



# IOWA ADMINISTRATIVE BULLETIN

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July 27, 2011

NUMBER 2  
Pages 53 to 122

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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"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

### 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	(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

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2011

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
4	Friday, August 5, 2011	August 24, 2011
5	Friday, August 19, 2011	September 7, 2011
6	Wednesday, August 31, 2011	September 21, 2011

**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\*\*\***

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, August 16, 2011, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

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

Approval of contract amendments for targeted industries internship program, 104.3,  
104.13(4), 175.2(5), 175.4(4) Notice **ARC 9617B** ..... 7/13/11

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

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Open feedlots and confinement feeding operations, amendments to chs 60, 63 to 65  
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### **HISTORICAL DIVISION[223]**

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Historic preservation and cultural and entertainment district tax credits, 48.1 to 48.8, 48.11,  
48.12 Notice **ARC 9607B**, also Filed Emergency **ARC 9608B** ..... 7/13/11

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

Increase in maintenance payment and initial allowance for supervised apartment living  
placements, 156.6, 156.8, 156.12 Notice **ARC 9625B** ..... 7/27/11  
Foster home insurance fund, 158.1(2), 158.2, 158.4 Notice **ARC 9636B** ..... 7/27/11

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

Contested case hearings—subpoenas, 10.14 Filed **ARC 9616B** ..... 7/13/11

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

COMMERCE DEPARTMENT[181]"umbrella"

External review, 76.1 to 76.9 Notice **ARC 9639B**, also Filed Emergency **ARC 9637B** ..... 7/27/11

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

HOME partnership program, 39.2, 39.4, 39.6, 39.8, 39.9 Notice **ARC 9644B** ..... 7/27/11  
Shelter assistance fund, 41.10(5), 41.12(3)"a"  
Notice **ARC 9643B**, also Filed Emergency **ARC 9642B** ..... 7/27/11  
Emergency shelter grants program, 42.4(6), 42.6, 42.10(5), 42.12(3)  
Notice **ARC 9635B**, also Filed Emergency **ARC 9633B** ..... 7/27/11

### **LABOR SERVICES DIVISION[875]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

OSHA regulations—adoption by reference, 10.20, 26.1, 28.1 Notice **ARC 9640B** ..... 7/27/11

### **LOTTERY AUTHORITY, IOWA[531]**

Drawings and contests, ch 21 Notice **ARC 9618B**, also Filed Emergency **ARC 9611B** ..... 7/13/11

### **MEDICINE BOARD[653]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Continuing education and training, amendments to ch 11 Filed **ARC 9601B** ..... 7/13/11  
Standards of practice—appropriate pain management, 13.2 Filed **ARC 9599B** ..... 7/13/11  
Grounds for discipline—failure by a physician with HIV or HBV to report HIV or HBV  
status, 23.1 Filed **ARC 9598B** ..... 7/13/11

### **NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Organization of the board, 1.3(2) Notice **ARC 9621B** ..... 7/27/11  
Discipline, 4.6, 4.14 Notice **ARC 9622B** ..... 7/27/11

### **PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA**

#### **COMPREHENSIVE[591]**

Innocent landowner claims—waiver of copayment, 11.2(8) Filed **ARC 9623B** ..... 7/27/11  
Eligible costs—permanent closure of an underground storage tank system, 11.3(11) Filed **ARC 9624B** ..... 7/27/11

### **PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Dietitians—licensure, continuing education, discipline, amendments to chs 81 to 83 Filed **ARC 9606B** ..... 7/13/11  
Optometrists—licensure, continuing education, practice, discipline, 180.5, 180.11, 181.2,  
181.3(2)"c," 182.1, 182.3(2)"b," 182.4(1)"g," 183.2(11) Filed **ARC 9641B** ..... 7/27/11

Respiratory care practitioners—licensure, discipline, 261.8(1), 263.2(11) Notice <b>ARC 9595B</b> .....	7/13/11
Respiratory care practitioners—continuing education, 262.4 Notice <b>ARC 9594B</b> .....	7/13/11
Social workers—discipline, 283.2(11) Notice <b>ARC 9596B</b> .....	7/13/11

#### **PUBLIC HEALTH DEPARTMENT[641]**

Licensure of plumbing and mechanical systems professionals—fees, 28.1, 28.2 Notice <b>ARC 9610B</b> , also Filed Emergency <b>ARC 9603B</b> .....	7/13/11
Plumbing and mechanical systems professionals—application, licensure, examination, 29.1, 29.2, 29.6, 29.7, 29.9 Notice <b>ARC 9612B</b> , also Filed Emergency <b>ARC 9604B</b> .....	7/13/11
Plumbing and mechanical systems professionals—continuing education, 30.2 to 30.4, 30.6(1) Notice <b>ARC 9613B</b> , also Filed Emergency <b>ARC 9605B</b> .....	7/13/11
Advisory council on brain injuries, ch 55 Notice <b>ARC 9631B</b> .....	7/27/11
Local boards of health; district health departments, adopt ch 77; rescind 78 Notice <b>ARC 9632B</b> .....	7/27/11
Office of minority and multicultural health, 82.1, 82.3, 82.4 Notice <b>ARC 9634B</b> .....	7/27/11
Substance abuse and gambling treatment programs—personnel, 155.21(8) Notice <b>ARC 9638B</b> .....	7/27/11

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

Fire safety—adoption of National Electrical Code 2011 by reference, 201.3 Notice <b>ARC 9628B</b> .....	7/27/11
E-85 fuel dispensers, 221.2, 221.4(2) Filed <b>ARC 9620B</b> .....	7/27/11
State building code—adoption of National Electrical Code 2011 by reference, 301.5 Notice <b>ARC 9629B</b> .....	7/27/11
Plumbing installations in places of public assembly, 301.6(1) Filed Emergency <b>ARC 9627B</b> .....	7/27/11
Electrician and electrical contractor licensing program; electrical inspection program, 500.2, 502.2, ch 505, 551.2 Filed <b>ARC 9626B</b> .....	7/27/11
Electrical installations—adoption of National Electrical Code 2011 by reference, 504.1 Notice <b>ARC 9630B</b> .....	7/27/11

#### **REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Bureau[193] COMMERCE DEPARTMENT[181]“umbrella” License discipline reporting, 5.11 Filed <b>ARC 9619B</b> .....	7/27/11
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## ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

Senator Merlin Bartz  
2081 410th Street  
Grafton, Iowa 50440

Senator Thomas Courtney  
2200 Summer Street  
Burlington, Iowa 52601

Senator Wally Horn  
101 Stoney Point Road, SW  
Cedar Rapids, Iowa 52404

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

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3012 East 31st Court  
Des Moines, Iowa 50317

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P.O. Box A  
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1610 Carbonado Road  
Oskaloosa, Iowa 52577

Brenna Findley  
**Administrative Rules Coordinator**  
Governor's Ex Officio Representative  
Capitol, Room 18  
Des Moines, Iowa 50319  
Telephone (515)281-5211

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

Approval of contract amendments for targeted industries internship program, 104.3, 104.13(4), 175.2(5), 175.4(4) IAB 7/13/11 <b>ARC 9617B</b>	Northeast Second Floor Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 2, 2011 2:30 to 3:30 p.m.
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**INSURANCE DIVISION[191]**

External review, 76.1 to 76.9 IAB 7/27/11 <b>ARC 9639B</b> (See also <b>ARC 9637B</b> herein)	Division Offices 330 Maple St. Des Moines, Iowa	August 23, 2011 10 a.m.
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**LABOR SERVICES DIVISION[875]**

OSHA regulations—adoption by reference, 10.20, 26.1, 28.1 IAB 7/27/11 <b>ARC 9640B</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	August 17, 2011 9 a.m. (If requested)
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**PROFESSIONAL LICENSURE DIVISION[645]**

Respiratory care practitioners—licensure, discipline, 261.8(1), 263.2(11) IAB 7/13/11 <b>ARC 9595B</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 10, 2011 9 to 9:30 a.m.
Respiratory care practitioners—continuing education, 262.4 IAB 7/13/11 <b>ARC 9594B</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 10, 2011 9 to 9:30 a.m.
Social workers—discipline, 283.2(11) IAB 7/13/11 <b>ARC 9596B</b>	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 10, 2011 9:30 to 10 a.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Licensure of plumbing and mechanical systems professionals—fees, 28.1, 28.2 IAB 7/13/11 <b>ARC 9610B</b> (See also <b>ARC 9603B</b> ) <b>(ICN Network)</b>	Department of Public Health Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa Room Location: Sixth Floor	August 10, 2011 11 a.m. to 1 p.m.
	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa Room Location: Louisa Room	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 2500 Summer St. Burlington, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	Department of Human Services 417 E. Kaneshville Blvd. Council Bluffs, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 195 Radford Rd. Dubuque, Iowa Room Location: ICN Classroom	August 10, 2011 11 a.m. to 1 p.m.

**PUBLIC HEALTH DEPARTMENT[641]** (Cont'd)

<b>(ICN Network)</b>	National Guard Armory 1659 Nelson Ave. Fort Dodge, Iowa Room Location: NE corner of building	August 10, 2011 11 a.m. to 1 p.m.
	University of Iowa – 1 At the end of North Madison St. Iowa City, Iowa Room Location: 103	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 1160 19th St., SW Mason City, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 2858 N. Court Rd. Ottumwa, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	Department of Human Services Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	August 10, 2011 11 a.m. to 1 p.m.
Plumbing and mechanical systems professionals—application, licensure, examination, 29.1, 29.2, 29.6, 29.7, 29.9 IAB 7/13/11 <b>ARC 9612B</b> (See also <b>ARC 9604B</b> ) <b>(ICN Network)</b>	Department of Public Health Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa Room Location: Sixth Floor	August 10, 2011 11 a.m. to 1 p.m.
	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa Room Location: Louisa Room	August 10, 2011 11 a.m. to 1 p.m.
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	National Guard Armory 195 Radford Rd. Dubuque, Iowa Room Location: ICN Classroom	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 1659 Nelson Ave. Fort Dodge, Iowa Room Location: NE corner of building	August 10, 2011 11 a.m. to 1 p.m.
	University of Iowa – 1 At the end of North Madison St. Iowa City, Iowa Room Location: 103	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 1160 19th St., SW Mason City, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 2858 N. Court Rd. Ottumwa, Iowa	August 10, 2011 11 a.m. to 1 p.m.

**PUBLIC HEALTH DEPARTMENT[641] (Cont'd)**

<b>(ICN Network)</b>	Department of Human Services Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	August 10, 2011 11 a.m. to 1 p.m.
Plumbing and mechanical systems professionals—continuing education, 30.2 to 30.4, 30.6(1) IAB 7/13/11 <b>ARC 9613B</b> (See also <b>ARC 9605B</b> ) <b>(ICN Network)</b>	Department of Public Health Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa Room Location: Sixth Floor	August 10, 2011 11 a.m. to 1 p.m.
	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa Room Location: Louisa Room	August 10, 2011 11 a.m. to 1 p.m.
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	National Guard Armory 2858 N. Court Rd. Ottumwa, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	Department of Human Services Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	August 10, 2011 11 a.m. to 1 p.m.
Local boards of health; district health departments, adopt ch 77; rescind ch 78 IAB 7/27/11 <b>ARC 9632B</b>	GoToMeeting online at: <a href="https://www1.gotomeeting.com/join/427922769">https://www1.gotomeeting.com/join/427922769</a> Toll-free: 1-877-568-4106 Access Code: 427-922-769	August 16, 2011 9 to 11 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Fire safety requirements—bleachers, grandstands, and folding and telescopic seating, 201.2(1) IAB 6/15/11 <b>ARC 9561B</b>	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 2, 2011 10 a.m.
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**PUBLIC SAFETY DEPARTMENT[661] (Cont'd)**

Fire safety—adoption of National Electrical Code 2011 by reference, 201.3 IAB 7/27/11 <b>ARC 9628B</b>	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 18, 2011 10 a.m.
State building code—bleachers, grandstands, and folding and telescopic seating, 301.3 IAB 6/15/11 <b>ARC 9562B</b>	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 2, 2011 10 a.m.
State building code—adoption of National Electrical Code 2011 by reference, 301.5 IAB 7/27/11 <b>ARC 9629B</b>	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 18, 2011 10 a.m.
Electrical installations—adoption of National Electrical Code 2011 by reference, 504.1 IAB 7/27/11 <b>ARC 9630B</b>	First Floor Public Conference Room 125 Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 18, 2011 10 a.m.

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Renewable energy tax credits, 15.19, 15.21 IAB 7/13/11 <b>ARC 9609B</b>	Utilities Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	August 23, 2011 10 a.m.
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The following list will be updated as changes occur.

“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 are included alphabetically in SMALL CAPITALS at the left-hand margin.

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## ARC 9625B

## 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 156, “Payments for Foster Care,” Iowa Administrative Code.

These amendments reflect an increase in maintenance payments and initial allowance for supervised apartment living placements as published in the Department’s Request for Proposal ACFS-11-15. The previous maintenance payment was based upon the foster family maintenance payment for children aged 16 to 20 and has increased only \$88 since 1998. Based on economies of scale, one child living in an apartment and covering all expenses other than medical requires a higher maintenance payment to maintain safe and stable housing. These amendments increase the maintenance payment from \$573.90 per month to \$750 per month and increase the initial allowance from \$400 to \$600.

The amendments also make technical changes to update the legislative reference for freezing foster family payments rather than setting them according to the USDA estimated costs for raising a child as required in Iowa Code section 234.38.

Any interested person may make written comments on the proposed amendments on or before August 16, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, 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 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).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 234.35 and 2011 Iowa Acts, House File 649, section 28(4).

The following amendments are proposed.

ITEM 1. Amend rule **441—156.6(234)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 234.38 and ~~2010~~ 2011 Iowa Acts, ~~House File 2526, section 33(4), and House File 2531~~ 649, section 83(5) 28(4).

ITEM 2. Amend subrule 156.8(2) as follows:

**156.8(2) Supervised apartment living.** ~~When~~ Effective July 1, 2011, when a youth child is initially placed in supervised apartment living, the service area manager or designee may authorize an allowance not to exceed ~~\$400~~ \$600 if the youth child does not have sufficient resources to cover initial costs.

ITEM 3. Adopt the following new implementation sentence in rule **441—156.8(234)**:

This rule is intended to implement Iowa Code section 234.35.

ITEM 4. Amend rule 441—156.12(234) as follows:

**441—156.12(234) Supervised apartment living.**

**156.12(1) Maintenance.** ~~When~~ Effective July 1, 2011, when a youth child at least aged 16½ but under the age of 20 is living in a supervised apartment living situation, the ~~maximum~~ monthly maintenance payment for the youth child shall be ~~\$573.90~~ \$750. This payment may be paid to the youth child or another payee, other than a department employee, for the ~~youth’s care~~ child’s living expenses.

HUMAN SERVICES DEPARTMENT[441](cont'd)

**156.12(2)** No change.

This rule is intended to implement Iowa Code section 234.35 and 2011 Iowa Acts, House File 649, section 28(4).

**ARC 9636B**

## 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 gives Notice of Intended Action to amend Chapter 158, “Foster Home Insurance Fund,” Iowa Administrative Code.

These amendments update 441—Chapter 158 to conform to statutory changes made by 2011 Iowa Acts, Senate File 482. Division II of that legislation amended Iowa Code section 237.13, foster home insurance fund, to:

- Strike language referring to a guardian appointed on a voluntary petition pursuant to Iowa Code section 232.178 or a voluntary petition of a ward pursuant to Iowa Code section 633.557 and a conservator appointed on a voluntary petition of a ward pursuant to Iowa Code section 633.572 for purposes of defining a “foster home.”

- Strike language pertaining to guardians and conservators receiving payment from the fund for legal fees incurred in defending against a suit filed by a ward or the ward’s representative and damages awarded as a result of the suit.

These amendments remove corresponding language from the rules and update references. These changes will reserve coverage for licensed foster parents associated with the Department’s family foster care program.

Any interested person may make written comments on the proposed amendments on or before August 16, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, 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 do not provide for waivers in specified situations because the Department has no authority to waive statutory provisions. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **158.1(2)**.

ITEM 2. Amend rule 441—158.2(237) as follows:

**441—158.2(237) Payment limits.** The fund is not liable for the first \$100 for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for ~~claims damages~~ in excess of \$300,000 for all claims ~~based on~~ arising out of one or more occurrences during a fiscal year related to a single home.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 3. Amend rule 441—158.4(237) as follows:

**441—158.4(237) Time frames for filing claims.**

1- **158.4(1)** Claims by children who were under the age of 18 at the time of the occurrence shall be submitted within two years of the date of the occurrence, or after the child's eighteenth birthday, but before the child's nineteenth birthday.

2- **158.4(2)** Claims by persons who were aged 18 or older at the time of the occurrence, ~~parents, foster parents, guardians, or guardians ad litem~~ shall be submitted within two years of the occurrence.

3- **158.4(3)** Claims by foster parents and by guardians or conservators pursuant to subrules paragraph 158.1(1) "c" and 158.4(2) for legal fees or court-ordered judgments shall be submitted within two years of the date of the judgment.

ITEM 4. Amend 441—Chapter 158, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

**ARC 9639B**

**INSURANCE DIVISION[191]**

**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 2011 Iowa Acts, House File 597, section 17, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 76, "External Review," Iowa Administrative Code.

The proposed amendments are promulgated to implement and administer the provisions of 2011 Iowa Acts, House File 597, to provide duties and procedures for external review of adverse determinations of certain health insurance claims. The Division intends that persons and entities shall comply with the amendments beginning October 26, 2011.

Any interested person may make written suggestions or comments on these proposed amendments on or before August 23, 2011. Such written materials should be directed to Ann Outka, Iowa Insurance Division, 330 Maple St., Des Moines, Iowa 50319; fax (515)281-3059; E-mail [ann.outka@iid.iowa.gov](mailto:ann.outka@iid.iowa.gov).

Also, there will be a public hearing on August 23, 2011, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple St., Des Moines, Iowa, at which time persons may present their views about the amendments either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record.

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 Division and advise of specific needs.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9637B**. The content of that submission is incorporated by reference.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Acts, House File 597.

## ARC 9644B

## IOWA FINANCE AUTHORITY[265]

## Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.5(1)“m,” the Iowa Finance Authority proposes to amend Chapter 39, “HOME Partnership Program,” Iowa Administrative Code.

The purpose of these amendments is to revise the rules to more fully take advantage of opportunities allowed under federal law to better benefit low-income housing in the state of Iowa.

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

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on August 16, 2011. Comments may be addressed to Carla Pope, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4901 or E-mailed to [carla.pope@iowa.gov](mailto:carla.pope@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 12701 et seq.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions in rule **265—39.2(16)**:

“*Developer*” means any individual or entity responsible for initiating and controlling the development process and ensuring that all phases of the development process, or any material portion thereof, are accomplished.

“*IDIS*” means the HUD Integrated Disbursement and Information System.

“*Subrecipient*” means a public agency or nonprofit organization selected by IFA to administer all or a portion of an activity under the HOME program. A public agency or nonprofit organization that receives HOME funds as a developer or owner of housing is not a subrecipient. The selection of a subrecipient by IFA is not subject to the procurement procedures and requirements under federal or state law.

ITEM 2. Amend rule **265—39.2(16)**, definition of “CHDO,” as follows:

“*CHDO*” means a community housing development organization, which is a nonprofit organization registered with the Iowa secretary of state and certified as such by ~~DED~~ ~~of~~ IFA, pursuant to 24 CFR 92.2 (April 1, 1997).

ITEM 3. Rescind the definition of “IDED” in rule **265—39.2(16)**.

ITEM 4. Amend rule 265—39.4(16) as follows:

**265—39.4(16) Eligible activities and forms of assistance.**

**39.4(1)** Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation) for five or more units, rental housing new construction for five or more units, home ownership assistance that includes some form of direct subsidy to the home buyer (including development subsidies), and other housing-related activities as may be deemed appropriate by IFA. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homeowners or tenants.

## IOWA FINANCE AUTHORITY[265](cont'd)

*a.* Assisted units shall be affordable.

(1) and (2) No change.

(3) For home ownership assistance, the initial purchase price for newly constructed units or the after rehabilitation value for rehabilitated units shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits for the same type of single-family housing in the area. Assisted units shall remain affordable through recapture with net proceeds or resale provisions for a specified period: 5 years for projects receiving less than \$15,000 in assistance per unit; 10 years for projects receiving \$15,000 to \$40,000 in assistance per unit; and 15 years for projects receiving over \$40,000 in assistance per unit.

*b. to d.* No change.

**39.4(2)** and **39.4(3)** No change.

**39.4(4)** Program income must be returned to IFA except in the following instances:

*a.* Subrecipients who receive program income shall reduce the HOME draw amount requested by the amount of program income received and must report to IFA the amount and source of the program income.

*b.* CHDOs who have an IFA-approved reuse plan and a written agreement that specifies that program income may be retained by the CHDO may use program income as CHDO proceeds.

ITEM 5. Amend rule 265—39.6(16) as follows:

**265—39.6(16) Application requirements.** To be considered for HOME assistance, an application shall meet the following threshold criteria.

**39.6(1)** No change.

**39.6(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. IFA reserves ~~the right~~ sole discretion to deny funding to an applicant that has failed to comply with federal or state requirements in the administration of a previous project funded by the state of Iowa or that failed to comply with federal requirements in the administration of a previous project funded in any other state. Documentation of the ability of the applicant to provide technical services and 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 HOME fund activity.

**39.6(3)** to **39.6(6)** No change.

~~**39.6(7)** Local participating jurisdiction requirement. 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 IFA HOME funds requested. Sources of local PJ financial commitment may include one or more of the following: HOME, community development block grant, tax increment financing, tax abatement, or general funds; the value of waived taxes, fees or charges associated with HOME projects; the value of donated land or real property; the cost of infrastructure improvements associated with HOME projects; and the contracted commitment to provide the direct costs of supportive services to residents of HOME projects provided by a city-owned agency using nonfederal funds. Maximum per-unit subsidy amount and subsidy layering. The following shall apply to all applications:~~

*a.* The total amount of HOME funds awarded on a per-unit basis may not exceed the per-unit dollar limitations established under Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the area in which the housing is located.

*b.* IFA shall evaluate the project in accordance with subsidy layering guidelines adopted for this purpose.

*c.* The total amount of HOME funds awarded on a per-unit basis cannot exceed the pro rata or fair share of the total project costs when compared to a similar unit in a rental activity.

**39.6(8)** An application for a home ownership assistance activity must indicate that recipients will require the beneficiaries of the applicant's home ownership assistance activity to use a principal mortgage loan product that meets the following criteria:

*a.* No change.

## IOWA FINANCE AUTHORITY[265](cont'd)

*b.* The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME ~~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 form of assistance, such as home equity loans. A home buyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.

*c.* and *d.* No change.

**39.6(9)** An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time home buyers only and that the assisted unit will remain as the assisted home buyer's principal residence throughout the required period of affordability, which must be verified annually by the subrecipient. If the assisted home buyer fails to maintain the home as the principal residence during the affordability period, then all HOME funds associated with that address must be repaid to IFA.

**39.6(10)** An application for a home ownership assistance activity must stipulate that all assisted units will be insured for at least the full value of the assisted unit, which must be verified annually by the subrecipient.

ITEM 6. Amend rule 265—39.8(16) as follows:

**265—39.8(16) Allocation of funds.**

**39.8(1) to 39.8(3)** No change.

**39.8(4)** ~~Reserved.~~ Not more than 5 percent of the state's annual HOME allocation may be reserved for CHDO operating expenses.

**39.8(5)** No change.

**39.8(6)** Awards shall be limited to no more than ~~\$500,000~~ \$600,000 for all single-family activities assisting ~~homeowners~~ or home buyers. Awards shall be limited to no more than ~~\$900,000~~ \$1,000,000 for all multifamily rental activities.

**39.8(7)** Single-family per unit subsidies.

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

*c.* Assistance for single-family activities providing development subsidies for newly constructed housing is limited to ~~\$20,000~~ \$30,000 per unit. Development subsidies ~~may~~ shall only be provided in addition to ~~acquisition~~ direct subsidies within home buyer assistance activities. When a development subsidy is used in combination with home buyer assistance activities, assistance is limited to \$35,000 per unit, inclusive of all costs.

**39.8(8)** Multifamily per unit subsidies. The maximum per unit HOME funds subsidy for all multifamily activities is ~~\$60,000~~ \$70,000 per unit including both newly constructed units and the rehabilitation of existing multifamily units, including conversion activities. The ~~\$60,000~~ \$70,000 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.

**39.8(9)** ~~Recipients~~ Subrecipients shall identify general administrative costs in the HOME funds application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME funds award. Only local government and nonprofit recipients are eligible for general administrative funds. Subrecipients must certify that all general administrative costs reimbursed by HOME funds are separate from and not reimbursed by HOME funds as technical services costs.

**39.8(10) and 39.8(11)** No change.

ITEM 7. Amend rule 265—39.9(16) as follows:

**265—39.9(16) Administration of awards.** Applicants selected to receive HOME funds awards shall be notified by letter from the IFA executive director or IFA affordable rental production division director.

## IOWA FINANCE AUTHORITY[265](cont'd)

**39.9(1)** *Preaudit survey.* ~~A preaudit survey may be required for all for-profit and nonprofit direct recipients for assistance that exceeds \$150,000.~~

**39.9(2)** *Contract.* A contract shall be executed between the recipient and IFA. These rules, the approved application, the IFA HOME Management Program Guide for the specified activity and all applicable federal and state laws and regulations shall be part of the contract.

a. to e. No change.

**39.9(3)** *Local administrative and technical services contracts.*

a. ~~Recipients Subrecipients awarded funds for general administration that employ the services of a third-party administrator to perform all or part of the general administrative functions for the recipient shall enter into a contractual agreement for the general administrative functions to be performed to perform the general administrative functions for home ownership assistance and tenant-based rental assistance activities shall enter into a contract for services with IFA.~~

b. Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed. The procurement must follow 24 CFR Part 84 and 24 CFR Part 85, when necessitated by those regulations.

c. ~~Recipients that employ a third party to perform all or part of the general administration for the recipient and that also employ a third party to perform all or part of the technical services for the recipient shall conduct separate procurement transactions and shall enter into separate contractual agreements for each: one contract for general administration and one contract for technical services. Separate contracts are required even if both functions are performed by the same third-party entity.~~

**39.9(4)** *Requests for funds.* Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds. Adequate and itemized documentation supporting the amount of funds requested must be provided and approved by IFA prior to release of funds. IFA shall retain up to 10 percent of the HOME funds from payment to the recipient until 30 days after the recipient satisfactorily completes the work and full occupancy of the HOME-assisted units is attained.

**39.9(5)** *Record keeping and retention.*

a. No change.

b. Representatives of IFA, 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 HOME funds award; to the total project receipts and expenditures related to new construction, acquisition, or rehabilitation; and to any records maintained by third-party administrators for general administration or technical services for the HOME-funded project. IFA reserves the right to demand any and all additional records and documents that may relate to the HOME award.

**39.9(6)** and **39.9(7)** No change.

**39.9(8)** ~~Contract~~ *Work completion closeout.* Upon the contract expiration date or work completion date, as applicable, and IFA's receipt of final draw and completion documentation, IFA shall initiate closeout procedures in IDIS. Recipients shall comply with applicable audit requirements, quarterly performance reports and Section 3 requirements and provide other required documents described in the HOME funds application, the contract, the IFA HOME Management Program Guide, and any other IFA HOME partnership program policies and procedures.

**39.9(9)** to **39.9(11)** No change.

**ARC 9643B****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority proposes to amend Chapter 41, “Shelter Assistance Fund,” Iowa Administrative Code.

The purpose of these amendments is to clarify rules relating to the administration of the Shelter Assistance Fund to provide financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters and to conform state rules to recent federal guidance.

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

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on August 16, 2011. Comments may be addressed to Carla Pope, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4901 or E-mailed to [carla.pope@iowa.gov](mailto:carla.pope@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9642B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 16.5 and 16.40.

**ARC 9635B****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority proposes to amend Chapter 42, “Emergency Shelter Grants Program,” Iowa Administrative Code.

The purpose of these amendments is to clarify rules relating to the administration of a fund to provide financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters and to conform state rules to recent federal guidance.

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

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on August 16, 2011. Comments may be addressed to Carla Pope, Iowa Finance Authority, 2015 Grand Avenue,

IOWA FINANCE AUTHORITY[265](cont'd)

Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4901 or E-mailed to [carla.pope@iowa.gov](mailto:carla.pope@iowa.gov).

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9633B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 11371 to 11378.

## **ARC 9640B**

### **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 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, “General Industry Safety and Health Rules,” Chapter 26, “Construction Safety and Health Rules,” and Chapter 28, “Occupational Safety and Health Standards for Agriculture,” Iowa Administrative Code.

The proposed amendments adopt by reference changes to federal occupational safety and health standards. The federal standard changes are the result of Phase III of the federal Occupational Safety and Health Administration’s Standards Improvement Project. The Standards Improvement Project eliminates confusing and unnecessary provisions in the federal standards. According to the preamble of the federal final rule, “OSHA estimates that these changes will result in annualized savings for employers of over \$45 million, and will reduce paperwork burden by 1.85 million hours annually.”

The principal reasons for adoption of these amendments are to implement legislative intent, protect the safety and health of Iowa workers, and make Iowa’s regulations current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1) and 29 CFR 1953.5, Iowa must adopt changes to the federal occupational safety and health standards.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on August 16, 2011, a public hearing will be held on August 17, 2011, at 9 a.m. in the Capitol View 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)281-5915 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 17, 2011, 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).

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 88.5.

The following amendments are proposed.

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:  
76 Fed. Reg. 33606 (June 8, 2011)

LABOR SERVICES DIVISION[875](cont'd)

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:  
76 Fed. Reg. 33606 (June 8, 2011)

ITEM 3. Amend rule **875—28.1(88)** by inserting the following at the end thereof:  
76 Fed. Reg. 33606 (June 8, 2011)

## ARC 9621B

### NURSING BOARD[655]

#### Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 1, “Administrative and Regulatory Authority,” Iowa Administrative Code.

The proposed amendment updates the organization of the Board by changing “secretary” to “vice chairperson” as a result of changes to Iowa Code chapter 147. In addition, the amendment changes “elect” to “select” in reference to the method of designating a committee chairperson. The use of Robert’s Rules of Order is eliminated.

Any interested person may make written comments or suggestions on the proposed amendment on or before August 16, 2011. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 147.14, 147.19 and 147.22.

The following amendment is proposed.

Amend subrule 1.3(2) as follows:

**1.3(2) *Organization of the board and meetings.*** The composition of the board is defined in Iowa Code sections 147.14, ~~and 147.19,~~ and 147.22. The board shall:

*a.* At the last regularly scheduled meeting prior to May 1:

(1) Elect a chairperson and ~~secretary~~ vice chairperson from its membership to begin serving as officers on May 1.

(2) Establish standing committees and ~~elect~~ select a chairperson for each committee.

(3) and (4) No change.

*b. to f.* No change.

*g.* Govern its meetings in accordance with Iowa Code chapter 21 ~~and its proceedings by “Robert’s Rules of Order, Revised.”~~

*h. to j.* No change.

**ARC 9622B****NURSING BOARD[655]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 4, “Discipline,” Iowa Administrative Code.

The proposed amendments in Items 1 and 2 update and clarify the reporting of deferred judgments by licensees when reporting criminal convictions. The proposed amendment in Item 3 defines certified copy.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 16, 2011. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 147, 152, 152E and 272C.

The following amendments are proposed.

ITEM 1. Amend paragraph **4.6(3)“e”** as follows:

*e.* Failing to notify the board of a criminal conviction within 30 days of the action, regardless of whether the judgment of conviction or sentence was deferred, and regardless of the jurisdiction wherein it occurred.

ITEM 2. Amend paragraph **4.6(4)“p”** as follows:

*p.* Pleading guilty to or being convicted of a ~~misdemeanor or felony~~ crime related to the practice profession of nursing, or conviction of any crime that would affect the licensee’s ability to practice nursing, regardless of whether the judgment of conviction or sentence was deferred, and regardless without regard to of the jurisdiction wherein the action occurred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ITEM 3. Adopt the following **new** definition of “Certified copy” in rule **655—4.14(17A,152E)**:

“*Certified copy*,” as used in the statutes and rules administered by the board, means a complete and accurate copy of a document, as verified by the board or the agency providing that document. “Certified copy” includes an electronic version of a document provided to another agency or individual by the board, or received from another agency, so long as the electronic record is:

1. Obtained directly from the official Web site of the board or other agency;
2. Regularly updated by the board or the other agency in accordance with standard practice;
3. Accessible as a “read only” document;
4. Properly safeguarded to prevent the document from being altered; and
5. Certified from another agency in accordance with the laws applicable in that jurisdiction.

**ARC 9631B****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 subsection 135.22A(5), the Iowa Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 55, “Advisory Council on Head Injuries,” and adopt new Chapter 55, “Advisory Council on Brain Injuries,” Iowa Administrative Code.

The proposed rules in new Chapter 55 describe the mission and duties of the Advisory Council on Brain Injuries. This chapter also provides rules to govern the operation of Council meetings.

Changes from the existing rules include the change in the name of the Council from “Advisory Council on Head Injuries” to “Advisory Council on Brain Injuries” and the addition of a definitions rule and a mission statement. The majority of the remaining additions are a result of incorporating the Council’s current bylaws into the rules.

Any interested person may make written suggestions or comments on the proposed rules on or before August 23, 2011. Such written comments should be directed to Megan Hartwig, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [megan.hartwig@idph.iowa.gov](mailto:megan.hartwig@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 135.22A.

The following amendment is proposed.

Rescind 641—Chapter 55 and adopt the following **new** chapter in lieu thereof:

**CHAPTER 55****ADVISORY COUNCIL ON BRAIN INJURIES**

**641—55.1(135) Definitions.** For the purposes of this chapter, the following definitions shall apply:

“*Appointed members*” means members of the advisory council on brain injuries who have been appointed by the governor’s office.

“*Brain injury*” means a brain injury as defined in Iowa Code section 135.22.

“*Chairperson*” means the chairperson of the advisory council on brain injuries, who has been elected by the majority of the council’s members.

“*Council*” means the advisory council on brain injuries.

“*Department*” means the Iowa department of public health.

“*Ex officio members*” means designated state agency staff who are statutory members of the advisory council on brain injuries.

“*Person from the public*” means a person or agency who does not have an affiliation with the advisory council on brain injuries but who has knowledge or skills beneficial to the council for specific task forces or projects.

“*Service partners*” means representatives of organizations who partner with the Iowa department of public health or the advisory council on brain injuries to carry out activities related to the mission of the council.

**641—55.2(135) Mission of council.** The council’s mission is to represent individuals with brain injury, their families, and all Iowans through advocacy, education, training, rehabilitation, research and prevention. By means of these efforts, the council brings about awareness to others and serves as

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

a source of hope and healing to survivors of brain injury. The council will accomplish this mission through the following activities:

1. Studying the needs of individuals with brain injury and their families.
2. Making recommendations regarding the planning, development, and administration of a comprehensive statewide service delivery system.
3. Promoting and implementing injury prevention strategies.

**641—55.3(135) Council established.** The advisory council on brain injuries, part of the Iowa department of public health, is established pursuant to Iowa Code section 135.22A.

**55.3(1)** The council shall consist of a minimum of nine appointed members in addition to the ex officio members.

*a.* The following persons or their designees shall serve as ex officio, nonvoting members of the council:

- (1) The director of public health.
- (2) The director of human services and any division administrators of the department of human services so assigned by the director.
- (3) The director of the department of education.
- (4) The chief of the special education bureau of the department of education.
- (5) The administrator of the division of vocational rehabilitation services of the department of education.
- (6) The director of the department for the blind.
- (7) The commissioner of insurance.

*b.* Appointed members.

(1) Insofar as practicable, the council shall include persons with brain injuries; family members of persons with brain injuries; representatives of industry, labor, business, and agriculture; representatives of federal, state, and local government; and representatives of religious, charitable, fraternal, civic, educational, medical, legal, veteran, welfare, and other professional groups and organizations.

(2) Members shall be appointed to represent every geographic area of the state and shall include members of both sexes.

**55.3(2)** Appointed members' terms shall be for two years.

**55.3(3)** Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

**55.3(4)** Members whose terms expire may be reappointed.

**641—55.4(135) Officers.**

**55.4(1)** Officers of the council shall be a chairperson, vice-chairperson and immediate past chairperson.

*a.* The officers shall be elected at the first meeting of each fiscal year.

*b.* Vacancy in the office of chairperson shall be filled by elevation of the vice-chairperson.

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

**55.4(2)** Duties of the officers.

*a.* The chairperson shall:

- (1) Preside at all meetings of the council,
- (2) Appoint such task forces as deemed necessary, and
- (3) Designate the chairperson of each task force from the appointed members of the council.

*b.* The vice-chairperson shall:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice-chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform such other duties as may be assigned by the chairperson.

*c.* The immediate past chairperson shall:

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

- (1) Assist the chairperson at the first meeting of the chairperson's appointment.
  - (2) Perform the duties of the chairperson if the chairperson and vice-chairperson are absent or unable to act. When so acting, the immediate past chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.
  - (3) Assist with note taking if there is no council staff person available.
  - (4) Assist the chairperson to identify council business and necessary task force meetings.
- 55.4(3)** The officers shall serve until their successors are appointed.

**641—55.5(135) Duties of the council.** The council shall perform the following duties:

**55.5(1)** Promote meetings and programs for the discussion of methods to reduce the debilitating effects of brain injuries, and disseminate information in cooperation with any other department, agency, or entity on the prevention, evaluation, care, treatment, and rehabilitation of persons affected by brain injuries.

**55.5(2)** Study and review current prevention, evaluation, care, treatment, and rehabilitation technologies and recommend appropriate preparation, training, retraining, and distribution of personnel and resources in the provision of services to persons with brain injuries through private and public residential facilities, day programs, and other specialized services.

**55.5(3)** Participate in developing and disseminating criteria and standards which may be required for future funding or licensing of facilities, day programs, and other specialized services for persons with brain injuries in Iowa.

**55.5(4)** Make recommendations to the governor for developing and administering a state plan to provide services for persons with brain injuries in Iowa.

**641—55.6(135) Meetings.**

**55.6(1)** The council shall meet at least quarterly.

*a.* The annual meeting schedule shall be established by the beginning of the fiscal year.

*b.* Meetings will be held the following months: January, April, July and October.

**55.6(2)** Notice of routine meetings and agenda will be made available to the members a minimum of five working days prior to the meeting.

**55.6(3)** Meetings may be scheduled as business requires, but notice must be given to members at least five working days prior to the meeting.

**55.6(4)** All meetings will be held in facilities accessible to and functional for people with physical disabilities.

**55.6(5)** Notification for reasonable accommodations should be made to department staff at least three working days prior to the meeting.

**55.6(6)** All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

**55.6(7)** Cameras and recording devices may be used at open meetings, provided they do not obstruct the meeting. The presiding officer may request a person using such a device to discontinue its use if it is obstructing the meeting.

**55.6(8)** The presiding officer may exclude any person from the meeting for repeated behavior that disrupts or obstructs the meeting.

**55.6(9)** The operation of council meetings will be governed by the following rules of procedure:

*a.* A simple majority of the appointed members shall constitute a quorum. Motions may not be made without a quorum.

*b.* When a quorum is present, a motion is carried by affirmative vote of two-thirds of appointed members present.

*c.* Time for public comment will be made during each council meeting.

**55.6(10)** Meeting attendance.

*a.* Council members are expected to be present in person for council meetings with the exception of extenuating circumstances that have been cleared beforehand by the chairperson.

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

*b.* Any council member who is unable to attend a meeting will notify council staff at least 24 hours prior to the start of a regularly scheduled meeting. A meeting may be canceled if attendance is expected to be low.

*c.* If there are extenuating circumstances, a teleconference may be set up for the member to participate in the business portion of the meeting.

*d.* Appointed members may be recommended for dismissal from the council if they miss more than three meetings annually.

**55.6(11) Special meetings.** Special meetings shall be for business of the council that cannot wait until the next scheduled meeting.

*a.* Special meetings may be called by the chairperson to discuss emergent issues within a 24-hour time period.

*b.* A majority of council members may call a special meeting.

*c.* Special meetings shall be held in accordance with Iowa Code chapter 21.

**55.6(12) Electronic meetings.**

*a.* The council may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical, pursuant to Iowa Code section 21.8.

*b.* Any vote by E-mail shall have the tabulated results presented at the next regular meeting of the council and the ballots retained for a period of six months for confirmation of results.

**641—55.7(135) Minutes.** The advisory council shall keep minutes of all its meetings showing the date, time, place, members present, members absent, and the general topics discussed.

**55.7(1)** The minutes shall reflect the actions agreed upon by the members for topics requiring the members' input or consensus.

**55.7(2)** If a meeting is convened within a 24-hour time period to discuss emergent issues, the minutes shall reflect the emergent nature of the meeting.

**55.7(3)** If a meeting is conducted via telephone, the minutes shall reflect the reason for the use of this method of meeting.

**55.7(4)** The minutes shall be available at the council staff office for inspection Monday through Friday from 8:30 a.m. to 4:30 p.m.

**641—55.8(135) Task forces.** The chairperson of the council may establish task forces as needed to carry out the business of the council.

**55.8(1)** The council will have two standing task forces: the executive task force and the state plan task force.

*a.* The executive task force shall be made up of the council chairperson, vice-chairperson, immediate past chairperson and chairperson of the state plan task force.

*b.* The state plan task force shall be made up of members appointed by the chairperson.

**55.8(2)** The council may designate additional task forces to perform such duties as may be deemed necessary.

**55.8(3)** Task forces may be composed of appointed members, ex officio members, service partners, and persons from the public.

**55.8(4)** The chairperson of each task force will be an appointed member of the council.

**55.8(5)** All members of task forces shall have voting privileges during task force meetings; however, all decisions made by task forces must be approved at the next regular council meeting by a vote of the appointed members.

**55.8(6)** Task force meetings shall be scheduled at least five working days prior to the meeting.

**641—55.9(135) Expenses of advisory council members.** The following may be considered necessary expenses for reimbursement of advisory council members when the expenses are incurred on behalf of advisory council business and are subject to established state reimbursement rates:

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

3. Actual expenses of public transportation.  
These rules are intended to implement Iowa Code section 135.22A.

**ARC 9632B**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 137.119, the Iowa Department of Public Health hereby gives Notice of Intended Action to rescind Chapter 77, “Local Boards of Health,” and to adopt new Chapter 77 with the same title and to rescind Chapter 78, “District Health Departments,” Iowa Administrative Code.

The proposed rules in new Chapter 77 define the roles and responsibilities, parameters and structure of the local boards of health. Chapter 77 also allows local boards of health and boards of supervisors an optional process to merge counties to form a district board of health in order to increase the efficiencies of the core functions of public health and to meet public health standards. This proposed rule making also rescinds Chapter 78, pertaining to district health departments, because the rules in Chapter 78 are superseded by new Chapter 77.

Any interested person may make written suggestions or comments on the proposed amendments on or before August 16, 2011. Such written comments should be directed to Joy Harris, Bureau of Communication and Planning, Department of Public Health, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [joy.harris@idph.iowa.gov](mailto:joy.harris@idph.iowa.gov).

Also, a public hearing will be held on Tuesday, August 16, 2011, from 9 to 11 a.m. on GoToMeeting. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/join/427922769>. The use of microphone and speakers (VoIP) or a headset is recommended. Interested persons may also join the meeting by telephone in the U.S. and Canada, toll-free, at 1-877-568-4106; the access code is 427-922-769, and an audio PIN will be shown after the person joins the meeting. 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.

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 of Public Health and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 137.

The following amendments are proposed.

ITEM 1. Rescind 641—Chapter 77 and adopt the following **new** chapter in lieu thereof:

CHAPTER 77  
LOCAL BOARDS OF HEALTH

**641—77.1(137) Purpose.** The local board of health shall have jurisdiction over public health matters within its designated geographic area in accordance with Iowa Code chapter 137. The local board of health shall promote and protect the health of the residents and shall carry out the powers of local boards as specified in Iowa Code sections 137.103 and 137.104 and all applicable Iowa Code chapters.

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

**641—77.2(137) Definitions.** For the purpose of these rules, the following definitions apply:

“*Core public health functions*” means the functions of assessment, policy development, and assurance.

1. Assessment: Regular collection, analysis, interpretation, and communication of information about health conditions, risks, and assets in a community.

2. Policy development: Development, implementation, and evaluation of plans and policies, for public health in general and priority health needs in particular, in a manner that incorporates scientific information and community values and in accordance with state public health policy.

3. Assurance: Ensuring by encouragement, regulation, or direct action that programs and interventions that maintain and improve health are carried out.

“*Department*” means the Iowa department of public health.

“*District*” means any two or more geographically contiguous counties.

“*Environmental health services*” means services focused on the environment to support population-based health services.

“*Essential public health services*” means those activities carried out by public health that fulfill the core functions.

“*Iowa public health standards*” means the governmental public health standards adopted by rule by the state board of health.

“*Local board of health*” means a city, county, or district board of health.

“*Personal health services*” means services focused on the care of individuals.

“*Population-based health services*” means services focused on the health status of population groups and their environments.

**641—77.3(137) Local boards of health—roles and responsibilities.** Public health is responsible for safeguarding the community’s health. This goal is pursued through three core functions: assessment, policy development and assurance.

**77.3(1)** Assessment: Regularly and systematically collect, assemble, analyze, and make available information on the health of the community, including statistics on health status, community health needs, personal health services, and epidemiologic and other studies of health problems. A local board of health may perform the following essential public health services:

- a. Monitor health status to identify community health problems;
- b. Diagnose and investigate health problems and health hazards in the community; and
- c. Evaluate effectiveness, accessibility, and quality of personal, population-based, and environmental health services.

**77.3(2)** Policy development: Exercise its responsibility to serve the public interest in the development of comprehensive public health policies. This core function can be accomplished by promoting use of a scientific knowledge base in decision making about public health and by taking the lead in public health policy development.

- a. A local board of health may perform the following essential public health services:
  - (1) Develop policies and plans that support individual and community health efforts; and
  - (2) Research new insights and innovative solutions to health problems and health threats.
- b. A local board of health shall perform the following essential public health services:
  - (1) Enforce laws and regulations that protect public health and enforce lawful orders of the department;
  - (2) Make and enforce reasonable rules and regulations not inconsistent with the law, the rules of the state board, or the Iowa public health standards as may be necessary for the protection and improvement of the public health; and
  - (3) Employ persons as necessary for the efficient discharge of its duties. Employment practices shall meet the requirements of Iowa Code chapter 8A, subchapter IV, or any civil service provision adopted under Iowa Code chapter 400.

**77.3(3)** Assurance: Assure their constituents that services necessary to achieve agreed-upon goals are provided either by encouraging action by other entities (private or public sector), by requiring such

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

action through regulation, or by providing services directly. Each local board of health must involve key policymakers and the general public in determining a set of high-priority personal and population-based health services. A local board of health may perform the following essential public health services:

- a. Link people to needed personal health services; provide such personal, population-based and environmental health services as deemed necessary for the promotion and protection of the health of the public; and charge reasonable fees for personal health services;
- b. Ensure the competence of the public health, environmental health, and personal health care workforce;
- c. Inform, educate, and empower people about health issues;
- d. Mobilize community partnerships to identify and solve health problems;
- e. Issue licenses and permits and charge reasonable fees in relation to the construction or operation of nonpublic water supplies or private sewage disposal systems;
- f. Engage in joint operations by:
  - (1) Contracting with colleges and universities, the department, other public, private, and nonprofit agencies, and individuals; or
  - (2) Forming a district health department to provide personal and population-based health services;
- and
- g. Enforce, by written agreement with the council of any city within its jurisdiction, appropriate ordinances of the city relating to public health.

**641—77.4(137) Local boards of health—Iowa public health standards.** Local boards of health may:

- 1. Designate an agency to assure compliance with the Iowa public health standards in the jurisdiction.
- 2. Demonstrate a commitment to comply with the Iowa public health standards.
- 3. Request at least annually reports from organizations that provide public health services within the jurisdiction.

**641—77.5(137) Organization of local boards of health.**

**77.5(1) Qualifications.** Members of a local board of health should have experience or education related to the core public health functions, essential public health services, public health, environmental health services, personal health services, population-based services, or community-based initiatives.

**77.5(2) Officers of local boards of health.** Each local board of health shall, at its first meeting during any calendar year, elect one of its members to serve as chairperson until the first meeting of the following calendar year.

a. The local board of health may elect a vice-chairperson, secretary, or other such officers as it may deem advisable.

b. In case of a vacancy of the office of chairperson, a successor, who shall serve the remainder of the term, shall be elected at the next meeting of the board.

**77.5(3) Meetings of local boards of health.** The place, date and time of regular meetings of the local board of health shall be determined by vote of the board, and such meetings shall comply with the provisions of the open meetings law which is found in Iowa Code chapter 21.

a. Each local board of health shall meet at least six times per year.

b. Special meetings of a local board of health may be called, as needed, by the chairperson or by any three board members. The local board of health shall provide at least 24 hours' notice of special meetings, except in case of emergency.

c. A majority of the members of a local board of health shall be considered a quorum, and an affirmative vote of the majority of the members present is necessary for action taken by a local board of health. The majority shall not include any member who has a conflict of interest, and a statement by the member that a conflict of interest exists shall be conclusive for this purpose.

**641—77.6(137) Operation of local boards of health.** Local boards of health shall submit to the department the following information:

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

**77.6(1)** Names, addresses, E-mail addresses and telephone numbers of members of the local board of health, within one month after their appointment.

**77.6(2)** Names of the chairperson and any other officers elected by the local board of health, within one month after their election.

**77.6(3)** A copy of the minutes of each regular and special meeting of the local board of health, within two weeks of their being approved. The minutes shall include at least:

- a. The date and place of the meeting;
- b. A list of members present; and
- c. A report of any official board actions.

**641—77.7(137) Expenses of local board of health members.**

**77.7(1)** The following may be considered necessary expenses of local board of health members:

- a. Travel in private car on local board of health business at the same rate as provided for a public officer or employee in Iowa Code section 70A.9.
- b. Lodging and meal expenses including sales tax on lodging and meals.
- c. Expense of public transportation when traveling on local board of health business.
- d. Miscellaneous expenses related to performance of duties as approved by the local board of health.
- e. Training and education expenses.

**77.7(2)** This rule shall not be construed as requiring the payment of reimbursement to any person or as prohibiting local boards of health from imposing additional restrictions or administrative requirements on expenses of their members.

**641—77.8(137) District boards of health.** The county boards of health of any two or more geographically contiguous counties may at any time submit to the department a written request to form a district board of health.

**77.8(1)** A request to form a district board of health shall be executed by the county boards of supervisors and the county boards of health for each county comprising the proposed district.

**77.8(2)** A request to form a district board of health shall be submitted to the department and shall be completed on the department's application form. The application form shall include:

- a. A written narrative that explains how the formation of a district board of health will increase organizational capacity and capability to provide population-based and personal health services compared with operating as individual county boards.
- b. A written narrative that details the infrastructure capability of the proposed district to deliver core public health functions, provide essential public health services, and comply with Iowa public health standards.
- c. The composition of the district board of health, including the number of members each county shall appoint pursuant to Iowa Code section 135.105 and the total number of members on the district board of health.
- d. Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district and of the elements included in the formation plan.
- e. A service delivery plan to include each component of the public health standards. The service delivery plan shall detail how population-based and environmental health services will be delivered throughout the district.
- f. The budget and fiscal plan for the proposed district. The budget plan shall include an estimate of the proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district.
- g. A table of organization.
- h. A personnel system description, including identification of the district treasurer and district auditor and a section which addresses the employment issues contained in Iowa Code section 137.110.
- i. The location of the district offices and workforce throughout the jurisdiction. The request shall include a map showing district boundaries.

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

*j.* An inventory of the property and equipment in the custody of each county board of health and a description as to whether such property and equipment shall remain in the custody of the county board of health or shall be transferred to the district board of health to become property of the district board of health. Property and equipment include any item which costs more than \$5,000.

*k.* An information technology (IT) plan that details the formation of a centralized IT department able to serve the needs of the proposed district.

*l.* A proposed date upon which the district board of health shall be formed and established and a timeline for the adoption of district board of health rules and regulations.

**641—77.9(137) Approval of district board of health formation.**

**77.9(1)** Upon receipt of the application form and all information contained in rule 641—77.8(137), the department shall review such information and shall determine, within 30 days, whether the required elements have been presented by the proposed district.

**77.9(2)** The department shall present its findings to the state board of health at the board's next regularly scheduled meeting, at which time the state board of health may approve formation of the district board of health.

**77.9(3)** The state board of health shall immediately provide notice of approval of district board of health formation, including effective dates, to the county board of health of each county in the district and to the board of supervisors of each county in the district.

**77.9(4)** Upon receipt of the notice of approval of district board of health formation, each appointing authority shall, prior to the effective date of district board of health formation, appoint district board of health members as specified in Iowa Code section 137.105.

**641—77.10(137) Denial of district board of health formation.** The department and the state board of health have the authority to deny formation of a district board of health. The department is responsible for assessing the application form for completeness and accuracy. The state board of health has the authority to deny formation of a district board of health if the application does not show sufficient organizational capacity to deliver core public health functions and essential public health services, does not ensure compliance with the Iowa public health standards, or otherwise fails to conform with Iowa Code chapter 137 or this chapter.

**77.10(1)** The department will notify, in writing, all local boards of health in the proposed district of the reason and rationale for the denial of the district formation within 30 days of the decision.

**77.10(2)** The local boards of health in the proposed district shall have the right to request reconsideration of the decision by submitting the request to the department within 30 days of receiving notice of the decision.

**77.10(3)** The state board of health shall reconsider the request by the local boards of health at its next regularly scheduled meeting. The reconsideration shall not constitute a contested case hearing. The state board of health's final decision following reconsideration shall constitute final agency action pursuant to Iowa Code section 17A.19, and judicial review of any such decision shall be treated as other agency action.

**641—77.11(137) Adding to a district board of health.** A county may be added to an existing district board of health by submission and approval of a request, as specified in Iowa Code sections 137.106 and 137.107.

**641—77.12(137) Withdrawal from a district board of health.** A county may voluntarily withdraw from a district by submitting a request for withdrawal to the department for approval. The request shall include a timeline and plan to reestablish a county board of health or to join a different district board of health to provide the core public health functions and essential public health services to its geographic area.

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

**77.12(1)** If the request for withdrawal of the applicant county from the district is approved by the state board of health, an effective date shall be set for the action, and notification shall be sent to the district board of health and the board of supervisors of the applicant county.

**77.12(2)** The ownership of property and equipment shall follow the guidelines submitted in the original request to form the district board of health.

**77.12(3)** The remaining counties in the district shall submit an application including the information specified in rule 641—77.8(137) to the department for review as provided in Iowa Code section 137.107. These rules are intended to implement Iowa Code chapter 137.

ITEM 2. Rescind and reserve **641—Chapter 78**.

**ARC 9634B**

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 82, “Office of Multicultural Health,” Iowa Administrative Code.

These proposed amendments change the name of the Office of Multicultural Health to the Office of Minority and Multicultural Health. The amendments also add a statement of purpose for the office and additional language to the rule on responsibilities of the office. All of these changes are the result of legislation passed in 2010.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 16, 2011. Such written comments should be directed to Janice Edmunds-Wells, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. E-mail may be sent to [janice.edmunds-wells@idph.iowa.gov](mailto:janice.edmunds-wells@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 135.12.

The following amendments are proposed.

ITEM 1. Amend **641—Chapter 82**, title, as follows:

**OFFICE OF MINORITY AND MULTICULTURAL HEALTH**

ITEM 2. Amend rule 641—82.1(135) as follows:

**641—82.1(135) Purpose.** The office of minority and multicultural health exists to actively promote and facilitate health equity for Iowa’s multicultural communities.

ITEM 3. Amend rule 641—82.3(135) as follows:

**641—82.3(135) Responsibilities of the office of minority and multicultural health.** The purpose of the office is to improve the health of racial and ethnic minorities by bridging communication, delivery and service requirements and by providing customized services and practical approaches to problems and issues encountered by organizations and communities working to address the needs of these populations. The office of minority and multicultural health shall provide public health leadership regarding existing or potential issues or practices that can or could affect the health status of racial, ethnic, and linguistic multicultural individuals and families, immigrants and refugees. The office shall provide this leadership

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

through the core functions of (1) education; (2) advocacy; (3) data management; (4) technical assistance and consultation; and (5) training and development. The office is responsible for the following:

**82.3(1) to 82.3(3)** No change.

**82.3(4)** Providing technical planning assistance to communities and counties throughout the state and promoting community strategic planning;

**82.3(5)** ~~Advocating~~ Serving as the liaison and advocate for the department on minority and multicultural health matters and advocating for Iowa's racial, ethnic, and linguistic multicultural communities;

**82.3(6)** Creating and promoting a climate of inclusiveness in the public health sector on state, regional and local levels by partnering with ~~its~~ the office's racial, ethnic, and linguistic multicultural constituents in Iowa to help them improve their collective health status; ~~and~~

**82.3(7)** Promoting the Iowa public health standards and providing technical assistance and consultation regarding state and local criteria relating to disparate populations and delivery of culturally appropriate services; ~~and~~

**82.3(8)** Reviewing the impact of programs, regulations and health care resource policies on the delivery of and access to minority and multicultural health services.

ITEM 4. Amend rule 641—82.4(135), introductory paragraph, as follows:

**641—82.4(135) Advisory council.** A minority and multicultural health advisory council shall be established within the department.

**ARC 9638B**

**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 125.7 and 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 155, “Licensure Standards for Substance Abuse and Problem Gambling Treatment Programs,” Iowa Administrative Code.

These proposed amendments add a requirement that substance abuse and gambling treatment programs notify the Department in writing within ten working days when a certified or licensed staff member has been sanctioned or disciplined by a certifying or licensing body.

Any interested person may make written comments or suggestions on the proposed amendments on or before August 16, 2011. Such written comments should be directed to Cindy Kelly, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075. E-mail may be sent to [cynthia.kelly@idph.iowa.gov](mailto:cynthia.kelly@idph.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 125.

The following amendments are proposed.

ITEM 1. Reletter paragraphs **155.21(8)“j”** and **“k”** as **155.21(8)“k”** and **“l.”**

ITEM 2. Adopt the following **new** paragraph **155.21(8)“j”**:

*j.* The program shall notify the department in writing within ten working days when a certified or licensed staff member has been sanctioned or disciplined by a certifying or licensing body.

**ARC 9628B****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 100.1, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 201, “General Fire Safety Requirements,” Iowa Administrative Code.

The State Fire Marshal is authorized by Iowa Code section 100.1 to establish general requirements for fire safety and specific requirements for electrical installations. Other provisions of Iowa law authorize the Building Code Commissioner and the Electrical Examining Board to establish requirements for electrical installations. The Fire Marshal, the Building Code Commissioner, and the Electrical Examining Board have agreed to attempt to coordinate their rule making in this area and, as a general policy, to adopt succeeding editions of the National Electrical Code in a timely fashion. The amendment proposed herein would update the rules of the Fire Marshal to adopt by reference the National Electrical Code, 2011 edition. Similar rule makings are being undertaken by the Electrical Examining Board and the Building Code Commissioner. The rule makings are published herein as **ARC 9630B** and **ARC 9629B**, respectively.

A public hearing on this proposed amendment will be held on August 18, 2011, 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. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)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 this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the address indicated. Comments should be submitted by 4:30 p.m. on August 17, 2011, 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 at least one day prior to the public hearing.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 100.1.

The following amendment is proposed.

Amend rule 661—201.3(100) as follows:

**661—201.3(100) Electrical installations.** Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, ~~2008~~ 2011 edition, ~~with the following amendment:~~

~~Delete section 210.8, paragraph (A) and insert in lieu thereof the following new paragraph:~~

~~(A) Dwelling Units. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in the locations specified in (1) through (8) shall have ground-fault circuit interrupter protection for personnel.~~

~~(1) Bathrooms.~~

~~(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.~~

~~Exception No. 1 to (2): Receptacles that are not readily accessible.~~

~~Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).~~

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

~~Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).~~

(3) ~~Outdoors:~~

~~Exception to (3): Receptacles that are not readily accessible and are supplied by a dedicated branch circuit for electric snow-melting or deicing equipment shall be permitted to be installed in accordance with 426.28.~~

(4) ~~Crawl spaces—at or below grade level.~~

~~(5) Unfinished basements—for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.~~

~~Exception No. 1 to (5): Receptacles that are not readily accessible.~~

~~Exception No. 2 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).~~

~~Exception No. 3 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit interrupter protection.~~

~~Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).~~

(6) ~~Kitchens—where the receptacles are installed to serve the countertop surfaces.~~

~~(7) Laundry, utility, and wet bar sinks—where the receptacles are installed within 1.8 m (6 ft) of the outside edge of the sink.~~

(8) ~~Boathouses.~~**ARC 9629B****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 301, “State Building Code—General Provisions,” Iowa Administrative Code, with the approval of the Building Code Advisory Council.

The Building Code Commissioner, the State Fire Marshal, and the Electrical Examining Board all have authority to adopt requirements for electrical installations. The Building Code Commissioner, the State Fire Marshal, and the Electrical Examining Board have agreed to attempt to coordinate their rule making in this area and, as a general policy, to adopt succeeding editions of the National Electrical Code in a timely fashion. The amendment proposed herein would update the State Building Code to adopt by reference the National Electrical Code, 2011 edition. The proposed amendment would adopt the 2011 edition of the National Electrical Code without amendment. Similar rule makings are being undertaken by the Electrical Examining Board and the State Fire Marshal. The rule makings are published herein as **ARC 9630B** and **ARC 9628B**, respectively.

A public hearing on this proposed amendment will be held on August 18, 2011, 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. 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, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail; by telephone at (515)725-6185; or by electronic mail to [admrule@dps.state.ia.us](mailto:admrule@dps.state.ia.us), at least one day prior to the public hearing.

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

Any written comments or information regarding this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the address indicated. Comments should be submitted by 4:30 p.m. on August 17, 2011, 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 at least one day prior to the public hearing.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 103A.7.

The following amendment is proposed.

Amend rule 661—301.5(103A) as follows:

**661—301.5(103A) Electrical requirements.** The provisions of the National Electrical Code, 2008 2011 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are hereby adopted by reference as the requirements for electrical installations, ~~with the following amendment:~~

Delete section 210.8, paragraph (A) and insert in lieu thereof the following new paragraph:

(A) Dwelling Units. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in the locations specified in (1) through (8) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms.

(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.

Exception No. 1 to (2): Receptacles that are not readily accessible.

Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

(3) Outdoors.

Exception to (3): Receptacles that are not readily accessible and are supplied by a dedicated branch circuit for electric snow-melting or deicing equipment shall be permitted to be installed in accordance with 426.28.

(4) Crawl spaces—at or below grade level.

(5) Unfinished basements—for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.

Exception No. 1 to (5): Receptacles that are not readily accessible.

Exception No. 2 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

Exception No. 3 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

(6) Kitchens—where the receptacles are installed to serve the countertop surfaces.

(7) Laundry, utility, and wet bar sinks—where the receptacles are installed within 1.8 m (6 ft) of the outside edge of the sink.

(8) Boathouses.

**ARC 9630B****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 103.6, the Electrical Examining Board hereby gives Notice of Intended Action to amend Chapter 504, “Standards for Electrical Work,” Iowa Administrative Code.

The Electrical Examining Board is authorized by Iowa Code section 103.6 to adopt standards for electrical work performed by persons licensed by the Board and in installations subject to inspection by the State Electrical Inspection Program. The statute requires that these standards be based upon the most current edition of the National Electrical Code published by the National Fire Protection Association. The amendment proposed herein would update the rules of the Electrical Examining Board to adopt by reference the National Electrical Code, 2011 edition. The 2011 edition of the National Electrical Code would be adopted without amendment, while there were several amendments to the 2008 edition included in its adoption. Similar rule makings are being undertaken by the Building Code Commissioner and the State Fire Marshal, each of whom also has authority to adopt standards for electrical installations. The rule makings are published herein as **ARC 9629B** and **ARC 9628B**, respectively.

A public hearing on this proposed amendment will be held on August 18, 2011, 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. This public hearing will be held jointly with the State Fire Marshal and the Building Code Commissioner, who are proposing identical changes to their respective adoptions of requirements for electrical installations. Persons may present their views orally or in writing at the public hearings. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail; by telephone at (515)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 this proposed amendment may be directed to the Agency Rules Administrator by mail or electronic mail at the address indicated. Comments should be submitted by 4:30 p.m. on August 17, 2011, 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 at least one day prior to the public hearing.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 103.

The following amendment is proposed.

Amend rule 661—504.1(103) as follows:

**661—504.1(103) Installation requirements.** The provisions of the National Electrical Code, 2008 2011 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to 2007 Iowa Acts, chapter 197, with the following amendment: Iowa Code chapter 103.

Delete section 210.8, paragraph (A) and insert in lieu thereof the following new paragraph:

(A) Dwelling Units. All 125-volt, single-phase, 15- and 20-ampere receptacles installed in the locations specified in (1) through (8) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

~~(2) Garages, and also accessory buildings that have a floor located at or below grade level not intended as habitable rooms and limited to storage areas, work areas, and areas of similar use.~~

~~Exception No. 1 to (2): Receptacles that are not readily accessible.~~

~~Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).~~

~~Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).~~

~~(3) Outdoors:~~

~~Exception to (3): Receptacles that are not readily accessible and are supplied by a dedicated branch circuit for electric snow-melting or deicing equipment shall be permitted to be installed in accordance with 426.28.~~

~~(4) Crawl spaces—at or below grade level.~~

~~(5) Unfinished basements—for purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas, and the like.~~

~~Exception No. 1 to (5): Receptacles that are not readily accessible.~~

~~Exception No. 2 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord and plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).~~

~~Exception No. 3 to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit interrupter protection.~~

~~Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).~~

~~(6) Kitchens—where the receptacles are installed to serve the countertop surfaces.~~

~~(7) Laundry, utility, and wet bar sinks—where the receptacles are installed within 1.8 m (6 ft) of the outside edge of the sink.~~

~~(8) Boathouses.~~

This rule is intended to implement Iowa Code Supplement chapter 103.

### TREASURER OF STATE

#### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for July is 5.25%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

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

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These

TREASURER OF STATE(cont'd)

needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective July 9, 2011, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days .....	Minimum .05%
32-89 days .....	Minimum .05%
90-179 days .....	Minimum .05%
180-364 days .....	Minimum .05%
One year to 397 days .....	Minimum .20%
More than 397 days .....	Minimum .60%

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

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

## ARC 9637B

## INSURANCE DIVISION[191]

## Adopted and Filed Emergency

Pursuant to the authority of 2011 Iowa Acts, House File 597, section 17, the Insurance Division hereby amends Chapter 76, “External Review,” Iowa Administrative Code.

The rules in Chapter 76 provide duties and procedures for external review of adverse determinations of certain health insurance claims. The amendments to this chapter implement 2011 Iowa Acts, House File 597, to provide a uniform process for covered persons of health carriers providing health insurance coverage or for the covered persons’ authorized representatives to request an external review of adverse determinations and final adverse determinations of health carriers. The amendments clarify the duties and procedures pursuant to 2011 Iowa Acts, House File 597. Persons and entities shall comply with the amendments beginning July 8, 2011.

In compliance with Iowa Code section 17A.4(3), these amendments are Adopted and Filed Emergency because the amendments provide necessary forms, applications and instructions that are needed for the Division to be able to comply with and to assist health carriers, independent review organizations, and consumers to comply with 2011 Iowa Acts, House File 597, which became effective July 1, 2011. The forms (Appendices A through D) are based on model forms of the National Association of Insurance Commissioners. Therefore, the Division finds that notice and public participation are unnecessary.

The Division also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments, 35 days after publication, should be waived and these amendments should be made effective on July 8, 2011, because 2011 Iowa Acts, House File 597, became effective July 1, 2011.

The Insurance Division adopted these amendments on July 8, 2011.

These amendments are also published herein under Notice of Intended Action as **ARC 9639B** to allow public comment. This emergency filing permits the Insurance Division to implement the new provisions of the law.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Acts, House File 597.

These amendments became effective on July 8, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 191—76.1(514J) as follows:

**191—76.1(514J 84GA, HF597) Purpose.** This chapter is intended to implement ~~Iowa Code chapter 514J~~ 2011 Iowa Acts, House File 597, to provide a uniform process for ~~enrollees~~ covered persons of ~~health carriers and organized delivery systems~~ providing health insurance coverage or the covered persons’ authorized representatives to request and receive an external review of ~~a coverage decision based upon medical necessity~~ adverse determinations and final adverse determinations as defined in 2011 Iowa Acts, House File 597, sections 2(1) and 2(18), and as referenced in 2011 Iowa Acts, House File 597, section 9(1). Carriers ~~Health carriers defined in Iowa Code section 514J.2(1) and organized delivery systems as defined in Iowa Code section 514J.2(6)~~ 2011 Iowa Acts, House File 597, section 2(23), are subject to these rules.

ITEM 2. Rescind rule 191—76.2(514J) and adopt the following **new** rule in lieu thereof:

**191—76.2(84GA, HF597) Applicable law.** The rules contained in this chapter shall apply to any health benefit plan as defined in 2011 Iowa Acts, House File 597, section 2(19), offered or issued by a health carrier as defined in 2011 Iowa Acts, House File 597, section 2(23), subject to the limitations set forth in 2011 Iowa Acts, House File 597, section 3(2), if the covered person is an Iowa resident or if the plan was issued in Iowa, and if the external review request is filed with the commissioner on or after July 1, 2011. For purposes of applying the exemption in 2011 Iowa Acts, House File 597, section 3(2)“b,” a “Medicare supplement policy of insurance” shall mean the same as a “Medicare supplement policy” as

## INSURANCE DIVISION[191](cont'd)

defined in rule 191—37.3(514D). For purposes of this chapter, the definitions used in 2011 Iowa Acts, House File 597, shall be used in this chapter.

ITEM 3. Rescind rule 191—76.3(514J) and adopt the following **new** rule in lieu thereof:

**191—76.3(84GA, HF597) External review request.** Except for requests for expedited review, the covered person or the covered person's authorized representative shall send a request for external review (completed Appendix B) in writing, by mail, by fax or by electronic transmission, including a copy of the health carrier's written notice containing the final adverse determination, to the commissioner within the time periods specified in 2011 Iowa Acts, House File 597, section 7(1) or 9(1), as applicable. The request form and notice shall be sent to the commissioner at Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059; or E-mail [iid.marketregulation@iid.iowa.gov](mailto:iid.marketregulation@iid.iowa.gov).

ITEM 4. Rescind rule 191—76.4(514J) and adopt the following **new** rule in lieu thereof:

**191—76.4(84GA, HF597) Decision notification.** The independent review organization shall immediately provide a copy of a draft of the decision notification to the commissioner for review. The commissioner shall review the draft of the decision notification. The commissioner shall make any suggestions for changes. The independent review organization shall make such required changes. Once the commissioner determines that the decision notification meets the requirements of 2011 Iowa Acts, House File 597, section 7(12), 8(6), or 9(18), as applicable, the independent review organization shall immediately send the decision notification to the commissioner, the health carrier, and the covered person or covered person's authorized representative. The decision notification approved by the commissioner shall be delivered by telephone, fax or electronic transmission, and a hard copy of the decision notification also shall be delivered by regular mail.

ITEM 5. Rescind rule 191—76.5(514J) and adopt the following **new** rule in lieu thereof:

**191—76.5(84GA, HF597) Disclosure requirements.** The description of external review procedures required by 2011 Iowa Acts, House File 597, section 16, shall be in the form of Appendix A, or substantially similar language approved by the commissioner.

ITEM 6. Rescind rule 191—76.6(514J) and adopt the following **new** rule in lieu thereof:

**191—76.6(84GA, HF597) Health carrier information.**

**76.6(1)** Each health carrier shall provide to the commissioner the name, title, telephone number, fax number and E-mail address of the individual who shall be the health carrier's contact person for external review procedures. Any changes in personnel or communication information shall be immediately sent to the commissioner.

**76.6(2)** Each health carrier shall make available to the commissioner upon request within five business days a detailed description of the process the health carrier has in place to ensure compliance with the requirements found in this chapter and in 2011 Iowa Acts, House File 597. The description shall include:

- a.* An explanation of how the carrier determines when a person has qualified for external review and should receive a notice from the carrier or organized delivery system, and
- b.* A copy of the notice sent to persons who fall within the scope of the law.

**76.6(3)** Each health carrier shall provide to the commissioner, upon request, information set forth in 2011 Iowa Acts, House File 597, section 14(2) "b," in a format substantially similar to Appendix D, or as approved by the commissioner.

INSURANCE DIVISION[191](cont'd)

ITEM 7. Rescind rules **191—76.7(514J)** and **191—76.8(514J)**.

ITEM 8. Renumber rule **191—76.9(514J)** as **191—76.7(514J)**.

ITEM 9. Amend renumbered rule 191—76.7(514J) as follows:

**191—76.7(514J 84GA, HF597) Certification of independent review entity organization.**

**76.7(1)** ~~The~~ In addition to the minimum qualifications set forth in 2011 Iowa Acts, House File 597, section 12, the following minimum standards are required for certification as an independent review entity organization:

~~a.~~—~~The individual must hold a current unrestricted license to practice a health care profession in the United States.~~

~~b.~~—~~A health care professional who is a medical physician shall also hold a certification by a recognized American medical specialty board.~~

~~c.~~—~~A health care professional who is not a medical physician shall also hold a current certification by the professional's respective licensing or specialty board if applicable.~~

~~d.~~—~~The applicant must attest that reviewers have no history of disciplinary actions or sanctions including, but not limited to, the loss of staff privileges or any participation restriction taken or pending by any hospital or state or federal government regulatory agency for wrongdoing by the health care professional.~~

~~e.~~—~~The applicant shall provide a description of the qualifications of the reviewers retained to conduct external reviews of coverage decisions including the reviewers' current and past employment histories and practice affiliations.~~

~~f. a.~~ The applicant shall provide a description of the procedures employed to ensure that reviewers conducting external reviews are appropriately licensed, registered or certified; trained in the principles, procedures and standards of the independent review entity; and knowledgeable about the health care service which is the subject of the external review. comply with 2011 Iowa Acts, House File 597, section 12(1) "a."

~~g.~~—~~The applicant shall provide a description of the methods of recruiting and selecting impartial reviewers and matching such reviewers to specific cases.~~

~~h. b.~~ The applicant shall provide the number of reviewers retained by the independent review entity organization and a description of the areas of expertise available from such reviewers and the types of cases such reviewers are qualified to review.

~~i.~~—~~The applicant shall provide a description of the policies and procedures employed to protect confidentiality of individual medical and treatment records in accordance with applicable state and federal law.~~

~~j.~~—~~The applicant shall provide a description of the quality assurance program established by the independent review entity.~~

~~k.~~—~~The applicant shall provide the names of all corporations and organizations owned or controlled by the independent review entity or which own or control the applicant, and the nature and extent of any such ownership or control.~~

~~l. c.~~ The applicant shall provide the names and résumés of all directors, officers, and executives of the independent review entity organization.

~~m. d.~~ The applicant shall provide a description of the fees to be charged by the independent review entity organization for external reviews. Fees shall be reasonable in relation to those of other independent review organizations providing external review services in Iowa. A health carrier or the commissioner may object to a fee as unreasonable, and the commissioner or the commissioner's designee, at the discretion of the commissioner, may conduct a review.

~~n. e.~~ The applicant shall provide the name of the medical director or health professional director responsible for the supervision and oversight of the independent review procedure.

**76.7(2)** The independent review entity organization shall develop written policies and procedures governing all aspects of the external review process including, at a minimum, the following: to ensure adherence to the requirements of this chapter and 2011 Iowa Acts, House File 597, by any

INSURANCE DIVISION[191](cont'd)

contractor, subcontractor, subvendor, agent or employee affiliated with the certified independent review organization.

~~a.—Procedures to ensure that external reviews are conducted within the time frames specified in this chapter and Iowa Code chapter 514J and that any required notices are provided in a timely manner.~~

~~b.—Procedures to ensure the selection of qualified and impartial reviewers. The reviewers shall be qualified to render impartial determinations relating to the health care service which is the subject of the coverage decision under external review. The reviewers shall be experts in the treatment of the medical condition under review.~~

~~c.—Procedures to ensure that the enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, is notified in writing of the enrollee's right to object to the independent review entity selected by the carrier or organized delivery system or the person selected as the reviewer by the independent review entity by notifying the commissioner at the Insurance Division, 330 Maple Street, Des Moines, Iowa 50319, within ten days of the mailing of the notice by the independent review entity.~~

~~d.—Procedures to ensure the confidentiality of medical and health treatment records and review materials.~~

~~e.—Procedures to ensure adherence to the requirements of this chapter and Iowa Code chapter 514J by any contractor, subcontractor, subvendor, agent or employee affiliated with the certified independent review entity.~~

~~76.7(3) The independent review entity shall establish a quality assurance program. The program shall include a written description to be provided to all individuals involved in the program, the organizational arrangements, and the ongoing procedures for the identification, evaluation, resolution and follow-up of potential and actual problems in external reviews performed by the independent review entity and procedures to ensure the maintenance of program standards pursuant to this requirement.~~

~~76.7(4) 76.7(3) The independent review entity shall establish a In addition to the toll-free telephone service to receive information relating to external reviews pursuant to this chapter and Iowa Code chapter 514J. The system shall include a procedure to ensure the capability of accepting, recording, or providing instruction to incoming telephone calls during other than normal business hours. The required by 2011 Iowa Acts, House File 597, section 12(1) "b," the independent review entity organization shall also establish a facsimile and electronic mail service to receive information relating to external reviews pursuant to this chapter and 2011 Iowa Acts, House File 597.~~

~~76.7(5) No independent review entity, officer, director, employee, or reviewer employed or engaged to conduct external reviews shall have any material professional affiliation or material financial affiliation with a health plan for which it is conducting a review.~~

~~76.7(6) 76.7(4) The independent review entity organization shall provide the commissioner within ten business days of request such data, information, and reports as the commissioner determines necessary to evaluate the external review process established under Iowa Code chapter 514J 2011 Iowa Acts, House File 597, or a report in the format of Appendix C to comply with 2011 Iowa Acts, House File 597, section 14(1).~~

~~76.7(7) 76.7(5) Applications shall be submitted in duplicate to the Commissioner of Insurance, 330 Maple Street, Des Moines, Iowa 50319; or as designated by the commissioner. Applications must be submitted in full to be considered. All applicants will be notified of the certification decision. A list of certified independent review entities organizations shall be maintained at by the division of insurance commissioner and shall be available through the division's Web site Web site of the Iowa insurance division: [www.iid.state.ia.us](http://www.iid.state.ia.us).~~

ITEM 10. Amend **191—Chapter 76**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 514J as amended by 2001 Iowa Acts, Senate File 500 2011 Iowa Acts, House File 597.

ITEM 11. Adopt the following new Appendices A to D in **191—Chapter 76**:

INSURANCE DIVISION[191](cont'd)

Appendix A

**NOTICE OF APPEAL RIGHTS**

**You have a right to appeal any decision we make that denies payment on your claim or your request for coverage of a health care service or treatment.**

**You may request more explanation when your claim or request for coverage of a health care service or treatment is denied or the health care service or treatment you received was not fully covered.** Contact us when you:

- Do not understand the reason for denial;
- Do not understand why the health care service or treatment was not fully covered;
- Do not understand why a request for coverage of a health care service or treatment was denied;
- Cannot find the applicable provision in your Benefit Plan Document;
- Want a copy (free of charge) of the guideline, criteria or clinical rationale that we used to make our decision; or
- Disagree with the denial or the amount not covered and you want to appeal.

If your claim was denied due to missing or incomplete information, you or your health care provider may resubmit the claim to us with the necessary information to complete the claim.

**Internal Appeal:** All appeals to us for claim denials (or any decision that does not cover expenses you believe should have been covered) must be sent to [insert address of where appeals should be sent to the health carrier] within **180 days** of the date you receive your denial. We will provide a full and fair review of your claim by individuals associated with us, but who were not involved in making the initial denial of your claim. You may provide us with additional information that relates to your claim and you may request copies of information that we have that pertains to your claim. We will notify you of our decision in writing within **30 days** of receiving your appeal. If you do not receive our decision within **30 days** of receiving your appeal, you may be entitled to file a request for external review.

**External Review:** We have denied your request for the provision of or payment for a health care service or course of treatment. If you have exhausted all of your internal appeals with us, you may have a right to have our decision reviewed by independent health care professionals who have no association with us. This process is called “external review.”

You may obtain an external review if:

- Our decision involved the admission, availability of care, continued stay, or other health care service that is a covered benefit; and
- We denied, reduced or terminated the payment for the service because we determined it did not meet our requirements for medical necessity, health care setting, level of care or effectiveness of the health care service or treatment you requested.

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You can obtain a copy of the External Review Request Form from the Iowa Insurance Division or from the Division's website (330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; [www.iid.state.ia.us](http://www.iid.state.ia.us)).

Within **four months** after receipt of our notice containing the final adverse determination and this Notice of Appeal Rights, you should submit a request for external review to the Iowa Insurance Division (330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; E-mail [iid.marketregulation@iid.iowa.gov](mailto:iid.marketregulation@iid.iowa.gov)).

For standard external review, a decision will be made within **45 days** after the independent review organization receives your request.

If you have a medical condition that would seriously jeopardize your life or health or would jeopardize your ability to regain maximum function if treatment is delayed, you may be entitled to request an **expedited external review** of our denial.

If our denial to provide or pay for health care service or course of treatment is based on a determination that the service or treatment is experimental or investigational, you also may be entitled to file a request for external review of our denial. For details, please review your Benefit Plan Document, contact us, or contact the Iowa Insurance Division.

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## Appendix B

**EXTERNAL REVIEW REQUEST FORM**

This **EXTERNAL REVIEW REQUEST FORM** must be filed with the Iowa Insurance Division within **FOUR MONTHS** after your health carrier denied, reduced or terminated the requested health care service or treatment or payment for the service or treatment.

**APPLICANT NAME:**

The applicant is a:

 Covered Person/Patient     Provider     Authorized Representative**COVERED PERSON/PATIENT INFORMATION**

Covered Person Name:

Patient Name:

Address:

Covered Person Telephone Number:

Daytime:

Evening:

E-mail Address:

Fax Number:

**INSURANCE INFORMATION**

Insurer/HMO Name:

Covered Person Insurance ID and/or Policy Number:

Insurance Claim/Reference Number:

Insurer/HMO Mailing Address:

Insurer/HMO Telephone Number:

E-mail Address:

Fax Number:

**EMPLOYER INFORMATION**

Employer's Name:

Is the health coverage you have through your employer a self-funded plan? (Y/N)\_\_\_\_\_.

Some self-funded plans may voluntarily provide external review, but may have different procedures. You should check with your employer.

INSURANCE DIVISION[191](cont'd)

**HEALTH CARE PROVIDER INFORMATION**

Treating Physician/Health Care Provider:  
Address:

Contact Person:  
Telephone Number:  
E-mail Address:  
Fax Number:  
Medical Record Number:

**REASON FOR HEALTH CARRIER DENIAL**

(Please check one)

- The health care service or treatment is not medically necessary.
- The health care service or treatment is experimental or investigational.
- Other: \_\_\_\_\_.

**SUMMARY OF EXTERNAL REVIEW REQUEST**

Enter a brief description of the claim, the request for health care service or treatment that was denied, and/or attach a copy of the denial from your health carrier.

**HEALTH CARE SERVICE OR TREATMENT DECISION IN DISPUTE**

Describe in your own words the health care service or treatment in dispute and why you are appealing this denial by attaching additional pages. Describe the disagreement with your health carrier. Indicate clearly the services being denied and the specific dates being denied. Explain why you disagree. Attach additional pages if necessary and include available pertinent medical records, any information you received from your health carrier concerning the denial, any pertinent peer literature or clinical studies, and any additional information from your physician/health care provider that you want the independent review organization reviewer to consider.

**EXPEDITED REVIEW**

**If you need a fast decision**, you may request that your external review be handled on an expedited basis. To complete this request, your treating health care provider must fill out the attached form stating that a delay would seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function.

**Is this a request for an expedited review?**    Yes \_\_\_\_\_    No \_\_\_\_\_

INSURANCE DIVISION[191](cont'd)

**SIGNATURE AND RELEASE OF MEDICAL RECORDS**

To appeal your health carrier’s denial, you must sign and date this external review request form and consent to the release of medical records.

I, \_\_\_\_\_, hereby request an external review. I attest that the information provided in this application is true and accurate to the best of my knowledge. I authorize my insurance company and my health care providers to release all relevant medical or treatment records to the independent review organization and the Iowa Insurance Division. I understand that the independent review organization and the Iowa Insurance Division will use this information to make a determination on my external review and that the information will be kept confidential and will not be released to anyone else. This release is valid for one year.

\_\_\_\_\_  
Signature of Covered Person/Patient (or legal representative\*)

Date:

\*(Parent, Guardian, Conservator or Other—Please Specify)

**APPOINTMENT OF AUTHORIZED REPRESENTATIVE**

**(Fill out this section only if someone else will be representing you in this request for external review.)**

You can represent yourself, or you may ask another person, including your treating health care provider, to act as your authorized representative. You may revoke this authorization at any time.

I hereby authorize \_\_\_\_\_ to pursue my external review request on my behalf.

\_\_\_\_\_  
Signature of Covered Person/Patient (or legal representative\*)

Date:

\*(Parent, Guardian, Conservator or Other—Please Specify)

Address of Authorized Representative:

Authorized Representative’s Telephone Number:

Daytime:

Evening:

E-mail Address:

Fax Number:

INSURANCE DIVISION[191](cont'd)

**WHAT TO SEND AND WHERE TO SEND IT****YOU MUST SUBMIT BOTH OF THE ITEMS BELOW\*:**

1.  **YES**, I have included this completed request form, signed and dated.
2.  **YES\*\***, I have enclosed the letter from my health carrier or utilization review company that states:
  - (a) That their decision is final and that I have exhausted all internal review procedures; or
  - (b) That they have waived the requirement to exhaust all of the health carrier's internal review procedures.

\*Contact the Consumer Assistance Program of the Iowa Insurance Division by calling 515-281-4458 or 877-955-1212, or by E-mail through the website at <http://insuranceca.iowa.gov>, if you need help in completing this application or if you do not have one or more of the above items and would like information on alternative ways to complete your request for external review.

\*\*You may make a request for external review without exhausting all internal review procedures under certain circumstances. You should contact the Iowa Insurance Division (330 Maple, Des Moines, Iowa 50319; telephone 877-955-1212 or 515-281-6348; facsimile 515-281-3059; E-mail [iid.marketregulation@iid.iowa.gov](mailto:iid.marketregulation@iid.iowa.gov)).

If you are requesting a standard external review, send all paperwork to the Iowa Insurance Division (330 Maple, Des Moines, Iowa 50319; facsimile 515-281-3059; E-mail [iid.marketregulation@iid.iowa.gov](mailto:iid.marketregulation@iid.iowa.gov)).

**If you are requesting an expedited external review, call the Iowa Insurance Division (telephone 877-955-1212 or 515-281-6348) before sending your paperwork, and you will receive instructions on the quickest way to submit the application and supporting information.**

**CERTIFICATION OF TREATING HEALTH CARE PROVIDER  
FOR EXPEDITED CONSIDERATION OF  
A PATIENT'S EXTERNAL REVIEW REQUEST  
(To Be Completed by Treating Health Care Provider)**

**NOTE TO THE TREATING HEALTH CARE PROVIDER**

Patients can request an external review when a health carrier has denied a health care service or course of treatment on the basis of a utilization review determination that the requested health care service or course of treatment does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness of the health care service or treatment you requested. The Iowa Insurance Division oversees external reviews. The standard external review process can take up to 45 days from the date the patient's request for external review is received by the Division. Expedited external review is available only if the patient's treating health care provider certifies that adherence to the time frame for the standard external review would seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function. An expedited external review must be completed at most within 72 hours. This form is for the purpose of providing the certification necessary to trigger expedited review.

**GENERAL INFORMATION**

Name of Treating Health Care Provider:

Mailing Address:

Telephone Number:

E-mail Address:

Fax Number:

Licensure and Area of Clinical Specialty:

Name of Patient:

Patient's Insurer Member ID Number:

**CERTIFICATION**

I hereby certify that: I am a treating health care provider for \_\_\_\_\_ (hereafter referred to as "the patient"); that adherence to the time frame for conducting a standard external review of the patient's appeal would, in my professional judgment, seriously jeopardize the life or health of the patient or would jeopardize the patient's ability to regain maximum function; and that, for this reason, the patient's appeal of the denial by the patient's health carrier of the requested health care service or course of treatment should be processed on an expedited basis.

Treating Health Care Provider's Signature \_\_\_\_\_

Date: \_\_\_\_\_

Treating Health Care Provider's Name (Please Print)

\_\_\_\_\_

**PHYSICIAN CERTIFICATION: EXPERIMENTAL/INVESTIGATIONAL DENIALS  
(To Be Completed by Treating Physician)**

I hereby certify that I am the treating physician for \_\_\_\_\_ (covered person's/patient's name) and that I have requested the authorization for a drug, device, procedure or therapy denied for coverage due to the insurance carrier's determination that the proposed therapy is experimental and/or investigational. I understand that in order for the covered person/patient to obtain the right to an external review of this denial, as treating physician I must certify that the covered person's medical condition meets certain requirements:

**In my medical opinion as the insured's treating physician, I hereby certify to the following:**

**(Please check all that apply)**

(NOTE: Requirements #1 - #3 below must all apply for the covered person/patient to qualify for an external review).

- 1) The covered person/patient has a terminal medical condition, life-threatening condition, or a seriously debilitating condition.
- 2) The covered person/patient has a condition that qualifies under one or more of the following (please indicate which descriptions apply):
  - Standard health care services or treatments have not been effective in improving the covered person's/patient's condition;
  - Standard health care services or treatments are not medically appropriate for the covered person/patient; or
  - There is no available standard health care service or treatment covered by the health carrier that is more beneficial than the requested or recommended health care service or treatment.
- 3) The health care service or treatment I have recommended and which has been denied, in my medical opinion, is likely to be more beneficial to the covered person than any available standard health care services or treatments.
- 4) The health care service or treatment recommended would be significantly less effective if not promptly initiated.

Explain:

- 5) It is my medical opinion based on scientifically valid studies using accepted protocols that the health care service or treatment requested by the covered person/patient and which has been denied is likely to be more beneficial to the covered person/patient than any available standard health care services or treatments.

Explain:

Please provide a description of the recommended or requested health care service or treatment that is the subject of the denial. (Attach additional sheets as necessary)

Physician's Signature \_\_\_\_\_ Date: \_\_\_\_\_

Physician's Name (Please Print) \_\_\_\_\_

\_\_\_\_\_

INSURANCE DIVISION[191](cont'd)

## Appendix C

**Iowa Insurance Division**  
**Independent Review Organization**  
**External Review Annual Report Form**

**External Review Annual Summary for 20\_\_**

Each independent review organization (IRO) shall submit upon request of the Commissioner an annual report with information for each health carrier in the aggregate for Iowa on external reviews performed and by type of health benefit plan.

1. IRO name:  
Filing date:
2. IRO address:
3. IRO website:
4. Name, E-mail address, telephone number and fax number of the person completing this form:
5. Name, title, E-mail address, telephone number and fax number of the person responsible for regulatory compliance and quality of external reviews:

## INSURANCE DIVISION[191](cont'd)

6. Total number of requests for external review received from the Iowa Insurance Division during the reporting period:
7. Number of standard external reviews:
8. Average number of days the IRO required to reach a final decision in standard reviews:
9. Number of expedited reviews completed to a final decision:
10. Average number of days the IRO required to reach a final decision in expedited reviews:
11. Number of medical necessity reviews decided in favor of the health carrier:  
Briefly list procedures denied:
12. Number of medical necessity reviews decided in favor of the covered person/patient:  
Briefly list procedures approved:
13. Number of experimental/investigational reviews decided in favor of the health carrier:  
Briefly list procedures denied:
14. Number of experimental/investigational reviews decided in favor of the covered person/patient:  
Briefly list procedures approved:
15. Number of reviews terminated as the result of a reconsideration by the health carrier:
16. Number of reviews terminated by the covered person/patient prior to issuance by the IRO of external review decision:
17. Number of reviews declined due to possible conflict with:  
Health carrier:  
Covered person/patient:  
Health care provider:  
Describe possible conflicts of interest:
18. Number of reviews declined due to other reasons not reflected in #17 above:

INSURANCE DIVISION[191](cont'd)

Appendix D

**Iowa Insurance Division**

**Health Carrier External Review Annual Report Form**

**(attach information to this form if necessary)**

**External Review Annual Summary for 20\_\_**

Each health carrier shall submit upon request of the Commissioner an annual report with information in the aggregate for Iowa and by type of health benefit plan.

1. Health carrier name:
2. Health carrier address:
3. Health carrier website:
4. Name, E-mail address, telephone number and fax number of the person completing this form:
5. Name, title, E-mail address, telephone number and fax number of the person responsible for regulatory compliance:
6. Total number of external review requests of the health carrier's adverse determinations and final adverse determinations received from the Iowa Insurance Division during the reporting period:
7. From the total number of external review requests provided in Question 6, the number of requests determined eligible for a full external review:

INSURANCE DIVISION[191](cont'd)

8. Total number of external review requests resolved and, of those resolved, the number resolved upholding the adverse determination or final adverse determination of the health carrier and the number resolved reversing the adverse determination or final adverse determination of the health carrier:
  
9. Total number of external review requests that were terminated as the result of a reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or the covered person's authorized representative:

[Filed Emergency 7/8/11, effective 7/8/11]

[Published 7/27/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**ARC 9642B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b" and 16.5(1)"r," the Iowa Finance Authority hereby amends Chapter 41, "Shelter Assistance Fund," Iowa Administrative Code.

The purpose of these amendments is to update the rules to comply with federal guidance relating to the administration of the Shelter Assistance Fund to provide financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that assistance to homeless shelters is needed immediately, and the normal notice and public participation process would delay implementation of certain assistance and important clarification of rules.

The Authority is also concurrently publishing these amendments under Notice of Intended Action as **ARC 9643B** to allow for public comment.

The Authority finds that these amendments confer a benefit on homeless persons, in that the amendments provide assistance and ease and speed the administration of an important program benefiting shelters that benefit those persons. These amendments should be implemented as soon as feasible in order to avoid a disruption in the provision of assistance under the program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on July 6, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.5(1)"m."

These amendments became effective on July 8, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 265—41.6(16) as follows:

**265—41.6(16) Application procedures.** IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD for the ESG program. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a

IOWA FINANCE AUTHORITY[265](cont'd)

description of the need for the funds, documentation of other available funding sources, the source of required local match for the ESG program, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

ITEM 2. Amend subrule 41.10(5) as follows:

**41.10(5) Data reporting system.** ~~Subrecipients~~ Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract, unless the recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient shall participate in required data collection and reporting activities using a comparable database as defined by HUD (HUD HMIS Data Standards, Revised Notice March 2011).

ITEM 3. Amend paragraph **41.12(3)“a”** as follows:

*a.* HMIS data reports. All recipients and subrecipients of SAF program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA; ~~provided, however, that unless a recipient or subrecipient that qualifies as a domestic violence shelter shall not be required to report personally identifiable information about its homeless domestic violence clients. “Personally identifiable information” shall include any information that the reporting domestic violence shelter reasonably determines could be used to identify a particular client, in which case the recipient or subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.~~

[Filed Emergency 7/8/11, effective 7/8/11]

[Published 7/27/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**ARC 9633B**

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

### **Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority hereby amends Chapter 42, “Emergency Shelter Grants Program,” Iowa Administrative Code.

The purpose of these amendments is to update the rules to comply with federal guidance relating to the administration of a fund to provide financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters.

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

Pursuant to Iowa Code section 17A.4(3), the Authority finds that notice and public participation are impracticable and contrary to the public interest in that assistance to homeless shelters is needed immediately, and the normal notice and public participation process would delay provision of the assistance and clarification of the rules.

The Authority is also concurrently publishing these amendments under Notice of Intended Action as **ARC 9635B** to allow for public comment.

The Authority finds that these amendments confer a benefit on homeless persons, in that the amendments provide assistance and ease and speed the administration of an important program benefiting shelters that benefit those persons. These amendments should be implemented as soon as feasible in order to avoid a disruption in the provision of assistance under the program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

The Authority adopted these amendments on July 6, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

IOWA FINANCE AUTHORITY[265](cont'd)

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 11371 to 11378.

These amendments became effective on July 8, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 42.4(6):

**42.4(6) Homeless Management Information System (HMIS) projects.** IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total emergency shelter grants program allocation. Eligible costs may include equipment, software, services, personnel, space and operations for HMIS activities. In the case of parties to a supportive housing grant agreement or renewal grant agreement with the United States Department of Housing and Urban Development for HMIS implementation who are in need of the required cash match, IFA may in its discretion award such a grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16).

ITEM 2. Amend rule 265—42.6(16) as follows:

**265—42.6(16) Application procedures.** IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

ITEM 3. Amend subrule 42.10(5) as follows:

**42.10(5) Data reporting system.** Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract, unless the recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient shall participate in required data collection and reporting activities using a comparable database defined by HUD (HUD HMIS Data Standards, Revised Notice March 2011).

ITEM 4. Amend subrule 42.12(3) as follows:

**42.12(3) Reporting requirements.** Recipients and subrecipients shall submit reports to IFA as prescribed in the contract. Reports include:

*a.* HMIS data reports. All recipients and subrecipients of ESG program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA; ~~provided, however, that unless a recipient or subrecipient that qualifies as a domestic violence shelter shall not be required to report personally identifiable information about its homeless domestic violence clients. “Personally identifiable information” shall include any information that the reporting domestic violence shelter reasonably determines could be used to identify a particular client, in which case the recipient or subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.~~

*b.* Requests for funds. Recipients and subrecipients must submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient and subrecipient records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in 42.12(5).

[Filed Emergency 7/8/11, effective 7/8/11]

[Published 7/27/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**ARC 9627B****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 301, “State Building Code—General Provisions,” Iowa Administrative Code.

Iowa Code chapter 103A charges the Building Code Commissioner with primary responsibility for adoption and enforcement of construction standards for the state of Iowa. However, there are major exceptions to the applicability of the Building Code Commissioner’s jurisdiction; including jurisdiction over requirements for plumbing installations, which resides with the Plumbing and Mechanical Systems Board created in Iowa Code section 105.3. However, Iowa Code section 104B.1 has required the Building Code Commissioner to adopt requirements for the minimum numbers of plumbing fixtures installed in places of public assembly, restaurants, pubs, and lounges constructed on or after January 1, 1991. This requirement has been implemented by the Building Code Commissioner in subrule 301.6(1).

During the 2011 session of the Iowa General Assembly, 2011 Iowa Acts, Senate File 236, passed and was enacted into law. Section 4 of this Act repealed Iowa Code section 104B.1, which contained the authority of the Building Code Commissioner to adopt requirements for the minimum numbers of plumbing fixtures in places of public assembly, restaurants, pubs, and lounges. The amendment adopted herein rescinds subrule 301.6(1), which implemented the authority of the Building Code Commissioner to adopt requirements for the minimum numbers of plumbing fixtures because that authority has been eliminated by the enactment of 2011 Iowa Acts, Senate File 236, section 4.

Pursuant to Iowa Code section 17A.4(3), the Building Code Commissioner finds that notice and public participation are unnecessary because subrule 301.6(1), which is being rescinded by the amendment adopted herein, has become inconsistent with the Iowa Code. 2011 Iowa Acts, Senate File 236, leaves the Building Code Commissioner with no discretion regarding the decision as to whether or not to regulate the minimum number of plumbing fixtures in places of public assembly, restaurants, pubs, and lounges and therefore renders subrule 301.6(1) invalid.

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 the amendment made effective July 8, 2011. Rescinding subrule 301.6(1) immediately confers a benefit on the public by avoiding possible confusion as to whether or not the Building Code Commissioner’s previously existing requirement is still in effect.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2011 Iowa Acts, Senate File 236, section 4.

This amendment became effective July 8, 2011.

The following amendment is adopted.

Rescind and reserve subrule **301.6(1)**.

[Filed Emergency 7/7/11, effective 7/8/11]

[Published 7/27/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**ARC 9623B**

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD,  
IOWA COMPREHENSIVE[591]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 455G.4, the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby amends Chapter 11, "Claims," Iowa Administrative Code.

This amendment to Chapter 11 is intended to implement Iowa Code section 455G.9(4), which was amended by 2010 Iowa Acts, House File 2531, section 181, to waive the copayment requirement for innocent landowner claimants where the claim was not filed by an owner or operator of the tank.

This amendment mandates additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 20, 2011, as **ARC 9461B**. No public comment has been received since publication. The amendment is adopted as originally Noticed.

This amendment was adopted May 25, 2011.

This amendment shall become effective August 31, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 455G.9.

The following amendment is adopted.

Amend subrule 11.2(8) as follows:

**11.2(8) *Innocent landowner claims.*** Consistent with Iowa Code chapter 455G, the board may reimburse an owner of petroleum-contaminated property, or an owner or operator of an underground storage tank located on such property, who, but for this rule because of the date the release was reported, because of the date the claim was filed, because the tank(s) in question was removed from service prior to January 1, 1974, or because the tank(s) in question was removed or permanently closed prior to July 1, 1985, would not be eligible to receive benefits under Iowa Code section 455G.9. Eligible expenses shall not exceed the benefits such claimant would otherwise receive if such claimant were eligible under Iowa Code section 455G.9(1) "a"(1) to (3). All such reimbursements shall be subject to:

- The copayment requirements of Iowa Code section 455G.9(4); claims filed that meet the priority in paragraph "b" or "d" of this subrule shall not incur any copayment for costs incurred after January 1, 2010;

- The requirements of 11.2(1);<sub>2</sub> and
- The available funding and limitations of the innocent landowner fund created by Iowa Code section 455G.21(2) "a" for corrective action.

In the event the innocent landowner fund lacks sufficient funds to pay all claims submitted, innocent landowner claims shall be subject to the following priority:

*a. Late filed retroactive claims.* For releases reported to DNR on or after January 1, 1984, but prior to May 5, 1989:

- (1) Claims must be filed with the board by February 26, 1994.
- (2) All costs incurred on or after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

*b. Preregulation claims.* For releases from petroleum underground storage tanks (USTs) which are not eligible for remedial account benefits under Iowa Code section 455G.9(1) "a"(1) to (3) only because the USTs were taken out of use prior to January 1, 1974, or permanently closed or removed before July 1, 1985:

- (1) Claims must be filed with the board by December 1, 1997.
- (2) USTs must not have been operated on the site since the time the tanks were taken out of use or permanently closed.

## PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

(3) All costs incurred after July 10, 1996, must be preapproved by the board to be eligible for reimbursement.

(4) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*c. Late filed remedial claims.* For releases reported by owners of petroleum-contaminated property as defined under Iowa Code section 455G.9(8) who did not comply with the reporting or filing deadlines identified in this chapter, with priority to those owners who did not have knowledge of the USTs or did not have control over the property:

(1) Claims must be filed with the board by December 1, 1997.

(2) The owner or operator must have reported a known release to DNR consistent with DNR requirements.

(3) The owner did not have knowledge of the UST or of a release impacting the property prior to acquisition of the property if the property was acquired on or after October 26, 1990, or, if the owner did have such knowledge, the acquisition was necessary to protect a security interest.

(4) All costs incurred on or after July 10, 1996, must be approved by the board to be eligible for reimbursement.

(5) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*d. Acquired properties.* For releases reported by owners of petroleum-contaminated property as defined under Iowa Code section 455G.9(8) who acquired the petroleum-contaminated property after October 26, 1990, and who did not comply with the reporting or filing deadlines identified in this chapter:

(1) Claims must be filed with the board by December 1, 1997.

(2) The owner or operator must have reported a known release to the DNR consistent with DNR requirements.

(3) The owner could not have been the owner or operator of the UST system which caused the release prior to acquiring the property after October 26, 1990.

(4) All costs incurred on or after December 1, 1996, must be preapproved by the board to be eligible for reimbursement.

(5) For claims submitted under this paragraph, the precorrective action value shall be the purchase price paid by the owner after October 26, 1990.

(6) For claims submitted under this paragraph, the purchase must have been an arm's-length transaction.

(7) The owner cannot have claimed bankruptcy on or after the date of the reported release.

*e. Other innocent landowner claims.* Claims for releases submitted to the board after December 1, 1997, which would have been eligible for benefits pursuant to paragraphs "a" through "d" of this subrule if filed by December 1, 1997, will be eligible for reimbursement subject to a first-in, first-out priority and the funding limitations of the innocent landowner fund. The owner must demonstrate that the owner has met all other requirements of this subrule in order to receive benefits.

[Filed 7/7/11, effective 8/31/11]

[Published 7/27/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**ARC 9624B**

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD,  
IOWA COMPREHENSIVE[591]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455G.4 and 455G.9(1)"1," the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board hereby amends Chapter 11, "Claims," Iowa Administrative Code.

## PETROLEUM UST FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

The amendment to Chapter 11 is intended to implement 2010 Iowa Acts, House File 2531, section 180, which changes the authority to pay for the removal of underground storage tanks. Notably, the legislation places a dollar cap on the amount that may be expended per site.

This amendment does not mandate additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 20, 2011, as **ARC 9460B**. No public comment has been received since publication. The amendment is adopted as originally Noticed.

This amendment was adopted May 25, 2011.

This amendment shall become effective August 31, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 455G.9.

The following amendment is adopted.

Rescind subrule 11.3(11) and adopt the following **new** subrule in lieu thereof:

**11.3(11)** Permanent closure of an underground storage tank system.

*a.* Costs for the permanent closure of an underground storage tank system are eligible for reimbursement from the board if the following requirements are met:

(1) The underground storage tank system to be permanently closed meets one or more of the following criteria:

1. The system does not meet department performance standards for a new or an upgraded tank, or
2. The system is required to be closed in accordance with department rules, or
3. The owner of the system has opted to close the system at the owner's own will prior to allowing the tank to become out of compliance.

(2) For the purpose of this rule, an "underground storage tank system" means all of the underground storage tanks, any connected underground piping, any underground ancillary equipment and any containment system on a particular site identified by a department UST registration number.

(3) The permanent closure activities occurred on or after July 1, 2010.

*b.* A claim for reimbursement from the board is subject to board preapproval requirements.

*c.* The board may elect to provide for the direct removal of any tanks eligible through a board-contracted vendor. If costs exceed the \$15,000 limit, the board may pursue a cost-recovery action in accordance with Iowa Code section 455G.13.

*d.* Claimants shall be responsible for ensuring that any persons performing work meet all applicable licensing requirements or all applicable certification requirements or both that may exist at the time of completion of the work to be reimbursed. If the work is performed by a board-contracted vendor, the board shall ensure that licensing and certification requirements of the general contractor are met.

*e.* Claims made under this subrule are not subject to Iowa Code chapter 455G copayment requirements.

*f.* The board may contract with a vendor to remove tanks at sites that fail to meet the requirements of subparagraph 11.3(11) "a"(1). These sites shall be subject to cost recovery, which may include placement of a lien on the property.

*g.* Prior to the permanent closure, budgets shall be provided to the administrator that outline the cost and scope of work proposed. The cost for system closure shall be separated from all other corrective action costs incurred on an individual tank site.

*h.* The maximum closure benefit payable from the remedial account on any tank system to be permanently closed after July 1, 2010, shall be \$15,000 for any one site identified by a department UST registration number.

*i.* Tanks and sites not eligible. Underground storage tanks that are not eligible for underground storage tank system closure benefits include:

## PETROLEUM UUV FUND BOARD, IOWA COMPREHENSIVE[591](cont'd)

- (1) Farm or residential tanks of 1100 gallons or less capacity used for storing motor fuel for noncommercial purposes,
- (2) Tanks used for storing heating oil for consumptive use on the premises where stored,
- (3) Septic tanks, and
- (4) Underground storage tanks which do not contain petroleum.

[Filed 7/7/11, effective 8/31/11]

[Published 7/27/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**ARC 9641B****PROFESSIONAL LICENSURE DIVISION[645]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Optometry hereby amends Chapter 180, "Licensure of Optometrists," Chapter 181, "Continuing Education for Optometrists," Chapter 182, "Practice of Optometrists," and Chapter 183, "Discipline for Optometrists," Iowa Administrative Code.

These amendments update requirements for optometry licensure to be consistent with Iowa Code chapters 147 and 154 and remove outdated language.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 18, 2011, as **ARC 9519B**. A public hearing was held on June 7, 2011, from 8 to 8:30 a.m. in the Fifth Floor Board Conference Room 526, Lucas State Office Building. No public comment was received on the proposed amendments. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted by the Board of Optometry on July 7, 2011.

These amendments will become effective August 31, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

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

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 [180.5, 180.11, 181.2, 181.3(2)"c," 182.1, 182.3(2)"b," 182.4(1)"g," 183.2(11)] is being omitted. These amendments are identical to those published under Notice as **ARC 9519B**, IAB 5/18/11.

[Filed 7/8/11, effective 8/31/11]

[Published 7/27/11]

[For replacement pages for IAC, see IAC Supplement 7/27/11.]

**ARC 9620B****PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed**

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 chapter 101 establishes the authority of the State Fire Marshal to establish requirements for the safe transportation, storage, handling and use of flammable and combustible liquids, which include motor vehicle fuels such as gasoline, "traditional" ethanol (90% gasoline, 10% ethanol) and higher blends of ethanol, including E-85. 661—subrule 221.4(2) governs the dispensing of ethanol blended fuels. Generally, dispensers used for motor vehicle fuels are required to be "listed" by an independent testing laboratory for use with the fuel dispensed. However, there has not, until recently,

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

been a dispenser available which was listed for use with E-85, and provisions for the use of other dispensers, with additional monitoring requirements, were included in subrule 221.4(2).

Iowa Code section 455G.31 requires the State Fire Marshal to monitor the potential availability of one or more dispensers listed for use with E-85 and to issue an order regarding the use of listed dispensers once they have become commercially available. Last fall, the State Fire Marshal was notified of the commercial availability of two dispensers listed for use with E-85 and issued an order regarding the use of such dispensers, as required by Iowa Code section 455G.31. The order carries out specific requirements specified in Iowa Code section 455G.31: 60 days after the issuance of the order, any new dispensers installed for use with E-85 must be listed for this use, and four years after the issuance of the order, E-85 may be dispensed only from dispensers listed for use with E-85.

The order issued by the State Fire Marshal was followed by an amendment to the administrative rules, which was Adopted and Filed Emergency and published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9283B** and which established requirements for dispensing E-85 that are consistent with the order. The emergency amendment also addressed another issue related to the dispensing of ethanol-blended gasoline by defining "E-10" as a motor vehicle fuel which is a blend of petroleum and ethanol containing no more than 16 percent ethanol. This change in the definition of E-10 facilitates the dispensing of blends of petroleum and ethanol higher than 10 percent ethanol, which are the subject of recent and prospective regulatory action by the federal Environmental Protection Agency.

At the same time that the emergency amendment was filed, a Notice of Intended Action was also submitted, which proposed an amendment to the rules identical to that contained in the Adopted and Filed Emergency rule making and which provided an opportunity for public comment. The Notice of Intended Action was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9289B**. A public hearing was held on January 4, 2011. Comments were received from representatives of the Petroleum Marketers and Convenience Stores of Iowa, the Iowa Renewable Fuels Association and the American Petroleum Institute.

This Adopted and Filed rule making reflects the following changes to the amendments to subrule 221.4(2), which were Adopted and Filed Emergency in **ARC 9283B** and proposed as a Notice of Intended Action in **ARC 9289B**: The definition of "listed," because it is used widely, has been removed from subrule 221.4(2), which relates to the dispensing of biofuel blends, and has been added in Item 1 to rule 661—221.2(101), which provides definitions for the entire chapter. Where the term "retail dealer" was previously used in subrule 221.4(2), the term "owner or operator" has been substituted. This change was suggested by the Petroleum Marketers and Convenience Stores of Iowa for clarity. Finally, an option (subparagraph (5) under 2202.7.1.1.3 in subrule 221.4(2)) has been added to the conditions under which blends of biodiesel fuel containing between 6 and 20 percent biodiesel may be dispensed when a dispenser listed by an independent testing laboratory is not used. This option provides that dispensing may take place when insurance coverage is in place and the owner or operator is able to document the coverage. This option was requested by the Petroleum Marketers and Convenience Stores of Iowa and was endorsed by the Iowa Renewable Fuels Association.

In order to incorporate the amendments that were previously Adopted and Filed Emergency and the changes that were made to the Emergency as described above, Item 2 rescinds subrule 221.4(2) and adopts a new subrule 221.4(2).

In addition, in new Item 1, definitions of "approved by the fire marshal" and "independent testing laboratory" have been added to rule 661—221.2(101) for clarity. In this case, "approved by the fire marshal" refers solely to approval of independent testing laboratories. The two definitions were added to clarify who may list equipment which satisfies the requirements of the fire marshal. A definition of "diesel fuel" has also been added to clarify what blends of diesel fuel may be dispensed from dispensers listed for use with regular diesel fuel, consistent with content requirements adopted by the Iowa Department of Agriculture and Land Stewardship.

Comments received from the Petroleum Marketers and Convenience Stores of Iowa are reflected in the description of changes above. Comments received from the American Petroleum Institute advocated against allowing dispensers currently allowed for use with blends of ethanol and gasoline up to 10 percent ethanol to also be used with higher blends of ethanol, including ethanol blends up to E-15.

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

The Fire Marshal concurs that the integrity of existing dispensers used with higher blends of ethanol is a significant concern. However, the previous rule allowed ethanol blends which are up to 15 percent ethanol to be dispensed using a dispenser listed for use with ethanol blends up to 10 percent ethanol, so the amendment to the rule allowing this same dispensing equipment to be used to dispense ethanol blends up to 16 percent ethanol is in essence a correction to the previous rule, intended to accommodate small variations in the percent of ethanol contained in ethanol sold as a 15 percent blend. No change has been made in response to the Institute's comments.

These amendments are intended to implement Iowa Code sections 101.1 and 455G.31.

These amendments will become effective on September 1, 2011, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of "Approved by the fire marshal," "Diesel fuel," "Independent testing laboratory" and "Listed" in rule **661—221.2(101)**:

*"Approved by the fire marshal"* means a laboratory which has requested and received recognition by the state fire marshal to test equipment whose use or installation is required by rules of the fire marshal, including rules in 661—Chapters 200 through 299, inclusive. A laboratory which seeks approval of the fire marshal shall contact the fire marshal division and shall provide information required by the fire marshal. Approval or disapproval shall be granted only by a letter from the fire marshal to the laboratory making the request, although advance notice of the decision of the fire marshal regarding whether or not approval is to be granted may be provided by electronic mail.

*"Diesel fuel"* means a liquid, other than gasoline, which is suitable for use as a fuel in a diesel fuel-powered engine and which meets the applicable standards established in Iowa Code section 214A.2 and rule 21—85.33(214A,208A). A blend of "diesel fuel" which meets these standards and contains 6 percent biodiesel or more is "biodiesel fuel." Diesel fuel blends which meet these standards and contain less than 6 percent biodiesel are diesel fuel and not biodiesel fuel.

*"Independent testing laboratory"* means a laboratory recognized by the federal Occupational Safety and Health Administration as a nationally recognized testing laboratory or a laboratory approved by the state fire marshal.

*"Listed"* means listed or approved by an independent testing laboratory for a specific use. A product shall be considered to be listed if it is of a model which has been listed for the use to which it is being put, whether it was manufactured prior to or after the date on which the listing became effective.

ITEM 2. Rescind subrule 221.4(2) and adopt the following **new** subrule in lieu thereof:

**221.4(2)** Add the following new sections:

2206.7.1.1 Dispensing of blended biofuels.

2206.7.1.1.1 Definitions.

*"B-blend"* means biodiesel blended fuel as defined in Iowa Code section 214A.1 with the blend including between 6 and 20 percent biodiesel, as defined in Iowa Code section 214A.1.

NOTE: For purposes of the rules contained in this chapter and other chapters of rules of the state fire marshal (661—Chapters 200 through 299 inclusive), diesel fuel may contain biodiesel provided that the concentration of biodiesel is less than 6 percent in accordance with rule 21—85.33(214A,208A), which adopts by reference standards for the content of motor fuels established by ASTM International (formerly known as the American Society for Testing and Materials).

*"E-10"* means a blend of petroleum and ethanol including no more than 16 percent ethanol intended for use as a motor vehicle fuel.

*"E-blend"* means a blend of petroleum and ethanol including more than 16 percent ethanol intended for use as a motor vehicle fuel.

*"Existing E-blend dispenser"* means a dispenser installed on or before October 24, 2010, for use in dispensing E-blend.

2206.7.1.1.2 E-blend may be dispensed only if (1) or (2) applies:

(1) The dispenser is listed by an independent testing laboratory for use with E-blend or E-85.

(2) The dispenser is an existing E-blend dispenser and either (a) or (b) applies:

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(a) The dispenser is listed by an independent testing laboratory as compatible with E-10 gasoline, and the owner or operator visually inspects the dispenser and the dispenser sump daily for leaks and equipment failure. The owner or operator shall maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(b) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with E-85 gasoline, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.

NOTE: Option (2) will not be available after August 25, 2014. On or after August 26, 2014, E-blend will be allowed to be dispensed only from dispensers listed by independent testing laboratories for use with E-blend or E-85.

2206.7.1.1.3 B-blend may be dispensed only if (1) and either (2), (3), (4), or (5) apply:

(1) Only a dispenser listed by an independent testing laboratory as compatible with diesel fuel shall be used to dispense B-blend.

(2) The owner or operator shall visually inspect the dispenser and the dispenser sump daily for leaks and equipment failure and maintain a record of such inspection for at least one year after the inspection. The record shall be located on the premises of the owner or operator and shall be made available to the department of natural resources or the state fire marshal upon request. If a leak is detected, the department of natural resources shall be notified pursuant to Iowa Code section 455B.386.

(3) The dispenser's manufacturer has submitted the dispenser to an independent testing laboratory to be listed as compatible for use with B-blend, and the owner or operator has installed an under-dispenser containment system with electronic monitoring.

(4) Information published or provided by the manufacturer of the dispenser is available stating that the dispenser is compatible with B-blend.

(5) The owner or operator of the dispenser has in force insurance for environmental liability in a minimum amount of \$500,000, which would cover damage resulting from the operation of the dispenser and the owner or operator is able to produce documentation of the insurance coverage upon request from the state fire marshal or the department of natural resources.

NOTE: If option (2), (4), or (5) is used, under-dispenser containment shall be provided if otherwise required by the rules in this chapter, rules of the department of natural resources, or any other applicable provision of law.

This subrule is intended to implement Iowa Code sections 101.1 and 455G.31.

[Filed 6/30/11, effective 9/1/11]

[Published 7/27/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**ARC 9626B**

**PUBLIC SAFETY DEPARTMENT[661]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 103.6, the Electrical Examining Board hereby amends Chapter 500, "Electrician and Electrical Contractor Licensing Program—Organization and Administration," and Chapter 502, "Electrician and Electrical Contractor Licensing Program—Licensing Requirements, Procedures, and Fees"; rescinds Chapter 505, "Electrician and Electrical Contractor Licensing Program—Continuing Education," and adopts a new Chapter 505, "Electrician and Electrical Contractor Licensing Program—Education"; and amends Chapter 551, "Electrical Inspection Program—Definitions," Iowa Administrative Code.

Iowa Code chapter 103 establishes the Electrical Examining Board and assigns it responsibility to establish and operate the statewide electrician and electrical contractor licensing program and

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the statewide electrical inspection program. Included in Iowa Code chapter 103 is the authority to adopt rules for the two programs. The amendments adopted herein add a definition of “registered apprenticeship program,” which will clarify that completion of an apprenticeship program registered at the state level satisfies the apprenticeship requirement for Iowa electrician licensing; correct references to dates related to Class “B” electrician licenses (licenses based on experience with no testing) to be consistent with the related statutory language in Iowa Code chapter 103; add language to clarify that a person who holds any license issued by the Electrical Examining Board, except for those who hold certain special electrician licenses, is not required to hold an unclassified person license to work as an unclassified person (electrician’s helper); adopt language codifying board procedures and standards for postsecondary electrician education programs; and adopt for the electrical inspection program a definition of “residential electrical work” that is consistent with the definition previously adopted for the electrician and electrical contractor licensing program.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9515B** on May 18, 2011. No comments regarding the amendments were received from the public. No changes have been made to the amendments proposed in the Notice of Intended Action. These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 103.

These amendments will become effective September 1, 2011.

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 [500.2, 502.2, Ch 505, 551.2] is being omitted. These amendments are identical to those published under Notice as **ARC 9515B**, IAB 5/18/11.

[Filed 7/7/11, effective 9/1/11]

[Published 7/27/11]

[For replacement pages for IAC, see IAC Supplement 7/27/11.]

## **ARC 9619B**

### **REAL ESTATE COMMISSION[193E]**

#### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby amends Chapter 5, “Licensees of Other Jurisdictions and Reciprocity,” Iowa Administrative Code.

The amendment to rule 193E—5.11(543B) requires that a nonresident licensee notify the Commission within 15 days of an adverse action taken by another state or jurisdiction.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9486B** on May 4, 2011. No comments were received from the public. This amendment is identical to that published under Notice.

This amendment was adopted by the Commission on June 23, 2011.

This amendment shall become effective August 31, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 543B.

The following amendment is adopted.

Amend rule 193E—5.11(543B) as follows:

**193E—5.11(543B) License discipline reporting required.** If a nonresident Iowa licensee has a real estate license disciplined, suspended or revoked by any other state or jurisdiction, that disciplinary action will be considered prima facie evidence of violation of Iowa Code section 543B.29 or 543B.34 or both, and a hearing may be held to determine whether similar disciplinary action should be taken against the

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

Iowa licensee. Failure to notify the commission within 15 days of an adverse action taken by another state or jurisdiction shall be cause for disciplinary action.

[Filed 6/24/11, effective 8/31/11]

[Published 7/27/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/27/11.

**FEMA-1998-DR-IA**

The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs for debris removal and emergency protective measures incurred from flooding May 25, 2011, and continuing. This Notice applies to the Public Assistance (PA), Direct Federal Assistance and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206.

Under a major disaster declaration (FEMA-1998-DR-IA) signed by the President on June 27, 2011, the following counties have been designated adversely affected by the disaster and eligible for PA, Categories A and B: Fremont, Harrison, Mills, Monona, Pottawattamie, and Woodbury Counties. Additional counties may be designated at a later date. All counties in the State of Iowa are eligible for HMGP.

Public Assistance, Category A: Debris Removal and Category B: Emergency Protective Measures and Direct Federal Assistance are allowed in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Debris removal includes, but may not be limited to, the clearance, removal, and/or disposal of items such as trees, woody debris, sand, mud, silt, gravel, damaged building components and contents, wreckage produced during emergency work, and other disaster-related wreckage.

Emergency Protective Measures include actions taken by the community (almost always government agencies) before, during and after a disaster to save lives, protect public health and safety, and prevent damage to improved public and private property. Emergency communications and emergency public transportation costs may be eligible, but only through Direct Federal Assistance by a Federal agency.

Presidential Executive Orders 11988 and 11990 require that all Federal actions in or affecting the floodplain or wetlands be reviewed for opportunities to relocate, and evaluated for social, economic, historical, environmental, legal and safety considerations. Where there is no opportunity to relocate, FEMA is required to undertake a detailed review to determine what measures can be taken to minimize future damages. The public is invited to participate in the process of identifying alternatives and analyzing their impacts.

FEMA also intends to provide HMGP funding to the State of Iowa to mitigate future disaster damages. These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published if necessary, as more specific information becomes available.

Changes to this declaration for the approved assistance are permitted to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael R. Scott, of FEMA, is appointed to act as the Federal Coordinating Officer for this major disaster.

This may be the only public notice regarding the above-described actions under the PA and HMGP programs. Information about assistance projects may be obtained by submitting a written request to the Regional Administrator, DHS-FEMA Region VII; 9221 Ward Parkway, Suite 300; Kansas City, MO 64114-3372. The information may also be obtained by calling: (816)283-7060, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Comments should be sent in writing to the Regional Administrator, at the above address, within 15 days of the date of publication of this Notice.