following:

- (1) A new part two of the application with part one of the application already on file;
- (2) New parts one and two of the application; or
- (3) New parts one, two and three of the application.

d. Category D projects are comprised of an entirely new state historic tax credit application not meeting the requirements for any other category and having been received within the specified filing window. Projects may consist of parts one and two of the application, parts two and three of the application with a part one having already been submitted, or parts one, two and three of the application.

**48.8(4) *Secondary sequencing process.*** Using a random number generator, SHPO staff will assign unique, random numbers to all applications that are eligible for inclusion in the review sequencing system within each category of the initial sequencing system. Applications within each category shall then be placed in numeric

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order from lowest to highest. SHPO staff shall then create a master review sequence list, with category A applications reviewed first, category B applications reviewed next, category C applications reviewed next, and category ~~C~~ D applications reviewed last.

**48.8(5)** and **48.8(6)** No change.

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

ITEM 7. Amend rule 223—48.9(303,404A) as follows:

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

**48.9(1)** No change.

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

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

**48.9(4) 48.9(3)** The SHPO shall not reserve tax credits for more than two state fiscal years beyond the current state fiscal year.

ITEM 8. Renumber rules ~~223—48.10(303,404A)~~ to ~~223—48.16(303,404A)~~ as ~~223—48.11(303,404A)~~ to ~~223—48.17(303,404A)~~.

ITEM 9. Adopt the following new rule 223—48.10(303,404A):

**223—48.10(303,404A) Project commencement.**

**48.10(1)** Once a tax credit reservation is made for a project, actual construction must begin on the project prior to the end of the state fiscal year in which the SHPO approved part two of the application. The applicant shall notify the SHPO of the commencement date of actual construction and, if the estimated qualified rehabilitation costs for the project exceed \$500,000, shall submit a certified statement by a certified public accountant confirming expenditure of at least 10 percent of estimated qualified rehabilitation costs prior to the end of the state fiscal year in which the SHPO approved part two of the application.

**48.10(2)** In lieu of commencement of actual construction prior to the end of the state fiscal year in which the SHPO approved part two of the application, an applicant may notify the SHPO that the project identified in part two of the application was awarded low income housing tax credits (LIHTC) from the Iowa finance authority in the same fiscal year in which the SHPO approved part two of the application.

**48.10(3)** In the event actual construction on a project does not commence prior to the end of the state fiscal year in which the SHPO approved part two of the application in accordance with subrule 48.10(1) or 48.10(2), the SHPO shall recapture the tax credit reservation and utilize those tax credit funds for additional applications in accordance with the provisions of rule 223—48.8(303,404A).

ITEM 10. Amend renumbered rule 223—48.11(303,404A) as follows:

**223—48.11(303,404A) Abandonment of tax credit reservation.**

**48.11(1)** If there has been no contact with the SHPO by the applicant ~~prior to~~ between project commencement confirmed in accordance with rule 223—48.10(303,404A) and the estimated project completion date shown on the approved part two of the application, the SHPO shall, by registered U.S. mail sent to the last-known address of the applicant, request that a status report be filed with the SHPO within 30 days of the date of the letter. The SHPO shall notify an applicant that the project will be considered abandoned and the SHPO will recapture the tax credit reservation unless the applicant submits a status report that documents actual construction on the project within 30 days of the date of the letter.

**48.11(2)** If the SHPO has not received a status report that documents actual construction on a project by the deadline, then the SHPO shall notify an applicant by registered U.S. mail sent to the applicant's last-known

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address that the project has been abandoned and the tax credit reservation has been recaptured because the conditions of subrule ~~48.10(1)~~ 48.11(1) have not been met.

**48.11(3)** The SHPO shall return any recaptured tax ~~credits~~ credit reservations to the appropriate funding queue in the pool of tax credits available for other rehabilitation projects.

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

ITEM 11. Amend renumbered subrule 48.12(2) as follows:

**48.12(2)** If the SHPO has not received a complete part three of the state historic tax credit application by the deadline, then the SHPO shall notify an applicant by registered U.S. mail sent to the applicant's last-known address that the project has been abandoned and the tax credit reservation has been recaptured because the conditions of subrule ~~48.11(1)~~ 48.12(1) have not been met.

ITEM 12. Amend renumbered rule 223—48.16(303,404A) as follows:

**223—48.16(303,404A) Application processing fees.** A nonrefundable fee for application processing of parts two and three of an application will be charged for review of requests for certification of a rehabilitation project for historic tax credits. An initial review fee will be due with the filing of part two of an application. An additional fee for review of completed rehabilitation work will be due with the filing of part three of an application. Fees will be based on the amount of qualified rehabilitation costs. The fee schedule is as follows:

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

[Filed Emergency 6/19/08, effective 6/19/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6976B**

## **IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 2, "Investment Board," Chapter 4, "Employers," Chapter 6, "Covered Wages," Chapter 7, "Service Credit and Vesting Status," Chapter 8, "Service

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

Purchases,” Chapter 13, “Disability for Regular and Special Service Members,” Chapter 14, “Death Benefits and Beneficiaries,” and Chapter 15, “Dividends,” Iowa Administrative Code.

The amendments implement provisions of 2008 Iowa Acts, Senate File 2424, which requires the amendment or adoption of various sections: removing the 0.4 percent cap on management expenses for investments; adjusting contribution rates for members by IPERS staff based on actuarial valuation; adding new employee classes to IPERS protection occupation class; eliminating bonuses and allowances except for legislative pay; providing service credit at no cost to members of the military who served in a combat zone or hazardous area and received a service-related injury or disease that resulted in the member's death within two years after suffering the injury or disease; expanding choices for buying service time for IPERS members, including new “buy up” service purchase provisions for members who have a mixture of regular and special service credit; clarifying eligibility for disability benefit payments for regular class members; increasing the amount payable to custodians for minors who are beneficiaries to coordinate with other Iowa Code provisions; allowing nonspouse beneficiaries to roll over a deceased member's death benefit to a Roth IRA as an acceptable vehicle for IPERS lump sum distributions; and clarifying that November dividend adjustments will not be made unless statutory contribution rates meet or exceed the actuarially required rate for that fiscal year.

Previously, Iowa Code chapter 97B and administrative rules identified certain types of service as nonqualified service (e.g., employment with a qualified Canadian governmental entity or with the Peace Corps). Effective July 1, 2008, nonqualified service credit is not required to be linked to employment at all and is limited in the aggregate to 20 quarters. Therefore, in Items 18 and 19, references to specific categories of nonqualified service are eliminated.

Additional amendments remove provisions for employer-mandated reductions in hours because the time for that program has expired; remove provisions for patient advocate service purchases because the time for that program has also expired; and remove outdated law citations and update corresponding implementation clauses.

In compliance with Iowa Code section 17A.4(2), IPERS finds that notice and public participation prior to implementation of these amendments are impracticable, unnecessary, and contrary to the public interest and that these amendments should be implemented immediately because these amendments are beneficial to members and necessary to the current and ongoing administration of the system.

IPERS 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 upon filing with the Administrative Rules Coordinator on June 25, 2008, because the amendments confer benefits or are necessary to implement the system's governing statutes, or both.

Notice of Intended Action regarding these amendments is published herein as **ARC 6975B** to give interested persons notice of the changes and an opportunity to comment.

These amendments were prepared after consultation with IPERS administration, Benefits Advisory Committee, investment, legal, operations and benefits divisions.

These amendments are not subject to requests for waivers; however, these amendments are subject to the normal IPERS appeal process.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2424, and Iowa Code chapter 97B.

These amendments became effective on June 25, 2008.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **495—2.2(97B)**.

ITEM 2. Amend subrule 4.6(1) as follows:

**4.6(1) Contribution rates for regular class members.**

a. Effective July 1, 2007, except as otherwise provided by law, the following contribution rates shall be effective for all covered members except those identified in subrules 4.6(2) and 4.6(3):

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

	Ended June 30, 2007	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010
Combined rate	9.45%	9.95%	10.45%	10.95%	11.45%
Employer	5.75%	6.05%	6.35%	6.65%	6.95%
Employee	3.70%	3.90%	4.10%	4.30%	4.50%

b. Effective July 1, 2011, and every year thereafter, the contribution rates shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective no later than July 1 of the next fiscal year.

ITEM 3. Rescind subrule 4.6(2) and adopt the following **new** subrule in lieu thereof:

**4.6(2)** Contribution rates for sheriffs and deputy sheriffs.

	Effective July 1, 2007	Effective July 1, 2008
Combined rate	15.40%	15.04%
Employer	7.70%	7.52%
Employee	7.70%	7.52%

ITEM 4. Rescind subrule 4.6(3) and adopt the following **new** subrule in lieu thereof:

**4.6(3)** Contribution rates for protection occupation.

	Effective July 1, 2007	Effective July 1, 2008
Combined rate	14.11%	14.08%
Employer	8.47%	8.45%
Employee	5.64%	5.63%

ITEM 5. Amend paragraph **4.6(4)“e”** as follows:

*e.* Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city with a population of 100,000 or more, and employees covered by the Iowa Code ~~Supplement~~ chapter 8A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

ITEM 6. Adopt the following **new** paragraphs **4.6(4)“j”** to **4.6(4)“m”**:

*j.* Effective July 1, 2008, county jailers and detention officers working as jailers as provided by 2008 Iowa Acts, Senate File 2424, section 31.

*k.* Effective July 1, 2008, National Guard installation security officers as provided by 2008 Iowa Acts, Senate File 2424, section 31.

*l.* Effective July 1, 2008, emergency medical care providers as provided by 2008 Iowa Acts, Senate File 2424, section 31.

*m.* Effective July 1, 2008, special investigators who are employed by county attorneys as provided by 2008 Iowa Acts, Senate File 2424, section 31.

ITEM 7. Amend paragraph **4.6(5)“b”** as follows:

*b.* Effective July 1, 2006, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall continue to be coded by IPERS staff as regular service unless the legislature specifically provides in its legislation for payment of the related actuarial costs of such reclassified service as required under Iowa Code section 97B.65 ~~as amended by 2006 Iowa Acts, House File 729, section 10.~~

ITEM 8. Amend subrule 4.6(6) as follows:

**4.6(6)** Effective July 1, 2006, in the determination of a sheriff's or deputy sheriff's eligibility for benefits and the amount of such benefits under Iowa Code section 97B.49C, all protection occupation service credits

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

for that member shall count toward the total years of eligible service as a sheriff or deputy sheriff. However, this subrule shall not be construed to alter the statutory requirement that a sheriff or deputy sheriff must be employed as a sheriff or deputy sheriff at termination of covered employment in order to qualify for benefits under Iowa Code section 97B.49C as amended by 2006 Iowa Acts, House File 2245, section 5.

ITEM 9. Rescind subrule **4.6(7)**.

ITEM 10. Renumber subrule **4.6(8)** as **4.6(7)**.

ITEM 11. Rescind and reserve rule **495—4.8(97B)**.

ITEM 12. Amend **495—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, 97B.65 and 97B.70.

ITEM 13. Amend rule 495—6.2(97B) as follows:

**495—6.2(97B) Definition of wages.** “Wages” means all compensation earned by employees including, except as otherwise provided under this chapter, vacation pay; sick pay; ~~bonus payments~~; back pay; ~~dismissal pay~~; amounts deducted from the employee’s pay at the employee’s discretion for tax-sheltered annuities, dependent care and cafeteria plans; and the cash value of wage equivalents. This definition applies to these rules, regulations, interpretations, forms and other IPERS publications unless the context otherwise requires.

ITEM 14. Amend subrule 6.3(6) as follows:

**6.3(6) Special lump sum payments.** Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment intended as an early retirement incentive. Wages do not include: catastrophic leave paid in a lump sum, ~~recruitment~~ bonuses, tips or honoraria. Exclusion of payments as described in this subrule applies whether the payment is in a lump sum or in installments.

ITEM 15. Rescind and reserve subrule **6.3(11)**.

ITEM 16. Amend rule 495—6.4(97B), introductory paragraph, as follows:

**495—6.4(97B) Month for which wages are to be reported.** Wages are reportable for the month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, receive lump sum payments of extra duty pay, ~~or request wage restorations following EMRH~~, and similar situations involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages. The employer shall file wage adjustment reporting forms with IPERS allocating the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

ITEM 17. Adopt the following new paragraph **7.1(3)“f”**:

*f.* Effective July 1, 2008, free service credit will be given in the calculation of death benefits for members who served military duty and met the following conditions:

- (1) Served in a combat zone or hazardous duty area,
- (2) Sustained a service-related injury or disease that prevented the member from returning to IPERS-covered employment, and
- (3) Died of the service-related injury or disease within two years after suffering the injury or disease.

ITEM 18. Rescind and reserve subrules **8.1(11)** to **8.1(13)**.

ITEM 19. Amend subrule 8.3(3) as follows:

**8.3(3)** IPERS ~~shall not permit~~ permits the purchase of nonqualified ~~permissive~~ service credit, as defined under IRC Section 415(n), ~~unless such service is specifically authorized by the Iowa legislature.~~ “Nonqualified service” means:

- a. Service that is not qualified service under Iowa Code section 97B.80C; and

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

b. Service for which no services were performed; and

c. Service for which the member is entitled to receive retirement benefits under another retirement plan. ~~If so authorized, a~~ A member must have five years 20 quarters of existing service to make such a purchase, and the quarters of nonqualified service purchased cannot exceed 20. Nonqualified service credit purchased shall not exceed 20 quarters. This limit is an aggregate limit that applies to all quarters categorized as nonqualified service credit.

ITEM 20. Rescind paragraphs **8.5(3)“b”** and **8.5(3)“e.”**

ITEM 21. Reletter paragraphs **8.5(3)“c,” 8.5(3)“d”** and **8.5(3)“f”** as **8.5(3)“b,” 8.5(3)“c”** and **8.5(3)“d.”**

ITEM 22. Adopt the following new subrule 8.5(4):

**8.5(4)** “*Buy up*” of service credit through service purchase. Effective July 1, 2008, IPERS members may be allowed to “buy up” service credit. The term “buy up” means to convert regular service credit to special service credit by payment of the actuarial cost. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2) “f,” except as modified according to the actuary’s recommendations.

*a. Active, retired and inactive members.* A member must have at least one quarter of available or retired special service wages on file and must be vested at the time of the buy-up. A service purchase cost quote must include the following information:

	Active and Inactive Members	Retired Members
Member ID or social security account number	X	X
Date of birth	X	X
Occupation code	Current	At retirement
Wage	Highest year of calendar wage	Average of the highest three calendar years of wages used at retirement
Years of service – regular	X	X
Years of service – sheriffs/deputies	X	X
Years of service – protection occupation	X	X
Number of quarters available to buy up	X	X
Type of conversion – sheriffs/deputies or protection occupation	X	X
Investment (employee’s contributions and interest)	Current	At retirement

*b. Mixture of service time.* If a member’s service time contains a mixture of regular, protection and sheriff service credit, IPERS shall prepare buy-up cost quotes as follows:

(1) If the member is currently employed in the sheriff class or retired as a sheriff, the cost quote shall be prepared reflecting a buy-up to sheriff service credit.

(2) If the member is not currently employed in the sheriff class or did not retire as a sheriff, the cost quote shall be prepared reflecting a buy-up to protection occupation service credit.

*c. Wage adjustment after a buy-up.*

(1) If an employer submits wage adjustments on service credit that has been purchased through a buy-up, the member’s cost quote will not be affected by a wage adjustment that alters the reported wages on file, so long as reported wages for the buy-up quarters are not reduced below \$1.

(2) If an employer wage adjustment completely removes a member’s service credit in a buy-up quarter, IPERS shall correct the service credit, perform the necessary recalculations, and contact the member, if necessary, for any contribution and benefit payment adjustments.

*d. IRS limitations.* Buy-up service purchases will be aggregated with buy-in service purchases during a calendar year and subjected to the applicable limits of Section 415(c) of the Internal Revenue Code. Amounts that are rolled over from other qualified plans for service purchases are excluded from these limits.

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

ITEM 23. Amend subrule 13.1(1) as follows:

~~13.1(1) The following standards apply to a retirement due to disability under the provisions of Iowa Code section 97B.50(2) For IPERS regular class members retiring because of a disability:~~

~~a. The member must inform IPERS at retirement indicate on the application for retirement that the retirement is due to an illness, injury or similar condition. The member must also initiate an application for federal social security disability benefits or federal railroad retirement disability benefits.~~

~~b. To qualify for the IPERS disability provision, the member must be awarded federal social security benefits due to the a disability which existed at the time of retirement the application for retirement was filed.~~

~~c. and d. No change.~~

~~e. Continued qualification monitoring. For a member retiring due to a disability on or after January 1, 2009, in order to continue qualification for disability benefits, the member shall provide IPERS with proof of continuing eligibility for federal social security disability benefits or railroad retirement disability benefits by June 30 of each calendar year. IPERS may also require complete copies of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year. IPERS may suspend the benefits of any such member if these records are not timely provided.~~

ITEM 24. Adopt the following **new** subrule 13.1(4):

**13.1(4)** If a member whose IPERS disability benefits were suspended because of the member's return to covered employment provides proof acceptable to IPERS that the member remains eligible for federal social security disability benefits or railroad retirement disability benefits, IPERS shall reinstate the member's disability benefits, subject to the member's continued compliance with paragraph 13.1(1) "e."

ITEM 25. Amend rule 495—14.8(97B) as follows:

**495—14.8(97B) Beneficiaries under the age of 18.** Payment may be made to a conservator if the beneficiary is under the age of 18 and the total dollar amount to be paid by IPERS to a single beneficiary is ~~\$10,000~~ \$25,000 or more. Payment may be made to a custodian if the total dollar amount to be paid by IPERS to a single beneficiary is less than ~~\$10,000~~ \$25,000.

ITEM 26. Amend rule 495—14.14(97B) as follows:

**495—14.14(97B) Procedures for deaths of certain voluntary emergency services personnel occurring in the line of duty.** Effective July 1, 2006, for a member who dies while performing the functions of a voluntary emergency services provider as described under Iowa Code section 85.61 or 147A.1, benefits for deaths occurring in the line of duty shall be paid pursuant to Iowa Code section ~~100B.11 and not under Iowa Code section 97B.52 as amended by 2006 Iowa Acts, House File 2665, section 2~~ 100B.31.

ITEM 27. Amend rule 495—14.15(97B) as follows:

**495—14.15(97B) Rollovers by nonspouse beneficiaries.** Effective January 1, 2007, ~~in addition to the rollovers permitted under Iowa Code section 97B.53B,~~ nonspouse beneficiaries shall be permitted to request a direct rollover of such beneficiaries' death benefit payments to traditional IRA accounts established in accordance with Section 829 of the Pension Protection Act of 2006 and IRS Notice 2007-7. IPERS shall determine the amount eligible for direct rollover under IRC Section 401(a)(9), if any, and the procedural requirements for requesting such rollovers. It shall be the beneficiaries' responsibility to determine that the recipient IRAs meet the structural and operational requirements of Section 829 and Notice 2007-7. IPERS shall bear no responsibility for rollovers to IRA accounts that fail to meet such requirements.

Effective January 1, 2008, IPERS will also allow rollovers under this rule to Roth IRA accounts established in accordance with the structural and operational requirements of Section 829 and Notice 2007-7.

ITEM 28. Renumber subrules **15.1(1)** to **15.1(4)** as **15.1(2)** to **15.1(5)**.

ITEM 29. Adopt the following **new** subrule 15.1(1):

**15.1(1) November dividend adjustment.** Effective July 1, 2008, in order to determine whether the adjustment to dividend payments is payable under Iowa Code section 97B.49F(1) "b" as amended by 2008 Iowa Acts, Senate File 2424, section 34, an IPERS actuary shall compare the actuarially required

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

contribution rate for the fiscal year of the dividend adjustment to the statutory contribution rate for that same fiscal year and certify the results to IPERS. If the actuarially required contribution rate exceeds the statutory contribution rate for that same fiscal year, the applicable percentage used to calculate dividend adjustments shall be zero.

ITEM 30. Amend subrule **15.2(1)**, first unnumbered paragraph, as follows:

Effective July 1, 2006, IPERS shall in no event credit amounts attributable to favorable experience to the FED reserve account, unless IPERS is fully funded and will remain fully funded after such amounts are credited to the FED reserve account. "Fully funded" means that the funded ratio as determined under ~~2006 Iowa Acts, House File 729, section 1,~~ Iowa Code section 97B.1A(11A) remains at least 100 percent following the allocation of favorable experience to the FED reserve account.

ITEM 31. Amend **495—Chapter 15**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 97B.1A(11A), 97B.49F and 97B.70.

[Filed Emergency 6/25/08, effective 6/25/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6947B**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 89A.3, the Elevator Safety Board amends Chapter 71, "Administration," Chapter 75, "Fees," and Chapter 76, "Permits," Iowa Administrative Code.

Pursuant to 2008 Iowa Acts, Senate File 2154, construction personnel hoists will come under the jurisdiction of Iowa's elevator safety program for the first time on July 1, 2008. In a separate rule making that will become effective on July 23, 2008, the Elevator Safety Board has adopted by reference an appropriate safety code for construction personnel hoists. Because construction personnel hoists differ significantly from other conveyances currently covered by Iowa Code chapter 89A, new rules governing permits, inspections and fees for construction personnel hoists are also needed.

These amendments establish fees for operating permits, alteration permits, installation permits, and inspections of construction personnel hoists. These amendments require owners of construction personnel hoists installed prior to July 1, 2008, to register their construction personnel hoists with the Labor Commissioner no later than July 23, 2008. These amendments set forth procedures for construction personnel hoist alteration permits, installation permits, and operating permits.

Pursuant to Iowa Code section 17A.4(2), the Elevator Safety Board finds that notice and public participation would be impracticable because the statutory change is effective July 1, 2008.

The Elevator Safety Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective on July 23, 2008, as they confer a benefit by providing for orderly and timely implementation of 2008 Iowa Acts, Senate File 2154.

The Elevator Safety Board has also filed these same amendments under Notice of Intended Action as **ARC 6946B** to allow for public comment.

The principal reasons for adoption of these rules are to protect worker safety and health and to implement legislative intent. No variance provision is included in these rules as 875—Chapter 66 sets forth applicable variance procedures.

These amendments are intended to implement Iowa Code Supplement sections 89A.1, 89A.2 and 89A.9 as amended by 2008 Iowa Acts, Senate File 2154.

These amendments will become effective July 23, 2008.

The following amendments are adopted.

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

ITEM 1. Amend rule 875—71.4(89A) as follows:

**875—71.4(89A) Registration of conveyances.** The owner or authorized agent of each operable conveyance not previously registered shall register the conveyance ~~on or before December 31, 1982~~. An application to install a new conveyance shall constitute registration ~~for all conveyances installed on or after January 1, 1983~~. All registrations shall be submitted to the commissioner on forms available from the division of labor services and shall include all information requested by the labor commissioner. The registration for each construction personnel hoist installed prior to July 1, 2008, and in service on or after July 1, 2008, shall be completed no later than July 23, 2008, and shall include three copies of plans, drawings, or other engineering documents.

ITEM 2. Renumber subrule **75.1(4)** as **75.1(5)**.

ITEM 3. Adopt the following **new** subrule 75.1(4):

**75.1(4) Construction personnel hoists.**

a. Installation inspection and permit fees for construction personnel hoists installed on or after July 1, 2008, shall be \$500 if the completed construction personnel hoist is planned for four or fewer landings and \$600 if the completed construction personnel hoist is planned for five or more landings. This fee includes the initial inspection and first-year operating permit.

b. If the plans call for a construction personnel hoist to be extended to additional floors after it is initially put into service, each extension shall be considered an alteration. The cost for each alteration shall be \$150, and the installation permit for construction personnel hoists shall also serve as an alteration permit for each of the planned extensions as reported to the labor commissioner.

c. The fees established by paragraphs "a" and "b" of this subrule shall be remitted to the division of labor services when the installation permit application is filed.

d. If the construction personnel hoist does not comply at the time of inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$150 for each additional inspection.

e. Consultative inspections on construction personnel hoists may be performed at the discretion of the labor commissioner for a fee of \$100 per hour, including travel time, with a minimum charge of \$200.

ITEM 4. Amend rule 875—75.2(89A) as follows:

**875—75.2(89A) Alterations.**

**75.2(1)** Alteration inspection and permit fees shall be \$200 for alterations up to and including 25 percent; \$400 for alterations of 26 percent up to and including 50 percent; and the fee schedule for new installations shall apply for alterations over 50 percent. The alterations table in rule 875—76.7(89A) shall be used to determine the change percentage. These fees include initial inspection and the alteration permit fees.

**75.2(2)** If the alteration does not comply at the time of an acceptance inspection and has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$200 for each additional inspection.

**75.2(3)** ~~The~~ Except as described in subrules 75.2(4) to 75.2(6), the alteration inspection and permit fees shall be remitted to the division of labor services when the application is filed.

**75.2(4)** The alteration permit application fee and alteration inspection fee for construction personnel hoists installed after July 1, 2008, are included with the installation application fee as described in rule 75.1(89A).

**75.2(5)** For construction personnel hoists installed prior to July 1, 2008, and extended to additional floors on or after July 1, 2008, the combined fee for the alteration inspection and the alteration permit shall be \$150.

**75.2(6)** Consultative inspections associated with alteration permits may be performed at the discretion of the labor commissioner for a fee of \$100 per hour, including travel time, with a minimum charge of \$200.

ITEM 5. Amend subrule 75.3(2) as follows:

**75.3(2)** Tower elevator and construction personnel hoist inspections. The periodic (annual) inspection fee for tower elevators and construction personnel hoists shall be \$300. If the installation has to be reinspected through no fault of the division of labor services, there shall be a reinspection fee of \$300. Each consultative inspection fee is \$300.

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

ITEM 6. Adopt the following **new** subrule 76.2(11):

**76.2(11)** For a construction personnel hoist, the planned dates for the addition of floors to the range of the construction personnel hoist, and the number of additional floors to be added in each phase.

ITEM 7. Amend rule 875—76.3(89A) as follows:

**875—76.3(89A) Alteration permit application —~~drawings and specifications~~.** When application is made for an alteration permit, drawings and specifications of all changes to be made shall be submitted. For construction personnel hoists, if a complete installation permit application with blueprints was submitted to the labor commissioner, notice of intent to put additional floors into service shall be provided to the labor commissioner at least seven days in advance. For a construction personnel hoist installed prior to July 1, 2008, without an installation permit, a completed alteration permit shall be submitted to the labor commissioner at least seven days before the construction personnel hoist is ready for inspection each time additional floors are added.

[Filed Emergency 6/24/08, effective 7/23/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6979B**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 88B.3 and 91C.6, the Labor Commissioner hereby amends Chapter 150, "Construction Contractor Registration," and Chapter 155, "Asbestos Removal and Encapsulation," Iowa Administrative Code.

With one exception, these rules apply to work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation. These rules adopt a clarifying definition concerning which contractors are required to be registered pursuant to Iowa Code chapter 91C, establish criteria for asbestos abatement licenses, and ease the requirement that asbestos abatement permittees provide notice at least ten days in advance of beginning an asbestos abatement project.

These amendments allow electronic transmission of asbestos abatement project notifications for all asbestos work.

In recent weeks, Iowa has experienced unprecedented damage caused by storms and floods. The scope of disaster recovery work requires assistance from workers and businesses based in other states. Rapid recovery is necessary to the public safety and health due to the many dangers that exist in damaged areas. The Labor Commissioner finds that rapid implementation of these amendments is needed to facilitate orderly, safe, and healthy disaster recovery.

Pursuant to Iowa Code section 17A.4(2) and for the reasons discussed above, the Labor Commissioner finds that notice and public participation are impracticable and that delay would be contrary to the public interest.

Pursuant to Iowa Code section 17A.5(2)"b"(2) and for the reasons discussed above, the Labor Commissioner finds that the normal effective date for these amendments should be waived. Making these amendments effective immediately is appropriate to confer benefits on residents of disaster zones, to remove restrictions on businesses and individuals working on disaster recovery, and to protect the public safety, health and welfare by facilitating rapid, safe, and orderly disaster recovery.

These amendments are intended to implement Iowa Code chapters 88B and 91C.

These amendments became effective June 25, 2008.

The following amendments are adopted.

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

ITEM 1. Amend rule **875—150.2(91C)**, definition of “Construction,” as follows:

“*Construction*” means new work, additions, alterations, reconstruction, installations, repairs and demolitions. Construction activities are generally administered or managed from a relatively fixed place of business, but the actual construction work is performed at one or more different sites which may be dispersed geographically. Examples of construction activities, adopted by reference, are in 871—23.82(96) for purposes of the Iowa employment security law. For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, “construction” includes asbestos abatement.

ITEM 2. Amend subrule 155.5(1) as follows:

**155.5(1) General.** Permittees shall notify the division at least ten working days before an asbestos project begins. A project begins when site preparations for asbestos abatement, encapsulation, or removal begin; when asbestos abatement, encapsulation, or removal begins; or when any demolition begins, whichever is sooner. ~~Facsimile~~ Legible electronic transmissions of ten-day notices in the proper format shall ~~not~~ be accepted.

ITEM 3. Adopt the following **new** subrule 155.5(4):

**155.5(4) Disaster emergency proclamations.** For structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the permittee shall file the notice described by this rule as early as possible, but not later than the working day following the initiation of the project.

ITEM 4. Adopt the following **new** subrule 155.6(11):

**155.6(11) Disaster emergency proclamations.** For work on structures that are both located in an area that is subject to a disaster emergency proclamation pursuant to Iowa Code section 29C.6 and damaged by circumstances related to those that caused the disaster emergency proclamation, the labor commissioner deems an individual to be licensed and authorized for asbestos abatement if all of the criteria in either paragraph “a” or paragraph “b” are met:

a. The individual contractor, supervisor, or worker makes the following immediately available on the work site:

(1) A copy of a certificate for training that was provided within the past twelve months by a course provider approved by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A copy of a physician’s statement indicating that, consistent with 29 CFR 1910.134, a licensed physician has examined the individual within the past 12 months and approved the individual to work while wearing a respirator;

(3) Documentation of a respirator fit test consistent with 29 CFR 1910.134 within the past 12 months;

(4) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and

(5) A photo identification card; or

b. The individual working as a project designer, inspector, or management planner makes the following immediately available on the work site:

(1) A copy of a certificate for training by a course provider approved by the U.S. Environmental Protection Agency and that pertains to the work being performed;

(2) A valid, current asbestos license issued by another state that pertains to the type of work being performed; and

(3) A photo identification card.

[Filed Emergency 6/25/08, effective 6/25/08]

[Published 7/16/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6967B****PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby amends Chapter 221, "Flammable and Combustible Liquids," Iowa Administrative Code.

Iowa Code section 101.1 authorizes the State Fire Marshal to adopt rules for the safe transportation, storage, handling, and use of flammable liquids. This amendment is based upon the International Fire Code and relevant national standards published by the National Fire Protection Association.

Flooding of existing flammable liquid storage tanks at motor fuel dispensing facilities has left many of these facilities unable to meet the standards of the State Fire Marshal for aboveground storage of flammable liquids and the standards of the Department of Natural Resources for underground petroleum storage tanks.

The amendment adopted herein provides standards for temporary emergency storage of flammable liquids in aboveground tanks in situations in which the usual storage provisions of a motor fuel dispensing facility are inoperable. These provisions will be available to facilities in areas covered by disaster emergency proclamations or otherwise approved by the State Fire Marshal. Generally, use of temporary flammable liquid storage will be allowed for 90 days.

Pursuant to Iowa Code section 17A.4(2), the Fire Marshal finds that notice and public participation prior to the adoption of this amendment are impracticable. Motor fuel dispensing operations affected by storm and flood damage require certainty as to their ability to continue to operate; immediate adoption of this amendment will provide that certainty.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by allowing motor fuel dispensing facilities to continue to operate in areas subject to disaster emergency proclamations.

This amendment is also being proposed in a Notice of Intended Action, published herein as **ARC 6949B**, to allow for public comment.

This amendment is intended to implement Iowa Code chapter 101.

This amendment became effective July 1, 2008.

The following amendment is adopted.

Adopt the following **new** subrule 221.4(4):

**221.4(4)** Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code or NFPA 30A as adopted by reference herein, aboveground petroleum storage tanks may be used to store flammable and combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

*a.* The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the fire marshal and has been approved for storage of flammable and combustible liquids in compliance with this subrule.

*b.* The facility has suffered damage which has rendered the storage tanks normally used by the facility for flammable and combustible liquids inoperable. Storage of flammable and combustible liquids in compliance with this subrule shall continue only for as long as the normal storage tanks are inoperable and in no event for more than 90 days.

EXCEPTION: In extraordinary circumstances, storage of flammable and combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the fire marshal for such storage.

*c.* The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable and combustible liquids in compliance with this subrule is occurring.

*d.* Any aboveground petroleum storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable and combustible liquids.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

*e.* Any aboveground petroleum storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

EXCEPTION: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the fire marshal for its use. In reviewing such a request, the fire marshal shall consider, but is not limited to considering, the following factors:

- (1) Volume of throughput of the facility.
- (2) Ability to meet setback requirements appropriate to the size of the tanks used.

*f.* All electrical service proximate to the storage area shall comply with applicable provisions of NFPA 70, National Electrical Code, 2005 edition. An emergency shutoff control or electrical disconnect shall be installed no less than 20 feet nor more than 100 feet from any fuel-dispensing device at the facility. The control shall be clearly marked "Emergency Shutoff."

*g.* A 20-pound fire extinguisher with a minimum B:C rating of 40 shall be located no more than 50 feet from the location of any storage tank being used in compliance with this subrule.

*h.* Precautions shall be taken to prevent the ignition of flammable or combustible liquids, including the conspicuous posting of warning signs saying "NO SMOKING" and "NO OPEN FLAME."

*i.* Aboveground petroleum storage tanks used pursuant to this subrule shall be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing shall be allowed at the facility.

*j.* Any aboveground petroleum storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

[Filed Emergency 6/25/08, effective 7/1/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6970B**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 322, "State Building Code—Manufactured Housing Support and Anchorage Systems," Iowa Administrative Code.

Responsibility for establishing standards for the installation of manufactured housing in Iowa is assigned to the Building Code Commissioner. These standards are adopted as part of the State Building Code, with the approval of the Building Code Advisory Council. Rules establishing these standards were recently reorganized into new Chapter 322 of the administrative rules for the Department of Public Safety. This new chapter was adopted through emergency procedures and became effective July 1, 2008.

Recent widespread disasters in Iowa have created substantial demand for immediate availability of manufactured housing in the state. In order to facilitate rapid availability of housing, the rule adopted herein allows for temporary occupancy of manufactured housing in the absence of compliance with all of the normal requirements for installation. These units would be for temporary use only, unless reinstalled in compliance with all of the standards which normally apply to such installations.

Pursuant to Iowa Code section 17A.4(2), the Building Code Commissioner finds that notice and public participation prior to the adoption of this amendment are impracticable. There is an immediate need for additional manufactured housing to be available in Iowa to address housing needs stemming from widespread disasters, and this rule will allow for that housing to be available in a timely fashion.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon

PUBLIC SAFETY DEPARTMENT[661](cont'd)

the public by enabling additional manufactured housing to be installed in Iowa to address needs for housing stemming from widespread disasters.

This amendment is also being proposed in a Notice of Intended Action, published herein as **ARC 6969B**, to allow for public comment.

This amendment is intended to implement Iowa Code section 103A.9.

This amendment became effective July 1, 2008.

The following amendment is adopted.

Adopt the following **new** rule 661—322.12(103A):

**661—322.12(103A) Suspension of installation requirements in proclaimed disaster emergencies.** The commissioner may suspend any requirement established in this chapter or 661—Chapter 16 for the installation of manufactured homes, provided that all of the following apply:

1. The installation is within an area that is currently subject to a disaster emergency proclamation issued by the governor.

2. The commissioner finds that suspension of the requirement or requirements presents no imminent threat to the health or safety of any individual and specifically of any person who may occupy a manufactured home installed while the suspension is in effect.

3. Any manufactured home whose installation is subject to a suspension of any requirement shall be occupied only for the duration of the disaster emergency proclamation and for no more than 180 days after the expiration of the proclamation, or for a shorter time specified by the commissioner, unless the home has been installed or reinstalled in compliance with all requirements of this chapter and 661—Chapter 16 prior to the expiration of the period specified for suspension of the requirements.

[Filed Emergency 6/25/08, effective 7/1/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6966B**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 103A.56, the Building Code Commissioner hereby amends Chapter 374, "Manufactured Housing Installer Certification," Iowa Administrative Code.

Iowa Code section 103A.59 establishes the certification program for manufactured housing installers in Iowa. The rules implementing this section were recently organized into a new Chapter 374 of the administrative rules for the Department of Public Safety. This new chapter was adopted through emergency procedures and became effective July 1, 2008.

Recent widespread disaster conditions in Iowa have created a need for qualified installers from out of state to be able to work in Iowa. The rule adopted herein provides for the temporary emergency certification of manufactured housing installers, provided that they produce evidence of certification or licensing as installers from other states and proof of liability insurance coverage. The temporary emergency certificates will be valid for 90 days and may be renewed once.

Pursuant to Iowa Code section 17A.4(2), the Building Code Commissioner finds that notice and public participation prior to the adoption of this amendment are impracticable. There is an immediate need for additional manufactured housing installers to be available to work in Iowa in order to address housing needs stemming from widespread disasters, and this amendment will allow for additional installers to work in Iowa.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Building Code Commissioner further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by enabling additional manufactured housing installers to work in Iowa to address housing needs stemming from widespread disasters.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

This amendment is also being proposed in a Notice of Intended Action, published herein as **ARC 6965B**, to allow for public comment.

This amendment is intended to implement Iowa Code section 103A.59.

This amendment became effective July 1, 2008.

The following amendment is adopted.

Adopt the following **new** rule 661—374.11(103A):

**661—374.11(103A) Temporary certification during proclaimed disaster emergencies.** The commissioner may issue a temporary certification which shall be valid for a period of 90 days only, for use only in areas which are currently subject to a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6. The fee for a temporary emergency certification shall be \$50. The following conditions must be met in order for a certification to be issued.

**374.11(1)** The applicant must be at least 18 years old.

**374.11(2)** The applicant must have general and complete operations liability insurance in the amount of at least \$1 million for all work performed that requires certification pursuant to this chapter.

*a.* The carrier of any insurance coverage maintained by a certificate holder to meet this requirement shall notify the board 30 days prior to the effective date of cancellation or reduction of the coverage.

*b.* The certificate holder shall cease operation immediately if the insurance coverage required by this subrule is no longer in force and other insurance coverage meeting the requirements of this subrule is not in force. A certificate holder shall not initiate any installation work which cannot reasonably be expected to be completed prior to the effective date of the cancellation of the insurance coverage required by this subrule and of which the certificate holder has received notice, unless new insurance coverage meeting the requirements of this subrule has been obtained and will be in force upon cancellation of the prior coverage.

**374.11(3)** The applicant shall submit a completed application form to the certification program as specified in rule 661—374.1(103A), accompanied by a cover letter stating that the applicant is seeking temporary emergency certification and the applicant is certified or licensed to install manufactured homes in another state or states, and proof of insurance as required by subrule 374.11(2). The other state or states in which the applicant is certified or licensed shall be specified in the letter.

**374.11(4)** The application shall be accompanied by a check or money order for \$50 to cover the certification fee. This fee is nonrefundable. The check or money order shall be made out to “Iowa Department of Public Safety,” and the memo portion of the check or money order shall say “Manufactured Housing Installer Certification.”

**374.11(5)** The application shall be accompanied by a copy of each license or certificate from other states cited in the letter required by subrule 374.11(3). The copy shall clearly display the name of the applicant and any unique identifying number assigned to the certificate or license.

**374.11(6)** A temporary emergency certificate may be renewed once, and the renewal certification shall be valid for 90 days beyond the expiration of the original temporary emergency certificate. The renewal application shall comply with subrules 374.11(1), 374.11(2), and 374.11(3). If a renewal application is received for a holder of a temporary emergency certificate which has previously been renewed once, the application shall be denied.

**374.11(7)** A holder of a temporary emergency certificate may apply at any time for a regular certificate issued pursuant to rules 661—374.2(103A) through 661—374.4(103A) by complying with all of the provisions of those rules.

**374.11(8)** A temporary emergency certificate may be suspended or revoked pursuant to rule 661—374.8(103A) or if the certificate holder fails to maintain compliance with any provision of this rule.

**374.11(9)** A decision to deny, suspend, or revoke a temporary emergency certificate may be appealed as provided in rule 661—374.8(103A).

[Filed Emergency 6/25/08, effective 7/1/08]

[Published 7/16/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

## ARC 6950B

## 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 11, "Complaints, Investigations, Contested Case Hearings," Iowa Administrative Code.

During the 2007 legislative session, legislation was passed to expand the list of those who can file a professional practices complaint with the Board to include employees of the Department of Education. New rule 282—11.38(256,272) sets forth the procedures for the filing of complaints by employees of the Department of Education.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6752B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Adopt the following **new** rule 282—11.38(256,272):

**282—11.38(256,272) Reporting by department of education employees.**

**11.38(1) Method of reporting.** A report of misconduct made by the director, pursuant to Iowa Code Supplement section 256.9(56), or made by an employee of the department of education, pursuant to Iowa Code Supplement section 272.15(2), shall comply with the requirements of subrule 11.37(1).

**11.38(2) Confidentiality.** Information reported to the board in accordance with this rule is privileged and confidential, except as provided in Iowa Code section 272.13.

**11.38(3) Review and investigation of report.** The report shall be reviewed and investigated pursuant to subrules 11.37(4) and 11.37(5).

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

## ARC 6956B

## 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 is needed to reflect the addition of a late fee to the statement of professional recognition (SPR) if the SPR is not renewed on time and to remove a date that is no longer needed.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6767B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend subrule 14.121(6) as follows:

**14.121(6) Late fees.** ~~Effective September 1, 2004, an~~ An additional fee of \$25 per calendar month, not to exceed \$150, shall be imposed if a renewal application, a two-year exchange license, ~~or~~ a Class A, B,

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

C, D, or E license or a statement of professional recognition (SPR) is submitted after the date of expiration of a practitioner's license. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6957B**

**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 to rule 282—14.123(272) fulfills the requirements of legislation regarding reading preparation for teachers.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6769B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend rule 282—14.123(272) as follows:

**282—14.123(272) Requirements for an original teaching subject area endorsement.** Following are the basic requirements for the issuance of a license with an endorsement.

**14.123(1)** Baccalaureate degree from a regionally accredited institution.

**14.123(2)** Completion of an approved human relations component.

**14.123(3)** Completion of the exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

**14.123(4)** Professional education core. Completed coursework or evidence of competency in:

*a. to m.* No change.

*n.* Preparation in reading programs, including reading recovery, and integration of reading strategies into content area methods coursework.

**14.123(5)** No change.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6964B**

**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.

During the reorganization of its administrative rules, the Board noticed that the Class G license was valid for two years. When the Board originally presented the rule for consideration, it was the Board's intent that the license be valid for only one year. The reason the Board intended the Class G license to be valid for one

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

year was due to the length of time needed by nonteacher candidates who only had the practicum or internship remaining in their program of study.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6743B**. A public hearing on the amendment was held on Wednesday, May 14, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend rule 282—14.132(272), introductory paragraph, as follows:

**282—14.132(272) Requirements for a Class G license.** A nonrenewable Class G license valid for ~~two years~~ one year may be issued to an individual who must complete a school guidance counseling practicum or internship in an approved program in preparation for the school guidance counselor endorsement. The Class G license may be issued under the following limited conditions:

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6951B**

**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.

This new rule establishes the general requirements for the statement of professional recognition (SPR). The rule will make all of the statements of professional recognition (SPR) renewable. Making the SPRs renewable will give the Board of Educational Examiners the ability to ensure that a practitioner receiving an SPR is also renewing the practitioner's other license as required. Also, the new rule will allow the Board to do the abbreviated background check that is performed on all other renewals.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6753B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Adopt the following new rule 282—14.133(272):

**282—14.133(272) Requirements for a statement of professional recognition (SPR).**

**14.133(1) Authorization.** The holder of this authorization may serve in the capacity in which the holder is licensed by another board for pupils from birth to age 21 (and to a maximum allowable age in accordance with Iowa Code section 256B.8).

The legalization for these support personnel is through board of educational examiners recognition of professional licensure.

**14.133(2) Program requirements.** The applicant must:

- a. Hold the degree required by licensure rules.
- b. Hold a valid license to practice in Iowa as granted by the professional licensure division, department of public health.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

**14.133(3)** *Procedure for acquiring a statement of professional recognition (SPR).*

a. An applicant must submit the following documents:

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

(2) An official transcript.

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

c. A regular SPR will be issued with verification of a regular license and of at least a bachelor's degree.

d. Other.

(1) Renewal requirements for this authorization are set out in 282—Chapter 17.

(2) See 282—Chapter 15 for specific requirements for audiologists, speech-language pathologists, and social workers.

(3) See subrule 14.140(11) for school nurse SPRs.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6962B**

**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 Board of Educational Examiners has utilized a policy commonly called the "grandfather" clause to allow a person to teach certain subjects even though the person was not licensed in that area. These subjects were not offered as endorsements at the time the individual first obtained a license. However, at a later date, endorsement requirements were developed. Because of the need for highly qualified teachers, the amendment removes the grandfather clause for the English as a second language endorsement, thus ensuring that teachers with this endorsement are well-qualified for the subjects taught.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6726B**. A public hearing on the amendment was held on Wednesday, May 14, 2008. 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 August 20, 2008.

The following amendment is adopted.

Adopt the following **new** paragraph **14.140(4)“c”**:

c. *Other.* Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach English as a second language without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach English as a second language. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching English as a second language.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6968B****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 Board of Educational Examiners has utilized a policy commonly called the "grandfather" clause to allow a person to teach certain subjects even though the person was not licensed in that area. These subjects were not offered as endorsements at the time the individual first obtained a license. However, at a later date, endorsement requirements were developed. Because of the need for highly qualified teachers, the amendment removes the grandfather clause for the talented and gifted endorsement, thus ensuring that teachers with this endorsement are well-qualified for the subjects taught.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6724B**. A public hearing on the amendment was held on Wednesday, May 14, 2008. There were two attendees at the public hearing, both of whom spoke, and several written comments were received. This amendment has been changed from that published under Notice. In general, references to coordinators, which had been stricken in the Notice, are to remain in subrule 14.140(13).

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective August 20, 2008.

The following amendment is adopted.

Amend subrule 14.140(13) as follows:

**14.140(13) Talented and gifted teacher-coordinator.**

*a. Authorization.* The holder of this endorsement is authorized to serve as a teacher or a coordinator of programs for the talented and gifted from the prekindergarten level through grade twelve. This authorization does not permit general classroom teaching at any level except that level or area for which the holder is eligible or holds the specific endorsement.

*b. Program requirements—content.* Completion of 12 undergraduate or graduate semester hours of coursework in the area of the talented and gifted to include the following:

- (1) Psychology of the gifted.
  1. Social needs.
  2. Emotional needs.
- (2) Programming for the gifted.
  1. Prekindergarten-12 identification.
  2. Differentiation strategies.
  3. Collaborative teaching skills.
  4. Program goals and performance measures.
  5. Program evaluation.
- (3) Administration and supervision of gifted programs.
- (4) Practicum experience in gifted programs.

NOTE: Teachers in specific subject areas will not be required to hold this endorsement if they teach gifted students in their respective endorsement areas.

Practitioners licensed and employed after August 31, 1995, and assigned as teachers or coordinators in programs for the talented and gifted will be required to hold this endorsement.

*c. Other.* Individuals who were licensed in Iowa prior to August 31, 1995, and were allowed to teach talented and gifted classes without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach talented and gifted classes. A waiver

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

provision is provided through the board of educational examiners for individuals who have been successfully teaching students who are talented and gifted.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6963B**

**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 Board of Educational Examiners has utilized a policy commonly called the "grandfather" clause to allow a person to teach certain subjects even though the person was not licensed in that area. These subjects were not offered as endorsements at the time the individual first obtained a license. However, at a later date, endorsement requirements were developed. Because of the need for highly qualified teachers, the amendment removes the grandfather clause for the business—all endorsement, thus ensuring that teachers with this endorsement are well-qualified for the subjects taught.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6735B**. A public hearing on the amendment was held on Wednesday, May 14, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend subrule 14.141(3) as follows:

**14.141(3) Business—all.** 5-12. Completion of 30 semester hours in business to include 6 semester hours in accounting, 3 semester hours in business law to include contract law, 3 semester hours in computer and technical applications in business, 6 semester hours in marketing to include consumer studies, 3 semester hours in management, 6 semester hours in economics, and 3 semester hours in business communications to include formatting, language usage, and oral presentation. Coursework in entrepreneurship and in financial literacy may be a part of, or in addition to, the coursework listed above. Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach marketing without completing the endorsement requirements must complete the endorsement requirements by July 1, 2010, in order to teach or continue to teach marketing. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching marketing.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6958B**

**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 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment removes an outdated endorsement. The Educational Strategist was an endorsement that was used during a transitional time to assist schools and AEAs in staffing their special education programs. This endorsement is no longer available from any Iowa college or university.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6771B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Rescind and reserve rule **282—15.5(272)**.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6952B**

**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 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

This amendment makes applicants aware of the renewal requirements for the statement of professional recognition (SPR) for audiologists.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6756B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend subrule 15.10(3) as follows:

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

*a.* and *b.* No change.

*c.* Renewal requirements for this SPR are set out in 282—Chapter 17.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6953B**

**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 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

This amendment will make applicants aware of the renewal requirements for the statement of professional recognition (SPR) for speech-language pathologists.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6757B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend subrule 15.12(3) as follows:

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

*a.* and *b.* No change.

*c.* Renewal requirements for this SPR are set out in 282—Chapter 17.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6954B**

**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 15, "Requirements for Special Education Endorsements," Iowa Administrative Code.

This amendment will make applicants aware of the renewal requirements for the statement of professional recognition (SPR) for school social workers.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6758B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend subrule 15.19(3) as follows:

**15.19(3) Option 2: Statement of professional recognition (SPR).**

*a.* The special education director (or designee) of the area education agency or local education agency must submit an application to request that the authorization be issued. The application must include:

~~*a.*~~ (1) An official transcript that reflects the master's degree in social work; and

~~*b.*~~ (2) The licensed independent social worker (LISW) or licensed master social worker (LMSW) license issued by the Iowa board of social work ~~examiners~~.

*b.* Renewal requirements for this SPR are set out in 282—Chapter 17.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6955B****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 17, “Renewal of Licenses,” Iowa Administrative Code.

This new rule sets out the requirements to renew a statement of professional recognition (SPR).

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6766B**. A public hearing on the amendment was held on Wednesday, May 28, 2008. 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 August 20, 2008.

The following amendment is adopted.

Adopt the following **new** rule 282—17.14(272):

**282—17.14(272) Renewal requirements for a statement of professional recognition (SPR).****17.14(1) Renewal of the SPR.**

*a.* The applicant must:

- (1) Apply for renewal every five years.
- (2) Maintain continual licensure with the board with which the applicant holds other licensure.
- (3) Complete continuing education as required by the board with which the applicant holds other licensure.

*b.* The SPR shall be valid for five years.

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

**17.14(2)** Each applicant renewing an SPR must submit documentation of completion of the child and dependent adult abuse training approved by the state abuse education review panel. A waiver of this requirement may apply under the following conditions with appropriate documentation of any of the following:

- a.* A person is engaged in active duty in the military service of this state or of the United States.
- b.* The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.
- c.* A person is practicing a licensed profession outside this state.
- d.* A person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse training in this state.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6960B****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 25, “Code of Professional Conduct and Ethics,” Iowa Administrative Code.

This amendment updates the current Code of Professional Conduct and Ethics to include the language added during the 2007 legislative session. During the 2007 legislative session, sexual orientation and gender identity were added to the list of protected classes. The Code of Professional Conduct and Ethics includes a

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

standard that makes it unethical to discriminate against students and other practitioners based on the list of protected classes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6716B**. A public hearing on the amendment was held on Wednesday, May 14, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend subrule 25.3(6) as follows:

**25.3(6) Standard VI—unethical practice toward other members of the profession, parents, students, and the community.** Violation of this standard includes:

a. to d. No change.

e. Engaging in any act of illegal discrimination, or otherwise denying a student or practitioner participation in the benefits of any program on the grounds of race, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin, ~~or membership in a definable minority.~~

f. to r. No change.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6961B**

**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 26, "Code of Rights and Responsibilities," Iowa Administrative Code.

This amendment updates the current Code of Rights and Responsibilities to include the language added during the 2007 legislative session. During the 2007 legislative session, sexual orientation and gender identity were added to the list of protected classes. The Code of Rights and Responsibilities includes a responsibility that the practitioner not discriminate against students and other practitioners based on the list of protected classes.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6719B**. A public hearing on the amendment was held on Wednesday, May 14, 2008. 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 August 20, 2008.

The following amendment is adopted.

Amend rule 282—26.3(272) as follows:

**282—26.3(272) Responsibilities.** Educators licensed under Iowa Code chapter 272 have the following responsibilities:

1. to 6. No change.

7. The educator shall not discriminate against any student on the grounds of ~~national or ethnic origin, religion, age, sex, disability, membership in a definable minority, or marital status, nor grant any discriminatory consideration or advantage~~ race, color, religion, age, sex, sexual orientation, gender identity, disability, marital status, or national origin.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

8. to 15. No change.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6972B**

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

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 29C.8(3), the Homeland Security and Emergency Management Division hereby amends Chapter 9, "Iowa Comprehensive Plan," Iowa Administrative Code.

Iowa Code section 29C.8(3) requires the Administrator of the Homeland Security and Emergency Management Division to prepare a comprehensive plan for homeland security, disaster response, recovery, mitigations, and emergency resource management for the state. This amendment formally adopts the updated Part C: Iowa Disaster Recovery Plan which is part of the Iowa Comprehensive Plan.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6745B**. No comments were made by the public regarding the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapter 29C.

This amendment will become effective on August 20, 2008.

The following amendment is adopted.

Amend rule 605—9.4(29C), introductory paragraph, as follows:

**605—9.4(29C) Part C: Iowa Disaster Recovery Plan.** The Part C: Iowa Disaster Recovery Plan is developed in accordance with Iowa Code section 29C.8, and has been adopted on ~~September 10, 2004~~ March 20, 2008, published, and maintained by the division. Part C details the state government goals, objectives, and strategies to recover from a wide range of natural, technological, or human-caused disasters.

[Filed 6/25/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6926B**

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

These amendments:

- Exempt both federal and state earned income tax credit payments from consideration as income in determining eligibility for the HAWK-I Program. This exemption is consistent with the policy in other Department assistance programs. This change was also Adopted and Filed Emergency and was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6751B**.

- Exempt earnings from temporary employment with the U.S. Bureau of the Census from consideration as income. This policy is authorized and encouraged by the Centers for Medicare and Medicaid Services. Preliminary activities related to the 2010 Census have begun in some states.

- Clarify that the effective date of coverage for a child who has been denied Medicaid eligibility is the first day of the month after the month when the Department received the Medicaid application unless the child

HUMAN SERVICES DEPARTMENT[441](cont'd)

has health insurance on that date. If so, coverage will be effective on the first day of the month after the child loses health insurance coverage.

- Define the first day of the ten days allowed for an enrollee to report changes that may affect eligibility as the first working day after the change takes place, instead of the day the change occurred. This change will allow enrollees more time to report and will be consistent with other policies that define a period for action.
- Clarify the effective date of a positive or negative change in eligibility or benefits resulting from a report of a change in family circumstances, depending on whether the change in circumstances is reported timely.
- Make other technical changes to make the rules more precise and easier to understand.

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).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on May 7, 2008, as **ARC 6772B**. The Department received no comments on the Notice of Intended Action.

The Department has made one change to the amendments as published under Notice of Intended Action to clarify the time limit for an eligibility decision when an application has been referred to Medicaid, denied for Medicaid, and referred back to the third-party administrator. Current language unintentionally requires the determination to be made within ten calendar days of the date on the Medicaid notice of ineligibility, regardless of when the third-party administrator receives it. The language of paragraph 86.3(8)“a” is modified to read as follows:

“a. EXCEPTION: When the application is referred for a Medicaid eligibility determination and Medicaid eligibility is denied, the third-party administrator shall determine HAWK-I eligibility no later than ten working days from the date the administrator receives the notice of Medicaid denial unless additional verification is needed.”

The HAWK-I Board adopted these amendments on June 16, 2008.

These amendments are intended to implement Iowa Code chapter 514I.

These amendments shall become effective September 1, 2008, at which time the Adopted and Filed Emergency amendment is rescinded.

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 [86.1 to 86.3, 86.5(2), 86.10] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 6772B**, IAB 5/7/08.

[Filed 6/19/08, effective 9/1/08]

[Published 7/16/08]

[For replacement pages for IAC, see IAC Supplement 7/16/08.]

**ARC 6948B**

## **LABOR SERVICES DIVISION[875]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 10, “General Industry Safety and Health Rules,” Iowa Administrative Code.

The amendment adopts by reference changes to federal occupational safety and health regulations. The changes are part of a long-term project of the U.S. Department of Labor to update its references to consensus and industry standards. The changes delete language referring to various national consensus standards that the U.S. Department of Labor has determined are no longer necessary or appropriate. The changes also correct a citation.

The principal reasons for adoption of this amendment are to implement Iowa Code chapter 88, to protect the safety and health of Iowa's workers, and to make Iowa's rules more current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1)“a,” Iowa must adopt the federal standards.

No waiver provision is included in this rule as waiver provisions are set forth in 875—Chapter 5.

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

Notice of Intended Action for this amendment was published in the May 7, 2008, Iowa Administrative Bulletin as **ARC 6777B**. A public hearing was held on May 28, 2008. No member of the public commented on the Notice of Intended Action. No changes have been made from the Notice of Intended Action.

This amendment is intended to implement Iowa Code section 88.5.

This amendment will become effective on August 20, 2008.

The following amendment is adopted.

Amend rule **875—10.20(88)** by inserting the following at the end thereof:

72 Fed. Reg. 71068 (December 14, 2007)

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6935B****LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby amends Chapter 91, "General Requirements for All Objects," Iowa Administrative Code.

The amendments change the requirements for a combustion air source.

The purposes of these amendments are to make the rules more current and internally consistent, to make the rules blend with requirements adopted by the Iowa Department of Public Safety, to protect the safety of the public, and to implement legislative intent.

No waiver or variance provision is included in this rule making because 875—Chapter 81 sets forth procedures for waivers or variances.

Notice of Intended Action was published in the May 7, 2008, Iowa Administrative Bulletin as **ARC 6787B**. No member of the public commented on the Notice of Intended Action. The adopted amendments do not differ from the amendments in the Notice of Intended Action.

These amendments will become effective on August 20, 2008.

These amendments are intended to implement Iowa Code chapter 89.

The following amendments are adopted.

ITEM 1. Rescind and reserve subrule **91.1(2)**.

ITEM 2. Amend rule 875—91.13(89) as follows:

**875—91.13(89) Air and ventilation.**

**91.13(1) Notice concerning other rules.** The division and the Iowa department of public safety both enforce requirements concerning air and ventilation. Objects that are covered by both sets of rules must comply with both sets of rules.

**91.13(2) Documentation.** Documentation of compliance with any requirement of this rule shall be maintained in the boiler room. However, it is not necessary to maintain documentation of the louvered area.

**91.13(3) Codes adopted by reference.** For this rule, the following codes, including references in the codes, are adopted by reference:

a. International Mechanical Code (IMC), Chapters 2 and 7, except Section 701.1.

b. National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31.

c. National Fire Protection Association National Fuel Gas Code, NFPA 54.

d. National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58.

e. National Fire Protection Association Boiler and Combustion Systems Hazards Code, NFPA 85.

**91.13(4) Installations after September 20, 2008.** Fuel-burning objects installed or reinstalled after September 20, 2008, shall comply with subrule 91.13(7) or at least one of the following applicable codes:

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

- a. The 2006 edition of the IMC 2006. This code is applicable to all fuel-burning objects.
- b. The 2006 edition of NFPA 31.
- c. The 2006 edition of NFPA 54.
- d. The 2008 edition of NFPA 58.
- e. The 2007 edition of NFPA 85.

91.13(5) Installations from September 20, 2006, to September 20, 2008. Fuel-burning objects installed or reinstalled from September 20, 2006, to September 20, 2008, shall comply with subrule 91.13(7) or at least one of the following applicable codes:

- a. The 2006 edition of NFPA 31.
- b. The 2006 edition of NFPA 54.
- c. The 2004 edition of NFPA 58.
- d. The 2004 edition of NFPA 85.

91.13(6) Installations prior to September 20, 2006. Objects installed prior to September 20, 2006, shall comply with the 2006 edition of the IMC or subrule 91.13(7). Objects that are in compliance with the version of subrule 91.13(7) that was in effect at the time of installation or reinstallation shall be considered in compliance with this subrule. Previous versions of subrule 91.13(7), such as rules 875—91.13(89), 875—203.13(89), 347—49.12(89), and 530—49.12(89), are available for reference at [http://www.iowaworkforce.org/labor/boiler\\_inspection\\_.htm](http://www.iowaworkforce.org/labor/boiler_inspection_.htm).

91.13(7) Iowa combustion air requirements. A permanent source of outside air shall be provided for each room to permit satisfactory combustion of fuel and ventilation if necessary under normal operations. The minimum ventilation for coal, gas, or oil burners in rooms containing objects is based on the Btu's per hour, required air, and louvered area. The minimum net louvered area shall not be less than 1 square foot. The following table shall be used to determine the net louvered area in square feet:

INPUT (Btu's per hour)	MINIMUM AIR REQUIRED (cubic feet per minute)	MINIMUM LOUVERED AREA (net square feet)
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,200	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

When mechanical ventilation is used, the supply of combustion and ventilation air to the objects and the firing device shall be interlocked with the fan so the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than shown above.

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6938B**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

These amendments change the dates restricting public access to refuges from September 10 through December 31 to September 1 through January 31 and redefines the Rathbun Area to apply to Appanoose, Lucas, and Wayne Counties, i.e., all the counties that include the reservoir.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 9, 2008, as **ARC 6701B**. A public hearing was held on April 29, 2008, and no comments were received. Six written comments were received and included a request that waterfowl refuges be open during deer seasons and that a review of the current refuge lines with the goal of improving hunters' success rates be conducted. Because refuges can be opened to deer hunting by the area wildlife biologist, no changes were made to paragraph 52.1(2)"a." An amendment to update the implementation sentence for Chapter 52 has been added.

These amendments are intended to implement Iowa Code sections 481A.5, 481A.6, 481A.8 and 481A.39.

These amendments shall become effective August 20, 2008.

The following amendments are adopted.

ITEM 1. Amend paragraph **52.1(2)"a"** as follows:

a. Restrictions. The following areas under the jurisdiction of the department of natural resources are established as game refuges where posted. It shall be unlawful to hunt, pursue, kill, trap, or take any wild animal, bird, or game on these areas at any time, and no one shall carry firearms thereon, except where and when specifically authorized by the department of natural resources. It shall also be unlawful to trespass in any manner on the following areas, where posted, between the dates of ~~September 10~~ September 1 and ~~December~~ January 31 of each year, both dates inclusive, except that department personnel and law enforcement officials may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter when specifically authorized by the department of natural resources.

Area	County
Lake Icaria . . . . .	Adams
Pool Slough Wildlife Area . . . . .	Allamakee
Rathbun Area . . . . .	Appanoose, <u>Lucas, Wayne</u>
Sedan Bottoms . . . . .	Appanoose
Wildlife Exhibit Area . . . . .	Boone
Sweet Marsh . . . . .	Bremer
Big Marsh . . . . .	Butler
South Twin Lake . . . . .	Calhoun
Round Lake . . . . .	Clay
Allen Green Refuge . . . . .	Des Moines
Henderson . . . . .	Dickinson
Jemmeron Slough Complex . . . . .	Dickinson
Spring Run . . . . .	Dickinson
Ingham Lake . . . . .	Emmet
Forney Lake . . . . .	Fremont
Riverton Area . . . . .	Fremont
Dunbar Slough . . . . .	Greene
Bays Branch . . . . .	Guthrie
Green Island Area . . . . .	Jackson
Hawkeye Wildlife Area . . . . .	Johnson
Muskrat Slough . . . . .	Jones
Colyn Area . . . . .	Lucas
Red Rock Area . . . . .	Marion, Polk, Warren

NATURAL RESOURCE COMMISSION[571](cont'd)

Badger Lake . . . . .	Monona
Tieville/Decatur Bend . . . . .	Monona
Five Island Lake . . . . .	Palo Alto
Big Creek-Saylorville Complex . . . . .	Polk
Chichaqua Area . . . . .	Polk
Smith Area . . . . .	Pottawattamie
McCausland . . . . .	Scott
Princeton Area . . . . .	Scott
Prairie Rose Lake . . . . .	Shelby
Otter Creek Marsh . . . . .	Tama
Green Valley Lake . . . . .	Union
Three Mile Lake . . . . .	Union
Lake Sugema . . . . .	Van Buren
Rice Lake Area . . . . .	Winnebago
Snyder Lake . . . . .	Woodbury
Elk Creek Marsh . . . . .	Worth
Lake Cornelia . . . . .	Wright

ITEM 2. Amend **571—Chapter 52**, implementation sentence, as follows:  
 This rule is intended to implement Iowa Code sections 481A.5, 481A.6, ~~481A.8~~ 481A.9 and 481A.39.

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6937B**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 95, “Game Harvest Reporting and Landowner-Tenant Registration,” Iowa Administrative Code.

Chapter 95 describes the requirements for the harvest reporting system and landowner-tenant registration system.

The adopted amendments change the reporting deadline to midnight of the day after the animal is tagged rather than the day it is killed to provide adequate time to report the harvest if a hunter recovers an animal the day after it is killed. The amendments also clarify that the transportation tag and harvest report tag are two separate tags and add online registration through ELSI to the options that tenants may use to register for free licenses.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 9, 2008, as **ARC 6700B**. A public hearing was held on April 29, 2008, and no comments were received. No written comments were received. No changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

These amendments shall become effective August 20, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 95.1(1) as follows:

**95.1(1) Reporting deadlines for deer and turkey.**

~~a. Deer:~~ A harvest report must be made by midnight on the day after the ~~day of the kill,~~ animal is tagged or before the ~~deer~~ animal is taken to a locker or taxidermist, ~~before the deer~~ is processed for consumption, or ~~before the deer~~ is transported out of state, whichever occurs first.

## NATURAL RESOURCE COMMISSION[571](cont'd)

~~b. — *Wild turkey.* A harvest report must be made no later than midnight on the day after the turkey is killed, before the turkey is taken to a locker or taxidermist, before the turkey is processed for consumption, or before the turkey is transported out of state, whichever occurs first.~~

ITEM 2. Amend subrule 95.1(3) as follows:

**95.1(3) *Report confirmation.*** After the report is made, the hunter will be given a ~~coded~~ confirmation number to write on the license and transportation harvest report tag to verify that the hunter has reported the kill. The harvest report tag and confirmation number must remain on the transportation tag, and the tag must remain attached to the deer or wild turkey until the deer or turkey is processed for consumption.

ITEM 3. Amend paragraph **95.2(3)“b”** as follows:

~~b. *Tenants.* A person who qualifies as a tenant but does not own any qualifying land shall~~ may register on the Internet through ELSI or by mailing or faxing an affidavit obtained from DNR. A tenant may have to wait up to ten business days after the affidavit is received by DNR before obtaining a free license.

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6936B**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 98, “Wild Turkey Spring Hunting,” Iowa Administrative Code.

Rule 571—98.5(483A) gives the regulations for hunting wild turkeys during the spring and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements.

The amendments clarify the language that defines who is eligible for free landowner-tenant licenses to make the requirements for the turkey season the same as those for the deer season.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 9, 2008, as **ARC 6698B**. A public hearing was held on April 29, 2008, and no comments were received. Four written comments were received, including the request that licensees be allowed to hunt in all seasons and that the bag limit be increased. No changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

These amendments shall become effective August 20, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 98.5(1) as follows:

~~**98.5(1) *Who qualifies for a free turkey hunting license.* Owners or tenants of a farm unit, or a member of an owner or tenant’s family who resides with the owner or tenant, are eligible for free wild turkey spring hunting licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify. For purposes of obtaining a free wild turkey spring hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes.**~~

a. Owners and tenants of a farm unit and the spouse or domestic partner as defined by the Iowa department of administrative services and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free turkey licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.

b. “Juvenile child” means a person less than 18 years of age or a person who is 18 or 19 years of age and is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma

## NATURAL RESOURCE COMMISSION[571](cont'd)

or a high school equivalency diploma. A person 18 years of age or older who has received a high school diploma or high school equivalency diploma does not qualify.

ITEM 2. Amend subrule 98.5(6) as follows:

**98.5(6)** *Where free licenses are valid.* A free license is valid only on the farm unit of the landowner or tenant. "Farm unit" means all parcels of land that are at least two contiguous acres in size, that are operated as a unit for agricultural purposes, and that are under lawful control of the landowner or tenant regardless of how that land is subdivided for business purposes. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. "Agricultural purposes" includes but is not limited to field crops, livestock, horticultural crops (e.g., from nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6934B**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 99, "Wild Turkey Fall Hunting by Residents," Iowa Administrative Code.

Rule 571—99.11(481A) gives the regulations for hunting wild turkeys during the fall and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and method of take, and transportation tag requirements.

The amendments clarify the language that defines who is eligible for free landowner-tenant licenses to make the requirements for the turkey season the same as those for the deer season.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 9, 2008, as **ARC 6696B**. A public hearing was held on April 29, 2008, and no comments were received. No written comments were received. No changes have been made to the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.1 and 483A.7.

These amendments shall become effective August 20, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 99.11(1) as follows:

**99.11(1)** *Who qualifies for free turkey hunting license.* ~~Owners or tenants of a farm unit, or a member of an owner's or tenant's family that resides with the owner or tenant, are eligible for free turkey licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.~~

a. Owners and tenants of a farm unit and the spouse or domestic partner as defined by the Iowa department of administrative services and juvenile child of an owner or tenant who reside with the owner or tenant are eligible for free turkey licenses. The owner or tenant does not have to reside on the farm unit but must be actively engaged in farming it. Nonresident landowners do not qualify.

b. "Juvenile child" means a person less than 18 years of age or a person who is 18 or 19 years of age and is in full-time attendance at an accredited school pursuing a course of study leading to a high school diploma or a high school equivalency diploma. A person 18 years of age or older who has received a high school diploma or high school equivalency diploma does not qualify.

ITEM 2. Amend subrule 99.11(6) as follows:

**99.11(6)** *Where free licenses are valid.* ~~Free licenses are valid only on that portion of the farm unit that is in a zone open to turkey hunting. "Farm unit" means all parcels of land that are operated as a unit for agricultural purposes and are under lawful control of the landowner or tenant. A free license is valid only on the farm~~

## NATURAL RESOURCE COMMISSION[571](cont'd)

unit of the landowner or tenant. "Farm unit" means all parcels of land that are at least two contiguous acres in size, that are operated as a unit for agricultural purposes, and that are under lawful control of the landowner or tenant regardless of how that land is subdivided for business purposes. Individual parcels of land do not need to be adjacent to one another to be included in the farm unit. ~~For purposes of obtaining a free turkey hunting license, all the land under the lawful control of a landowner and eligible family members or a tenant and eligible family members shall be considered as one farm unit, regardless of how that land is subdivided for agricultural or business purposes.~~ "Agricultural purposes" includes but is not limited to field crops, livestock, horticultural crops (e.g., nurseries, orchards, truck farms, or Christmas tree plantations), and land managed for timber production.

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6933B**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

This chapter sets the season dates, shooting hours, license types, quotas and restrictions, method of take and tagging, and reporting requirements for resident deer hunting. It also includes rules for issuing deprecation licenses and shooting permits.

The amendments clarify that it is illegal to carry someone else's license while hunting and restore the closing date for the late muzzleloader season to January 10. The amendments increase the antlerless quotas by 10,500 licenses over 2007. The amendments clarify that, if a youth hunter is unsuccessful, as specified in Iowa Code section 483A.8(7), the youth hunter may continue to use the hunter's either-sex license. The amendments clarify that hunters using a blind during the shotgun deer season are required to display blaze orange. The amendments implement the changes suggested from a Kaizen event that was held to improve the deer deprecation process and implement the changes in the Iowa Code specified in 2008 Iowa Acts, Senate File 2328. The amendments remove the season extension that was established by an emergency rule making after the ice storms in 2007. The amendments also update the implementation clause.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 9, 2008, as **ARC 6699B**. A public hearing was held on April 29, 2008, and 13 comments were received. Another 50 written comments were received that included the following: statements that the deer herd has been reduced in areas of the state and that the deer herd had increased in the same areas; requests to make unused deer tags for antlerless deer good for all seasons and either-sex deer tags valid for both gun seasons; that landowners should be able to transfer their tags; and a recommendation that the blaze orange on ground blind regulation should be removed.

Changes have been made to the Notice. Item 3, which amends subrule 106.6(6), has been added based upon the results of deer population data gathered since the Notice was published. The additional antlerless licenses should help reduce deer numbers to the Department's goal. To meet the requirements specified in 2008 Iowa Acts, Senate File 2328: (1) Item 6, which rescinds paragraph 106.11(2)"d," and Item 8, which rescinds subrule 106.11(5), have been added, and (2) Item 7, which amends subrule 106.11(4), has been modified.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.24, 483A.24B, and 483A.24C.

These amendments shall become effective August 20, 2008.

The following amendments are adopted.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 1. Amend rule 571—106.1(481A), introductory paragraph, as follows:

571—106.1(481A) Licenses. When hunting deer, all hunters must have in their possession a valid deer hunting license and a valid resident hunting license and must have paid the habitat fee (if normally required to have a hunting license and to pay the habitat fee to hunt). No person while hunting deer shall carry or have in possession any license or transportation tag issued to another person. No one who is issued a deer hunting license and transportation tag shall allow another person to use or possess that license or transportation tag while that person is deer hunting or tagging a deer.

ITEM 2. Amend subrule 106.2(3) as follows:

106.2(3) Muzzleloader seasons. Deer may be taken in accordance with the type, season and zone designated on the license from the Saturday closest to October 14 and continuing for nine consecutive days (early muzzleloader season) or from the Monday following the third Saturday in December through January 13 10 of the following year (late muzzleloader season).

ITEM 3. Amend subrule 106.6(6) as follows:

106.6(6) Antlerless-deer-only licenses. Paid antlerless-deer-only licenses will be available by county as follows:

County	Quota	County	Quota	County	Quota
Adair	<del>1750</del> <u>2100</u>	Floyd	250	Monona	<del>950</del> <u>1350</u>
Adams	<del>1850</del> <u>1950</u>	Franklin	150	Monroe	3000
Allamakee	4500	Fremont	<del>1100</del> <u>1300</u>	Montgomery	<del>4000</del> <u>1150</u>
Appanoose	3300	Greene	150	Muscatine	1700
Audubon	100	Grundy	0	O'Brien	0
Benton	1000	Guthrie	<del>3000</del> <u>3300</u>	Osceola	0
Black Hawk	0	Hamilton	100	Page	<del>1300</del> <u>1500</u>
Boone	<del>500</del> <u>650</u>	Hancock	0	Palo Alto	0
Bremer	<del>500</del> <u>700</u>	Hardin	400	Plymouth	100
Buchanan	<del>300</del> <u>400</u>	Harrison	<del>1000</del> <u>1350</u>	Pocahontas	0
Buena Vista	0	Henry	2000	Polk	<del>1000</del> <u>1250</u>
Butler	250	Howard	800	Pottawattamie	<del>1300</del> <u>1600</u>
Calhoun	0	Humboldt	0	Poweshiek	750
Carroll	100	Ida	0	Ringgold	<del>2500</del> <u>2600</u>
Cass	<del>800</del> <u>1000</u>	Iowa	1200	Sac	0
Cedar	<del>1000</del> <u>1300</u>	Jackson	1800	Scott	800
Cerro Gordo	0	Jasper	<del>1000</del> <u>1300</u>	Shelby	250
Cherokee	0	Jefferson	<del>2000</del> <u>2150</u>	Sioux	0

## NATURAL RESOURCE COMMISSION[571](cont'd)

County	Quota	County	Quota	County	Quota
Chickasaw	600	Johnson	2000	Story	<del>400</del> <u>500</u>
Clarke	<del>1700</del> <u>1900</u>	Jones	1500	Tama	800
Clay	0	Keokuk	<del>1700</del> <u>1900</u>	Taylor	<del>2300</del> <u>2450</u>
Clayton	<del>5500</del> <u>5800</u>	Kossuth	0	Union	<del>1900</del> <u>2100</u>
Clinton	1200	Lee	2500	Van Buren	<del>5000</del> <u>5400</u>
Crawford	150	Linn	1900	Wapello	<del>2000</del> <u>2150</u>
Dallas	<del>1800</del> <u>2300</u>	Louisa	1500	Warren	<del>1800</del> <u>2400</u>
Davis	<del>3300</del> <u>3600</u>	Lucas	<del>1600</del> <u>1800</u>	Washington	<del>2150</del> <u>2250</u>
Decatur	2800	Lyon	0	Wayne	<del>2500</del> <u>3000</u>
Delaware	<del>1400</del> <u>1700</u>	Madison	<del>2000</del> <u>3000</u>	Webster	100
Des Moines	2000	Mahaska	<del>1100</del> <u>1350</u>	Winnebago	0
Dickinson	0	Marion	<del>1350</del> <u>1750</u>	Winneshiek	3500
Dubuque	2000	Marshall	<del>500</del> <u>650</u>	Woodbury	<del>950</del> <u>1250</u>
Emmet	0	Mills	<del>1000</del> <u>1150</u>	Worth	100
Fayette	<del>2500</del> <u>3000</u>	Mitchell	250	Wright	0

ITEM 4. Amend subrule 106.7(8) as follows:

**106.7(8) Ground Hunting from blinds.** No person shall use a ~~ground~~ blind for hunting deer during the regular gun deer seasons as defined in 106.2(3), unless such blind exhibits a solid blaze orange marking visible in all directions with a minimum height of 12 inches and a minimum width of 12 inches. Such blaze orange shall be affixed directly on or directly on top of the blind. As used in this subrule, "ground blind" means a constructed place of concealment used for the purpose of hiding a person who is hunting from sight. A ground blind is not a naturally occurring feature that a hunter merely uses for concealment. For the purposes of this subrule, the term "blind" is defined as a place of concealment constructed, either wholly or partially from man-made materials, and used by a person who is hunting for the purpose of hiding from sight. A blind is not a naturally occurring landscape feature or an arrangement of natural or agricultural plant material that a hunter uses for concealment. In addition to the requirements in this subrule, hunters using blinds must also satisfy the requirements of wearing blaze orange as prescribed in Iowa Code section 481A.122.

ITEM 5. Amend subrule 106.10(2) as follows:

**106.10(2) Season dates.** Deer of either sex may be taken statewide for 16 consecutive days beginning on the third Saturday in September. A person who is issued a youth deer hunting license and does not take a deer during the youth deer hunting season may use the deer hunting license and unused tag during the early muzzleloader, late muzzleloader, and one of the shotgun seasons. The license will be valid for the type of deer and in the area specified on the original license. The youth must follow all other rules specified in this chapter for each season. A youth hunting in one of these the other seasons must obtain a hunting license

## NATURAL RESOURCE COMMISSION[571](cont'd)

and habitat stamp or hunt with a licensed adult if required by Iowa Code section 483A.24. If the tag is filled during one of the seasons, the license will not be valid in subsequent seasons.

ITEM 6. Rescind paragraph **106.11(2)“d.”**

ITEM 7. Amend subrule 106.11(4) as follows:

**106.11(4) Depredation permits.** Two types of permits may be issued under a depredation management plan.

*a.* Deer depredation licenses. Deer depredation licenses may be sold to resident hunters only for the regular deer license fee for use during one or more legal hunting seasons. Depredation licenses will be available to producers of agricultural and horticultural crops.

(1) Depredation licenses will be issued ~~in blocks of five licenses~~ up to the number specified in the management plan.

(2) ~~Depredation licenses may be sold to individuals designated by the producer as having permission to hunt~~ The landowner or an eligible family member, which shall include the landowner's spouse or domestic partner and juvenile children, may obtain one depredation license for each season established by the commission. No other individual may initially obtain more than three depredation licenses per management plan. When a deer is reported harvested on one of these licenses, then another license may be obtained. ~~Licenses will be sold by designated department field employees.~~

(3) Depredation licenses will be valid only for hunting antlerless deer, regardless of restrictions that may be imposed on regular deer hunting licenses in that county.

(4) Hunters may keep any deer legally tagged with a depredation license.

(5) All other regulations for the hunting season specified on the license will apply.

(6) Depredation licenses will be valid only on the land where damage is occurring and the immediately adjacent property unless the land is within a designated block hunt area as described in subparagraph (7). Other parcels of land in the farm unit not adjacent to the parcels receiving damage will not qualify.

(7) Block hunt areas are areas designated and delineated by wildlife biologists of the wildlife bureau to facilitate herd reduction in a given area where all producers may not qualify for the depredation program or in areas of persistent deer depredation. Depredation ~~permits~~ licenses issued to producers within the block hunt ~~zone~~ area are valid on all properties within the delineated boundaries. Individual landowner permission is required for hunters utilizing depredation licenses within the block hunt area boundaries. Creation of a given block hunt area does not authorize trespass.

*b.* Deer shooting permits. Permits for shooting deer outside an established hunting season may be issued to producers of high-value horticultural crops when damage cannot be controlled in a timely manner during the hunting seasons (such as late summer buck rubs in an orchard and winter browsing in a Christmas tree plantation) and to other agricultural producers who have an approved DNR deer depredation plan, and on areas such as airports where public safety may be an issue.

(1) Deer shooting permits will be issued at no cost to the applicant.

(2) The applicant or one or more designees approved by the department may take all the deer specified on the permit.

(3) Permits available to producers of high-value horticultural crops or agricultural crops may be valid for taking deer outside of a hunting season depending on the nature of the damage. The number and type of deer to be killed will be determined by a department depredation biologist and will be part of the deer depredation management plan.

(4) Permits issued due to public safety concerns may be used for taking any deer, as necessary, to address unpredictable intrusion which could jeopardize public safety. Permits may be issued for an entire year (January 1 through December 31) if the facility involved ~~maintains a deer-proof fence and~~ signs an agreement with the department.

(5) ~~Disposal of deer killed under these permits shall be coordinated with the local conservation officer.~~ All deer killed must be recovered and processed for human consumption.

(6) The times, dates, place and other restrictions on the shooting of deer will be specified on the permit.

(7) Antlers from all deer recovered must be turned over to the conservation officer to be disposed of according to department rules.

## NATURAL RESOURCE COMMISSION[571](cont'd)

(8) For out-of-season shooting permits, there are no shooting hour restrictions; however, taking deer with an artificial light is prohibited by Iowa Code section 481A.93.

c. Depredation licenses and shooting permits will be issued in addition to any other licenses for which the hunters may be eligible.

d. Depredation licenses and shooting permits will not be issued if the producer restricts the legal take of deer from the property sustaining damage by limiting hunter numbers below levels required to control the deer herd. This restriction does not apply in situations where shooting permits are issued for public safety concerns.

ITEM 8. Rescind and reserve subrule **106.11(5)**.

ITEM 9. Rescind and reserve rule **571—106.14(481A)**.

ITEM 10. Amend **571—Chapter 106**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, ~~and~~ 483A.24, 483A.24B, and 483A.24C.

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6932B**

**NATURAL RESOURCE COMMISSION[571]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 108, "Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons," Iowa Administrative Code.

This chapter sets the season dates, bag limits, possession limits and areas open to hunting and trapping furbearers.

These amendments add Harrison, Monona, Pottawattamie and Woodbury Counties to the area open for taking bobcat. The amendments also increase the quota from 400 to 500 for river otters and from 150 to 200 for bobcats. The amendments eliminate the restrictions on beaver trapping in Linn County.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 9, 2008, as **ARC 6703B**. A public hearing was held on April 29, 2008, and 15 comments were received. An additional 9 written comments were received. The comments about the Notice included requests to open bobcat season statewide and increase limits while other comments requested that the DNR not allow hunting or trapping of bobcats and river otters. These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87 and 481A.90.

These amendments shall become effective August 20, 2008.

The following amendments are adopted.

ITEM 1. Amend subrule 108.7(2) as follows:

**108.7(2) Open area.** River otters may be taken statewide. Bobcats may be taken in the following counties: Adams, Appanoose, Clarke, Davis, Decatur, Des Moines, Fremont, Harrison, Henry, Jefferson, Lee, Lucas, Mills, Monona, Monroe, Montgomery, Page, Pottawattamie, Ringgold, Taylor, Union, Van Buren, Wapello, ~~and~~ Wayne, and Woodbury.

ITEM 2. Amend paragraph **108.7(3)“b”** as follows:

b. *Quotas.* The quota for the number of river otters that may be taken is ~~400~~ 500 statewide. The quota for the number of bobcats that may be taken is ~~150~~ 200 in the open area. The season shall end for river otters when the number of river otters trapped, as determined by the harvest reporting system, reaches ~~400~~ 500.

NATURAL RESOURCE COMMISSION[571](cont'd)

The season shall end for bobcats when the number of bobcats taken, as determined by the harvest reporting system, reaches ~~450~~ 200. Trappers shall be allowed a 48-hour grace period after the quota is reached to clear their traps of river otters or bobcats. River otters or bobcats found in traps during the grace period may be kept even though the quota is exceeded provided that the trapper has not reached the trapper's personal bag limit. River otters or bobcats trapped after the grace period or in excess of the seasonal bag limit must be turned over to the department; the trapper shall not be penalized.

ITEM 3. Rescind and reserve subrule **108.9(2)**.

[Filed 6/24/08, effective 8/20/08]

[Published 7/16/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6945B**

## **SECRETARY OF STATE[721]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 47.1, the Secretary of State hereby adopts amendments to Chapter 23, "Voter Registration in State Agencies," Iowa Administrative Code.

These amendments are intended to update Chapter 23 to reflect current Iowa Code references and to designate additional voter registration agencies as required by the National Voter Registration Act of 1993.

These amendments were published in the Iowa Administrative Bulletin on April 23, 2008, as **ARC 6749B**.

Comments were received from the Attorney General's office regarding the selection of other agencies. The following changes have been made to the amendments to reflect those comments.

The definition of "other voter registration agencies" was not adopted, nor were several proposed amendments that are not necessary after this distinction is removed from the amendments. The Iowa Code already requires educational institutions, which were referenced in the deleted language, to provide voter registration services. Reference to county auditors' offices is added to the definition of "agency" and, thereby, requires that auditors and their staff members provide the opportunity to register to vote and provide declination forms to persons applying for licenses or permits issued by an auditor's office. The term "service or assistance" is defined to clarify the circumstances under which agencies must offer the opportunity to register to vote.

These amendments are intended to implement Iowa Code section 48A.19 and Section 1973gg-5 of the National Voter Registration Act of 1993.

These amendments were adopted on June 23, 2008.

These amendments shall become effective on August 20, 2008.

The following amendments are adopted.

ITEM 1. Amend **721—Chapter 23**, parenthetical implementation statute, as follows:

~~(75GA,eh1169 48A)~~

ITEM 2. Amend rule **721—23.1(48A)**, definition of "Agency," as follows:

"Agency" means a voter registration agency as defined in ~~1994 Iowa Acts, chapter 1169, section 20~~ Iowa Code section 48A.19 and the offices of each county auditor.

ITEM 3. Adopt the following **new** definition in rule **721—23.1(48A)**:

"Service or assistance" means a government benefit or service other than voter registration for which application is made to an agency.

ITEM 4. Amend rule 721—23.2(48A) as follows:

**721—23.2(48A) Registration forms.** The use of electronic registration records and combined forms for voter registration and for application for services is encouraged. These forms shall be approved by the voter registration commission. Otherwise, the Iowa mail registration form shall be used. Agencies, such as military

SECRETARY OF STATE[721](cont'd)

recruiting offices, which serve a substantial number of applicants who live outside the state of Iowa shall keep a supply of the ~~Federal~~ Election Assistance Commission's national registration form.

ITEM 5. Amend rule 721—23.5(48A) as follows:

**721—23.5(48A) Retention and storage of declination forms.** Declination forms shall be retained by the agency receiving them for 22 months after the next general election following receipt of the form. Declination forms signed during the ten days before a general election, when registration is closed, shall be retained for 22 months after the general election to be held in two years. The forms shall be stored in a secure location where the safety and confidentiality of the records can be protected. If the applicant's responses are stored electronically, the declination record shall be retained by the agency for the same period of time required for paper declination forms. The following schedule shall be followed:

Date declination signed	Election date	Earliest date to destroy
<del>01/01/95—10/26/96</del>	<del>11/05/96</del>	<del>09/05/98</del>
<del>10/27/96—10/24/98</del>	<del>11/03/98</del>	<del>09/03/00</del>
<del>10/25/98—10/28/00</del>	<del>11/07/00</del>	<del>09/07/02</del>
<del>10/29/00—10/26/02</del>	<del>11/05/02</del>	<del>09/05/04</del>
<del>10/27/02—10/23/04</del>	<del>11/02/04</del>	<del>09/02/06</del>
10/24/04 – 10/28/06	11/07/06	09/07/08
10/29/06 – 10/26/08	11/04/08	09/04/10
10/27/08 – 10/23/10	11/02/10	09/02/12
<u>10/24/10 – 10/27/12</u>	<u>11/06/12</u>	<u>09/06/14</u>
<u>10/28/12 – 10/25/14</u>	<u>11/04/14</u>	<u>09/04/16</u>

ITEM 6. Amend rule **721—23.10(48A)**, first unnumbered paragraph, as follows:

Applicants who are not accepted for services or assistance by an agency shall be offered the opportunity to register to vote. ~~Voter~~ Even if the applicant will not receive services or assistance from the agency, voter registration forms shall be processed and transmitted not later than the final working day of the week to the appropriate county commissioner of elections as required by 1994 Iowa Acts, chapter 1169, section 22 Iowa Code section 48A.21, even if the applicant will not receive services or assistance from the agency.

ITEM 7. Adopt the following new rule 721—23.11(48A):

**721—23.11(48A) Other voter registration agencies.** The offices of all Iowa county auditors shall provide voter registration services to applicants for services, such as licenses issued by the auditor's office. These offices are required to provide declination forms to each person who is offered the opportunity to register to vote when applying for services at the auditor's office.

ITEM 8. Amend **721—Chapter 23**, implementation sentence, as follows:

These rules are intended to implement 1994 Iowa Acts, chapter 1169, section 20, subsection 3 Iowa Code section 48A.19(3) and Section 1973gg-5 of the National Voter Registration Act of 1993.

[Filed 6/24/08, effective 8/20/08]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.

**ARC 6924B****TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION,  
IOWA[751]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8D.3(3)“b,” the Iowa Telecommunications and Technology Commission hereby amends Chapter 1, “Description of the Organization,” Iowa Administrative Code.

This amendment reflects a change made in the organizational structure of the Iowa Communications Network.

Notice of Intended Action was published in the February 27, 2008, Iowa Administrative Bulletin as **ARC 6611B**. A public hearing was held on March 19, 2008. No comments were received. The amendment is identical to the one published under Notice of Intended Action.

This amendment was approved during the June 18, 2008, meeting of the Iowa Telecommunications and Technology Commission.

This amendment will become effective on August 20, 2008.

This amendment is intended to implement Iowa Code sections 17A.3(1)“a,” 8D.1, 8D.3(3)“b,” 8D.5 and 8D.6.

The following amendment is adopted.

Amend paragraph **1.5(2)“e”** as follows:

*e.* The sales and marketing service delivery bureau coordinates the activities between the engineers, individual sites, and authorized users. It is responsible for providing cost estimates for services; tracking service requests; executing installation services; and assisting authorized users in finding the best structure to meet the users’ needs; developing new products and services; maintaining price tables; and providing customer service and assistance.

[Filed 6/19/08, effective 8/20/08]

[Published 7/16/08]

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**ARC 6923B****TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION,  
IOWA[751]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8D.3(3)“b,” the Iowa Telecommunications and Technology Commission hereby amends Chapter 5, “Purchasing,” Iowa Administrative Code.

This amendment reflects a change in the authorized spending limit permitted by Iowa Code Supplement section 8D.11.

Notice of Intended Action was published in the February 27, 2008, Iowa Administrative Bulletin as **ARC 6612B**. A public hearing was held on March 19, 2008. No comments were received. The amendment is identical to the one published under Notice of Intended Action.

This amendment was approved during the June 18, 2008, meeting of the Iowa Telecommunications and Technology Commission.

This amendment will become effective on August 20, 2008.

This amendment is intended to implement Iowa Code sections 8D.3(3)“b,” 8D.13, and Iowa Code Supplement section 8D.11.

The following amendment is adopted.

## TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751](cont'd)

Adopt the following **new** paragraph **5.1(1)“c”**:

c. For any single item, the commission may spend up to the maximum amount permitted by Iowa Code Supplement section 8D.11 to acquire the item. This maximum amount is not applicable to purchases under the contracting authority permitted by Iowa Code section 8D.13 or any other authority of the commission.

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